

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

In re: Establishment of a Veterans' Treatment Court

Local Administrative Order **2011-13**

IT IS ORDERED:


The purpose of this Order is to establish a Veterans' Treatment Court in Macomb County for the Sixteenth Judicial Circuit Court, the 41A District Court and the 41B District Court upon approval of the State Court Administrative Office (SCAO). All policies and procedures comply with the ten key components for a Veteran's Treatment Court; a copy of which is attached as Attachment A.

Judge Mark S. Switalski and Judge Tracey A. Yokich will preside for the Sixteenth Judicial Circuit Court; Judge Stephen S. Sierawski for the 41A District Court; and Judge Carrie L. Fuca for the 41B District Court. All four judges will be cross-assigned to allow coverage for absences from the bench. Retired Judge Donald G. Miller will be assigned as a visiting judge and a designated alternate judge for all three courts.

1. The Court has entered into a Memorandum of Understanding with each participating prosecuting official in the circuit or district court district, a representative of the criminal defense bar, a representative of community treatment providers and other key parties. The Memorandum of Understanding describes the role of each party. A copy of the Memorandum of Understanding is attached as Attachment B.
2. The Court has established eligibility criteria as part of Attachment B. Any statement or other information obtained as a result of participating in a substance abuse or mental health assessment shall be deemed to be confidential and shall not be used in any criminal prosecution against the veteran.
3. No defendant shall be admitted until a complete pre-admission screening and substance abuse and/or mental assessment is completed.
4. All defendants shall sign a voluntary consent to participate in the program.
5. Each participating court shall maintain its own case files in compliance with the Trial Court General Schedule 16, the Michigan Case File Management Standards, and Part 2 of Title 42 of the Code of Federal Regulations to assure confidentiality of Veterans' Treatment Court records.

This Order is effective immediately upon approval of the State Court Administrator's Office.

Dated: 12-2-11



Honorable Mark S. Switalski
Chief Circuit Judge

Macomb County Veterans' Treatment Court **Ten Key Components**

Key Component One: Veterans' Treatment Court integrates alcohol, drug testament and mental health services with justice system case processing.

Macomb County's Veterans' Treatment Court promotes sobriety, recovery and stability through a coordinated response to veterans' dependency on alcohol, drugs and management of their mental illnesses. Realization of these goals requires a team-centered approach. This approach involves the cooperation and collaboration of the traditional partners found in drug treatment courts and mental health treatment courts, with the addition of the Veteran Administration Health Care Network, Veterans Benefits Administration, veterans and veterans family support organizations and veteran volunteer mentors.

Key Component Two: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participant's due process rights.

To facilitate the veteran's progress in treatment, the prosecutor and defense counsel shed their traditional adversarial courtroom relationship and work together as a team. Once a veteran is accepted into the treatment court program, the teams' focus is on the veteran's recovery and law-abiding behavior, not on the merits of the pending case.

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

Early identification of veterans entering the criminal justice system is an integral part of the process of placement in the Veterans' Treatment Court program. An arrest can be a traumatic event in a person's life. It creates an immediate crisis and can compel recognition of inappropriate behavior into the open, making denial for the need of treatment difficult for the veteran.

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

While primarily concerned with criminal activity, alcohol and other drug (AOD) use, and mental illness, the Veterans' Treatment Court team also considers co-occurring problems such as primary medical problems, transmittable diseases, homelessness, basic educational deficits, unemployment and poor job preparation, spouse and family troubles, especially domestic violence, and the ongoing effects of war time trauma.

Veteran peer mentors are essential to the Veterans' Treatment Court team. Their ongoing interaction with the Veterans' Treatment Court participants is essential. Active support from a veteran peer mentor throughout treatment increases the likelihood that a veteran will remain in treatment and improves the chances for sobriety and law-abiding behavior in the future.

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

Frequent court-ordered AOD testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant's progress.

Key Component Six: A coordinated strategy governs Veterans' Treatment Court responses to participant's compliance.

A veteran's progress through the treatment court experience is measured by his or her compliance with the treatment regimen. Veterans' Treatment Court establishes a coordinated strategy, including a continuum of graduated responses to continuing drug use and other noncompliant behavior.

Key Component Seven: Ongoing judicial interaction with each veteran is essential.

The judge is the leader of the Veterans' Treatment Court team. This active, supervising relationship, maintained throughout treatment, increases the likelihood that a veteran will remain in treatment and improves the chances for sobriety and law-abiding behavior.

Ongoing judicial supervision also communicates to veterans that someone with authority cares about them and is closely monitoring them.

Key Component Eight: Monitoring and evaluation measures the achievement of program goals and gauges effectiveness.

