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## **Veteran's Diversion Court in Rock County**

**By: Honorable James P. Daley\***

In January, 2009 a delegation of elected officials, representatives of the Public Defender's Office, and health care professionals from the Veterans Administration in Wisconsin traveled to Buffalo, New York to observe the Buffalo Veterans Diversion Court in operation. The consensus of the Wisconsin participants was that the creation of a Veterans Diversion Court would be an achievable goal in Wisconsin. Because of the population size of Rock County (165,000), its location adjacent to the major federal Veterans Administration facilities in Madison, WI and the new Veterans Administration Treatment Clinic recently opened in Janesville, WI, I believed that Rock County should proceed immediately in the planning for such a court.

Upon my return to Rock County from Buffalo, NY I immediately contacted several necessary players in the creation of such a diversion court. First, I broached the subject at the Rock County Criminal Advisory Committee (RCCAC). The RCCAC is a permanent committee created by the Rock County Board of Supervisors that is intended to include members of the public along with the stake holders of the criminal justice system, including the District Attorney, the head of the Rock County Public Defender's Office, the Sheriff, the Presiding Judge for the Rock County Circuit Court, the Police Chief of the City of Janesville, the head of the Department of Social Services and the head of the local Department of Corrections Probation and Parole Office and the District Supervisor over that office. The committee serves as a public forum for offering suggestions for the improvement of the criminal justice system, and has a member of the County Administrator's Office as the full time coordinator of the projects of that committee. This committee was instrumental in the creation and funding of the Circuit Court Drug Diversion Court and the vast expansion to alternatives to incarceration that were adopted by the Sheriff and accepted by the community after the public discussion within the RCCAC.

From that meeting I received the support of District Attorney David O'Leary, Eric Nelson of the Public Defender's Office, and Robert Spoden, Rock County Sheriff. I also then spoke with John Solis, the Rock County Veterans Service Officer (VSO) who immediately came on board and agreed to help in the planning for this court. I also received critical support and assistance from Peter Anderson and Krista Ginger of the State Public Defenders Office in Madison, WI, and from Dr. Dean Krahn and Ed Zapala of the Madison Veterans Administration.

The interested parties first met in the April-May time frame and identified immediately the need for early identification and training for volunteer veteran mentors. Dr. Krahn and Ed Zapala from the VA in Madison arranged for a treatment seminar on June 29-30, 2009 for parties interested in creating Veterans Courts to educate those interested parties on Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and the interrelationship of these conditions with substance abuse. The seminar also provided training on the available federal VA resources for the treatment of these issues, and a basic understanding of the services

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available through the VA, together with basic information on Veteran's eligibility for services. Training also covered the 'Military Sexual Assault' program and the qualifications for eligibility for this program as many times the emotional response to sexual assault by the victim can be similar to that exhibited by veterans who suffer from TBI and PTSD to include substance abuse as a coping mechanism.

Krista Ginger and Peter Anderson were instrumental in bringing to Wisconsin Mr. Jack O'Connor, the head of the volunteer Mentor Program for the Buffalo, NY Veterans Diversion Court to conduct Mentor Training. Attending this training were mentor volunteers identified through veterans organizations by John Solis. Volunteer mentors are critical to the operation and success of the diversion court and we had identified eight individuals initially to go through the training. Mr. O'Connor also provided the Buffalo, NY Mentor Book which we adopted to our use in Rock County. By late July, we had the basic pieces in place to, first, sit down with the above mentioned representatives and organizations to actually plan how the court would be operated. From this meeting we identified several holes in the basic concept we had created. First, who would initially identify the veteran as a qualifying veteran? Second, how would the veteran receive a needs screening to determine the specific medical, psychiatric, AODA and counseling needs the particular veteran would need? Third, how would the veteran get into the program in the first place?

While a Veterans Diversion Court is a diversion/treatment court of the usual model, the critical difference is that the services will be provided to the individual participant through the Veterans Administration system as a result of the individual veteran's status of 'veteran' with qualifying overseas service in a combat zone. However, depending upon the individual's dates of service, each era of veteran service has different qualifying criteria. That is, veterans of World War II have a different set of criteria than Korean War veterans, veterans in the Cold War, and veterans of Vietnam, Desert Storm, Operation Iraqi Freedom (Iraq War) and Operation Enduring Freedom (War in Afghanistan). Each conflict had its own criteria and the individual veteran's service has to be matched up with documentary evidence supporting the veteran's claim of veteran status. Further, victims of sexual assault who themselves were service members are automatically eligible for veterans services through the VA. VSO John Solis was tasked to be the point of first contact with the veteran to begin the process of qualifying the veteran for services through the VA, thereby satisfying the first identified concern.

