

Traffic Safety Standard

Providing relevant information to Montana's prosecutors, law enforcement and judges

ISSUE 8

WINTER 2012

In this issue:

Demonstrating Honor Through Accountability: Montana Veterans Courts	1
Did You Know? Traffic Safety Case Highlights	4
Education and Training Opportunities	5

Demonstrating Honor Through Accountability: Montana Veterans Courts by Mary Jane Knisely, Yellowstone County District Court Judge

There are over 23.5 million veterans in America, including the nearly 2 million men and women who have served in Iraq and Afghanistan. It has been reported that 1.8 million suffer from some form of substance abuse and, according to a 2008 RAND study, nearly 1 in 5 war veterans who have recently returned home suffer from Post-Traumatic Stress Disease (PTSD) or major depression.

Rates of PTSD and drug and/or alcohol abuse are perhaps unsurprising considering the realities with which soldiers are faced while in combat. One recent study of 900 soldiers revealed 70-80 percent of troops had seen a buddy killed, 50 percent said they had killed an enemy fighter, and 66 percent reported that a roadside bomb had gone off within 55 yards of them. The price paid for repeated tours of duty is significant, showing mental health problems were greater for troops on their third and fourth deployments. (J-MHAT 7, 2011)

"Increasingly, these troubled veterans are spilling into the criminal justice system," wrote Lizette Alvarez in a July 8, 2008 NY Times article. "A small fraction wind up in prison for homicides or other major crimes. Far more, though, are involved in drunken bar fights, reckless driving and alcohol-fueled domestic violence."

Research conducted by the U.S. Department of Veterans Affairs (VA) supports this point. Studies indicate that those diagnosed with PTSD are more likely to be aggressive; in fact, rates of PTSD among prison inmates are higher than among the general public. Although PTSD does not automatically translate into drug or alcohol use or abuse, those with PTSD are more likely than their peers to have drinking problems.

Montana Veterans in the Criminal Justice System

In Montana, a state whose population just topped one million, there are an estimated 108,000 military veterans. According to the Montana Department of Corrections (MDOC), which operates the Warm Springs Addictions Treatment and Change Program (WATCH), the only state-funded inpatient treatment program for DUI offenders, over 10 percent of participants are veterans. In Yellowstone County, the state's largest, felony probation officers report that veterans make up to 30 percent of their DUI caseload—many of whom were involved in drugged and drunk driving crashes.

WATCH is already designed to honor military veterans among the program's DUI offenders. Each morning begins with the Pledge of Allegiance and National Anthem with a full military color guard, and WATCH participants march in cadence. Each branch of the service is honored in treatment, and military branches compete with one another during recreational activities. WATCH supports veterans in their recovery in an environment in which they are shown the respect they deserve while having the structure and accountability they need.

...continued on page 2



Montana's Traffic Safety Resource Prosecutor (TSRP) position is funded by the Montana Department of Transportation as part of a comprehensive effort to reduce the number and severity of traffic crashes, injuries, and fatalities on Montana highways.

Demonstrating Honor Through Accountability: Montana Veterans Courts continued from page 1

Until recently, however, these offenders faced the same prospects as those in countless other courts, cities, counties and states across the U.S. They return to society with ineffective re-entry skills coupled with few to no aftercare programs, case management, or mental health services.

The Argument for Veterans Courts

The first Veterans Court was established in Buffalo, New York in 2008. Like other treatment courts, it requires offenders to complete intensive drug and alcohol treatment, submit to constant monitoring, undergo frequent drug testing, make weekly court appearances and otherwise be held accountable for their offenses prior to court entry and their actions while participating in the court.

Despite some public sentiment that veterans do not require (or, according to some, deserve) “special” treatment, it is clear the needs of veterans are distinctly unique when compared to their peers, even when their offenses are the same. Combat veterans have seen, done and experienced realities far different than non-veterans; thus, their treatment must also address their inimitable needs. Montana opened its first Veterans Court in Missoula in 2011.

As of February 1, 2012, the Yellowstone County 13th Judicial District Veterans Court over which I have the privilege to preside will be open and accepting clients. Funded by grants from the Bureau of Justice and SAMHSA, it will bring together a specially trained, multi-disciplinary team which includes a prosecutor, defense counsel, law enforcement, treatment professionals and members of the Veterans Administration.

For those exiting WATCH, this court will provide the stability needed to address the root of their criminal behavior, foster rehabilitation and ultimately give them the tools they need to avoid relapse and positively reintegrate into society. For those for whom WATCH is not an option, being sentenced into the court provides a full continuum of care, including:



- Jail-based (in-patient) treatment
- Seeking Safety classes for PTSD
- Healthy Sexuality classes
- Gender-specific intensive outpatient treatment
- Sand therapy to address trauma issues
- Parenting courses
- Grief counseling
- Marriage and family counseling

Through case management services, program participants also have access to vocational rehabilitation, education programs, nutrition classes, job placement, sober housing and alternative transportation plans with a focus on getting driver's licenses returned. At the same time, they remain monitored closely through transdermal alcohol monitoring, frequent and random drug testing and, in those cases in which driving privileges have been reinstated, ignition interlock.

