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Investigating the Programmatic Attack: A National Survey of Veterans Treatment Courts

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INVESTIGATING THE PROGRAMMATIC ATTACK: A NATIONAL SURVEY OF VETERANS TREATMENT COURTS

JULIE MARIE BALDWIN*

Veterans treatment courts (VTCs), a recent emergence from the specialized court movement, target the population of veterans in contact with the criminal justice system. Due to the contemporary nature of their dissemination, published empirical research on VTCs is only beginning to materialize. Additionally, national surveys of specialized courts are rare and typically occur decades after the courts emerge. This Article presents descriptive results regarding the establishment, policy, structure, and procedures of VTCs using data from the first national survey of these courts, conducted in the early stages of their emergence. A national compendium of VTCs (N = 114) was created. Seventy-nine VTCs (69% of the population) responded to the national survey. This study found both similarity and high variability across VTCs in different areas of policy, structure, and procedure. Future national studies should be conducted to understand the evolution of these courts over time and provide an up-to-date national context relevant for subsequent single- and multi-site studies.

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TABLE OF CONTENTS

I. INTRODUCTION.....	706
A. Veterans' Issues.....	707
B. The Specialized Court Movement	712
II. VTC RESEARCH AND THIS STUDY	715
III. THIS STUDY	717
IV. DATA AND METHODS.....	718
A. Survey Design	718
B. Creating the Population Frame	718
C. Data Collection and the Resulting Sample	719
D. Analysis.....	720
V. RESULTS	721
A. Establishment: National Compendium Results	721
B. Policy: Goals, Objectives, Target Populations, Requirements, Benefits	722
C. Structure: Funding, Jurisdiction, Judges, Stages, Components.....	724
D. Procedure: Meetings/Sessions, Identification, Screening, Supervision	725
VI. DISCUSSION	726
VII. LIMITATIONS	734
VIII. CONCLUSION	735
TABLES.....	738
FIGURES.....	750

I. INTRODUCTION

Of all the publicly funded responses to the intertwined problems of crime, mental illness, trauma, and substance abuse among veterans, the most recent programmatic innovation has been the rapid rise and wide diffusion of the veterans treatment court (VTC). VTCs are not military courts (courts-martial).¹ They are a recently created specialized court within the public court

¹ Courts-martial are military courts within the U.S. military system that enforce military law, the Uniform Code of Military Justice (UCMJ). Generally, the UCMJ is law over all U.S. uniformed service personnel and defines both high crimes and misdemeanors of officials and military personnel. In comparison to the civilian legal system, the UCMJ criminalizes behaviors that civilians understand as ordinary crimes, as well as various behaviors considered legal in civilian society. Further, the UCMJ mandates different standards of proof and punishments as compared to the civilian court system. This differentiation is premised on the

system, joining drug courts, mental health courts, domestic violence courts, and gun courts in the specialized court movement. The general idea of VTCs is in line with that of other specialized courts. VTCs aim to divert veterans from the traditional criminal justice system to nontraditional channels of justice, providing them with appropriate treatment and services (e.g., mental health counseling, substance abuse treatment, and housing services) that attempt to address any underlying causes or correlates of crime, in an effort to eliminate or reduce future crime and contact with the system.² In jurisdictions where a VTC is in operation, eligible veteran dockets are transferred to the VTC. The VTC links the offending veteran to treatment and services in lieu of incarceration if the veteran opts into the VTC program.³ VTCs represent a critical policy innovation built on two conceptual foundations: veterans' issues and the specialized court movement.

A. VETERANS' ISSUES

A massive research base indicates that a distinct constellation of issues and needs results from military service or training. Due to the time allowed for research of veterans from the most recent era to begin and results to be published, the majority of these studies have focused on Vietnam-era veterans. However, as veterans return from Operation Iraqi Freedom (OIF), Operation Enduring Freedom (OEF), and Operation New Dawn (OND), research on veterans from those operations has recently emerged.⁴

belief that their military oaths of office require higher standards of behavior and responsibility than the general public. *See About*, UNIFORM CODE OF MILITARY JUSTICE, <http://www.ucmj.us/about-the-ucmj> (last visited Aug. 3, 2016); Uniform Code of Military Justice, 10 U.S.C. §§ 801–946 (2012), <http://www.ucmj.us>. VTCs, in contrast, are specialized courts within the civilian criminal justice system. Julie Marie Baldwin, *Veterans Treatment Courts: Studying Dissemination, Implementation, and Impact of Treatment-Oriented Criminal Courts* 214–18 (2013) (published Ph.D. dissertation, University of Florida, Gainesville, Florida).

² Several publications have defined the general mission and purpose for specialized courts. For example, see JAMES L. NOLAN, JR., *REINVENTING JUSTICE* (2003); Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 L. & POL'Y 125 (2001). *See also* Robert T. Russell, *Veterans Treatment Court: A Proactive Approach*, 35 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 357, 364–67 (2009) (specifying the ten key components of VTCs). Mental health courts are modifications of the ten key components of drug courts. MICHAEL THOMPSON ET AL., *BUREAU OF JUST. ASSISTANCE, IMPROVING RESPONSES TO PEOPLE WITH MENTAL ILLNESSES: THE ESSENTIAL ELEMENTS OF A MENTAL HEALTH COURT* vii–viii (2007).

