



WOUNDS DECRIMINALIZED

The Progress of Justice for Veterans
from Vietnam to 9/11 and Beyond

By Terrence P. Bronson

“...we should proceed with cautious rather than unbridled optimism to ensure that technologies are implemented in such a way as to achieve the positive outcomes that we envision.”

— JACQUELYN BURKELL

Tom served four years in the United States Army, including more than a year in Iraq. He worked hard, received promotions, led other soldiers, and witnessed death. He returned home unscathed, at least physically; over time, emotional and psychological wounds surfaced.

For the third time since his honorable discharge, Tom is in court. His use of alcohol and illegal substances led to two prior convictions, the loss of his job, and a marriage that is in jeopardy. He expects a long jail sentence if convicted of the latest charge.

Tom, like many other veterans, is suspected to be suffering from post-traumatic stress disorder (PTSD). Approximately eight percent of U.S. veterans report suffering from PTSD.¹ Tom's attorney approaches the local Veterans Treatment Court (VTC) team, explains Tom's background, and requests consideration for admission to the county's VTC. It would be a chance for Tom to receive the help he so desperately needs and, with that program's support, give him an opportunity to heal, regain his dignity, and, perhaps, bury his trauma.

The VTC is a specialty court sanctioned by statute, separate and distinct from the purview of standard probationary oversight.² Referrals are initiated through the U.S. Department of Veterans Affairs (VA) or a private agency evaluation. The Michigan Supreme Court recognized the efficacy of these courts in a 2018 press release:

Unemployment among graduates of Michigan Veterans Treatment Courts (VTC) was reduced by more than half...Veterans treatment court programs integrate principles from both drug courts and mental health courts to serve military veterans

who suffer from mental illness, substance use disorders, or traumatic brain injuries. They also involve volunteer veteran mentors, who are extremely helpful in assisting participants with their transition back into civilian life.³

If determined to be eligible by the judge based on the advice of the VTC team, the veteran exits the traditional criminal court system and enters veterans court. Eight in 10 VTC participants suffer from an addiction disorder.⁴ The expectations for participation and potential consequences for violations are thoroughly explained before the veteran agrees to participate. These include but are not limited to an intense period of counseling, frequent drug and alcohol testing, reporting weekly to probation, and other requirements specific to a client's situation. If the veteran successfully completes the program, his or her charge or charges are reduced or dismissed. But these alternative courts are unable to provide the societal benefits for which they were designed unless prosecutors, judges, and attorneys recognize and utilize their full potential. Studies have found that VTC prosecutors and judges sometimes create barriers by using overly restrictive requirements in determining whether to allow a veteran into a VTC program.⁵

Fortunately for Tom, the VTC prosecutor and judge agreed that he was a good fit for the program. During the next 24 months, Tom will report to his probation officer at both scheduled and random times. The Veterans Treatment Court team consists of the judge, prosecutor, defense attorney, treatment provider, probation officer or officers, local veterans service officer, legal aid attorney, and a VA representative. Perhaps surprisingly, the team, especially the prosecution and defense, do not act in an adversarial manner.⁶ Their sole purpose is helping participants achieve success in their recovery so they can return to society and lead productive lives.

When the team meets, it discusses the assessments, diagnostic evaluations, and needs of each veteran. The veterans service officer makes sure the client is receiving all VA benefits to which he or she is entitled. With all available resources at hand, the team plots a course of action. If the veteran is unemployed, the judge may order 20 hours of weekly community

AT A GLANCE

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service in lieu of some or all costs. This has an added benefit of keeping the participant occupied in a structured environment. The team also uses community resources to help the client find a job or enroll in a program that may lead to a job.⁷

Experts recommend that VTCs take transportation issues into account as a factor to determine which VTC locations may be best suited for the veteran.⁸ Tom is temporarily without a car, so he may be provided a bus pass donated by the local transit company or receive transportation from a mentor, a veteran volunteer assigned to him by the court. Drawing on their prior service, veterans are accustomed to using the buddy system; the familiarity with the concept of teamwork increases the likelihood that the VTC buddy will be able to help veterans like Tom navigate the process. The mentor is an important facet of the team:

The Mentor Coordinator role is essential to the operation and success of a VTC because it ensures that justice involved veterans receive support and mentorship by their fellow veterans.⁹

The mentor, who works under the direction of the court, is assigned to accompany a specific client and act as that person's

confidant, supporter, and someone who will encourage the client during his or her participation in the VTC program.

Tom's mentor, John, is an older Vietnam veteran who has successfully completed the VTC program. During his tour of duty, John also witnessed the horrors of war. He returned home to an unwelcoming and sometimes hostile public. Although he suffered from PTSD, it was unrecognized at the time of his discharge. It took several encounters with the law and a newly established VTC before John got appropriate treatment.

