

# New York's VTC Transfer Legislation Training

**AIIRise**

**Justice  
for Vets**



NEW YORK STATE HEALTH FOUNDATION: *Improving the state of New York's health*

A photograph of a row of classical stone columns, likely made of marble or limestone, with a white serif font overlaid in the center. The columns are fluted and have a base with several horizontal rings. The lighting is warm, suggesting an indoor or shaded outdoor setting. The word "Welcome" is centered horizontally and vertically over the middle of the columns.

Welcome



**JUSTICE  
FOR VETS**

# **Military & Veteran Culture**

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**Presented by**

**David Pelletier, JD USMC Veteran  
project director, Justice For Vets**

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# Active Military Strength (approx.)

U.S. Army	472,000
U.S. Navy	336,000
U.S. Marine Corps	186,000
U.S. Air Force	321,000
U.S. Coast Guard	42,000
U.S. Space Force	16,000



**Total end strength: 1,373,000\***

**(Approximately **.42%** of the US population serve in the active military based on a US Population of 329 Million)**

\*2019





# Reserve and National Guard



- ✓ There are approximately 1,089,501 Reserve and National Guard in service (.34% of pop.)
- ✓ Over 255,000 Reservists and 334,000 National Guard members have deployed post 9/11
- ✓ Increased stress on families, employment, and housing.



# Veteran Data

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- **17.4 Million Veterans (6.9%) – U.S. Census 2019**
- **In 2018, 3.7 million Veterans had a mental and/or substance use disorder** (2018 National Survey on Drug Use and Health: Veterans)
- **Substance use and mental disorders are closely linked among veterans: NSDUH tells us that**
  - illicit substance use is associated with increased risk for other hazardous substance use and mental illness, and
  - mental illness is a risk factor for illicit substance use among veterans
- **Est. 107,400 veterans incarcerated - BJS 2016**
  - About 7.9% of State and 5.3% of Federal prisoners
  - About 1 in 4 male veterans in state (28%) and 1 in 5 in federal (21%) prison were **combat veterans**.

# Women



**Women comprise approximately:**

14.5% of all active duty military

18% of all National Guard and Reserves

12% of post 9/11 Veterans

9.7% of the total veteran population are women



**By 2043, women are projected to make up  
16.3% of all living veterans**



# Culture Defined

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**Culture** is a way of life for a society that includes:

*Manners, dress, language, religion, rituals,*  
norms of behavior (*law* and *morality*), systems of  
belief as well as the arts and *gastronomy*

**Cultural Competence** refers to the ability to interact  
effectively with people of different cultures

Developing cultural competency results in an ability  
to **understand, communicate with, and effectively  
interact** with people across cultures





**Culture = Tradition + Training + Experiences**

# Military Culture

## Explicit vs Implicit



### Explicit

- Uniforms
- Ranks
- Medals
- Laws



### Implicit

- Customs
- Changing World view / Values
- Values incorporate into Identity
- Contribute to resilience but also make one vulnerable



# Military Culture - Explicit



## Ranks & Chain of Command

- Enlisted personnel
  - Junior enlisted
  - Non-Commissioned Officers
- Warrant Officers
- Commissioned Officers

Marine Corps rank structure, general orders, and leadership traits, by [Cpl Mellizza Bonjoc](#),

# Military Culture - Explicit

## Branch Labels (Nicknames)

Army – Soldier (Grunt)

Marines – Marine (Jarhead)

Navy – Sailor (Squid)

Air Force – Airman (Zoomie)

Coast Guard – Coastguard Person  
(Coastie)

Space Force – Guardian





# Name Calling between Branches

Never Again  
Volunteer Yourself



NAVY

Muscles Are Required,  
Intelligence Not Essential



MARINES

Aren't Ready for  
Marines Yet



ARMY

Chair Force



AIR FORCE

Shallow Navy or  
Navy Lite



COAST GUARD

# Military Culture - Implicit



## Implicit

- Customs
- Changing World view / Values
- Values incorporate into Identity
- Contribute to resilience but also make one vulnerable

## Implicit

- Ethos
- Core Values
- Discipline
- Self-sacrifice
- Teamwork

Ex. Warrior Ethos

# Warrior Ethos



**Sense of Purpose**

**Code of Conduct**

**Common Purpose**

**Identity**

**Morality**

**Selflessness**

**Sacrifice**

**Loyalty**

**Honor**

# Selflessness

Placing the welfare of others above one's own welfare

Not seeking help for health problems because attending to personal health is not a priority



