

STATE OF MICHIGAN
EATON COUNTY CIRCUIT COURT

**IN RE:
ESTABLISHMENT OF
VETERANS' TREATMENT COURT**

**ADMINISTRATIVE ORDER 2014-2
C56 2014-02
D56A 2014-02**

At a session of said Court held in the City of Charlotte,
Eaton County, Michigan, the Honorable Thomas Byerley
Presiding:

This Administrative Order is issued in accordance with MCL 600.1200 et seq.

IT IS ORDERED:

The purpose of this order is to establish a veterans' treatment court in 56th Circuit Court upon approval by the State Court Administrative Office (SCAO). All policies and procedures comply with the statute and are consistent 10 Key Components for a Veterans' Treatment Court, a copy of which is attached (Attachment A).

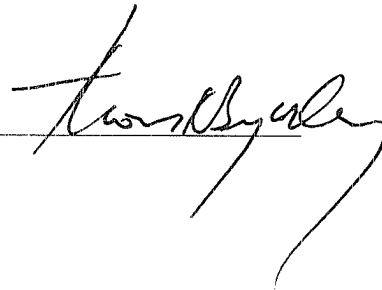
1. The court has entered into a Memorandum of Understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, a representative of community treatment providers, and other key parties stated in MCL 600.1201(2). The Memorandum of Understanding is attached (Attachment B).
2. The court has established eligibility criteria consistent with MCL 600.1200 et seq. as part of Attachment B. Under MCL 15.231 to 15.246, any statement or other information obtained as a result of participating in a substance abuse or mental health assessment shall be deemed confidential and shall not be used in any criminal prosecution against the veteran.
3. In compliance with MCL 600.1203, no participant shall be admitted until a complete preadmission screening, and substance abuse and/or mental health assessment are completed.
4. All participants shall sign a voluntary written consent to participate in the program in conformance with MCL 600.1205(1) (d).

5. The court shall maintain case files in compliance with General Records Retention and Disposal Schedule #16 – Michigan Trial Courts, the Michigan Case File Management Standards, and Part 2 of Title 42 of the Code of Federal Regulations to assure confidentiality of drug treatment court records.
6. The Court has established as part of its program requirements, procedures to assure compliance with MCL 600.1206 and 600.1208.
7. Under MCL 600.1210, the Court will provide the SCAO with the minimum standard data established by the SCAO for each individual applicant and participant of the Veterans' Treatment Court Program, as well as any funds received and expended as required by MCL 600.1211(3).
8. The Court will use the Drug Court Case Management Information System (DCCMIS) to maintain and submit the minimum standard data as determined by the SCAO while receiving grant money from the SCAO.

Effective Date: 6-17-14

Date: June 17, 2014

Chief Judge Signature:

A handwritten signature in black ink, appearing to read "K. S. Byrd", written over a horizontal line.

ATTACHMENT A

The 10 Key Components of Veterans' Treatment Courts

Key Component #1: Veterans' Treatment Courts integrate alcohol and drug treatment, and mental services with justice system case processing.

Key Component #2: Using a non adversarial approach, Prosecution and Defense Counsel promote public safety while protecting participants' due process rights.

Key Component #3: Eligible participants are identified early and promptly placed in the Veterans' Court program.

Key Component #4: The Veterans' Treatment Court provides access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitation services.

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.

Key Component #6: A coordinated strategy governs Veterans' Treatment Court responses to participants' compliance.

Key Component #7: Ongoing judicial interaction with each Veteran is essential.

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Key Component #9: Continuing interdisciplinary education promotes effective Veterans' Treatment Court planning, implementation, and operations.

Key Component #10: Forging partnerships among the court, VA, public agencies, and community-based organizations generates local support and enhances program effectiveness.

Eaton County Veterans' Treatment Court Memorandum of Understanding

This memorandum officially acknowledges the affiliation, relationship and understanding among the Parties, listed as signatories. We agree to share the following in the creation of the Eaton County Veterans' Treatment Court.

Mission

Establish a specialty court which will identify those defendants who served or are serving in the United States Armed Forces to:

- Coordinate services between the Court, Probation, Battle Creek VA Medical Center and any service providers;
- Provide veteran Mentors to veteran defendants;
- Provide probation monitoring and court supervision;
- Coordinate feedback between the court, probation, Veterans Administration and any services providers; and
- Treat the needs of the veteran promptly and professionally.

