May 2, 2016

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Subj: Responses to Follow-up Questions from April 21, 2016  
Senate Budget and Appropriations Committee Hearing

Dear Mr. Haines:

This letter is in response to the April 22, 2016 letter from Senator Paul A. Sarlo, as Chair of the Senate Budget and Appropriations Committee, following up on the Judiciary's April 21, 2016 hearing before the Committee. I have enclosed our response to the question raised by Senator M. Teresa Ruiz regarding specialized courts. Please contact me if the Committee would like any additional information on this or any other subject. Thank you.

Very truly yours,

Glenn A. Grant, J.A.D.

Enclosure
cc: Senator Paul A. Sarlo, Committee Chair  
Eugene Lepore, Senate Democratic Office  
Christopher Emigholz, Senate Republican Office  
David Ridolfino, Office of Management and Budget  
Anne Raughley, Office of Legislative Services  
Steven D. Bonville, Chief of Staff  
Deirdre M. Naughton, Director

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Question Posed by Senator M. Teresa Ruiz:

- Please provide the committee with information concerning the Judiciary’s efforts in providing services for individuals, such as veterans and mentally ill persons, who need specialized services. Please comment on the court’s position in creating special courts such as mental health and veterans’ courts.

Response: To date, the Judiciary has been involved with multiple efforts and strategies to assist both struggling veterans and mentally ill individuals who come into contact with the courts. In 2008, Chief Justice Stuart Rabner established a program to assist military veterans involved with the court system. The Veterans Assistance Project is a combined effort of the Judiciary, the New Jersey Department of Military and Veterans Affairs, and the New Jersey Department of Human Services, Division of Mental Health Services, to provide veterans with referrals to community services and mentors. The Veterans Assistance Project is operational statewide, and includes referrals to mental health counseling, addiction services, legal services, and housing assistance through State and local government agencies. Participation in the referral program is voluntary.

New Jersey presently has several pre-adjudication diversion mechanisms available to eligible defendants, including veterans and active service members, providing the opportunity to avoid prosecution, fines or imprisonment, and a criminal record. In the Pre-Trial Intervention (PTI) Program, as authorized by N.J.S.A. 2C:43-12 and -13, a judge, with the consent of the prosecutor and a referral to a supervisory treatment program, may at any time prior to trial postpone any further proceedings for a period not to exceed thirty-six months. The program has a $75 application fee. At the conclusion of the period of supervisory treatment, the court, on recommendation of the prosecutor, will either dismiss the charges, further postpone the proceedings, or order that the prosecution proceed.

Similar to PTI, N.J.S.A. 2C:43-13.1 authorizes a conditional dismissal program in the municipal courts for defendants charged with certain disorderly persons offenses. In addition, N.J.S.A. 2C:36-1 establishes a conditional discharge diversion program for persons charged with disorderly persons drug offenses. Both of these diversion programs are limited to first-time offenders and each requires a $75 application fee. Under both programs, successful completion of the supervisory term results in the dismissal of the charges at the request of the prosecutor.

In 2010, Chief Justice Rabner convened an Inter-branch Advisory Committee on Mental Health Initiatives in recognition of the growing prevalence of justice-involved persons with mental illness and the challenges faced not only by those individuals, but also by judges, court staff, prosecutors, public defenders and the private bar. The committee was asked to review and make recommendations (a) to improve the justice system’s response to defendants with serious mental illness and (b) to improve access to and coordination of mental health services. Mental health disorders experienced by service members was a subset examined by the Committee. In 2013, the Supreme Court endorsed the Committee’s report and recommendations. The final report can be found at: http://www.judiciary.state.nj.us/reports2013/index.htm, and the committee has begun to shepherd some of its recommendations towards implementation. One of the recommendations that has been implemented is the creation of an informational mental health page on the Judiciary’s website: http://njcourts.gov/mentalhealth/index.html.
In 2012, the Governor signed legislation establishing the Post Traumatic Stress Disorder Task Force (L. 2011, c.185) to study how veterans diagnosed with post-traumatic stress disorder (PTSD) are handled in judicial proceedings. The task force is charged with examining current data, research, programs, and initiatives related to the impact of PTSD on veterans and how the disorder has affected their involvement in judicial proceedings; identifying effective strategies to assist the court system in effectively interacting with veterans diagnosed with PTSD; and developing recommendations to implement those strategies. Judge Grant, as the Acting Administrative Director of the Courts, is a member of the PTSD Task Force. The task force is currently preparing its final report to the Governor and the Legislature on its findings and recommendations.

In addition, several county prosecutors, taking advantage of grants provided by the Department of Human Services and the Department of Law and Public Safety, are operating pre-adjudication law enforcement diversionary programs for defendants with diagnosed mental illness. This initiative first began in 2005 when the Union County Prosecutor's Office created a Special Offenders Unit to divert qualifying defendants who were diagnosed with mental illness away from traditional prosecution and into clinical treatment. Successful participation in treatment can result in the prosecutor seeking to downgrade or dismiss the pending criminal charges through the court. Because of the early success of the Union County Prosecutor's diversion program, additional funding has been provided to other counties to establish similar programs. The Attorney General awarded grants to the Ocean and Essex County Prosecutors Offices in 2014 and to Gloucester, Hunterdon and Warren Counties in 2015. The critical key to the success of these programs is the availability of sufficient funding for mental health treatment and case management services. See http://nj.gov/oag/newsreleases15/pr20151201a.html.

To more fully address these needs, the Legislature might consider amending the above-referenced statutorily created programs so as to relax the admission requirements for active duty and former service members who have been diagnosed with mental illness caused by their combat service, who are charged with non-violent offenses, and who agree to participate in screening and treatment services. Because of the time limits on involvement in those programs, DMV would need to coordinate with the DVA to expedite screening and treatment for qualifying service members and veterans. The Legislature also could consider waiver of the PTI application fee for qualifying service members and veterans.

The Judiciary understands and appreciates the motivation to create specialized courts as a response to the serious needs of veterans and people suffering from mental illness. While we have collaborated with the Legislature in its efforts to tackle these significant challenges, we also have consistently argued that specialized courts are not the best way to tackle these issues. Rather, the existence of diversionary programs, complemented with adequate resources, is the most effective way of assisting and supporting veterans struggling to readjust to life at home as well as those suffering with the effects of mental illness. The Judiciary has long supported the diversion of court-involved persons struggling with addiction and/or mental illness away from the criminal justice system and into appropriate treatment.

The creation of specialized courts will not dramatically improve the challenges faced by veterans or individuals with mental illness. The Judiciary maintains that the critical keys to success in this area are (a) the ability to identify those in need of therapeutic services and (b)
the availability of treatment. These two elements are essential to court-involved individuals attempting to overcome those life challenges. In addition, we need to ensure that the efforts to create these specialized courts do not result in the increased criminalization of individuals facing mental health and veteran challenges, and that these individuals can be diverted away from the criminal justice system, which promises only conviction and further barriers to reintegration and instead into treatment services and clinically supported recovery. The resources needed to support diversion are far more important to that success than the procedural mechanisms already available within our criminal justice system.