# Excellence

Becoming the best and most effective  
professional possible

Feeling ashamed of (or not acknowledging)  
imperfections

# Stoicism (Embrace the Suck)

Displaying toughness and ability to endure hardships without complaint

Not acknowledging significant symptoms and suffering

**The appearance of U.S. Department of Defense (DoD) visual information does not imply or constitute DoD endorsement**



# NADCP

National Association of  
Drug Court Professionals

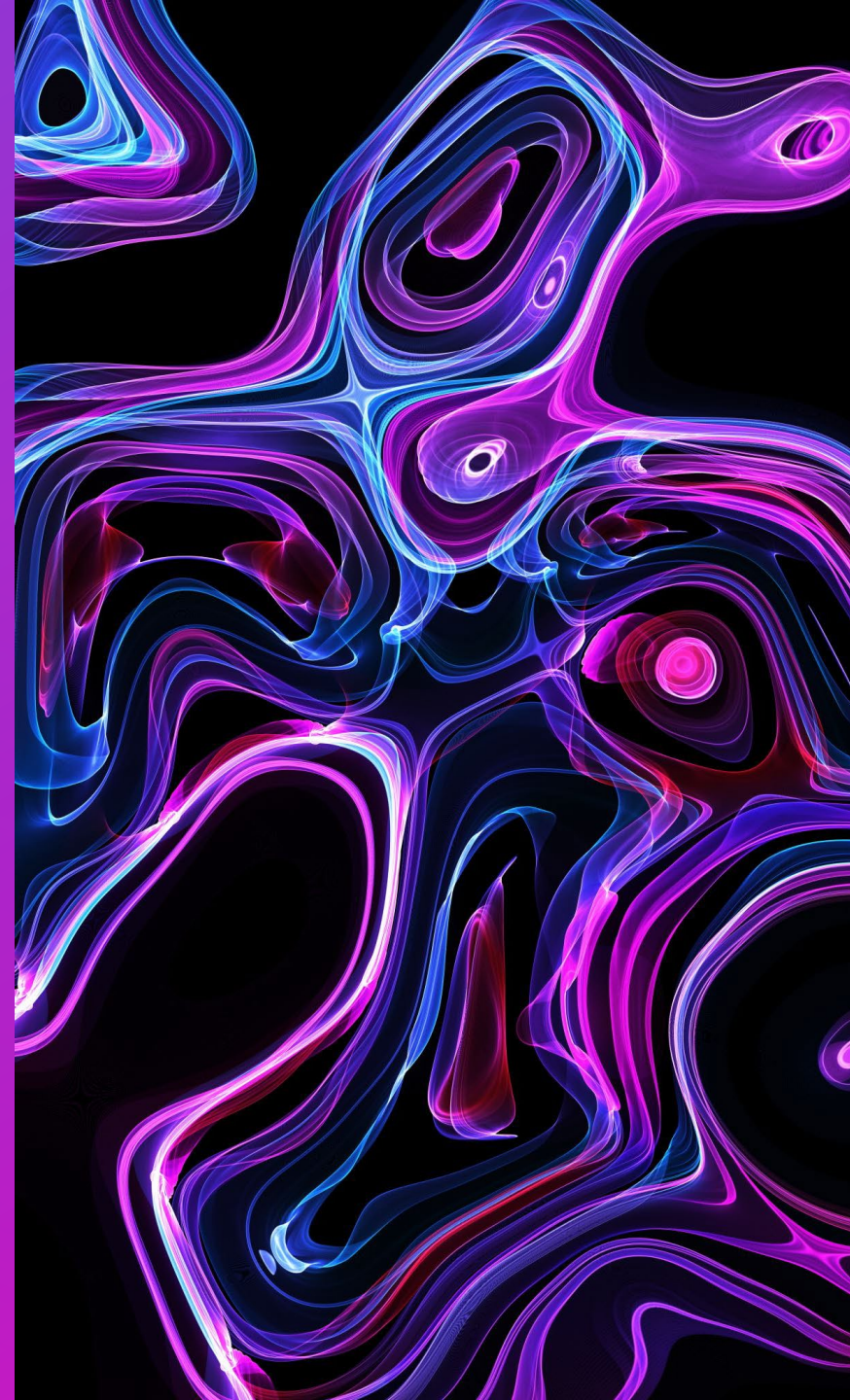
## QUESTIONS?





MENTAL HEALTH, TRAUMA,  
ADDICTION, SUICIDE, & MORE:

# CONSIDERATIONS FOR JUSTICE- INVOLVED VETERANS



# OBJECTIVES

- Military Culture
- Overview of:
  - Mental Health
  - Trauma
  - Substance Use Disorders
  - Suicide
  - Homelessness
- Barriers To Treatment
- Trauma-Informed Legal Practice

**CONTENT WARNING**

# INTERSECTIONALITY

- Kimberlé Crenshaw
- A theory that explores how the identity of a person impacts the events & experiences in their lives





# THE ADDRESSING MODEL

Age/Generation

Developmental Level

Disability

Religion

Ethnicity/Race

SES

Indigenous Heritage

National Origin

Gender

<https://www.unthsc.edu/students/wp-content/uploads/sites/26/Addressing-Framework-and-Overview.pdf>

# VETERAN POPULATION

- In 2020, there were approximately 19 million US citizens who identified as a veteran
  - $\approx$  10% of the population

\*Clinicians: DO WE ASK?

# MILITARY CULTURE

Like any culture, can impact:

- Initiation of care
- Perception of symptoms
- Perception of treatment options

*"It is much more important to know what sort of a patient has a disease, than what sort of disease a patient has." -William Osler*

# MILITARY CULTURE

Ethos: "Greek for character:

Obvious:

- Rank
- Uniform
- Salute

Below the surface:

- Discipline
- Teamwork
- Higher calling
- Loyalty
- Sacrifice
- Fighting spirit

# MILITARY CULTURE

## Warrior Ethos

- Bonds together various ranks and specialties
- Instills loyalty and commitment to other Service members
- Resilience
- Protective factor
- Guides decision making