Structure of the Veterans' Treatment Court

The Veterans' Treatment Court may include cases from the Eaton County 56th Circuit and the 56A District Courts with defendants who have served or are serving in the United States Armed Forces. The cases may include both felonies and misdemeanors.

By design, this specialty court will provide defendants with a structure within which to obtain the necessary treatment and feedback to minimize the likelihood of future criminal court involvement. An important note is that the structure of this court is highly interactive. This ensures that all those invested in the process have access to each other and share information and treatment goals toward one end: Help the veteran succeed.

The person with the key role in this entire process is the veteran. His or her individual success is the overriding goal of this specialty court. The veteran's investment and partnership in this process is vital to his or her success. Overall, this program is a unique opportunity for all involved.

Entry into the ECVTC

Defendants may be referred by way of the 56A District Court and 56th Circuit Court. Defendants shall be referred at the earliest possible point in their court process.

There will not be a single specified means for entry into the ECVTC. A form with instructions to access this information will be provided to all courts, and will have to be faxed to the designated Battle Creek VA Medical Center office. Upon receiving notification the person is an eligible veteran; the referring court shall require the veteran to obtain a substance abuse/mental health assessment approved by the Battle Creek VA Medical Center or the ECVTC. This may be voluntarily accomplished, but it may be accomplished by means of a bond condition as well.

While different procedures may be followed on a case by case basis in the referring court, ideally a qualified candidate should be scheduled for the next available session. During the initial session, the choice of the veteran to enter into the ECVTC would take place, and possibly a plea would be reached that day. If that did not happen, a subsequent date would be set.

If a veteran, who does not have a pending case, seeks information or assistance, the policy of the ECVTC is to make every effort to accommodate and assist these veterans with the appropriate information and referrals, if necessary. We may also explain the veteran mentor program and ask if they have any interest in participating on that level.

Logistics of the ECVTC Sessions

Prior to commencement of the formal court session, staff meetings will be held to address any necessary issues related to the veterans coming before the court that session. The judge, probation officers, veteran mentor coordinator, veterans' justice outreach officer, prosecution and defense attorney representatives, and such other staff as may be advisable from time to time, will be present for each staff meeting. Written progress reports and recommendations for each veteran should be available before each session, and will form the basis for the staffing discussions. Initially each veteran will attend a court session not less than once each month, with another report to his or her probation officer in person or by mail/email as may be ordered. The frequency may be altered depending on the veteran's progress or lack thereof.

In the formal court session, each veteran will be called by his or her probation officer, and the judge will review both positive and negative developments since the last court date with the veteran and probation officer. Once the review is completed and a new court date set, the veteran will meet with his or her mentor privately. These interactions will be a significant part of the peer-mentoring process, and will be documented in mentor log books, which are confidential and strictly for the use of the veteran and the veteran mentor.

The ECVTC will schedule commencements as part of its sessions as they are needed. The veteran's probation officer, veteran mentor, key service provider(s) and family will

all be invited to attend. Prior ECVTC graduates will also be invited. Along with a certificate attesting the completion of all requirements of the ECVTC, each veteran will be presented with a challenge coin to commemorate his or her success.

Eligibility – Personal

Any person meeting the statutory definition of “veteran” (MCL 600.1200) is eligible for the ECVTC. The veteran defendant is required to live or attend college in Eaton County or within thirty miles of any Eaton County boundary. Each candidate for ECVTC membership will be reviewed at the staff meeting prior to the ECVTC for a determination of eligibility. A candidate may be offered entry into the ECVTC if admission of the candidate to the ECVTC is shown in the discretion of the presiding judge to meet the goals and objectives of the ECVTC; however, entry into the ECVTC shall only be with the consent of the prosecuting attorney and the candidate.

Eligibility – Charge(s)

Any person meeting the statutory definition of “veteran” (MCL 600.1200) is eligible for the ECVTC.

Plea Bargaining Policies

Plea bargains, in contemplation of entry into the ECVTC, shall be governed by the traditional roles of the prosecuting attorney and defense.

Probation Overview

Defendants may be placed on probation for up to 2 years for a misdemeanor and 5 years for a felony. They will be assigned a probation officer as well as a veteran mentor. As part of the probation, there will be standard probation conditions that the defendant is required to follow. Those conditions are as follows:

1. The defendant shall not commit any criminal offense;
2. The defendant shall not leave the state without prior permission;
3. The defendant shall report to the probation officer as directed by the court;
4. The defendant shall inform the probation officer of all changes of address and changes of employment;
5. The defendant shall not purchase, possess or consume any alcohol or illegal drugs;
6. The defendant will also be required to attend counseling as directed by the Battle Creek VA Medical Center or a local agency designated by the Battle Creek VA Medical Center. The counseling could be substance abuse and/or mental health counseling. The defendant shall comply with all requirements of the counseling programs; and
7. The defendant shall complete substance abuse testing as may be ordered by the court.

