

John Caher: Welcome to “Amici,” news and insight from the New York Judiciary and the Unified Court System.

Today, we are fortunate to have as our guest the Honorable Robert T. Russell, a Buffalo City Court Judge who serves by appointment as an acting Erie County Judge. In January of 2008, Judge Russell created and began presiding over the nation's very first Veteran's Treatment Court. Today, there are well over two-hundred Veteran's Treatment Courts in the country, with hundreds more in the planning stages.

Prior to his service as a Veteran’s Court judge, Judge Russell created Buffalo's drug treatment court in December 1995, and continues to serve as presiding judge. In addition, in December of 2002, he established and began presiding over Buffalo's mental health treatment court. This court oversees cases involving individuals diagnosed with severe mental illness.

Judge Russell earned his law degree at Howard University School of Law, and has been on the bench since the early 1990s. He has received numerous awards for his leadership in problem solving courts.

Judge, thank you so much for taking the time to speak with me today. Let's focus, if we could, today, on the Veteran's Treatment Court that you established eight years ago. At the time, of course, you were presiding over two other specialty courts, I believe, the Drug Court and the Mental Health Court. What made you think that a separate, additional specialty court was needed to address this particular population?

Judge Russell: I had been presiding over a Drug Treatment Court 1995, and a mental health treatment court since 2002. In late 2006, I was presiding in the Mental Health Treatment Court and there was an individual that we were working with, someone who I knew through our case conference was a veteran of the Vietnam conflict. But the report I was receiving from the mental health treatment provider that he was linked was that he was not really

progressing in his mental health counseling or treatment. What they indicated was that the person was showing up, which was good, but at the same time, he was not really engaged with his therapist, or was not really participating in his group counselling. He had been linked to his treatment agency for about six months, so I wanted to address it when he appeared in court on this particular day.

When the veteran did appear in court, the case was called by the court clerk. The person approached the podium where there participants stand, and his posture was limp. He would not look directly at me, but his head was downcast, and his eyes was more directed at the carpet than anywhere else in the court room.

I said, "Well, I'm happy that you're showing up to your counselling, but the report is indicating that you're not really engaged." I asked him what was going on. His response was really more of a guttural type response.

Well, in the court room was my project director at that time, a guy by the name of Hank Pirowski. He since is deceased, but Hank had served in the Marines and was a Vietnam veteran. Also in the court room was a guy by the name of Jack O'Connor. Jack worked for our country government at the time, and he was in court to observe. I knew Jack was an Army veteran, who also served in Vietnam.

I asked if they would both go out of the court room and kind of talk to this gentleman and see what was going on and what's really affecting him. Well, about 20 minutes later, they entered back into the court room. Now, this guy stands in front of me, at a military posture, which is known as parade rest, where his feet, legs, were slightly parted, his head was upraised. Now, he's looking directly at me, and his hands were cupped behind his back. He looked at me and he said, "Judge, I'm going to try harder." Well, that really astonished me, how after speaking with a couple veterans he is now responding to me.

I had asked both Hank and Jack what in the world happened. They indicated that in the hallway they both shared with him that they also were veterans, and served in 'Nam. They talked about their commonality of service, and then expressed to him that they wanted, and the court wanted, him to get better and to get stable in his life. From that point, we began discussing whether there was something more we should be doing for our veterans to have success and stability in their life? That began our journey.

John Caher: Well, it sounds like what he really needed was someone who could speak his language, I guess?

Judge Russell: Yes sir. Someone who could speak his language, someone who stimulated in him that familiarity and that he was not alone. Sometimes, being linked to a counselling treatment agency, you're sitting with those who do not have that commonality of service, and speaking with two veterans, I think stimulated, motivated in him that, "I'm not alone. That I have someone that understands what I've been through, and they are encouraging me."

John Caher: Ok, so you find an unmet need. What's the next step? How do you get from there to establishing a new specialty court?

Judge Russell: Well, part of it was I also began doing some research about what issues veterans were facing. At that time, in late 2006, the Rand Corporation came out with a study. Part of that study had indicated that of the veterans who had served in the most recent conflict in Iraq and Afghanistan, that one-in-five were demonstrating mental health symptoms on their return home. The question began, one, what was the need? Then two, explore what, if anything, could be done to provide a greater support service and network for the veterans who would be seen in the criminal justice system?