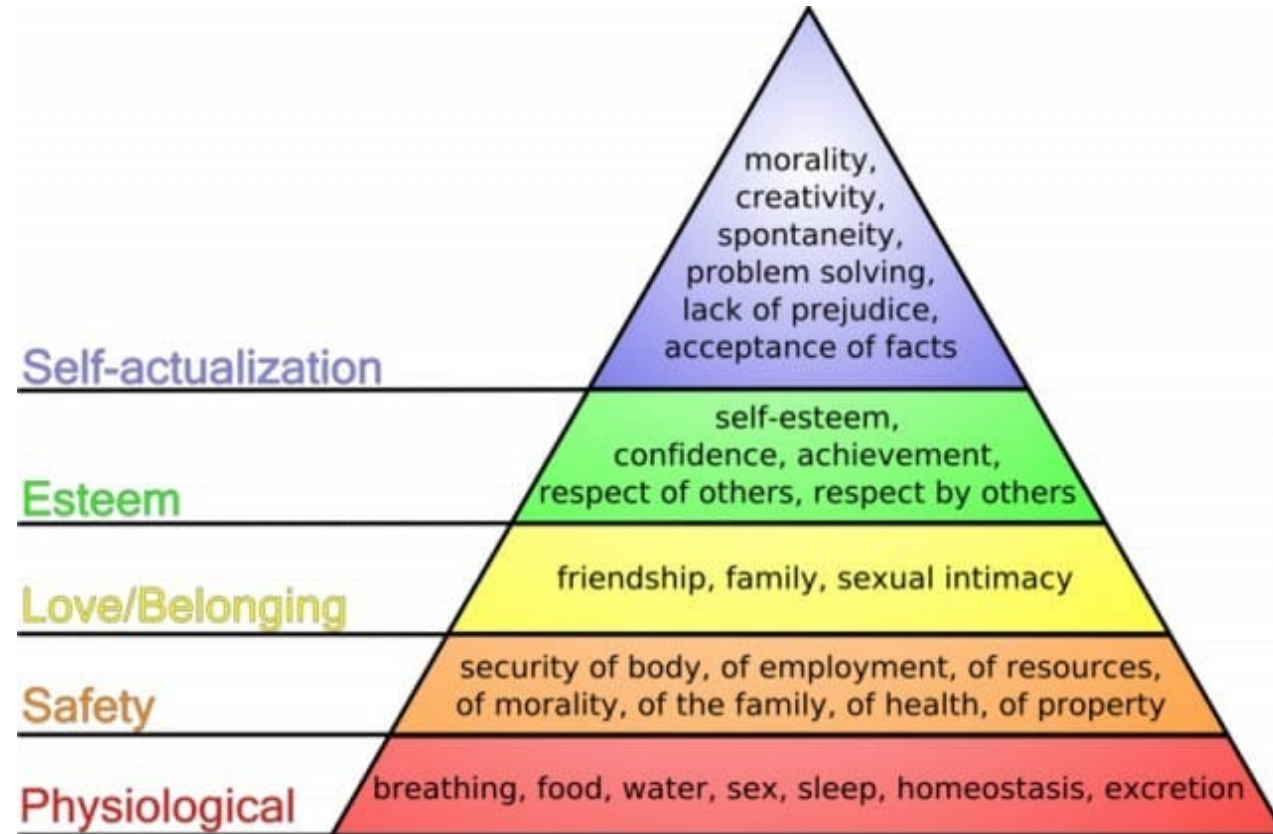
# **OUR SHIFT**

WHAT HAPPENED TO YOU?

VS.

WHAT IS WRONG WITH YOU??

# THE TRANSITION



# RATES OF PTSD AMONG VETERANS (VA, 2022)

- **Korean War:** Unknown, but based on symptom analysis in the literature, rates are similar to the Vietnam Era
- **Vietnam Era:** Approx. 30% in their lifetime
- **Gulf War (Desert Storm):** 12% in a given year
- **Operation Iraqi Freedom & Operation Enduring Freedom:** 11-20% in a given year

\*Note about PTSD

\*Note about context during times of war

# **SEXUAL ASSAULT AMONG VETERANS (VA, 2022)**

- 23% of women reported having experienced a sexual assault while in the military
- 55% of women & 38% of men reported experiencing sexual harassment while in the military
- Convictions are down
- Varies from branch to branch
- Remember culture: "code of honor"
- Higher level of self blame & perceived failure to live up



# SEXUAL ASSAULT AMONG VETERANS (VA, 2022)

## Betrayal Trauma

- Complicated grief
- Shame
- Distrust of judgement
- Isolation

*"The spin:" If I would have.....*

# **MENTAL HEALTH & SUBSTANCE USE DISORDERS AMONG VETERANS (SAMHSA, 2019)**

## **Mental Health & Substance Use Disorders Among Veterans (SAMHSA, 2019)**

- 15% of veterans identified as having a mental illness
  - 25% of those veterans had a serious mental illness
- 6.2% of veterans identified as having a substance use disorder
  - 25% illicit drugs
  - 80% alcohol use
  - 7.7% illicit drugs & alcohol
- 2.3% identify as having a co-occurring disorder
- Numbers have been on the rise since 2018

\*MH/SUD Context (pain, illness, health outcomes, social norms, etc.)

# EXPERIENCES CHANGE THE BRAIN

**"Thinking about Thinking"**  
Higher Reasoning  
Executive Function

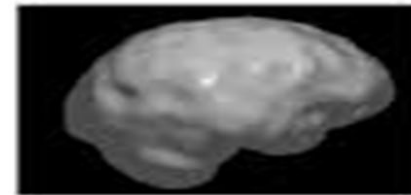

**Prefrontal Cortex**

9 Functions of the Prefrontal Cortex

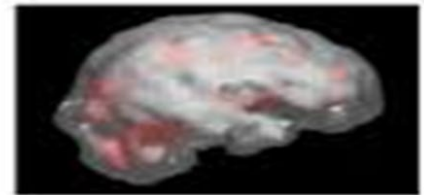
1. Empathy
2. Insight
3. Response Flexibility
4. Emotion Regulation
5. Body Regulation
6. Morality
7. Intuition
8. Attuned Communication
9. Fear Modulation

**Limbic Brain**

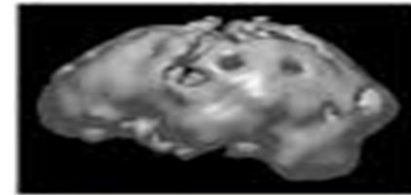
1. Fight, flight, freeze stress response
2. Thinks, "Am I safe? people want me?"
3. Emotions live here



**NORMAL BRAIN**



**PTSD BRAIN**  
(Overactive Limbic System)



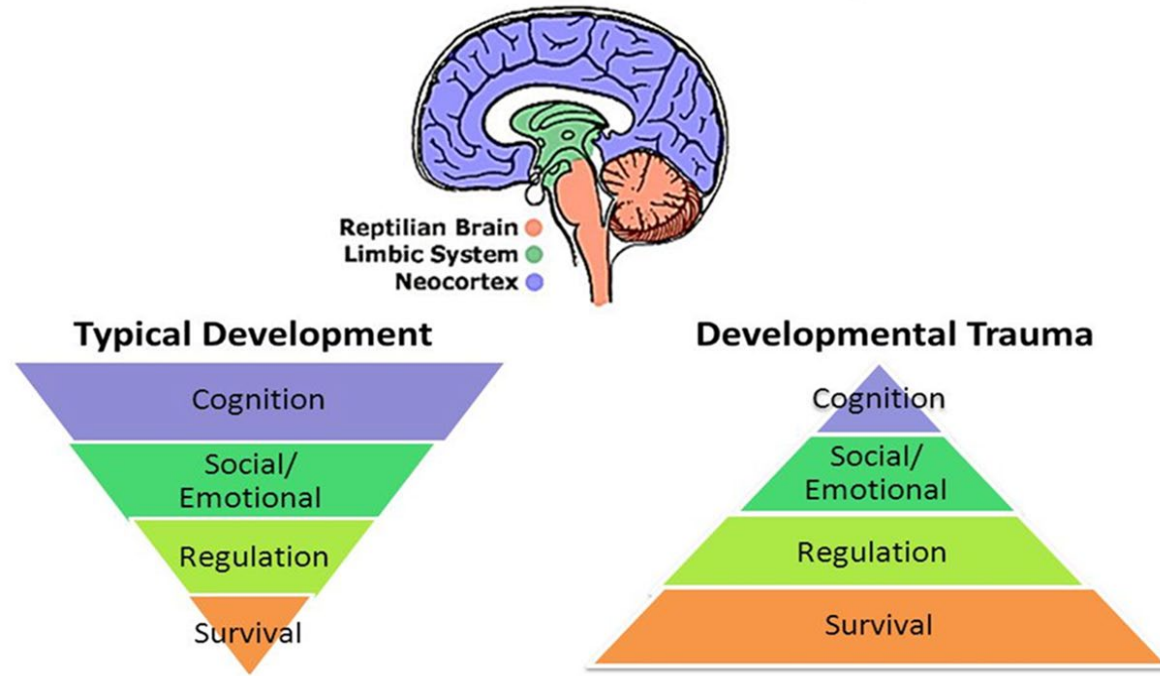
**TBI BRAIN**  
(Underactive Cortex)