Veterans accepted into the program will remain active participants for 15 to 24 months, and must otherwise

...continued on page 3

Demonstrating Honor Through Accountability: Montana Veterans Courts continued from page 2

comply with all of the terms of their sentences, including payment of restitution if applicable. The Billings-based program will serve a minimum of 120 offenders over its initial 3-year grant period, with program expansion anticipated.

The Goal

The ultimate goal of this court, like the nearly 100 others across the country is this: that every veteran, including those whose actions led them into the criminal justice system, has the resources needed to achieve long-term success... success that includes being proud of their military service, coming to peace with their past and living a positive and well-adjusted civilian life.



The National Association of Prosecutor Coordinators is seeking nominations for National Traffic Safety Prosecutor of the Year. To nominate a deserving prosecutor go to <http://www.mdt.mt.gov/tsrp/nomination.shtml>.

Did You Know?

Montana Highway Patrol was the first law enforcement agency in the United States to have all its law enforcement officers participate in the Advanced Roadside Impaired Driving Enforcement (ARIDE) training. Congratulations, MHP! To schedule an ARIDE training contact Trooper Kurt Sager at ksager@mt.gov.



Traffic Safety Case Highlights

Court decisions affecting enforcement on our roads:

State v. Chesterfield, 2011 MT 256. Defendant's self-serving statements and the vague records of prior convictions were not sufficient to prove prior DUI convictions were constitutionally infirm.

State v. Hass, 2011 MT 296. Prior conviction was found constitutionally infirm when counsel of record was allowed to withdraw from the case on the day of trial without notice to Defendant and in violation of his due process right, and Defendant was tried *in absentia* without waiving his right to counsel. The appropriate remedy was to remand for sentencing without the prior conviction enhancement rather than to allow withdrawal of Defendant's guilty plea.

City of Billings v. Staebler, 2011 MT 254. The prosecutor did not err when talking about the different levels of intoxication during voir dire, when discussing the death (due to a DUI-related crash) of a person known to a prospective juror, or when implying during rebuttal that the Defendant's unsafe driving could have been disastrous if a child were playing in the road.

State v. Cameron, 2011 MT 276. Deputy had particularized suspicion of wrongdoing when 1. he saw Defendant's vehicle swerve toward the centerline three times, 2. the third time it stayed on the line for 100 yards, 3. at 1:00 a.m., 4. on a Saturday morning, 5. when the deputy had investigated about 175 DUIs, and 5. in his experience, most of his DUI investigations occurred between the hours of 10:00 p.m. and 3:00 a.m. on Friday and Saturday nights.

State v. Updegraff, 2011 MT 32. Arrest was lawful when out-of-jurisdiction deputy had probable cause of a DUI. The court did not consider the out-of-jurisdiction deputy to be a private citizen, but reasoned, "if the circumstances would give a private person sufficient grounds to make an arrest, then the officer may do so as well." ¶50.

State v. LeMay, 2011 MT 323. White supremacists and members of biker gangs are not included in the definition of minority groups under Montana's statute prohibiting racial profiling, so his claim of outrageous government conduct failed.

For the complete text of the opinions, go to <http://searchcourts.mt.gov/>.

Past issues of the Traffic Safety Standard are online at:

www.mdt.mt.gov/tsrp/newsletters.shtml

Montana TSRP

Erin T. Inman, PLLC

11 Friendship Lane, Ste 101

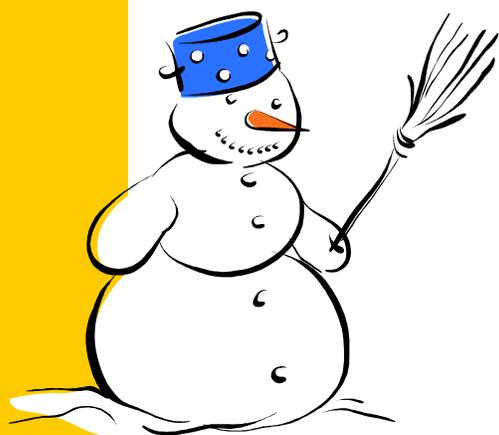
Montana City, Montana 59634

Phone: 406-449-1255

FAX: 406-449-2188

Email: erin@inmantraining.com

Website: <http://www.mdt.mt.gov/tsrp/>



Training Dates

Course Title	Date	Location	Registration Information
Lethal Weapon Training	February 13-15, 2012	Armed Forces Reserve Center, Missoula	email Barbara Watson to register
Prosecuting the DUI	April 17-19, 2012	Fort Harrison, Helena	There is no fee to attend this course and the course qualifies for CLE or POST credits. See the registration form for additional information or email Barbara Watson .
Conducting Compliance Check Operations	Ongoing	Free - Online course	course details
Lifesavers Conference	June 14-16, 2012	Orlando, FL	Visit www.lifesaversconference.org for more information.

For information about more trainings and conferences, please go to <http://www.mdt.mt.gov/tsrp/> and click on "Education and Training Opportunities"

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program, or activity of the Department. Alternative accessible formats of this information will be provided upon request. For further information call (406) 444-3423, TTY (800) 335-7592, or the Montana Relay at 711.