Reviews

Case management reviews will be conducted with probation officers and treatment providers at least once per month.

Funding

The Court will involve employees assigned as Case Manager(s), support staff, Coordinator as well as space to house the ECVTC. A 501(C)(3) Corporation, provisionally identified as Friends of the Eaton County Veterans' Treatment Court, may be an important source of funding for such things as commencement challenge coins, bus passes, training and written materials, etc.

Evaluation and Data Collection

The ECVTC will be evaluated annually. The State Court Administrative Office will assist in devising an appropriate form to be circulated to all partners. That agency will also work with ECVTC to devise appropriate data collection protocols.

Terms of Agreement and Conditions for Renewal, Amendment or Termination

The agreement can be amended on the approval and ratification of the statutorily required signers to this agreement. Parties involved may terminate this agreement at any time by the giving of thirty (30) days written notice of intent to the other party.

Eaton County Veterans' Treatment Court
Memorandum of Understanding

Date: 1-23-14 Chief Judge, 56th Circuit Court [Signature]

Date: 1/21/2014 Judge [Signature]

Date: 1/23/14 Judge [Signature]

Date: 1-29-14 Judge [Signature]

Date: 3-17-14 Judge [Signature]

Date: 1/23/14 Eaton County Prosecuting Attorney [Signature]

Date: 1/21/14 Defense Attorney Representative [Signature]

Date: 1/08/14 Court Administrator [Signature]

Date: _____ Director, Mich Dept. of Corrections _____

Date: 1-23-14 Chief Probation Officer, 56th District Court [Signature]

Date: 1/23/14 Eaton County Veterans Affairs Director [Signature]

Date: _____ Community Treatment Representative _____

Date: _____ VA Justice Service Officer _____

Date: _____ Eaton County Sheriff _____

**Eaton County Veterans' Treatment Court
Memorandum of Understanding**

Date: _____ Chief Judge, 56th Circuit Court _____

Date: _____ Judge _____

Date: _____ Judge _____

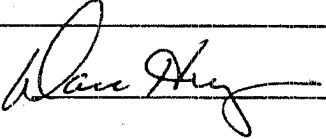
Date: _____ Judge _____

Date: _____ Judge _____

Date: _____ Eaton County Prosecuting Attorney _____

Date: _____ Defense Attorney Representative _____

Date: _____ Court Administrator _____

Date: 1-22-14 Director, Mich Dept. of Corrections  _____

Date: _____ Chief Probation Officer, 56-2 District Court _____

Date: _____ Eaton County Veterans Affairs Director _____

Date: _____ Community Treatment Representative _____

Date: _____ VA Justice Service Officer _____

Date: _____ Eaton County Sheriff _____

MEMORANDUM OF UNDERSTANDING

between the

Battle Creek VA Medical Center, Battle Creek, Michigan

And

Eaton County Veterans Treatment Court (ECVTC), Eaton County, Michigan

Background: Each year, many veterans are charged with misdemeanor crimes or ordinance violations within the jurisdiction of the Eaton County Circuit Court and Eaton County District Court. Many of these veterans have medical conditions, including those related to their military service. Veterans who are charged with eligible misdemeanor and/or felony crimes often need rehabilitative services that are not otherwise available to them except through the Department of Veterans Affairs (hereinafter "VA"). The Eaton County Circuit Court and Eaton County District Court have agreed to establish a Veterans Treatment Court in Eaton County, Michigan (hereinafter "ECVTC") to work with VA to divert select members of this veteran population who are charged with eligible misdemeanor or felony crimes away from jail and into appropriate rehabilitative programs.

Purpose: The purpose of this Memorandum of Understanding (hereinafter "MOU") between the Battle Creek VA Medical Center (hereinafter "VAMC" and the ECVTC is to establish the responsibilities of VA and the ECVTC, which will provide interested veterans charged with eligible misdemeanor or felony crimes within the jurisdiction of the ECVTC with an opportunity to realize better outcomes in their contact with the criminal justice system through utilization of VA rehabilitative programs.

