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No Soldier Left Behind: The Veterans Court Solution☆

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ABSTRACT

This paper concerns one of the newer iterations of problem-solving courts: veterans treatment courts. We trace the history of problem solving court implementation and explore the functioning of an established veterans court. The focus of this exploratory, qualitative study is the courthouse workgroup and their interactions both within the veterans court and with more traditional criminal courts and criminal justice agencies. We summarize the literature on problem solving courts and the experience, insights and suggestions of the members of the court we examined.

1. Introduction

As with every war that has come before them, Operation Iraqi Freedom (OIF), Operation Enduring Freedom (OEF), and Operation New Dawn (OND) have resulted in many injuries, both mental and physical, for the soldiers who fought in Iraq and Afghanistan. It is estimated that 1.5 million American service members will have served in or around active combat theaters by 2014, and that 300,000 of these veterans will suffer from traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), and/or mental health and substance abuse disorders (Hawkins, 2010). Sadly, it is estimated that one in five veterans of these wars show signs of mental illness (McMichael, 2011). These wounds do not stay on the battlefield but are taken back to the same neighborhoods and communities that the injured servicemen and women were fighting to protect.

Many veterans experience multiple tours of duty overseas after being indoctrinated into military life. Once discharged from the armed services, however, their transition back into civilian life happens quickly with minimal services to aid in such change (Hawkins, 2010). The issues faced by, and presented by, the soldiers returning from recent wars have garnered public attention, more perhaps than that accorded to veterans of some earlier conflicts. It is under these circumstances that veterans treatment courts (VTCs) have been developed.

Veterans courts are specialized courts created in the image of drug courts and mental health courts. The latter has demonstrated some success at lowering recidivism rates and producing more cost effective results than traditional court sanctions (Brown, 2011; Heck, Roussell, & Culhane, 2008). While drug courts and mental health courts specialize in participants with substance abuse and mental health issues, veteran's court deals with the population of American veterans and their complex subset of needs. Typically, VTCs follow procedures that have proven effective in other courts as set forth by the Department of Justice (1997). These procedures include access to community rehabilitation, organized problem solving, and increased supervision to monitor program success.

Empirical study of the success of problem solving courts followed the sequence of their introduction. Thus, drug courts have been the subject of numerous studies (for example, Heck et al., 2008; Shaffer, 2011). Mental health courts have been studied to a lesser extent (for example, Christy, Poythress, Boothroyd, & Mehra, 2005; Dirks-Linhorst & Linhorst, 2010). Veterans courts, being the newest of the three, have received minimal attention.

This article summarizes the findings of our study of one functioning VTC in a well-populated county in a northeastern state. We interviewed members of the courthouse workgroup about their interactions both within the veterans court and with more traditional criminal courts and criminal justice agencies. The focus of our exploratory, qualitative study is the perceptions of the professionals who work in that court. In the following sections, we summarize the extant literature on problem solving courts and the insights and suggestions of the members of the court we examined.

2. Problem solving courts

Over the past few decades, the American court system has been modified through the addition of a variety of "problem solving courts." These courts are intended to develop expertise in responding to the needs, issues, and resources required to manage a specific subcategory of the offender population. To warrant such attention, the offender subgroup needs first to be sufficiently numerous and then to present a common set of criminal and personal/social issues. Many jurisdictions have courts dedicated to adjudicate those charged with particular offenses

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(drugs, domestic violence, prostitution) or those whose personal status (the mentally ill or, now, veterans) warrants a criminal justice system response that addresses that status as well as the criminal offense.

When first introduced, courts of this type were labeled "specialty courts." As their use expanded, that label seemed to convey an image that is both inaccurate and unpalatable to the public. As such, it has become more common to refer to this set of courts as "problem solving courts." This seems the more accurate label, for the intention of these courts is to respond effectively to increasing demands on an already overburdened system. The goal is to address problems believed to be driving the criminal behavior and thus reduce offender involvement in the justice system.

Veterans courts, or veterans treatment courts (VTCs), are a relatively new phenomenon. Because they follow the approach common to both drug courts and mental health courts – and because the VTC client population frequently exhibits both addiction and mental illness – a brief review of what is known about these two problem solving courts is warranted.

2.1. Drug courts

Drug courts are considered the first type of problem solving court (DeMatteo, Filone, & LaDuke, 2011). They were established in late 1980s in response to the deluge of drug arrests and convictions wrought by the War on Drugs. The first drug court was implemented in Dade County, Florida in 1989 and was designed to influence substance-involved offenders by using a community treatment approach. It was hypothesized that the offenses that brought defendants before the court were due in large part to substance abuse and related dysfunction that predispose them to crime. Drug courts target these issues and monitor treatment under judicial oversight (Brown, 2011).