The ad hoc committee determined that the second and third concerns are really two sides of the same coin. The defense attorney representing an individual accused of a crime should initiate the process by asking their client during their first meeting if the client has served in any branch of the US military and whether they served overseas. In the case of a female client, the same questions should be asked, but with the additional question of whether during their service they were the victim of a sexual assault. If the answers to these are positive, then the defense attorney should send their client to the VSO (John Solis) office in the Rock County Court House to begin the process of applying for veterans benefits.

I met with both the staff attorneys of the Janesville Public Defender's Office and also with attorneys who practice criminal defense work in Rock County to discuss a Veterans Diversion Court. We advised them to modify their intake and initial interview process to identify qualifying veterans. Then we met with the District Attorney's office to discuss their role. In our proposed model the gate keeper to the Rock County Veterans Diversion Court are the defense attorney and the District Attorney. They have to first agree that the individual and the particular crime are eligible for the Veterans Diversion Court. This gives the elected District Attorney the ability to screen the nature of the offense up front to deny access to violent offenders or screen out types of offenses he would not be willing to divert from the normal process such as child sexual assault, murder, etc. After the DA and the defense attorney agree on the veteran and the offense he/she has been

charged with, then they will enter into a diversion contract spelling out the specific results that are agreed upon when the veteran successfully completes the program.

At this time the matter is called into the court the matter is assigned to and the judge will refer the matter for screening at the local Janesville VA Clinic. After the screening is successful (i.e., the veteran has needs that require treatment such as AODA, PTSD, TBI, sexual assault survivor's treatment, etc.) the matter returns to the assigned court for entry of the plea to the charge. The assigned judge continues the matter to the Veteran's Diversion Court before the plea is entered and the matter is stayed until the veteran either successfully completes the treatment or is removed from the program before successfully completing the program. In both cases the matter is referred back to the assigned judge to either complete the contract or to enter judgment on the plea already received. In the first case, the veteran receives the benefit of the bargain (plea reduced, dismissed, etc.) or process the case as routinely upon a plea to the charge by immediately sentencing the defendant or ordering a plea sentence investigation.

Once these matters were resolved we held three Veterans Court rehearsals with all organization members participating including representatives of the Veterans Service Officer, the VA, the Wisconsin State Department of Veterans Affairs, the District Attorney, the Public Defender, a representative of the Financial Support Division of the Rock County Department of Social Services, and all volunteer mentors. During this same time the volunteer mentors held training sessions and role playing exercises conducted by the Director of Volunteer Mentors to train the mentors on their roles.

After these exercises were completed Rock County held the first session of the Rock County Veterans Diversion Court on September 17, 2009, eight months after the Buffalo, NY trip. The first accepted participant in the court is winding his way through the process and is receiving treatment and a second veteran is in the process of a screening to determine suitability for the court. I have written letters to set up meetings with the judges, prosecutors, public defender representatives and the county VSO of four counties adjacent to Rock County to begin the process of utilizing the Rock County Veterans Diversion Court as a diversion court for those counties qualifying veterans.

It has been an interesting experience in creating this court, both gratifying and frustrating at the same time. On the one hand just about everyone I have had contact with recognizes the importance of this court in concept. In many cases a veteran who serves his/her country in harms way may experience emotional, physical or medical effects of that service. These effects can have long term residual impact upon that veteran's mental stability and long term emotional health. In effect, it affects the very way the veteran perceives and interacts with his/her family, employer and fellow workers, and his community. These effects can result in contact with law enforcement officials. On the other hand, many veterans seem adverse to either admitting that they have a problem, or to even identifying themselves as a veteran at all. With the present War On Terror, and especially with the understanding that we in Wisconsin will have 3500 returning veterans of Operation Iraqi Freedom in February/March of 2010 from the 32<sup>nd</sup> Infantry Brigade of the Wisconsin National Guard returning to our communities, I believe it is incumbent upon us to do all that we can to provide these returning veterans with access to treatment necessary to fully return them to their families and civilian occupations with a decent chance for long term recovery and return to normalcy. For me, this means we must create a bridge between the services already provided to veterans by the VA and to the local state courts that deal with the effects of a veteran's negative interaction with his community. This simply means we must successfully implement Veterans Diversion Courts to benefit not only the veteran, but also the veteran's immediate and extended family, and our communities. ■