

**Statement of Jeanne E. LaFazia
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Before the Subcommittee on Crime and Terrorism
Committee on the Judiciary
United States Senate**

**Entitled, “Drug and Veterans Treatment Courts: Seeking Cost Effective
Solutions for Protecting Public Safety and Reducing Recidivism”**

Good morning Chairman Whitehouse, Ranking Member Kyl, and other distinguished members of this Senate Judiciary Subcommittee. It is an honor and a privilege to meet with you today. Thank you for affording me this opportunity to appear before you to discuss something which I feel so passionately about: the expansion of Veterans’ Courts throughout this country and the implementation of a statewide Veterans’ Court Calendar in Rhode Island District Court.

I would like to first provide you with some background regarding the need for these specialty courts, as well as information relating to the implementation of Rhode Island’s pilot program, which is currently operating in the Rhode Island District Court for Kent County, one of four counties in Rhode Island. Our goal is to expand this pilot program in both scope and territory. Ultimately we hope to create a statewide Veterans’ Calendar which can address all judicial issues, both civil and criminal, relating to veterans and active military.

Immediately prior to becoming Chief of the Rhode Island District Court, I spent almost three years on the arraignment calendar in Kent County. I quickly began to notice that both veterans and active members of the military were appearing in increasing numbers. Sometimes these individuals were immediately recognizable by their stance and occasionally even by a uniform. Yet other times, they would actually hide their status and attempt to quickly resolve the charge without further attention. I was also hearing from victims in domestic matters who would tell me that the defendant’s behavior would not have occurred prior to his/her deployment or prior to doing multiple tours of duty, a phenomenon which we are seeing more of in this war than ever before.

It became apparent that some of these men and women were returning from combat with injuries that were very real, but which were not visible to the naked eye. I also realized that a sentence imposed on a member of the military could have a harsher result than the identical sentence imposed on a private citizen. For example, Rhode Island judges sometimes offer a “filing” on a first offense. The intent of a filing is to give the defendant a break – a chance to eventually start over with a clean slate. On domestic charges, however, the court also imposes a No Contact Order, which under federal law prohibits that defendant from carrying a firearm. There is an exception to this prohibition for members of law enforcement, but no such exception exists for the military. Active military personnel are required to be qualified to carry a firearm, so this military defendant, because of the No Contact Order, stands to lose his/her job, their future and perhaps their benefits – hardly what we intended when we sentenced that defendant to a filing.

Recent statistics indicate that close to 1.7 million Americans have served in Iraq or Afghanistan. While this is a very significant number, nationwide this presents as less than one-half of 1% of our national population. Rhode Island, however, has given more than its fair share to those statistics. The call back of Rhode Island’s National Guard is the 2nd highest in the entire United States. As of September 30, 2010 the number of veterans living in Rhode Island who have served in the Gulf Wars is 3 times the national per capita average.

Most of these veterans, amazingly, return home and successfully reintegrate into the fabric of society. But what about that small but increasing percentage of individuals that are not able to successfully do so? Studies now indicate that 1 in 5 returning military will exhibit some symptoms of mental illness. Of course, not all of those individuals will become involved in the criminal justice system.

“No soldier left behind” is a code which Americans have always been proud to live by. As Americans, we do not desert our soldiers on the battlefield – shouldn’t this also be true on the home front?

Do we not owe our returning soldiers a similar duty when they come home injured or affected in a way that has altered who they are and what they do? – Especially if that injury causes or fuels behavior that puts them into our criminal justice system.

In answering this question, we must remember that these are men and women who volunteered; they were not drafted, but they volunteered for this service. They put on a uniform and they followed the American flag into combat in order to fight for and protect the fundamental rights and privileges which we as Americans enjoy every single day.

Most people would emphatically answer yes, we do have some duty. But what does that mean? How does it translate to the criminal justice system and to the role of the judiciary in these cases?