Management and monitoring systems provide timely and accurate information about program progress. Program monitoring provides oversight and periodic measurements of the program's performance against its stated goals and objectives. Additionally, information and conclusions developed from periodic monitoring reports, process evaluation activities, and longitudinal evaluation studies may be used to modify the program.

Key Component Nine: Continuing interdisciplinary education promotes effective Veterans' Treatment Court planning, implementation and operation.

All Veterans' Treatment Court staff should be involved in education and training. Interdisciplinary education exposes criminal justice officials to veteran treatment issues, the Department of Veterans Affairs (VA), veteran volunteer mentors, and it exposes treatment staff to criminal justice issues. It also develops a shared understanding of the values, goals, and operating procedures of the VA, treatment, and the justice system.

Key Component Ten: Forging partnerships among the Veterans' Treatment Court, the VA, public agencies, and community-based organizations generates local support and enhances the Veterans' Treatment Court's effectiveness.

The Veterans' Treatment Court's unique position in the criminal justice system makes it well-suited to develop coalitions among private community-based organizations, public criminal justice agencies, the VA, veterans and veteran's families support organizations, and AOD and mental health treatment delivery systems. Forming such coalitions expands the continuum of services available to Veterans' Treatment Court participants and informs the community about the Veterans' Treatment Court concepts. The Veterans' Treatment Court fosters system-wide involvement through its commitment to shared responsibility and participation of program partners.

Macomb County Veterans' Treatment Court Pilot Memorandum of Understanding

This memorandum officially acknowledges the affiliation, relationship and understanding among the Macomb County 16th Circuit Court, 41A District Court and 41B District Court to participate in a coordinated Macomb County Veterans' Treatment Court (MCVTC). It is anticipated that following our pilot, other District Courts in Macomb County will participate.

Mission

To serve Macomb County veterans in the justice system through a specialized treatment court docket, focusing on substance abuse and mental health treatment, and by providing the tools required for them to lead productive and law-abiding lives.

Vision

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

- Coordinate services between the Court, Probation, John D. Dingell VA Medical Center and any other service providers.
- Provide veteran mentors to veteran defendants.
- Provide intensive probation monitoring and court supervision.
- Coordinate feedback between the courts, probation officers, the VA and any service providers.
- Treat the needs of the veteran promptly and professionally.

Structure of the Veterans' Treatment Court

The Macomb County Veterans' Treatment Court will be comprised of the 16th Circuit Court, 41A District Court and 41B District Court for the pilot. Each Court will have their own individual Veterans' Court docket on specified days of the month held at their own court locations. Once per month, the Judges and key team members will meet for a full MCVTC team meeting. All participating courts will share resources including: mentor services, VA contacts, public defender lists, forms and protocols. The 16th Circuit Court will coordinate all activities on behalf of the participating courts. The objective of the MCVTC is to ultimately include all District Courts in Macomb County. MCVTC cases will be with defendants who have served or are serving in the United States Armed Forces. The cases may include both felonies and misdemeanors. All cases will be subject to judicial discretion.

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 majority of language used in this memorandum has been taken with permission from the *Ingham County Veterans' Treatment Court Memorandum of Understanding*.

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.

Identification of Veterans

The Judges in the participating courts have agreed to identify veterans as part of the arraignment process, allowing for early determination of eligibility for the program.

Entry into the Macomb County Veteran Treatment Court

Sessions of the MCVTC will occur on the first and third Thursdays of every month. (Please see attached draft schedule.) Additional sessions may be scheduled as they are needed.

There will not be a single specified means for entry into the MCVTC. Any participating judge who determines he or she has a possible candidate must first determine if the individual is an eligible veteran. A form with instructions to access this information will be provided to all courts and will be faxed to the designated John D. Dingell 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 through the John D. Dingell VA Medical Center or affiliated agency. 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 individual courts, ideally a qualified candidate should be scheduled for the next available Thursday session. At that session, the choice of the veteran to enter into the MCVTC would take place and possibly a plea would be reached that day.

Logistics of the MCVTC Sessions

The sessions of the MCVTC will be held the first and third Thursdays of every month, based on the attached schedule, with sessions added as needed. 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. Present for each staff meeting will be the judge, probation officer(s), veteran mentor coordinator, VA outreach officer, prosecution and defense attorneys, and such other staff as may be advisable from time to time. Written progress reports and recommendations for each veteran will be available at least one day before each session, and will form the basis for the staffing discussions. Initially, each veteran will attend a court session no less than once each month, with another report to his or her probation officer in person or as may be ordered. Frequencies 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

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books, which are confidential and strictly for the use of the veteran and the veteran mentor.

In the event that a veteran who does not have an open case in the participating courts approaches the MCVTC seeking assistance with substance abuse issues, mental health concerns, or VA benefits questions, the staff will make every effort to assist the veteran with the appropriate information and referrals.