**TBI + PTSD**

# MORE ON THE BRAIN

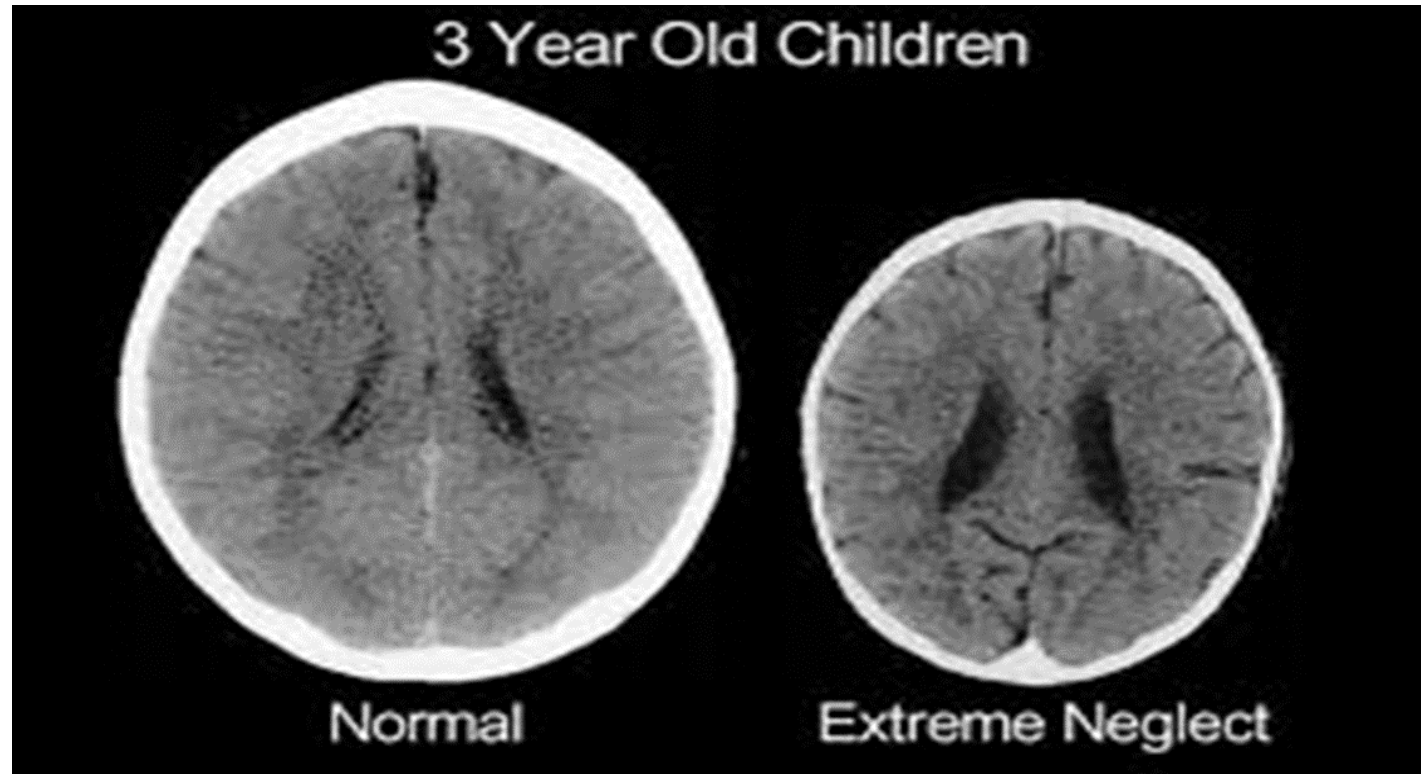
## Trauma & Brain Development



Adapted from Holt & Jordan, Ohio Dept. of Education



# AND...ONE MORE



# DISORDERED EATING AMONG ACTIVE-DUTY MEMBERS

Women	Men
1.1% met criteria for AN	2.5% AN
8-12% met criteria for BN	6.8% BN
36-62% BED	40% BED
68% of all DE (16% of service members)	3x higher in the Navy
Combat exposure: 2x the risk	<b>****15-25% of ALL veterans meet the criteria for some DE diagnosis (when assessed appropriately)</b>

# HOMELESSNESS AMONG VETERANS (STASHA, 2022)

- 11% of the homeless population identify as veterans
- 20% of men who are homeless identify as veterans
- Over 50% of homeless veterans identify as having a disability
- 51% of homeless veterans have a diagnosable mental health disorder

# SUICIDE RATES AMONG VETERANS (VA, 2022)

- 2<sup>nd</sup> leading cause of death
- Just over 17 deaths by suicide/day
- Between 2001-2020 rates increased 95.3% (18-34)
- Leading cause of death during COVID-19
- Over 50% higher than adults who did not serve
- Persons identifying as having a disability: almost 3x higher suicide ideation  
(Remember: disabilities are not always visible)



# BARRIERS TO TREATMENT

- “America’s largest gated community.” -Dr. William Brim
- 21% of civilians wished that they had more in common with veterans
- 70% of service members see themselves as different from the public
- Around 80% of veterans, active-duty members, and civilians think that the average civilian often struggles to relate to veterans
- Does the service & provider meet the veteran’s need?

# EMPATHY

# BARRIERS TO TREATMENT

\* O U R S T R E N G T H S C A N H E A L

Strength	Guiding Ideal	Vulnerability
Placing the welfare of others above one's own welfare.	Selflessness	Not seeking help, because personal health is not a priority.
Commitment to accomplishing missions & protect others.	Loyalty	Survivor guilt
Toughness and ability to endure.	Stoicism	Not acknowledging symptoms and suffering.
Following an internal moral compass.	Moral Code	Frustration & betrayal when others fail to follow a moral code.
Becoming the best and most effective professional possible	Excellence	Feeling ashamed of imperfections

# TRAUMA-INFORMED LEGAL PRACTICE

What is trauma informed care?