Part of that journey began with meeting with our local VA Hospital, and speaking with the VA Hospital and indicating to them that we were thinking about setting aside a day, a morning,

afternoon, or whatever, for veterans who are suffering from a mental health condition or a dependency on substances where they're self-medicating themselves, and putting them on a separate calendar to address these need. Part of that conversation evolved to also having veterans who volunteered to act as veteran mentors. Veterans who, similarly to what Hank and Jack had done, to encourage and motivate these veterans to address the underlying issues.

John Caher: What mental health issues are unique or distinct or different when dealing with veterans, than would perhaps be dealt with in the conventional Mental Health Court?

Judge Russell: First, the men and women who have served in the United States military have a certain unique culture to military service that is in common with all veterans. Having gone through basic training or boot camps, they learned teamwork, leadership skills, skills to take direction and orders. We wanted to capitalize on that military culture.

Secondly, veterans who have served in a combat area have a certain uniqueness that we don't find in the regular civilian community, and that is from the trauma that might be experienced through war. Some of the signature injuries, in particular, when we look at the most recent conflict in Iraq and Afghanistan, is post-traumatic stress disorder. Some have suffered traumatic brain injuries due to improvised explosive devices. Some are having challenges with regards to major depression, major anxiety, things of that sort.

John Caher: I understand. Now, so how does it work? Someone comes into your court and what's a mechanism for steering them to a Veteran's Court?

Judge Russell: Yes, so one of the first, initial things that, whether it's the court in Buffalo or any jurisdiction, is how do we begin to identify veterans who are coming through our criminal justice system? It's not readily apparent who has served and who has not served. One thing that had to be done is to begin to ask the question of

those that are arrested. It could be done through law enforcement, it could be done through your local jail, it could be through your pre-trial services agency, through the defense bar, to ask the clientele, the participants, the arrestee, "Have you ever served in the United States military, National Guard or Reserves?"

Once we're able to identify who the veterans are, then the next step is to begin to find out what is some of the underlying issues that may have brought them into the criminal justice system and doing an initial screening. If the initial screening bears out that it is likely due to a mental health disease or disorder, or a dependency on substances, or both, then they are potentially eligible, maybe, for the Veteran's Treatment Court Program. The next step is, of course, for the prosecution and defense to determine whether what they're charged with is a type of offense that would be considered for the Veteran's Treatment Court Program.

John Caher: It sounds like a lot of educating has to go on. Are the judges specially trained to deal with these sort of cases?

Judge Russell: That is the hope and the desire. We, and I say "we" because I do participate in several organizations nationally that work to train judges in presiding over a Veteran's Treatment Court Program. It is important because in addition to learning how to preside over a treatment court in general, also it's important to be aware of the unique issues that you'll find in a Veteran's Treatment Court Program.

John Caher: You've been described as the "quarterback of a team of veteran advocates and mental health experts" to ensure that a veteran's brush with the law is his or her last. Is that an accurate description?

Judge Russell: I think when you look at the role of a judge, you can probably consider the judge as a quarterback, where you're working to steer the team in the direction of providing the best opportunity for success for the veterans that we are seeing in the justice

system. Part of that is bringing together a collection of veteran-specific services that exist in your community and working with the United States Department of Veteran Affairs, the main provider of healthcare for veterans nationally. In addition, working with veterans from your community who will volunteer as volunteer veteran mentors. There are number of specific agencies that their task, their calling, their duty is to provide services to veterans. That could be with regards to housing, job training, employment, education, things of that sort. Yes, you kind of bring in this collection of providers and resources together in one form. The court becomes a one stop location for services, treatment, and support for veterans.

John Caher: What is the benefit to the defendant of going this route rather than the conventional criminal justice route?

Judge Russell: Well, one is, of course, hopefully gaining stability back in their life, these men and women who went off to serve to protect our interests and our country's interests, now are experiencing unsettling in their life. A benefit is regaining stability, addressing their healthcare, if they're in need of medication, getting the medication that they need, and helping them become productive members of our community rather than something other than being productive.

John Caher: The premise seems to be that except for the mental health issues, exacerbated or caused by the military service, these people generally would not be committing crimes?

Judge Russell: Yes, I think that's a fair analysis of it.