The MCVTC will schedule commencements at the Macomb County Circuit Court as needed. The veteran's probation officer, veteran mentor, key service provider(s) and family will all be invited to attend. Prior MCVTC graduates will also be invited. Along with a certificate attesting the completion of all requirements of the MCVTC, each veteran will be presented with a challenge coin to commemorate his or her success.

Eligibility – Personal

Any honorably discharged veteran is eligible for the MCVTC. The veteran defendant is required to live or attend college in Macomb County or within thirty miles of any Macomb County boundary. Each candidate for MCVTC membership will be reviewed at the staff meeting prior to the MCVTC session for a determination of eligibility. (A candidate may be offered entry into the MCVTC if admission of the candidate to the MCVTC is shown in the discretion of the presiding judge to meet the goals and objectives of the MCVTC; however, entry into the MCVTC shall only be with the consent of the prosecutor and the candidate.)

Eligibility – Charge(s)

Any veteran who pleads guilty to or is convicted of any misdemeanor and/or a felony not included on the Ineligible Offense List (Exhibit A). Ultimate eligibility is at the discretion of the presiding judge.

Plea Bargaining Policies

Plea bargains, in contemplation of entry into the MCVTC, shall be governed by the traditional roles of the prosecution and defense. A typical plea bargain would involve a plea be taken under consideration of a special probationary status, e.g. 333.7411, with a Killebrew recommendation of no upfront jail time and with the requirement that the veteran access all available and appropriate VA benefits. Upon successful completion, on a case-by-case basis, charges may either be reduced or dismissed.

Probation Overview

Defendants may be placed on probation for up to two years for a misdemeanor and three years for a felony. They will be assigned a probation officer as well as a veteran mentor. As part of 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 offenses.
2. The defendant shall not leave the state without prior permission.

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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 John D. Dingell VA Medical Center or a local agency designated by them. The counseling could be substance abuse and/or mental health counseling. The defendant shall comply with all requirements of the counseling programs.
7. The defendant shall submit to substance abuse testing as may be ordered by the court.

Reviews

Case management reviews will be conducted with probation officers and treatment providers once per month. Defendants will attend at least one court review per month unless excused by the court.

Funding

The Macomb County 16th Circuit Court will provide staffing and resources from its existing personnel and resources to coordinate the MCVTC county-wide. Each participating Court will be responsible for funding their local VTC team members, and any costs that may be associated with holding sessions at their facility. A 501(C)(3) Corporation, provisionally identified as Friends of the Macomb County Veterans' Treatment Court may be used as a source of funding for such things as commencement challenge coins, bus passes, training, written materials, etc. The Judges and court personnel will not raise money for or otherwise participate in the administration of the 501(C)(3).

Evaluation and Data Collection

The MCVTC will be evaluated annually. The State Court Administrative Office will be consulted on an appropriate assessment to be circulated to all partners. MCVTC will also consult with SCAO in regard to data collection and retention protocols.

Each veteran who participates will be provided a questionnaire at the conclusion of his or her probation. This information will be added to other responses for consideration at the annual review.

Electronic Process

The MCVTC will make every attempt to keep forms and processes electronic. Macomb County Circuit Court will provide common forms in electronic format and will host and maintain a participant database for data input by each individual court.

Veterans Affairs

It is understood by all parties that the VA will have a separate Memorandum of Understanding with each individual Court that participates in the Macomb County Veterans' Treatment Court, and therefore it not included in the signing of this Memorandum.

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Macomb County Veterans' Treatment Court

MOU Signatures

Date: 11-28-2011



Mark S. Switalski, Chief Judge
16th Circuit Court
Mark.switalski@macombgov.org

Date: 17 Nov 2011



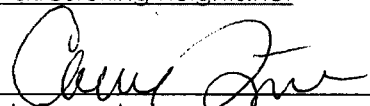
Tracey A. Yokich, Judge
16th Circuit Court
Tracey.yokich@macombgov.org

Date: 11-17-11



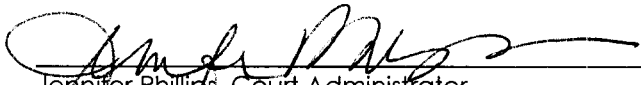
Stephen S. Sierawski, Chief Judge
41A District Court
ssierawski@sterling-heights.net

Date: 11/17/11



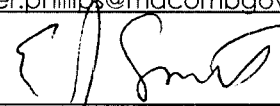
Carrie L. Fuca, Judge
41B District Court
c.fuca@41bcourt-mi.us