Authority: The ECVTC has the authority to operate the Veterans Treatment Court pursuant to its judicial powers and Michigan Public Act 335 of 2012. VA has the authority to administer programs and provide healthcare to eligible veterans pursuant to Title 38 of the United States Code. This MOU is not intended to confer or create authority not already in existence. The parties to this MOU agree and understand that VA eligibility statutes and rules will dictate whether veteran-defendants who appear in the Veterans Treatment Court are authorized to receive medical treatment at the Battle Creek VA Medical Center in Battle Creek, Michigan. The parties further agree that VA personnel have the sole authority to interpret the VA health care eligibility rules.

The Parties to this MOU agree as follows:

1. The Veterans Treatment Court will include representatives of Eaton County Circuit Court, Eaton County District Court, Eaton County Prosecuting Attorney, Probation, Community Corrections, defense counsel who will assist in the planning, development and application of the Veterans Court.
2. Veterans charged with misdemeanor and felony crimes may be eligible to enter the Veterans Court program.

3. The Veterans Treatment Court is a voluntary program, which requires veterans charged with certain crimes to agree in writing and on the record during a hearing to enter into the Veterans Treatment Court.
4. The ECVTC shall be responsible for having the veteran-defendant sign all necessary forms provided by the Court, including those allowing a release of the veteran-defendant's health information from VA to the ECVTC, which includes the Eaton County Circuit Court and Eaton County District Court, and the veteran-defendant's current charges from the ECVTC, which includes the Eaton County Circuit Court and Eaton County District Court, to VA. The parties understand and agree that if the authorization to release information is revoked by the veteran-defendant at any time, VA will be unable to provide any information to the ECVTC pursuant to Federal privacy and confidentiality laws, absent a valid order signed by an ECVTC judge. Furthermore, the parties agree and understand that VA medical records and claims records of veteran-defendants are subject to the provisions in the "Confidentiality of Veteran Records" section below.
5. The parties will collaborate and cooperate for the purpose of developing and implementing necessary forms to be utilized to fulfill the requirements of the Veterans Treatment Court and to create a viable data collection process for a review of the efficacy of the Veterans Treatment Court at the conclusion of the one year trial period.
6. The VA shall provide one liaison to the Veterans Treatment Court whose responsibilities shall include:
 - a. Maintaining the authorizations signed by each veteran-defendant for release of information from the veteran-defendant's VA medical record to the ECVTC. The liaison will provide the authorization forms to the ECVTC;
 - b. Appearing at the Veterans Court to respond to court inquiries and assist with scheduling of appointments at the ECVTC;
 - c. Providing status reports concerning the veteran-defendant's treatment to the ECVTC on a regular basis as requested;
 - d. Assisting in treatment planning for veteran-defendants; and
 - e. Providing assistance to veteran-defendants to enroll in VA health care and establish eligibility for the care.
7. Upon a determination by the ECVTC judge presiding over a veteran-defendant's case that VA health care for the veteran-defendant would be an appropriate judicial recommendation, the judge will refer the veteran-defendant to the VA to develop recommendations for a treatment plan for the eligible veteran-defendant. In making the referral, the judge will consider an assessment by a representative

of the VAMC and ECVTC independent evaluator. The ECVTC agrees that its referral for treatment shall be general and it is within the discretion of the VA to develop a specific treatment plan for eligible veteran-defendants. The treatment plan recommended by VA will be provided to the independent evaluator designated by the ECVTC for presentation to the judge presiding over the veteran-defendant's case. If the judge does not agree that the treatment plan will achieve judicial objectives, an attempt shall be made to reach an agreement for a mutually agreeable treatment plan; however, in the absence of such an agreement, the ECVTC shall seek alternative treatment options from other sources in the community.

