

# CONSENSUS PLAN

## Creating Universal Access to Veterans Treatment Courts in New York State

### Veterans and the Social Justice Reform Agenda

New York State is home to nearly 800,000 veterans. Most veterans return home and adjust well to civilian life. But others face challenges as they reintegrate into their homes and communities. A survey of New York State's veterans by the RAND Corporation revealed that 22% of returning post-9/11 veterans have a "probable" mental health diagnosis. The number of veterans being treated for mental illness and substance abuse has increased 38% since 2004. For those veterans who do have difficulty transitioning, behavioral health and substance use issues are associated with various related problems such as homelessness, unemployment, and strained relationships. Sometimes these challenges lead to involvement with the criminal justice system. In New York, about 5% of those under State custody, either as inmates of State prisons or as incarcerated parolees, are verified veterans.

### What is a Veterans Treatment Court (VTC)?

Veterans Treatment Courts (VTCs) are a type of problem-solving court that provides an alternative to incarceration for eligible justice involved veterans who have mental health or substance use disorders. Veterans who participate in VTCs are offered mental health and/or substance use services and can be linked to veteran-specific community-based services and agencies. VTCs work. Evidence supports the positive impact on veterans participating in VTCs, including reduced recidivism, lower alcohol and drug use, more stable housing, increased opportunities for employment, stabilized relationships with friends and family, and improved mental health.

VTCs maintain the traditional partnerships and practices of highly successful drug courts. Rather than focusing on punishment, VTCs present a non-adversarial approach in which the judge, prosecutor, defense, probation, law enforcement and case manager work together with representatives from the U.S. Department of Veterans Affairs, as well as the state's department or commission of veterans' affairs, Vet Centers, community mental health and substance use treatment providers, veterans service organizations, and volunteer veteran mentors. This multi-disciplinary team ensures every veteran receives an individualized treatment plan and is connected to the service benefits he or she earned. By addressing the underlying cause of criminal behavior in a highly structured and closely supervised environment, VTCs strike the proper balance between accountability and compassion. The restoration of veterans' sense of honor allows them to re-engage with their communities as productive, law-abiding citizens.

### New York State's History with VTCs

It's a point of pride that the very first VTC in the nation was established in Buffalo, New York, in 2008. New York State is the national leader for this type of progressive social justice reform; its model is the national standard and blueprint for VTCs. There are nearly 400 VTCs operational nationwide.

New York State is now home to [33 veterans treatment courts](#) in 25 counties. They have helped more than 4,500 New York veterans. However, not every veteran in our State has access to these lifesaving programs. Suffolk, Erie, Nassau, Queens, and Kings counties are home to the largest numbers of veterans in New York State. However, the highest concentrations of veterans per capita are typically found in less-populated areas in the North Country and southwestern counties—Hamilton, Jefferson, Steuben, and Warren—which do not have VTCs. In total, about one-third of New York veterans lack access to a VTC, leaving

# CONSENSUS PLAN

## Creating Universal Access to Veterans Treatment Courts in New York State

them languishing in a justice system not equipped to deal with their unique challenges.

***In his 2017 State of the State address, Governor Andrew Cuomo made a public commitment to ensure statewide access to Veterans Treatment Courts and permit the transfer of eligible cases from any local criminal court to a Veterans Treatment Court.***

### The Opportunity for Progress

New York State has the opportunity to finish what it started and remain the national beacon of VTCs. As the birthplace of VTCs, New York should have the largest and best VTC system in the nation—a system that ensures universal access to a VTC for all veterans in need. Veterans who are involved in the justice system because of mental health disorders, trauma, and substance use should receive treatment rather than jail or prison.

***To guarantee universal VTC access, New York State should enact a policy to authorize transfer of veterans facing criminal charges in a jurisdiction without a VTC to an adjacent county with a VTC.***

This year, the New York State Health Foundation joined forces with the national organization Justice For Vets to convene a working group to develop a consensus plan to ensure that **every** veteran in New York has access to a high-quality VTC. The working group included representatives of the New York State Unified Court System, district attorneys, State officials, law enforcement, veterans, and other key stakeholders. In an unprecedented effort, these critical stakeholders established a set of principles to create universal VTC access:

- Access should be broadly inclusive to reach more people in crisis and create a path for returning veterans to their families and communities—where they belong.
- Every criminal-justice-involved veteran who is on active duty, was a member of the Armed Forces, a reserve component thereof, or the National Guard should have access to a high-quality VTC.
- VTCs should adhere to Justice For Vets' "10 Key Components of VTCs."
- Allow for the inter-county transfer of cases from a jurisdiction without a VTC to an adjoining county with a VTC. Intra-county transfers can be achieved either through legislation or administrative rule.
- Establish a minimum of four additional VTCs so every county will either have a VTC or be adjacent to a county with one, thus enabling access across the State.
- Do not require establishment of a connection between the offense and military service.
- Leave eligibility decisions to the discretion of the individual VTCs.
- Transfers should require the consent of the sending and receiving judges and the receiving district attorney. Consultation with—but not the consent of—the sending district attorney should be required. In cases involving domestic violence, the consent of the sending district attorney (and presumably consultation with the victim) should be required.
- The sending court negotiates the plea and records an admission of guilt without entering it into the court's case management system; once transferred, the plea is entered in the system.

*Funding:* New York State can enact a transfer policy without incurring any significant new start-up costs. The transfer policy itself does not require funding. To ensure the highest quality and highest functioning VTCs, however, a recurring budget allocation will support travel and transportation for peer mentors and participants, training on the VTC model for judicial and nonjudicial staff, peer mentor training, and stakeholder education.

# CONSENSUS PLAN

## Creating Universal Access to Veterans Treatment Courts in New York State

### Conclusion

New York State set a national standard when it established the first VTC more than a decade ago and is poised to again lead the way in taking care of our veteran populations. Granting universal access to Veterans Treatment Courts is one way we can ensure those most vulnerable receive the help they need to become productive members of our society. VTCs offer the best pathway to rehabilitation for veterans, help those who served their country get their lives back on track for success, and maintain law and order. With broad stakeholder buy-in, we must take advantage of this moment where decision-makers are aligned and adopt this policy this year.

### Endnotes

- <sup>1</sup> Schell, T. L., Tanielian, T., Farmer, C. M., Jaycox, L. H., Marshall, G. N., Schell, T. L., ... & Wrenn, G. (2011). A Needs Assessment of New York State Veterans: Final Report to the New York State Health Foundation.
- <sup>2</sup> Russell, R.T. (2014). Veterans Treatment Courts. In B. D. Hunter & R. C. Else (Eds.), *Attorney's Guide to Defending Veterans in Criminal Court* (515-527). Veterans Defense Project; Knudsen, K. J., & Wingenfeld, S. (2016). A specialized treatment court for veterans with trauma exposure: Implications for the field. *Community mental health journal*, 52(2), 127-135. Marlowe, D.B., Hardin, C.D., & Fox, C.L. (2016). Painting the current picture: A national report card on drug courts and other problem solving court programs in the United States. Alexandria, VA: National Drug Court Institute. Retrieved from: <https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf>.

### Members of the Consensus Working Group\*

Judge Robert Russell, Buffalo City Court  
Judge John DeMarco, Monroe County Court  
Judge John Schwarz, Rochester Drug Court  
Judge Marcia Hirsch, Queens Drug Treatment Court  
Judge Judy Kluger, Executive Director, Sanctuary for Families  
Paul McDonnell, Office of Court Administration  
Julie Irwin, US Department of Veterans Affairs, NY/NJ Health Care Network  
Annie Schachar, Center for Court Innovation  
Steve Hanson, NYS Office of Alcoholism and Substance Abuse Services  
Nick Stefanovic, Monroe County Veterans Service Agency  
Gary Horton, Director, Veterans Defense Program, NYS Defenders Association  
Chad Lennon, Assistant District Attorney, Suffolk County District Attorney's Office  
Thomas Gibbons, Chief of Police, Stratton VA Med Center  
Dennis Reilly, Office of Court Administration  
Paul Dietrich, Legislative Chair, NYS Veterans of Foreign Wars  
Benjamin Pomerance, NYS Division of Veterans Affairs  
Jack O'Connor, Mentor Coordinator, Buffalo Veterans Treatment Court  
Marjorie Morrison, PyschArmor Institute  
Armand Pappas, Office of Assemblyman Michael DenDekker  
Maureen Corbett, US Department of Veterans Affairs of VA, Stratton VA Med Center  
Siobahn Dannacker, US Department of Veterans Affairs, Veterans Justice Outreach Officer  
Sky Davis, Office of Court Administration  
Diana Megias, Queens County Prosecutor  
Kristen Rouse, New York City Veterans Alliance  
Renee McCain, Policy Fellow, New York City Veterans Alliance  
Annie Chwiecko, Office of Senator Patrick Gallivan  
Maddilyn Genovese, Office of Senator Robert Ort  
Eamon Weber, Office of Assemblyman Angelo Morinello

\*Membership does not necessarily constitute endorsement of the consensus plan