



# THE COURT OF COMMON PLEAS

COUNTY OF CUYAHOGA

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## **Summary of the 22 Ohio Veterans Treatment Courts' Survey to Evaluate Proposed House Bill 409, which Authorizes by Statute Veterans Treatment Courts**

This survey obtained information regarding the policies and practices of the twenty-two Ohio Veterans Treatment Courts (VTCs) to share with the Ohio legislators who drafted and sponsored pending House Bill 409, and other parties working with these legislators regarding this bill.

The questions submitted to each VTC focused on information that may be relevant in crafting a statute that codifies VTCs. Accordingly, many operational aspects of VTCs were not explored, although other surveys to obtain such information is certainly warranted, and is likely to be beneficial to each VTC and to the overall aspects of these VTCs.

All twenty-two Ohio VTCs participated in this Survey. Attachment 1 is an Ohio map, which indicates the county in which there is at least one VTC as well as the contact information for the Judges and VTC Coordinators. Presently, the VTCs are evenly divided - 11 Common Pleas VTCs and 11 other VTCs - 10 Municipal VTCs and 1 County VTC.<sup>1</sup> The VTCs all started between the years 2009 and 2018, beginning with one in 2009, five in 2010, one in 2012, two in 2013, five in 2014, three in 2015, three in 2017, and two in 2018.

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<sup>1</sup> Mansfield Municipal Court in Richland County has two VTC Judges and two separate VTC dockets. They are treated as one VTC for the purpose of this Survey. A Common Pleas VTC and a Municipal or County VTC in the same county are each considered a separate VTC.

The Survey was sent to each VTC. Attachment 2 presents each Survey question and the responses by the VTCs to that question. These responses have been collected, tabulated, and categorized by the two types of VTCs - Common Pleas Courts and Municipal or County Courts. Most of the responses are tabulated by percentages; however, a number of responses do not total 100% because a few VTCs did not respond to each question. The actual number of VTCs responding to that question is stated in parentheses following the percentage, for example: 100% (22) of the VTCs.

This Summary starts with who makes the decision to accept an eligible veteran who volunteers to participate in a VTC. In 59% (13) of the VTCs, the VTC Judge makes the decision to accept that veteran; whereas in 41% (9) of the VTCs, including both Common Pleas VTCs and Municipal VTCs, the Prosecuting Attorney must approve a veteran before the VTC Judge can accept this veteran into that VTC.

This Survey categorizes the status of a veteran because that status is utilized by VTCs to determine if a veteran is qualified to participate in a VTC. Generally, these categories relate to the nature of that service, the duration of a service, the type of discharge received, and whether that veteran has a military service-connected injury or disability. The responses based on these categories demonstrate that many VTCs differ in considering these categories to determine whether a veteran is accepted into a VTC.

The VTC categories are: all current and past active duty service, National Guard or Reserves service, and those who have received a medical discharge. 86% (19) of VTCs include one of these categories in their definition of a veteran. However, 14% (3) limit acceptance to current or past active duty by one Common Pleas VTC, only current or past active duty and Reserves by one Municipal VTC, and another Municipal VTC requires a veteran to have 365 consecutive days of active duty, unless receiving medical compensation from the Veterans Administration (VA), or was in a combat zone.

The issue of a veteran's duration of service arises when that veteran only attended boot camp. If he or she completed boot camp and then released from further



service, 59% (13) of the VTCs consider that person a veteran for their VTCs; however, 27% (6) do not. If a person failed to complete boot camp and then released from further service, 50% (11) of the VTCs still consider that person a veteran for their VTCs, but 36% (8) do not.

As to the type of military discharge accepted by the VTCs, as documented by that veteran's DD Form 214, 100% (22) of the VTCs accept an honorable discharge without further inquiry regarding that discharge.<sup>2</sup> 55% (12) accept a general and other than honorable discharge (commonly called, other than honorable or OTH) without further inquiry. Only 9% (2) of the VTCs accept bad conduct and dishonorable discharges without further inquiry.

Excluding honorable discharges, 91% (20) of the VTCs conduct a case-by-case review before accepting one or more of the other discharges. 68% (15) of these VTCs require heightened scrutiny or a higher standard to accept a veteran with a bad conduct

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<sup>2</sup> The military DD Form 214 (usually called DD 214 or its counterpart in the National Guard, NBG 22) is a certificate of release or discharge from active duty and represents a summary of the veteran's complete records of military service.

An Honorable Discharge is issued to those who complete their tour of duty and meet or exceed the required standards of duty performance and personal conduct; a service member does not need to complete a tour of duty to receive an honorable discharge, proved the reason for an involuntary discharge is not due to misconduct.

A General Discharge under Honorable Conditions (usually called a General Discharge) is issued to those who leave the service under honorable conditions, but their conduct and performance of duty was not so meritorious as to receive an honorable discharge. Some form of non-judicial conduct usually has occurred. This discharge may disqualify a veteran from receiving VA benefits that may require an honorable discharge.

A General Discharge under Other Than Honorable Conditions (usually called Other Than Honorable or OTH) is the most severe form of an administrative discharge and represents a significant departure from the conduct expected of a service member, making them to be ineligible for most veterans benefits.

A Bad Conduct Discharge (sometimes called a BCD) is a punitive discharge that can be given to an enlisted service member only through a court martial. Virtually all veteran's benefits are forfeited by a BCD.

A Dishonorable Discharge is a punitive discharge that a service member may receive only through a general court martial conviction for offenses such as murder, rape and assertion. This results in a loss of all veteran's benefits.

and dishonorable discharge. On the other hand, 14% (3) of the VTCs refuse to accept bad conduct or dishonorable discharge under any circumstance.