8. In order to initiate re-entry planning and to promote sound clinical continuity of care for veteran-defendants, a Battle Creek VAMC evaluator may perform a psychosocial assessment of a veteran-defendant who is incarcerated only if the veteran-defendant is in a pre-release status (usually within six months of the release date.) VA will not furnish hospital or outpatient care to a veteran-defendant who is an inmate in an institution of another government agency if that agency has a duty to provide the care and services. 38 U.S.C. §1710(h); 38 C.F.R. § 17.38(c) (5).
9. The parties understand and agree that the VA shall only provide treatment through programs and services the Battle Creek VA Medical Center has available and for which an enrolled veteran is eligible under Federal law, and that the VA may be limited in its treatment options due to budget and availability of providers. The parties also understand and agree that veteran-defendants participating in the ECVTC will not receive a priority for care from VA just because they are participating in the Veterans Treatment Court.
10. The ECVTC agrees to locate alternative treatment options existing within the community if:
 - a. the veteran-defendant is not eligible for VA care,
 - b. the Battle Creek VAMC is unable to provide treatment within the time frame mandated by the Veterans Court,
 - c. the Battle Creek VAMC is unable to provide treatment at the level mandated by the Veterans Court, or
 - d. the Battle Creek VAMC is unable to provide treatment for any other reason.
11. The VA's authority to pay for a veteran-defendant's non-emergency care at non-VA facilities is generally limited to those specific situations set forth in 38 U.S.C. §1703.
12. In order to assist in treatment planning, the ECVTC agrees to provide VA with the veteran-defendant's criminal history and current charges at the time of referral to VA.

13. The Veterans Court Mentor Court Program shall be the responsibility of the ECVTC.
14. The parties shall not make any statements, representations or commitments of any kind, to bind another party except as expressly provided herein or otherwise agreed to by the parties in writing.
15. Confidentiality of Veteran Records: VA medical and claims records are and shall remain the property of VA and shall not be removed or transferred from VA except in accordance with 5 U.S.C. § 552a (Privacy Act), 38 U.S.C. § 5701 (Confidentiality of Claimants Records), 5 U.S.C. § 552 (FOIA), 38 U.S.C. § 5705 (Confidentiality of Medical Quality Assurance Records), 38 U.S.C. § 7332 (Confidentiality of Certain Medical Records), Public Law 104-191 enacted in August 21, 1996 (Health Insurance Portability and Privacy Act of 1996) and any other pertinent Federal laws, rules and regulations. Subject to applicable Federal confidentiality and privacy laws, veterans or their designated representatives may have access to information from VA's records, upon request during normal business hours.

All individually identifiable health information shall be treated as confidential by the parties to this MOU in accordance with all applicable Federal, state and local laws, rules and regulations governing the confidentiality and privacy of individually identifiable health information.

16. Independent Contractors: For the purposes of this MOU, the relationship of the parties shall not be construed or interpreted to be a partnership, association, joint venture, or agency. The relationship between the parties to this MOU is an independent contractor relationship and neither party will be an agent, representative, or employee of the other party. No party shall have the authority to make any statements, representations, or commitments of any kind or to take any action that shall be binding on another party, except as may be expressly provided for herein or authorized in writing with the agreement of the other parties.
17. Liability: Each party shall retain all the rights and remedies available under applicable Federal and state laws. Each party shall be responsible and liable for the errors and omissions of their employees to the extent provided by law. VA employees performing under this MOU are covered by the individual liability protections of the Federal Tort Claims Act (FTCA) (28 U.S.C. §2679 (b)-(d)) and do not carry separate insurance. VA contractors are not covered by the FTCA.
18. Notices: Any notices required or resulting from this MOU shall be in writing and made to the following:

Battle Creek VAMC:

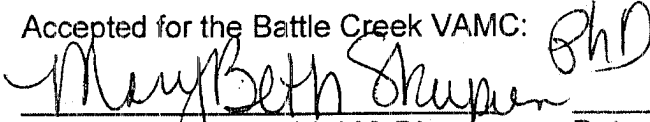
Karen Hinderliter, VJO Coordinator
Battle Creek VA Medical Center
5500 Armstrong
Battle Creek, MI 49037

ECVTC:

Robbin Bell
Coordinator, Eaton County Community Corrections
1045 Independence Blvd., Charlotte, MI 48813

19. Term of Agreement: The term of this MOU is one year commencing on its effective date. This MOU will become effective on the date that all parties have signed it. This MOU will automatically be renewed for consecutive one year terms unless amended or unless any party terminates its participation in this MOU by providing written notice to all other parties not less than thirty days prior to the effective date of such termination. If a party terminates participation in the MOU, the parties agree to honor any and all agreements entered into with participating veteran-defendants until the conclusion of their respective cases pending in the Veterans Court.

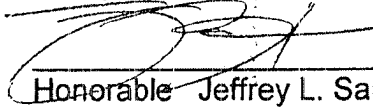
Accepted for the Battle Creek VAMC:


Mary Beth Skupien, VAMC Director

Date

1/24/14

Accepted for the ECVTC:


Honorable Jeffrey L. Sauter

Date

1/21/2014