- 1. Safety
- 2. Trustworthiness
- 3. Choice
- 4. Collaboration
- 5. Empowerment

Again, remember the magic question: **What happened to you???**

# TRAUMA-INFORMED LEGAL PRACTICE

- You will be exposed to trauma,
  - Vicarious trauma also known as secondary trauma can be experienced when a clinician is repeatedly exposed to client trauma
  - Compassion fatigue, a symptom of VT
  - Burnout, long-term exposure resulting in long-term stress
- Self-care & Restorative Practices
- Trauma-informed supervision (client outcomes & protective factor for professionals)
  - [https://www.nctsn.org/sites/default/files/resources/fact-sheet/using\\_the\\_secondary\\_traumatic\\_stress\\_core\\_competencies\\_in\\_trauma-informed\\_supervision.pdf](https://www.nctsn.org/sites/default/files/resources/fact-sheet/using_the_secondary_traumatic_stress_core_competencies_in_trauma-informed_supervision.pdf)



# QUESTIONS

*Reference list available upon request.*



**THANK YOU**

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# JUSTICE FOR VETS

## The Benefits of Veterans Treatment Court and New York's Efforts to Expand Access to its VTCs

Judge (Ret) Robert Russell and Major  
General (Ret) Butch Tate

Developed by:  
Justice For Vets

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# Why Have A Veterans Treatment Court?

Military Culture is unique. Current and former service members that become justice involved have needs and risk that require clinical and criminogenic interventions which are culturally sensitive to them.

At the same time, recognizing that these tailored interventions are most effective when balanced with an adherence to the best practices and standards that are implemented in the treatment court model.





A Plan to Provide Access To A Veterans Treatment Court For All Veterans In New York

# Providing Access: Amending New York Criminal Procedure Law (CPL) 230.21

**# of VTCs in New York impressive, but not all NY Vets have access**

## **The Plan:**

- **Improve Access**
- **Promoting inclusivity**
- **Preserve Judicial flexibility**
- **Solve the problem, don't create a new one(s)**

**NYSHF and Justice For Vets combine efforts**

## **Methodology**

## **Result:**

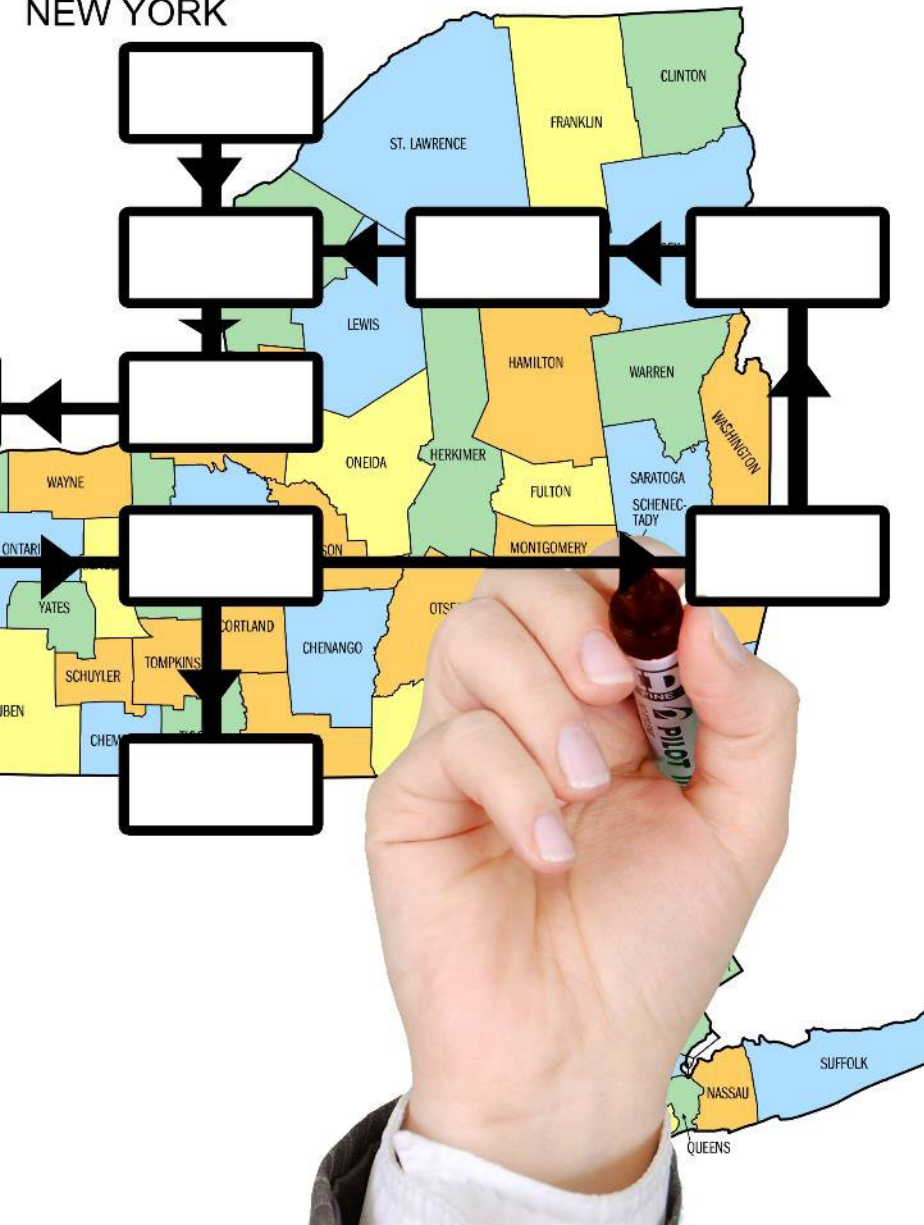
**Legislative Change...then the hard work began**



# Fundamentals of Change

- Amends Criminal Procedure Law
- Authorizes removal of indictment and action to VTC
- Allows counties to support unique needs of justice involved NY Veterans
- *Note: the new legislation, however, does not commit to or mandate additional courts*





# Elements and Procedures of 230.21

## *“Removal of action to certain courts in an adjoining county”*

- Motion of defendant
- Consent of “sending” and “receiving” DAs
- “Receiving” court must be in adjoining county with designated VTC (or human trafficking court)
- Disqualified if a “family offense” under CPL 530.11 (*NOTE: Change does not exclude violent crimes*)
- 5-day grace period before transfer to allow for consent
- Receiving court may accept or reject
- Notice to defendant, counsel, both DAs
- “Receiving” court may take to judgement or other final disposition

