

“CORRECTED” TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS  
FEBRUARY 19, 2019

PRESENTED BY: THE HONORABLE TRACY PRALL, PRESIDING JUDGE  
MARION COUNTY CIRCUIT COURT

Chair Evans and committee members, my name is Tracy Prall and I am the presiding judge for Marion County Circuit Court. I am here in my role as the judge who presided over the Marion County Veterans Treatment Court for the past 3 ½ years, to encourage your support of veteran’s treatment courts across this state. I am not representing the Oregon Judicial Department today.

I have been a judge since 2008 and was a full-time referee/pro tem judge for three years before. I have been Marion County’s Presiding Judge since 2017.

To begin, I would like to thank you for your work with veteran and appreciate the invitation to talk about our Veterans Treatment Court.

While we may expect that most veterans are strengthened by their military service, the unfortunate truth is, the combat experience has left a growing number of veterans with PTSD, brain injuries, or other mental health issues. Worse still, these combat-related mental issues are often linked to substance abuse as the veteran tries to self-medicate or to push down traumatic memories. Statistics tell us that one in five veterans has symptoms of a mental health disorder or cognitive impairment. One in six veterans who served in Operation Enduring Freedom or Operation Iraqi Freedom suffers from a substance use disorder. Left untreated, mental illness and substance use disorders can directly lead to a veteran’s involvement in the criminal justice system.

Veterans treatment courts can prevent further penetration into the justice system by providing an alternative treatment and sentencing program which addresses the underlying issues and symptoms. The program has multiple benefits: it protects public safety, reduces the person’s involvement in the criminal justice system, promotes collaboration among criminal justice and other agencies, reduces long-term costs to the public, and honors our veterans by healing and restoring them.

The program saves the county and state money by deferring or removing prison sentences, reducing jail bed days, getting veterans connected to free federal VA healthcare, and offering real solutions to real problems. Without veterans treatment courts veterans may languish in jail, which could exacerbate PTSD symptoms, cost the state and county financial resources, and fails to provide wraparound intervention at one of the most critical points in the veteran’s life.

As many participants have reported, “the crime was a wake-up call” and “I needed help and structure to get my life back together and become a productive member of society again.” And that really is a very important point. While the veterans in Marion County are eligible for free VA services, they often have difficulty accessing those services on their own, especially when they are in the throes of addiction or in a mental health crisis. The Marion County Veterans Treatment

Court has a VJO assigned to the team and we work together to help the veteran defendant access the services they need.

The Marion County Veterans Treatment Court operates under many of the same principles that make drug courts proven, effective crime reduction programs. We utilize a collaborative, team approach to assist veteran-defendants in accessing the services they are entitled to. We have frequent contact with our veterans, to closely monitor their progress and apply encouragement or sanctions as needed. We combine the evidence-based approaches of treatment courts and apply them to veterans, and use other veterans as mentors to program participants. I have attached with my testimony the Court's policies and procedures, which will flesh out some of what I'm talking about today, as well as the Ten Key Components for veterans' treatment courts.

The first step in our court process is to identify veteran-defendants. If the veteran is in-custody, then a team member will contact them in jail and set them up for VA assessment via a video kiosk available at the jail. If the veteran is out of custody, then the defense attorney will ask an additional question during their intake – “are you a veteran?” Once identified, the deputy district attorney assigned to our team will review the veteran's case file and make an initial eligibility determination – are they charged with an eligible crime? We do not allow defendants with BM11 or sexual offense charges in the Veterans Treatment Court. Veteran defendants charged with eligible crimes are then referred to our treatment court coordinator to determine eligibility for the program. With that I'll hand it off to our treatment court coordinator to discuss our eligibility criteria.

To be eligible for the Marion County Veterans Treatment Court the defendant must:

1. Be a “Veteran” as that term is defined by the court;
2. Be an adult with qualifying charges filed in Marion County Circuit Court (no BM11 or sex crimes);
3. Reside in Marion County or in a residence approved by the Marion County Parole and Probation Department;
4. Have a substance use and/or mental health diagnosis that can be addressed through the court (the diagnosis does not need to be service related);
5. Have the mental capacity and ability to appreciate the consequences of the legal proceedings and fully understand the expectations and conditions of the court contract;
6. Address any other outstanding warrants or criminal charges; and
7. Have a willingness to participate – they write essays and attend at least one session of the court before signing the participation agreement.

If eligible, the veteran-defendant must voluntarily agree to enter and abide by the conditions set forth in the program, one condition being they must enter a plea of guilty. They will know as they enter the program what benefit they will receive up front and what benefit they will receive upon successful completion. Some veterans are avoiding a prison sentence, some are having their felony charge reduced to a misdemeanor, and others will have their charges completely dismissed upon successful completion of the program.

For some the choice to enter the court is not easy. They could take a simple probation sentence and have very few requirements. The court is quite arduous. Ultimately, it is not about this charge that they are facing, it is about the rest of their life, and whether they are ready and willing to make a change. If they are ready, then we will assist them in reaching their individual goals, using best-practice and evidence-based approaches.

I wanted to spend a little time talking about barriers and issues we experience. I don't necessarily have solutions to recommend to you, but hope it is useful information.

- **Identifying Eligible Veterans.** Our primary resource is a check-box on the jail intake form identifying someone as a veteran. When we are notified of a veteran in jail, our VJO arranges to interview that person and starts the intake process. But some veterans will not self-identify. If a person is not held in jail, we rely on their attorneys notifying us.
- **Encouraging participation by veterans.** Participating in treatment court is not a decision to be made lightly. The criminal justice sanction is less, but the program is very difficult work that requires a personal willingness to change. The prosecution needs to make a plea offer that is fair and just, but also provides sufficient incentive to participate. The veteran's attorney needs to advocate for their client, which might mean advising them to choose the criminal justice path rather than the treatment path if they think that provides a better outcome for their client.
- **Funding.** I know you hear many problems related to money, so ours might sound familiar. There is no single funding source or funding method for these courts – we cobble together the best we can to develop and run these courts. The first element is that the Veterans Court is funded by multiple agencies providing staff (including judge time, a court clerk, a deputy district attorney, a probation officer, defense attorney, the state Department of Veterans Affairs, and a federal Veterans Justice Outreach staffer). As all budgets get tighter – whether it is county General Fund or state community corrections dollars -- we risk losing the participation of any one of these critical partners. Second, our coordinator position, substance abuse testing, training, and other costs are currently paid through a competitive grant from the state Criminal Justice Commission. That grant is projected to be reduced by 20 percent in the coming biennium.

From the court's perspective, we provide judge and staff time, but treatment courts take more judge time than the traditional judicial process. For example, in a traditional case I might see the defendant once or twice while the case is pending, and perhaps again if the person violates their conditions of probation. I might not remember their name if I don't have their file in front of me and they probably don't know mine. In a treatment court, I see people multiple times in a month for many, many months. I am personally involved in monitoring their progress -- encouraging and rewarding them, and sometimes having those difficult conversations when they are not doing their work.

Budget pressures always challenge our ability to operate these types of courts, but especially in times when all the partners are facing financial pressures. We know these courts are effective and have a tremendous return on investment -- not just in dollars saved, but in lives changed. We will continue to do all we can to maintain these courts as part of our services to the public.

Thank you for your time and for your support of veterans in our community. I would be glad to answer any questions you might have.