John tells Tom that they are both fortunate this program came along when it did, saying, "I would probably be in prison at best or dead at worst."¹⁰

With the help of John and the VTC team, Tom embarks on his two-year journey. Each step is closely monitored, every counseling session is reported, and any missed appointments are dealt with — sometimes with sanctions and other times with cautionary reprimands depending upon the circumstances. At one point during his recovery, Tom admits to John that he "messed up" by drinking one night and asks if he is going to report him to the judge.

“No,” says John, “but you are going to report it yourself. During your days on active duty, you took responsibility for your own actions. Nothing has changed. You take responsibility here, too.”¹¹

Sanctions may consist of additional community service or a short jail term. Three days in jail usually is enough to get the violator’s attention. One participant was sent to a 28-day rehabilitation program run by the VA. If a participant does exceptionally well but is struggling financially, the judge may forgive some of the court costs.

Tom progresses through the three phases of the VTC on his road to recovery. Phase one focuses on crises stabilization, intervention, and early recovery.¹² It is a very intense period of probation with frequent drug and alcohol testing, counseling at least once per week, and strict accountability. Phase two is less intense, concentrating on relapse recovery and prevention. Counseling may occur individually or through support groups. Phase three is the least intense and focuses on the veteran’s future wellness and goals of employment, education, and a safe and stable home life. The participant writes an essay on his or her progress — this exercise is not window dressing, but must be sincere, honest, and from the heart — and drafts a recovery plan while promising to commit to sobriety and continuing personal improvement. Once Tom completes all three stages of the VTC, he receives either a lesser charge or a complete dismissal and graduates from the program.

Since its creation in 2009, nearly 2,000 men and women like Tom have entered Michigan’s Veterans Treatment Courts. The state now proudly claims 27 Veterans Treatment Courts¹³ and its participants boast a successful completion rate of 73 percent;¹⁴ less than 0.5 percent of them have been rearrested. Of the participants who were unemployed at the time of their admission, more than 67 percent are working.

Why do veterans receive this special treatment? Very simply stated, when a person joins the armed forces, he or she takes an oath to “...defend the United States against all enemies, foreign and domestic.”¹⁵ At that point, those men and women commit to serving their country and its citizens; that commitment often includes time away from family and friends, poor living conditions, long deployments, and a stressful working environment. Sometimes, this commitment includes risking their life. Most of them return home after serving their country,

but some return with emotional or psychological scars. Veterans Treatment Courts are a small way that the Michigan judicial system says to veterans, “Thank you for your service.” ■



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ENDNOTES

1. *FY 2020 Problem-Solving Courts Annual Report: Solving Problems, Saving Lives*, Michigan Supreme Court Annual Report (2020), p 42 <<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Reports/PSCAnnualReport.pdf>> [https://perma.cc/G8P3-M3EA]. All websites cited in this article were accessed April 27, 2021.
2. MCL 600.1200 *et seq.*
3. *Supreme Court Report Spotlights Effectiveness of Veterans Treatment Courts*, Mich Courts News Release, Mich Supreme Court (May 4, 2018), available at <https://courts.michigan.gov/News-Events/press_releases/Documents/VTC%20data%20news%20release%205-4-18_FINAL.pdf> [https://perma.cc/2ET9-8QL2].
4. *FY 2020 Problem-Solving Courts Annual Report*, p 43.
5. Erickson, *Veterans treatment courts: A case study of their efficacy for Veterans' needs*, 49 *Intl J Law Psychiatry* 221 (2016).
6. McDaniel, *Veterans Treatment Courts in Michigan: A Manual for Judges* (2015), available at <<https://courts.michigan.gov/Administration/admin/op/problem-solving-courts/SiteAnalyticsReports/VTC%20Manual%20for%20Judges.pdf>> [https://perma.cc/8YHL-8MBJ].
7. *Id.* at p 19.
8. *Id.* at p 19.
9. *Id.* at p 13.
10. Personal communication to the author by several participants.
11. *Veterans Treatment Court Standards, Best Practices and Promising Practices*, SCAO (March 2021), pp 10–12 <<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/bestpractice/VTC-BPManual.pdf>> [https://perma.cc/9Q3B-5H7V].
12. *Veterans Treatment Court Standards* at pp 5–10.
13. *Veterans Treatment Court Treatment Courts*, SCAO (February 5, 2021), available at <<https://courts.michigan.gov/Administration/admin/op/problem-solving-courts/Documents/VTCs.pdf>> [https://perma.cc/3FUR-MLRJ].
14. *FY 2020 Problem-Solving Courts Annual Report* at pp 42–44.
15. *Oath of Enlistment*, US Armed Forces; 10 USC 502.