# Eligibility For Transfer

## *No laundry list of eligibility criteria*

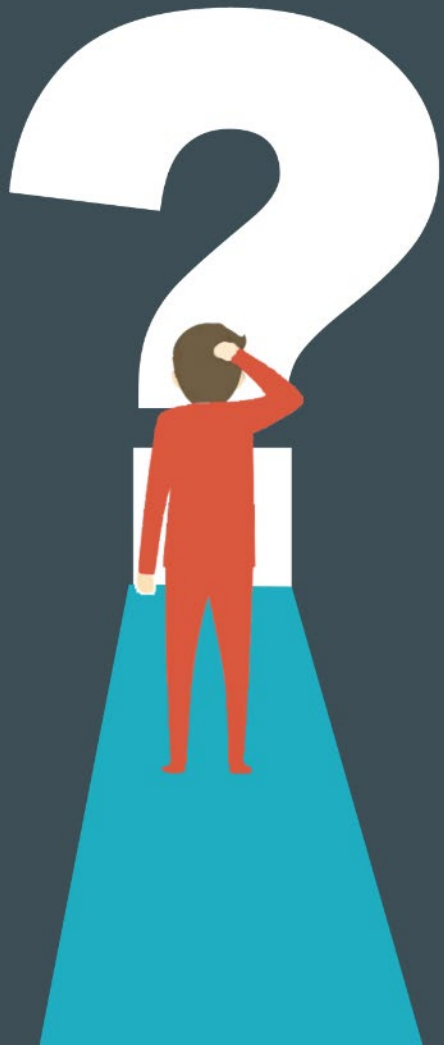
**Confirm status: VRSS: “Veteran Reentry Search Service”**

**Some limits built in, e.g.:**

- DA consent
- DV excluded
- Designated VTC
- “adjoining county”

**Possible criteria discussed by stakeholder group but NOT part of amendment:**

- “Veteran” not defined; not exclude active duty, Reserve, National Guard; Character of discharge
- Nexus of behavior to military service, combat-related



# Challenges...Or Opportunities

## *Issues for Sending and Receiving Courts*

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- Focus was on a county based, county centric solution
- Ambiguity/gaps preserve “county autonomy” and allow locales to fill gaps
- Post Plea or Pre plea?
- Does defense counsel “transfer?” New counsel? Which county pays?
- Responsibility for pre/post trial supervision
- If needed, cost of temporary lodging and transportation of Veteran participant



# Challenges...Or Opportunities

## *Issues for Sending and Receiving Courts*

---

- Different motivations and impacts for sending and receiving courts
- Can receiving court “conditionally” accept transfers? Upon what conditions?
- Federal Enhancement grants as possible solution for gaps
- The NYS Unified Court System’s database and the NYS Division of Criminal Justice’s database cannot process case transfers

# RECOVERY



## *Success is a Welcome Home!*

“Instead of throwing me in prison, veterans treatment court offered me the chance of a lifetime.”

*- VTC Graduate*



# OPERATIONAL CONSIDERATIONS:

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## Implementing Veterans Transfer Legislation



# LEGISLATION (EFFECTUATED 4/28/21)



Amends the CPL in relation to the removal of certain actions to veterans treatment courts.

Amends Judiciary Law to establish veterans treatment courts.

# DESIGNATED VETERANS TREATMENT COURTS

(By COUNTY)

37 Veterans  
Treatment Courts in  
27 counties



# CRIMINAL PROCEDURE LAW

1 170.15 (5) REMOVAL OF ACTION FROM ONE LOCAL CRIMINAL COURT TO ANOTHER

2 180.20 (4) PROCEEDINGS UPON FELONY COMPLAINT; REMOVAL OF ACTION FROM ONE LOCAL CRIMINAL COURT TO ANOTHER



3 230.11 REMOVAL OF ACTION TO CERTAIN COURTS WITHIN A COUNTY



4 230.21 REMOVAL OF ACTION TO CERTAIN COURTS IN AN ADJOINING COUNTY

# WHERE ARE THE VETERANS?

Veterans Treatment Courts have low participation rates

Veterans must self-identify for services

If we don't know that the individuals before the court are veterans, we cannot offer them services

Ask: Have you served in the US Armed Forces, Reserves or National Guard/ Have you served in the military?



# TRANSFER LEGISLATION



1 COORDINATION

2 COMMUNICATION

3 TIME



# CASE STEPS: Livingston County

# Monroe County



Defendant is identified as a  
veteran

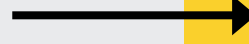


Defense contacts drug court  
coordinator in Livingston



Livingston coordinator contacts  
Monroe VTC coordinator

VTC clinical evaluation takes place



Defense prepares motion to  
remove case



Judge in Livingston contacts  
Judge in Monroe

Prosecutor in Livingston  
contacts Prosecutor in Monroe



Judge in Livingston signs motion



Defense prepares motion to  
transfer case

# ISSUES THAT WERE ADDRESSED

## WAIVER OF INDICTMENT

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Consented to be prosecuted by superior court information

## PROBATION SUPERVISION

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Veteran was not eligible for Probation supervision in Monroe

## TREATMENT & COURT SUPERVISION

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Veteran attends treatment in Livingston and reports to Monroe for case management and court sessions

# TECHNOLOGICAL CHALLENGES

The NYS Division of Criminal Justice's database cannot process case transfers from the court database (UCMS).

When cases are transferred, most courts will re-create the case in their database to manage the case.

This results in inconsistent information on a defendant's RAP sheet/criminal history report.



# TRANSFER CASES PRE-PLEA

Once a plea is recorded in one court, the sentence needs to be recorded with the same court.

If a plea is left unresolved, there will be two separate dispositions on the same case, in two separate courts.

