

Testimony of
The Legal Aid Society

at a public hearing on:

Examining the Veterans Treatment Court Model

Presented to:

**The New York City Council Committee on Veterans and
Committee on Fire and Criminal Justice Services**

Presented by:

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Problem-solving courts, like the Veterans Treatment Court Model under consideration today, have become an important feature of the court system in New York City. The Legal Aid Society has long supported court models which offer collaborative, problem-solving approaches to addressing the underlying issues and needs of individuals who appear in criminal court. For this reason, The Legal Aid Society welcomes this opportunity to testify before the New York City Council Committees on Veterans and on Fire and Criminal Justice Services.

The Legal Aid Society:

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of 850 of the brightest legal minds. These 850 Legal Aid Society lawyers work with 600 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 25 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, the Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

Problem Solving Courts:

Therapeutic jurisprudence research has demonstrated that, “if implemented properly, the problem-solving approach can decrease recidivism, reduce crime, improve coordination among justice agencies, enhance services to victims, and increase trust in the justice system.”¹ For problem-solving courts (PSCs) to be effective, many stakeholders in the criminal justice system, including public defenders, must collaborate. Problem-solving courts have become an important feature of the court system in New York City. Developed in response to concerns that many criminal matters are disposed while failing to address the underlying issues contributing to one's involvement in the criminal justice system, problem-solving courts offer a meaningful resolution

¹ Bureau of Justice Assistance website (2009) http://www.ojp.usdoj.gov/BJA/grant/cb_problem_solving.html

of court cases involving individuals with psychosocial problems as well as legal issues. In New York City, the Legal Aid Society provides representation to accused persons in 20 of the 21 PSCs handling misdemeanors and felony cases (excluding Richmond County's one PSC). The Society has made significant contributions to PSCs in NYC, beginning with the first, the Midtown Community Court, in 1993. Over the last 17 years, the Legal Aid Society has assisted in the development of new courts, while actively participating with the respective PSC stakeholder groups and continuing to provide high-quality direct legal representation to the majority of cases that are processed in these PSC courts. Based on this experience, the Legal Aid Society would like to outline a number of attributes of the most successful problem-solving court models.

- The development of any new problem-solving court should be pursued in collaboration with a representative group of stakeholders including the court, public defenders, prosecutors, expert consultants, service providers and consumer communities. Such stakeholder groups should play a key role in the formation of any new problem-solving court as well as maintain an ongoing advisory role. The input of stakeholder groups should be an important part of an open and transparent process.
- New problem-solving courts should include additional service resources or clear agreements/memoranda of understanding with existing providers. Expanded or coordinated resources are essential to prevent New York City's existing treatment networks from being overtaxed by the development of a new problem-solving court.
- New problem-solving courts should embrace the involvement of peer mentors, who can provide critical support to an accused individual throughout the criminal court process and beyond. Capitalizing on the special relationship that veterans share, peer mentors would be a central support for veterans facing difficult circumstances. With proper training and support, peer advocates can be an "asset-multiplier" in the problem-solving court system.
- The accused individual should enter a PSC voluntarily and be involved in all aspects of treatment planning.
- New problem-solving courts should accept the most serious cases and more challenging participants. To develop a court and engage in the practice of skimming or creaming, accepting the less serious cases or clients with less service needs, wastes limited resources. Eligibility for admission to this court part should be assessed on a case by case basis.
- New problem-solving courts should provide that an accused need not plead guilty in order to receive court supervision and any necessary treatment and services. If guilty pleas are required, dismissals should be granted upon successful completion of the court mandate.
- Serious consideration must be given to any collateral consequences stemming from a plea. An exception to the requirement of a plea should be allowed for instances where severe collateral consequences, such as deportation, will result from the plea.

- New problem-solving courts should afford fairness in the imposition of alternative sanctions so that, where a plea is required, the defendant will not face harsher sanctions than she or he would have confronted outside the problem-solving court context.
- Lastly, Public Defenders play an important role in the development, operations and overall success of problem-solving courts. In fact, Legal Aid staffs these parts with our most senior and experienced attorneys who receive extensive training in the area of the specialized population. This provides for proper legal representation as well as supports court efficiency and allows for expert consultation to others in the court system (attorneys, judges, prosecutors, court officials, etc.). Having expert defense attorneys is the proper way to staff these parts, but such requires appropriate funding.

Veterans Treatment Court Model:

According to the United States Department of Veterans Affairs, there are more than 22 million veterans in the United States today. These veterans present a unique set of service needs as one in five veterans report symptoms of mental disorder; veterans have a high prevalence of substance abuse; and traumatic brain injury and an array of other health concerns often impact their functioning and adjustment back to civilian life.

Veterans Affairs statistics indicate that as many as one third of the adult homeless population in the United States has served in the military. Roughly 56 percent of all homeless veterans are African American or Hispanic. About 1.5 million veterans are considered at-risk of homelessness due to poverty, lack of support networks or residency in overcrowded or substandard housing.

Given these special service needs, a specialized court -- if appropriately planned staffed and resourced – could help address the underlying issues contributing to veterans becoming involved in the criminal justice system. Some of the key components to addressing veterans entering a Veterans Court should include:

- Provision of adequate housing for veterans either through the Veteran’s Administration, community mental health housing or Federally-funded programs such as Section 8.
- Involvement of peer mentors in the development of the court and to provide on-going support to the court participants. We should support peer involvement through stipends and training to ensure that their voice is heard among the group of largely professional stakeholders.
- Include job training in the participant’s treatment plans to better prepare them to become part of the workforce during or after the completion of their court mandate. Many problem-solving courts are so treatment-focused they lose sight of the importance of assisting participants in becoming job-ready. Future employment for Veterans Court participants may be more therapeutic than any other intervention provided.

- The ability to connect participants with effective trauma treatment. There are great numbers of people under court mandate who are provided treatment for a myriad of issues including mental illness, medical issues and /or substance abuse issues while underlying trauma issues remain unaddressed. Any Veterans Court must have the means to provide participants with high-quality trauma treatment.

We thank the Council for your continuing efforts to consider thoughtful alternatives to incarceration models. We look forward to working with the Council and the other stakeholders as all consider the implementation of Veterans Treatment Courts. The Legal Aid Society remains committed to serving veterans as well as all other clients who depend on the Legal Aid Society to provide access to justice.

If you have any questions or would like to engage in further discussion to plan the implementation of a Veterans Court please contact me (John Volpe) at 212-577-3340.