



# OLR RESEARCH REPORT

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## VETERANS' COURTS

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You asked several questions about veterans' courts. Specifically, you asked (1) how they differ from the regular criminal courts; (2) where veterans' courts currently exist and whether there is one in New London; (3) how Connecticut could establish a veterans' court; (4) what results of these courts have been and how results are measured; and (5) has there been any net increase or decrease in the cost of the criminal justice system (e.g., taking into account court, prison, mental health, and other costs), if known.

### SUMMARY

Veterans' courts are typically separate dockets for defendants who are veterans and have legal issues related to post-traumatic stress disorder, such as drug addiction or mental illness. The courts are based on the "drug court" model of providing specialized services focused on counseling with the goal of avoiding incarceration.

According to the National Association of Drug Court Professionals (NADCP), approximately 48 cities and counties across 21 states now have veterans' courts, with about 80 courts total. At least seven states - California, Colorado, Illinois, Nevada, Oregon, Texas, and Virginia - enacted legislation authorizing such courts. Additionally, federal legislation in 2008 and 2009 would have created a national veterans

court program, but the bills died in committee (e.g., [S.902 SERV Act](#)). More information is available at the NADCP website: <http://www.nadcp.org/node/436>.

According to Connecticut Department of Mental Health and Addiction Services (DMHAS) website, DMHAS has been engaged in two federally funded diversionary pilot programs for veterans in the New London and Norwich court system over the past few years. Since then, the pilot, known as the “Veterans Jail Diversion Program,” has expanded to Danielson with Middletown being the next court area, according to DMHAS Director of Veteran’s Services, Jim Tackett.

A diversionary program differs from a separate docket; a separate docket may result in a plea and criminal record whereas a diversionary program aims to avoid establishing a criminal record. Both approaches aim to provide treatment and avoid incarceration, and it is not uncommon for both approaches to be referred to as veterans’ courts.

Connecticut already has a separate “drug court” docket and the enabling legislation could be mirrored to create veterans’ court. Connecticut could also choose to codify existing practice under the pilot, further building on it (DMHAS already plans to go statewide using the existing diversion program model.) California law enacted in 2006 provides one legislative model, for example. It allows a judge to divert certain defendants who served in the military to treatment programs under specific circumstances ([California Penal Code §1170.9](#)).

Studies measure veterans’ courts’ results by looking at how many defendants complete programs and are not re-arrested. According to NADCP, 70% of defendants finish programs and 75% are not rearrested for at least two years after, (“The Battle on the Home Front: Special Courts Turn to Vets to Help Other Vets,” November 1, 2011, *ABA Journal*). For the Buffalo, New York court (the first veterans’ court, established in 2008), none of its “56 graduates to date has been rearrested, to the court’s knowledge. Only 26 of the 202 veterans admitted to [the] program have dropped out before graduation due to noncompliance,” according to the November 1 *ABA* article.

We did not find any studies from other states measuring whether veterans’ courts cost increase or decrease criminal justice costs. We are working to conduct such a cost comparison for Connecticut and will provide that information as soon as we have it.

For your reference, the following NADCP link has up to date news about veterans treatment courts (e.g., including a story from the December 2011 *The Atlantic* issue):

<http://www.nadcp.org/JusticeForVets-Media>

Additionally, the National Center for State Courts' website also features a veterans' court guide: <http://www.ncsc.org/topics/problem-solving-courts/veterans-court/resource-guide.aspx>

## **VETERANS COURTS**

According to NADCP, veterans' courts were established to provide veterans with treatment instead of incarceration when certain legal problems stem from stress related to combat and service in combat areas. NADCP states that the courts, "...promote sobriety, recovery, and stability through a coordinated response that involves cooperation and collaboration with the traditional partners found in Drug and Mental Health Courts," along with the U.S. Department of Veterans Affairs, the Veterans' Benefits Administration, volunteer veteran mentors, and family support organizations. (NADCP administers *Justice for Vets*, which is the National Clearinghouse for Veterans Treatment Courts, according to its [website](#).)

These courts are based on the "drug court" model. These specialized courts were first [established in 1989](#) and the concept expanded to include other specialized courts such as mental health and domestic violence courts (February 2010 article by *Slate.com* senior editor Dahlia Lithwick). In a recent *Slate.com* article, Dahlia Lithwick states, "Drug courts, for instance, integrate treatment with justice-system case management and closely supervise and monitor participants; studies show that they have decreased recidivism rates as well as the cost of incarceration."

In January 2008, Buffalo, New York Judge Robert Russell started the nation's first veterans treatment court (June 1, 2008 [USA Today](#) article). According to Lithwick, the benefits of having such veteran focused courts emphasizing counseling spread across the country, coinciding with the large number of Afghan and Iraq war veterans (as well as veterans of earlier conflicts) who were having legal issues (the entire article is available here: [SLATE](#) ).

According to a November 1, 2011 *ABA Journal* article, “Veterans treatment courts like Buffalo’s are sprouting in courtrooms across the country, with 80 having been established in the past 3½ years,” ([“The Battle on the Home Front: Special Courts Turn to Vets to Help Other Vets,”](#) November 1, 2011, *ABA Journal*).

### ***Different Approaches to Veterans’ Courts***

The November 1 *ABA Journal* article addresses some of the different approaches advocated for veterans’ courts.