**Request for  
Criminal Background Check**

Personal Information

First Name Last Name

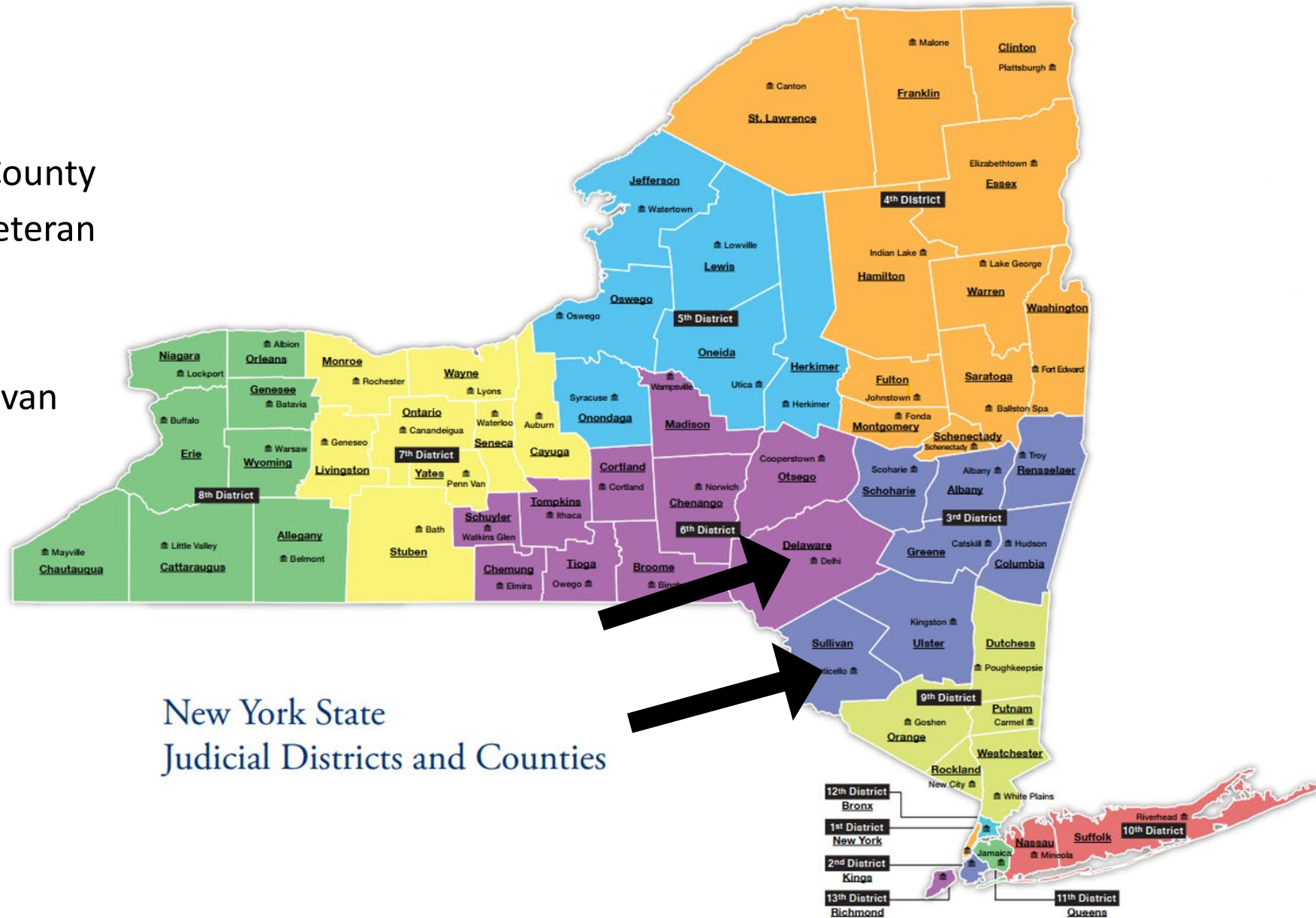
Date of Birth City State

Address E-Mail Address Work Phone Zip Code

# FREQUENTLY ASKED QUESTION - 1/4

The Veteran's case is in Delaware County (6th JD) and there is no VTC. The veteran lives in Sullivan County (3rd JD).

Can the case be transferred to Sullivan County?

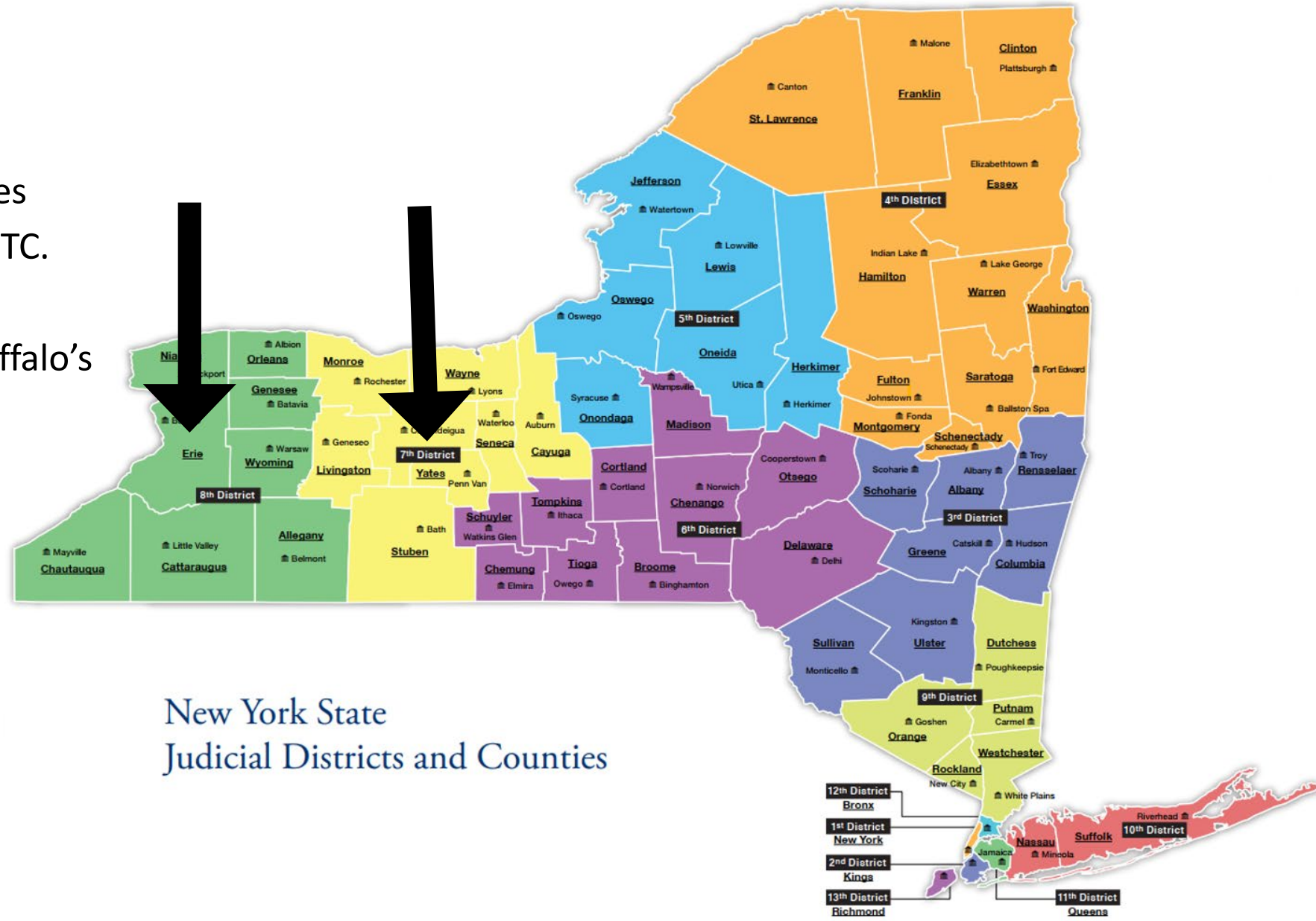




# FREQUENTLY ASKED QUESTION - 2/4

A Veteran's case is pending in Yates County (7th JD), and there is no VTC.