Date: 11/17/11



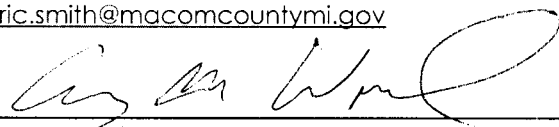
Jennifer Phillips, Court Administrator
16th Circuit Court
Jennifer.phillips@macombgov.org

Date: 11/21/11



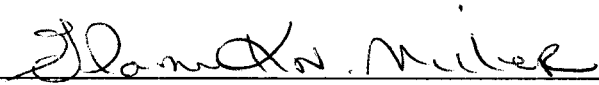
Eric Smith, Prosecutor
Macomb County
Eric.smith@macomcountymi.gov

Date: 11-17-11



Anthony Wickersham, Sheriff
Macomb County
Anthony.wickersham@macomcountymi.gov

Date: 11-17-11



Gail Pamukov-Miller, President
Macomb County Bar Association
Gail.@pamukovlaw.com



Macomb County Veterans Treatment Court

Presiding Judges

Tracey A. Yokich
16th Circuit Court
Stephen S. Sierawski
41A District Court
Carrie A. Fuca
41B District Court

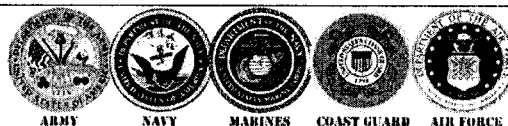


Participating Courts

16th Circuit Court
(586) 469-6986
41A District Court
(586) 446-2500
41B District Court
(586) 469-9300

Ineligible Felony Offense List

Accosting, Enticing, or Soliciting a Child for Immoral Purpose	750.145A
Assault with Intent to Commit Criminal Sexual Conduct	750.479a(6)
Assault with Intent to Commit Felony	750.520G
Assault with Intent to Commit Murder	750.87
Assault with Intent to Commit Great Bodily Harm	750.84
Assault with Intent to Maim	750.86
Assault with Intent to Rob or Steal, Unarmed	750.88
Assault with Intent to Rob or Steal, Armed	750.89
Attempt to Murder	750.91
Bank, Safe or Vault Robbery	750.531
Burning Dwelling House	750.72
Burning of Other Real Property	750.73
Burning of Personal Property over \$200	750.7(c) or (d)
Careless Use of a Firearm to Kill	752.861
Carjacking	752.529a
Child Abuse, 1 st Degree	750.136b(2)
Child Abuse, 2 nd Degree	750.136b(3)
Child Abuse, 3 rd Degree	750.136b(4)
Child Abuse, 4 th Degree	750.136b(5)
Criminal Sexual Conduct, 1 st Degree	750.520B
Criminal Sexual Conduct, 2 nd Degree	750.520C
Criminal Sexual Conduct, 3 rd Degree	750.520D
Criminal Sexual Conduct, 4 th Degree	750.520E
Criminal Sexual Conduct, 2 nd or More Offenses	750.520F
Child Sexually Abusive Material/Activity-Distributing/Promoting	750.145C3
Child Sexually Abusive Materials – Possession	750.145C4
Domestic Assault – 3 rd Offense	750.81(4)
Explosives, Sending with Intent to Injure	750.204
Explosives, Placing with Intent to Destroy or Injure	750.207
Explosives, Placing Offensive Substance with Intent	750.209



Explosives, Possession with Intent to use Unlawfully	750.210
Explosive Device, Construction, Use, Possession	750.211A
Extortion	750.213
Felonious Assault (when a firearm is involved)	750.82
Felonious Driving	752.191
Fleeing & Eluding, 4 th Degree	750.497A(2)
Fleeing & Eluding, 3 rd Degree	750.497A(3)
Fleeing & Eluding, 2 nd Degree	750.497A(4)
Fleeing & Eluding, 1 st Degree	750.497A(5)
Gross Indecency Between Males	750.338
Gross Indecency Between Females	750.338(a)
Gross Indecency Between Males and Females	750.338(b)
Home Invasion, 1 st Degree	750.110A(2)
Home Invasion, 2 nd Degree	750.110A(3)
Inciting a Riot	752.542
Jail Break – Armed	750.197
Kidnapping	750.349
Malicious Destruction of Police/Fire Dept Property	750.377B
Manslaughter	750.321
Mayhem	750.397
Murder, 1 st Degree	750.316
Murder, 2 nd Degree	750.317
Negligent Homicide	750.324
Offense by Sexually Delinquent	767.61A
OWI Causing Death	257.6254
OWI Causing Serious Injury	257.6259C
Riot	750.541
Robbery, Armed	750.529
Robbery, Unarmed	750.530
Sodomy	750.158
Stalking, Aggravated	750.411i
Use of Internet to Exploit or Solicit a Minor	750.145d

**All cases, both for inclusion and exclusion are at the discretion of the Judge*