1. many veterans’ and other treatment courts require a plea before accepting clients but some believe veterans with mental illness or substance abuse issues would be better served by diversion programs that allowed veterans charged with nonviolent crimes to be placed into treatment without having to enter a plea.
2. Clearing a potential defendant’s record, which would be the result of diversion, has its advantages in this “age of the Internet,” but NADCP cites evidence that pleas “produce better long-term results.”
3. Some courts do not hear cases of veterans charged with violent crimes. But, others do with significant limitations.
4. Some feel that all vets should be accepted into veterans’ courts, including those who never deployed to a war zone, while others believe the courts should admit only those with combat-related mental health issues.
5. some courts are limited to offenses committed as a result of substance abuse, PTSD, or other problems stemming from combat service. The Buffalo court and others accept all veterans with a clinical diagnosis of serious and persistent mental health disease or drug or alcohol addiction.

The entire *ABA* article is available at the following link:  
<http://www.nadcp.org/Battle-on-the-Home-Front>

## **CONNECTICUT**

### ***Diversion Programs***

Generally, a diversion program in Connecticut's criminal justice system refers to a process that allows criminal defendants to avoid prosecution and incarceration by successfully completing court-sanctioned community-based treatment programs. For example, the law allows Connecticut courts to refer someone charged with possession of drugs or drug paraphernalia to the pretrial drug education program. After an evaluation, the court can suspend prosecution of an eligible defendant and assign him or her to a drug intervention or substance abuse treatment program. The court dismisses the charges against someone who successfully completes the program (CGS § 17a-696).

[OLR Report 2010-R-0451](#) has more information about drug diversion. Additionally, a Judicial Branch document at the following link provides more information on drug and other diversion programs:  
<http://www.jud.ct.gov/Publications/CR137P.pdf>.

### ***Veterans "Jail Diversion" Program***

According to DMHAS, Connecticut is one of the nation's first states to establish a jail diversion program for veterans with trauma-related symptoms that "have contributed to their involvement in the criminal justice system." In 2008, DMHAS was one of six states awarded a \$2 million, 5-year grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) to establish a statewide jail diversion. (DHMAS website:  
<http://www.ct.gov/dmhas/lib/dmhas/infobriefs/112009.pdf>.)

The pilot is currently running in New London, Norwich, and Danielson. It will soon be up and running in the Middletown court system as well, according to DHMAS Director of Veteran's Services, Jim Tackett.

Tackett discussed the program at a September 2011 U.S. Department of Health and Human Services SAMHSA seminar stating that the program's goal is to sustain the progress made in the pilot areas. He went on to say:

we're working to expand the project statewide by stepping into the footprint of the existing statewide mental health jail diversion program. This is being accomplished through

workforce development. A little less than half of our mental health jail diversion clinicians around the state have already been through the Veterans resource representative training program. That's our comprehensive workforce development process that works to demystify the VA [U.S. Department of Veterans' Affairs] and equip clinicians with knowledge and ability to serve veterans not only in treatment planning but also in coordinating services with the VA. We'll also be establishing a statewide mentor program. The goal is to train 20 to 30 mentors who will be available to report to an area jail to engage a veteran who's just been arrested. Mentors will be alongside veterans in court through the completion of the adjudication process and will also help them connect with their treatment plan and we've begun planning... and we'll be looking to implement the program next summer.

(September 1, 2011 SAMHSA seminar: "Effective Strategies for Working with Justice-Involved Veterans with Behavioral Health Needs," <http://www.samhsa.gov/co-occurring/events/veterans-transcript.aspx>.)

On December 5, 2011, we spoke with Tackett who noted that Connecticut's approach of systems integration is unique, because veterans in the justice system have a series of service options in their community, not just the VA, which is typical in other states. As he stated at the September 1 SAMHSA seminar, "In many cases, the treatment plan represents a partnership with VA under which some services are provided by state and local non-VA providers in the community right where the veteran lives."

### ***Drug Courts***

While Connecticut does not currently have a Veterans' Court as a separate docket, in 1995, Connecticut established a pilot specialized court program for youthful drug offenders age 16 - 21 to provide treatment and aid in avoiding repeat offenses and prison time (PA 95-131). PA 97-248 expanded the program to the entire state. In 2003, the legislature again expanded the program to include drug offenders of any age (PA 03-6).

Under the law, the chief court administrator is authorized to establish separate dockets for defendants who are drug dependent and could benefit from treatment (CGS § 51-181b). These "drug courts" or "drug intervention programs" currently operate in Bridgeport, Danielson, and New Haven. Judges, defense counsel, prosecutors, and probation officers can refer someone to these courts. The courts focus on treatment and

supervision of participants and over a 12 to 15 month period, offenders make regular court appearances for monitoring and are subject to drug testing. The court can issue orders, sanctions, and incentives. The court recommends treatment and services which can include vocational and educational training as well as substance abuse treatment. Alternative incarceration centers can daily supervise offenders. The court and its staff collaborate with treatment and social services staff to monitor offenders.

## **BACKGROUND**

### ***Recent Legislation***

In both 2009 and 2011, the legislature considered bills to establish a veterans' specific diversion program. The provisions did not become law in either year.

In 2009, SB 1065, An Act Concerning Pretrial Diversionary Programs for Veterans, would have established a veterans' pretrial diversionary program and outlined who would be eligible and how the system would operate. Different from a separate docket, SB 1065 used existing counseling and pretrial programs. The bill died in the Judiciary Committee.

In 2011, the initial version of HB 6639 contained a provision to establish a diversion program for veterans, among other things. The bill passed without the veterans specific provision. The following links are to the legislative histories of the bills: [2009](#) and [2011](#).

JH:ro