John Caher: Has it been successful? Has it worked? Do we know anything about recidivism?

Judge Russell: Yes. It has been successful. Right now, there's only one national study that's been done, and that's out of the State of Ohio. That study has indicated that Veteran's Treatment Court in the State of Ohio has been very successful. Recidivism rates are low and they are making tremendous progress. There are a number of

places now around the country that are doing studies, so outside of just giving you anecdotal information, at least we're beginning to see national research with respect to Veteran's Treatment Courts. The early indication is extremely favorable.

John Caher: Anecdotal evidence can be very compelling. Can you share with us a success story or two?

Judge Russell: Oh, my goodness. I tell you, it's almost like every week there are some tremendous stories with regards to men and women who at one time were not addressing their healthcare, who are now back gainfully employed, reunited with their families, taking care of their children, working. A number of them are going back to college, getting their college education, and becoming, once again, leaders in our community, rather than being unsettled in their community.

John Caher: It's a win-win for the defendant and the community at large?

Judge Russell: Oh, very much so, very much so. For the community at large, we all are supportive of the men and women who went off to serve our country, whether with active duty, whether it was our National Guard, or whether it was in the Reserves, in which they eventually became activated and served. We want them to come home and come home safely, but we also realize that some do suffer from the invisible wounds of war.

John Caher: How many Veteran's Courts are there now in New York State?

Judge Russell: In New York State, according to the Office of Court Administration website that I looked at, there's a listing of 19. I know pretty soon that Manhattan Veteran's Treatment Court is having their grand opening, if they haven't already done so, in the very near future, so that would bring it to 20.

John Caher: And it all started with you. Do we still need more in this state?

Judge Russell: Well, I think the big question that you look at when you talk about is there a need for more is, one, is there a Veteran's

Treatment Court in reach or available to all veterans who may be in need, who are suffering from mental health disorders or disease, or substances, or combination of both, in the State of New York? We do realize in the State of New York, we have 62 counties. The 19 or 20 Veteran's Treatment Court, if these courts are not reaching veterans throughout our states, then the question becomes is there a need for more? Or, is there a need to expand the jurisdictions of these courts to be able to reach veterans in neighboring counties?

John Caher: It must be incredibly gratifying to you and the other judges to be involved in something like this, because as you well know, you're usually on the reactive end. Now, you're on that as well, but you're also on the preventative end.

Judge Russell: Yes. It's been an extreme joy for me to work in the Veteran's Treatment Court. It's amazing to see those who may have served multiple tours of duty in Afghanistan or Iraq, who come home to challenges, now getting stability back in their life, working, being productive, happy, and seeing joy return back to their faces. A lot of that is owed to not only our present Chief Judge, Janet DiFiore, but in addition, her predecessors, Judge Lippman and Judge Kaye, had envisioned problem-solving type courts, and enabling these courts to help the citizens of the State of New York to regain stability in their life.

John Caher: I think all three of those Chief Judges were deeply committed to the concept of the problem-solving courts, and it seems like they have solved a lot of problems.

Judge Russell: Yes. Yes, sir.

John Caher: Okay. That's all the questions I have, unless there's anything you'd like to add or something I forgot about?

Judge Russell: No, I think it's a realization for those of us who work in the justice system that maybe 2.8 million men and women served in the most recent conflict in Iraq and Afghanistan, and at some point in time, close to 50 percent of those on the ground in

Afghanistan and Iraq were National Guards or our reservists. We really pulled on the resources of our volunteer military and we appreciate their service. But some do come back home with challenges. We need to appreciate them and adjust the system in the recognition that if we pull together the resource we may be able to regain stability for a number of these men and women.

It's been a joy serving in the Veteran's Treatment Court, and I'm appreciative of the Office of Court Administration and their support for these type of courts, not only to allow it to exist in the State of New York, but now throughout the country, where there're probably close to 300 Veteran's Treatment Courts now across the United States.

John Caher: That's incredible, and I know everyone is very appreciative of what you do. Thank you so much for your time today, Judge, and thanks for the good work you're doing.

Judge Russell: Thank you very much for having me on the program.

John Caher: Thank you for listening to this edition of Amici. If you have a suggestion for a topic on Amici, call John Caher, at 518-453-8669, or send him a note at JCaher@NYCourts.gov. In the meantime, stay tuned.