As an initial response to these questions, I am delighted to advise that the Rhode Island District Court is a partner with BHDDH (Department of Behavioral Healthcare, Developmental Disabilities and Hospitals) and the Kent Center for Mental Health in implementing one of the 1st specific diversion programs in this region.

This pilot program, which is funded through a SAMSAH grant, is titled “The RI Jail Diversion and Trauma Recovery Program with Preference To Veterans.” While this grant includes non-veterans who are diagnosed with trauma-related disorders, I am here today, focusing on the veterans’ aspect of this program which is intended to divert or direct veterans with PTSD to a system of integrated treatment and wrap around recovery support services. This grant has allowed Rhode Island to begin this important process. But it is only a beginning. This pilot program is currently limited to criminal cases pending in Kent County District Court.

In January 2011, we introduced the program to all of the Kent County police prosecutors, city solicitors and defense attorneys. We began accepting referrals in March of 2011. Prior thereto, I formed a Task Force to discuss the nuts and bolts of the Court process, including, of course, a determination of which charges would be accepted. The Task Force, which I chaired, was comprised of representatives from: our Attorney General’s Office, the Public Defender’s Office, the Board of City Solicitors, Probation and Parole (Department of Corrections), the Rhode Island National Guard, the Veterans Administration and the Rhode Island District Court Pretrial Services Unit. The discussions were sometimes heated and many of these issues were quite complex.

When we first began publicly discussing this initiative, I immediately received a call from the press. The reporter stated that she had heard that we were treating veterans “differently from all other defendants”. That is not a question that any Chief Judge wants to hear from the press! It also, of course, is not accurate nor is it the intent of any of these programs.

So, let me now respond to the earlier question of “duty” by first emphasizing what this program does NOT mean:

- It does not mean that an individual will not be held accountable for their actions simply because of military status or even medical diagnosis alone. This is not a free pass.

Accountability is essential to a strong and safe society; it is also essential to successful recovery. This program is in no way intended to send any message to the contrary. Program compliance might result in a full dismissal of charges; or instead it could result simply in a reduction of charges or the imposition of a lesser sentence.

What this duty does mean, however, is that we need to increase our focus on this group of people. We need to recognize them. We need to implement programs which will allow us to address the unique challenges which veterans face and which will allow us to provide them with the tools and insight needed to become whole again – to reintegrate successfully into society. Veterans’ Courts are a “problem-solving courts”.

I am passionate about this project, but it does not come without significant challenges and none of us take our responsibilities lightly.

As we began to develop criteria for the program, a number of questions leapt out at us. For example, should we include alcohol related motor vehicle charges, such as Driving Under the Influence (DUI)? As Chief Judge, I had concerns, and along with the prosecutors on my Task Force, I was initially inclined to exclude all drunk driving related charges. After all, they do present a threat to public safety; penalties in Rhode Island are statutorily enhanced for multiple offenses; and last, but not least, these alcohol related driving charges are particularly ripe for public scrutiny and criticism. Excluding them from this diversion program would certainly have been the safe choice.

After much discussion and further reflection, however, I also came to realize that sometimes, these DUI charges may rest at the very heart of what we are trying to do with this grant and with the establishment of Veterans' Courts across the country. If this behavior occurred as a result of service related trauma, isn't that exactly what this program is about?

Ultimately, we all realized that each case needs to be taken individually, with consideration to the history and to the facts and with the application of standardized diagnostic protocol provided by experts in this field. Every referral, including charges for Driving Under the Influence as well as Domestic-related charges, needs to be reviewed on a case by case basis to determine if it should be accepted into the program.

While this allows for some subjectivity, we all recognize the need for objective criteria as we make these determinations. This pilot program has been very exciting and we are already doing great things in Rhode Island. Our police departments in Kent County have been very supportive. They have all participated in statewide "First Responder Programs", which train police officers to recognize mental health issues and to diffuse dangerous situations. We are asking those program directors to add a session on training which will be specific to assist in recognizing veteran-related issues. We have had tremendous support from our community mental health providers, as well as from other State departments. The Rhode Island National Guard has been actively involved and fully supportive of this program and its goals.