Can the case be transferred to Buffalo's VTC/Erie County (8th JD)?



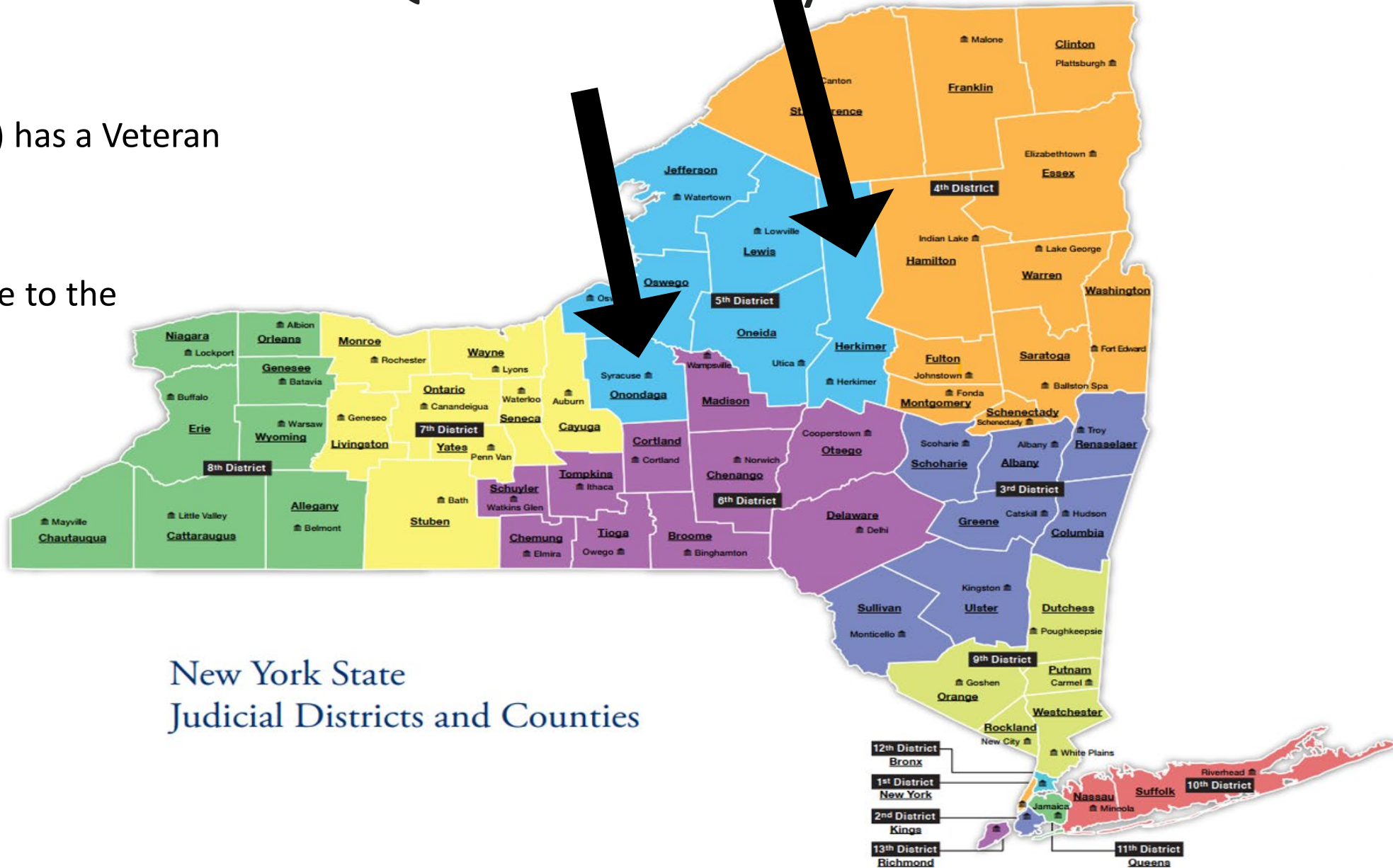
New York State  
Judicial Districts and Counties



# FREQUENTLY ASKED QUESTION - 3/4

Herkimer County (5th JD) has a Veteran defendant but no VTC.

Can they transfer the case to the Syracuse VTC (5th JD)?



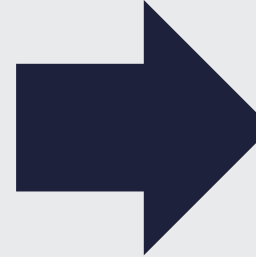
New York State  
Judicial Districts and Counties

# COURTESY MONITORING SUPERVISION

- 1 EMPLOY IF GEOGRAPHICAL DISTANCE BETWEEN ARREST AND RESIDENCE
- 2 ORIGINATING COURT MAINTAINS JURISDICTION
- 3 SUPERVISING COURT MAINTAINS LIMITED JURISDICTION



Queens  
(Original  
Jurisdiction)



Albany  
(Supervising  
Court)

# FREQUENTLY ASKED QUESTION - 4/4

1. If there are two adjacent VTCs where should the veteran's case get referred to?

Consider financial hardship, travel, work.

2. Does the attorney have to put the motion in writing?

No. However, it would be helpful to the prosecutor receiving the case.

3. Can the VTC Coordinator travel to another county or judicial district to interview the veteran if the veteran is incarcerated?

The receiving VTC court should conduct the interview as they would be familiar with the VTC, and they would be able to answer questions. Consider a virtual interview, if possible, and obtain supervisor's approval for travel.

THANK YOU

SKY DAVIS

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# NADCP

National Association of  
Drug Court Professionals

## QUESTIONS?

**Butch Tate**

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NADCP Chief Counsel

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