While drug courts were developed mainly at the local level, the federal government took immediate notice and funding soon followed[3] (Heck et al., 2008). The Department of Justice Publication Defining Drug Courts: the Key Components (1997) created the foundation that drug courts follow when implementing their programs. These components consist of integration of substance abuse treatment, a nonadversarial approach, early screening and identification of drug court participants, more access to community treatment options, frequent monitoring and drug testing, and ongoing judicial interaction in the form of reinforcement for compliance and sanctions for noncompliance.

The growth of drug courts in the United States is the result of their success at lowering recidivism and relieving financial strain at the local and state levels. This is evident when looking at the number of adult drug courts operating in the United States. During the past two decades, adult drug courts have grown from one in 1988 to 1438 in 2012 (National Drug Court Resource Center, 2012). Further, research supports the drug court model and the claim that they both reduce recidivism and are more cost effective than traditional court sanctions (Brown, 2011; Heck et al., 2008; Listwan, Sundt, Holsinger, & Latessa, 2003; Marlowe, Festinger, Lee, Dugosh, & Benasutti, 2006; Shaffer, 2011).

2.2. Mental health courts

Mental health courts were created as a direct result of the perceived success of drug courts and their use has spread aided by provision of federal funding.[4] The criminal justice system has largely become the first point of contact for many of the mentally ill in America (Slate, 2003). Mental health courts were developed to address the needs of offenders with serious mental illness. Offenders who have primary Axis 1 diagnoses (e.g. schizophrenia, bipolar disorder) are supported with community supervision, case management, and rehabilitative options. Mental health courts are comparable to drug courts in that they aim to accomplish these goals through offering beneficial treatment options under due process and matching effective individual treatment to the offender.

Social programming legislation is at the root of the rise of mentally ill in the criminal justice system. The need for such courts began with the federal court decision Wyatt v. Stickney (1970). This case ruled that mentally ill individuals could not be kept in state psychiatric facilities that did not provide adequate staffing and care to the residents. The majority of psychiatric hospitals were forced to close due to lack of funding to make appropriate changes. This resulted in psychiatric hospitals releasing individuals with severe mental illnesses back into the community. No new social institution replaced the facilities; community mental health services were simply inadequate. Many of these individuals came into contact with a criminal justice system ill-equipped to deal with them. As a result, jails and prisons became the primary housing replacement for the mentally ill (Mann, 2011).

Mental health courts aim to reduce recidivism and increase the cost effectiveness of the criminal justice system. Research conducted on the effectiveness of mental health courts has shown mixed results (Christy et al., 2005; Cosden, Ellens, Schnell, & Yamini-Diouf, 2005; Dirks-Linhorst & Linhorst, 2010; Keator, Callahan, Steadman, & Vesselinov, 2012; McNiel & Binder, 2007; Moore & Hiday, 2006). The diversity in findings may be explained by the challenges of measuring success. Unlike drug users, who might abstain or reduce drug use, the mentally ill cannot refrain from their affliction (Lurigio & Snowden, 2009). These offenders often face lifelong diagnoses that need to be managed by medications and treatment, often in conjunction with one another. Further, many who suffer from mental illness self-medicate with non-prescribed medication or illegal drugs. Thus, the mental health court is often attempting to treat individuals who suffer from both severe mental illness and substance abuse.

Even though research results vary, mental health courts are viewed as a success in dealing with the mentally ill in proactive and effective ways. At a minimum, they may prevent some whose criminal offenses are relatively minor, but habitual, from being incarcerated.

2.3. Veterans treatment courts

The first veterans court was developed in Buffalo, New York in 1998 (Russell, 2009). By 2012, 114 VTCs had been identified (Baldwin, 2013).

As with mental health courts, offenders who appear in veterans courts present a variety of problems that may help explain their involvement in the justice system. The goal is assisting in the recovery of veterans who are experiencing mental illness, substance abuse, sexual trauma, or psychological issues as a result of their service and thereby reduce recidivism (Moore, 2012). It is hoped that intervention will address the needs of the individual, avoid the use of incarceration, and prevent future crime.

Currently, veterans courts are funded through state and local sources as well as the U.S. Department of Veterans Affairs (VA). In response to this issue, the VA has created Veteran Justice Outreach (VJO) Specialist positions at each of their 154 medical centers and employs them as an initial attempt to identify justice-involved veterans (Christy, Clark, Frei, & Rynearson-Moody, 2012). Also, testimony given before Congress

[3] Drug courts receive the majority of their funding from the state and local level. However, Congress has supported their implementation and growth through the federal Drug Court Discretionary Grant Program which allocates federal funds to drug court programs. These funds, originally authorized under Title V of the Violent Crime Control and law Enforcement act of 1994, are used in creating new drug court programs that will be funded through local and state funds after they become operational (Franco, 2011).

[4] Funding was appropriated in 2004 under the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA). This allows the Justice and Mental health Collaboration Program (JMHCP) to distribute funds to assist with the creation of mental health court programs (Mann, 2011).

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