As Chief Judge of the Rhode Island District Court, it is my dream and my goal to establish a state-wide Veterans' Court in Rhode Island in the near future.

The term "Veterans' Court" is a popular buzzword today, but the term carries some misperception as to what it entails. Last year, former Congressman Kennedy created a "Roundtable", which specifically brought together many Rhode Island leaders in order to address issues related to the implementation of Veterans' Courts throughout the country. I was delighted that there was not only recognition of the needs and challenges faced by our returning military, but also of the fact that a Veterans' Court, despite its name, does not necessitate creating a new stand-alone court. The creation of designated calendars within each county of the Rhode Island District Court provides the best and most sustainable solution. It is important to note

that these problems do not appear only on our criminal calendars. We see these individuals on our District Court eviction calendars with extensive housing issues. We see them on civil, debt-related matters. Many of the people who we currently see do not qualify for the present Kent County Trauma Pilot Program. Most, however, would be eligible for referral to a statewide general Veterans' Calendar. I am confident that with a statewide court, more veterans would be willing to identify themselves and to participate in these programs. With statewide recognition, these individuals would feel less stigmatized. The knowledge that they are not alone with their problems, would promote confidence thereby allowing for more successful participation. These individuals would no longer feel isolated by a sense of shame, which is often self-imposed.

The Rhode Island District Court is in a unique position to take on the responsibilities of a statewide Veterans Court. Our District Court is the threshold to the Rhode Island criminal justice system. Virtually everyone in Rhode Island, who is charged with a crime, whether a felony or a misdemeanor, enters the judicial system through the doors of the Rhode Island District Court. All arraignments are performed in the District Court, where we set bail and the conditions of bail. The District Court monitors the compliance of those conditions, including alcohol, substance and mental health counseling. The District Court schedules the pretrials and trials of all misdemeanors. We average in excess of 50,000 new criminal cases each year, most of which are misdemeanors. Bail on felonies is initially monitored by District Court until the Superior Court arraignment, which takes place six to nine months after the initial arraignment in District Court.

The Pretrial Services Unit of the Rhode Island District Court was originally created in 1998 and is now being expanded into all four counties. We have court clinicians available in each county courthouse. The Rhode Island District Court has collaborative agreements in place with most of the major mental health community providers. We have an extensive and continually expanding network for referrals on substance, alcohol and other behavioral issues. We are now able to do even more with the VA on statutorily mandated counseling. The Rhode Island Legislature passed law this year which allows the Court to order a veteran into counseling through a VA approved program rather than requiring DUI School or a traditional Batterers Intervention Program, two programs which may not have insight into veterans' behavior. Governor Chafee quickly signed this into law.

This pilot program, while relatively new, has been tremendously successful. We have seen remarkable results despite a minimal budget. Rhode Island is indeed in a unique position, in part because of its small size. The collaboration between the various stakeholders was strong and successful even before the implementation of this particular grant. We are all committed to the success of these veteran-related projects.

The needs of our returning military are growing. As we anticipate future draw-downs, the number of returning personnel who will require these services will undoubtedly grow substantially. The expansion of this program will allow us to fully address the various needs of these individuals and will allow us to include all individuals who enter the judicial system because of a service-related injury.

Rhode Island District Court is ready and positioned to take on the responsibilities of such a full time statewide veterans calendar. We have the network and the resources to make it not only successful but also sustainable. I hope that we will see this in the relatively near future. For this, however, we continue to look to you, our leaders in Washington. We do need your help and we do need your support. We can not do this without you.

I am very excited and very proud to have the Rhode Island District Court play a leading role in this project. I thank you again for the opportunity to address these important issues with you today. I welcome any questions which you may have.