Regarding the military service connected injury or disability requirement before acceptance into a VTC, only 5% (1) impose that requirement. 95% (21) of the VTCs do not require the veteran have a service-connected disability or injury before being admitted into their VTCs. Similarly, 91% (20) of the VTCs did not require a veteran to be eligible for medical benefits from the VA for admission into their VTC. However, 9% (2) require a veteran to qualify for VA medical benefits before admission to their VTC.

A veteran's criminal activity is another category of acceptance into a VTC, based on two factors: (1) the level of felony: F-1, the most serious, to F-5, the least serious, and (2) the type of felony. Of the 11 Common Pleas VTCs, 46% (10) accept any felony level, when the veteran is placed on community control sanctions (commonly called probation). 18% (2) accept any felony level, except an F-1, and 36% (4) accept only felony levels F-3 to F-5.

Regarding the type of felony, 64% (7) of Common Pleas VTCs exclude specific crimes, such as sex-related and gang-related offenses. For all remaining crimes, including "crimes of violence," 100% (11) of the Common Pleas VTCs accept these crimes, subject to some restrictions and further inquiry. Of the 10 participating Municipal VTCs and one County Court, 45% (5) accept all misdemeanors, while 55% (6) exclude some misdemeanors, such as sex-related offenses, crimes involving a weapon, and lower level misdemeanors.

When a veteran is eligible for a diversion or intervention in lieu of conviction program, which, if completed, results in a dismissal of that crime, 91% (20) of VTCs allow these veterans to receive this dismissal when they complete their VTC obligations. 9% (2) of the VTCs do not allow the veteran to participate in these programs, or they have additional requirements regarding these programs after they complete their VTC obligations.



The balance of the survey focused on the operational aspects of the VTCs. 68% (15) permit veterans to complete their program in 12 months, while 27% (6) of the VTCs have an 18-month program. For 55% (12) of the VTCs, the typical time actually needed by a veteran to complete his or her program is 12-18 months, while veterans in 36% (8) of the VTCs need 19-23 months. In sum, 91% (20) of the veterans actually complete their VTC programs prior to 24 months.

Regarding the important mentoring program and the volunteer veteran mentors, 91% (20) of the VTCs have mentors, and 73% (16) have mentoring training programs.

The make-up of the Treatment Team for the VTCs shows much similarity and important differences. 100% (22) have a Judge, a VA Veterans Justice Officer (VJO), and a Probation Officer. 96% (21) have a VTC Coordinator (or a similar title). In addition, 96% (21) have a Defense Attorney, while 91% (20) have a Prosecuting Attorney. 86% (19) have a Veterans Service Commission (VSC) representative; 64% (14) have a Mental Health Representative; 59% (13) have a Mentor Coordinator; and 36% (8) have a Case Manager/TASC Representative.

The number of veterans a VTC ranges from 100 for a three-year-old VTC to two veterans in a beginning VTC. The average number of veterans in a VTC is 22, with an average of 25 in the Common Pleas VTCs, and 16 in the Municipal/County VTCs. The total number of veterans who graduated from all VTCs is 798, with 163 for a 9-year-old VTC to zero for five beginning VTCs.

91% (20) of the VTCs have one docket, with 68% (15) meeting every two weeks, while 22% (5) meet once a week. 9% (2) of the VTCs have two dockets, with a Common Pleas VTC alternating a docket of high risk veterans and one of low/moderate risk every other week, and a Municipal VTC, which has two Judges, each with a docket that meets on the same day, every other week. 100% (22) of the VTCs have their Treatment Team meet before the start of their docket.

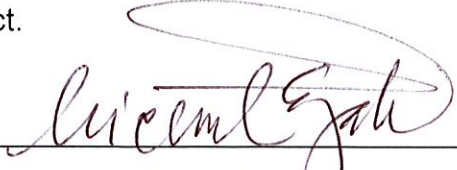
Regarding veterans from another jurisdiction participating in a VTC, 32% (7) of VTCs have a written memorandum of understanding (MOU) or an oral agreement that permits a veteran from other jurisdiction to participate in a VTC. Five of the seven are Common Pleas VTCs, one Municipal VTC, and one County VTC. Six of these VTCs stated that the other county/municipality retains jurisdiction of the case and the right to terminate or impose confinement as sanctions. However, all seven VTCs are authorized to impose all other sanctions and rewards. Only one VTC has total authority to impose any sanction. In contrast, 63% (14) of the VTCs do not have such arrangements.

In responding to the question whether this MOU arrangement should be in House Bill 409 to assure or validate the legality of this arrangement, five VTC's stated that this arrangement should be in House Bill 409, one VTC said no, and one VTC used this arrangement, but was not sure whether it should be in the statute.

100% (22) of the VTCs reported that their Veterans Service Commission (VSC) is involved with their VTC, and that 91% (20) provide services to the veterans participating in their VTC. 72% (16) stated their VSC provides direct staff support to their VTC, while 41% (9) provide financial support to their VTC.

64% (14) of the VTCs reported that their VTC has a grant or some form of funding other than their court budget, sometimes covering substance abuse and/or mental health.

I would like to recognize and thank my Cuyahoga County Court staff, including my judicial extern, Hannah Kalish of Cleveland Marshall School of Law, Amanda Wozniak, Coordinator of the Cuyahoga County VTC, as well as Monica Kagey, Manager-Specialty Dockets of the Ohio Supreme Court and her Statistics Analyst, Nikole Hotchkiss for their assistance in this project.



Judge Michael E. Jackson