³ Several articles have provided process charts. *See* Julie Marie Baldwin & Joseph Rukus, *Healing the Wounds: An Examination of Veterans Treatment Courts in the Context of Restorative Justice*, 26 CRIM. JUST. POL'Y REV. 183, 188 (2015); Michael Daly Hawkins, *Coming Home: Accommodating the Special Needs of Military Veterans to the Criminal Justice System*, 7 OHIO ST. J. CRIM. L. 563, 573 (2010).

⁴ *See, e.g.*, DRUG POL'Y ALLIANCE, *HEALING A BROKEN SYSTEM: VETERANS AND THE WAR ON DRUGS* (2012), available at <http://www.drugpolicy.org/library/veterans2009.cfm>; *see also*

Approximately 25% to 40% of OIF/OEF/OND-era veterans have neurological and psychological injuries related to post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI),⁵ and since 2000, more than 347,962 veterans have suffered a form of TBI while on active duty.⁶ However, not all TBIs are combat related. Recent TBI rates are nearly two times the rates reported for the Vietnam era.⁷ Further, research on veterans from various wars has revealed that PTSD sometimes has a delayed onset, surfacing six months to forty years after the traumatic experience.⁸

Historically, veterans have also faced issues of substance abuse, often in tandem with mental health issues, and these challenges continue today. Recent research has classified 43% of active duty military personnel as binge drinkers⁹ and reported alcohol abuse rates as 40% for OIF/OEF veterans.¹⁰ Steady and significant increases in alcohol abuse over a recent decade, 1998–2008, in military personnel has also been documented, specifically with

RAND CORP., *INVISIBLE WOUNDS OF WAR: PSYCHOLOGICAL AND COGNITIVE INJURIES, THEIR CONSEQUENCES, AND SERVICE TO ASSIST RECOVERY 3* (2008), available at http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG720.sum.pdf; A. Meade Eggleston et al., *Substance Use Treatment Needs Among Recent Veterans*, 70 N.C. MED. J. 54 (2009); Charles W. Hoge et al., *Mild Traumatic Brain Injury in U.S. Soldiers Returning from Iraq*, 358 NEW ENG. J. MED. 453 (2008); Karen H. Seal et al., *Trends and Risk Factors for Mental Health Diagnoses Among Iraq and Afghanistan Veterans Using Department of Veterans Affairs Health Care, 2002–2008*, 99 AM. J. PUB. HEALTH 1651 (2009); Karen H. Seal et al., *Bringing the War Back Home: Mental Health Disorders Among 103788 US Veterans Returning from Iraq and Afghanistan Seen at Department of Veterans Affairs Facilities*, 167 ARCH. INTERN. MED. 476 (2007).

⁵ NAT'L COUNCIL ON DISABILITY, *INVISIBLE WOUNDS: SERVING SERVICE MEMBERS AND VETERANS WITH PTSD AND TBI 1* (2009).

⁶ DoD *Worldwide Numbers for TBI*, DEFENSE AND VETERANS BRAIN INJURY CENTER, <http://www.dvbic.org/dod-worldwide-numbers-tbi> (last visited Aug. 13, 2016).

⁷ E. Lanier Summerall, *Traumatic Brain Injury and PTSD*, <http://www.ptsd.va.gov/professional/co-occurring/traumatic-brain-injury-ptsd.asp> (last updated February 23, 2016) (reporting estimates by the Department of Defense and the Defense and Veteran's Brain Injury Center that 22% of combat injuries suffered by veterans in Iraq and Afghanistan were brain trauma, compared to 12% in Vietnam).

⁸ See, e.g., Nicoletta Brunello et al., *Posttraumatic Stress Disorder: Diagnosis and Epidemiology, Comorbidity and Social Consequences, Biology and Treatment*, 43 NEUROPSYCHOBIOLOGY 150, 151–52 (2001); see also AM. PSYCHIATRIC ASS'N, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, TEXT REVISIONS 465* (4th ed. 2000); Avron Spiro III et al., *Combat-Related Posttraumatic Stress Disorder Symptoms in Older Men*, 9 PSYCHOL. & AGING 17, 18 (1994).

⁹ Mandy A. Stahre et al., *Binge Drinking Among U.S. Active-Duty Military Personnel*, 36 AM. J. PREV. MED. 208, 208 (2009).

¹⁰ Patrick S. Calhoun et al., *Hazardous Alcohol Use and Receipt of Risk-Reduction Counseling Among U.S. Veterans of the Wars in Iraq And Afghanistan*, 69 J. CLINICAL PSYCHIATRY 1686 (2008).

increases from 15% to 20% in heavy drinking and 35% to 47% in binge drinking.¹¹ Regarding the co-occurring disorders of mental health and substance abuse, Vietnam veterans' dual experiences of PTSD and substance abuse has been well documented¹² with reported dual diagnosis rates reaching as high as 75% for that era's combat veterans with PTSD.¹³ The relationships between mental health and substance abuse/addiction have been and currently are prevalent enough that self-medication through the abuse of alcohol, drugs, or both has been a clinically-recognized tendency of people with mental health issues for decades.¹⁴ Furthermore, alcohol and prescription opioids have been named the "signature substances" of choice for OIF/OEF/OND veterans and military personnel.¹⁵

Suicide, unemployment, homelessness, and incarceration are other serious issues facing veterans. These issues are often connected with each other and with the previously mentioned challenges and can vary by era. Due to an extensive variety of factors, there is no consensus regarding suicide rates among military veterans, and studies examining suicide in this population suffer many limitations.¹⁶ However, there is consensus that suicide is a serious problem facing the veteran community. Indeed, it is so great a concern that the U.S. Department of Defense has recently taken an interest in the VTC movement, primarily based on the risk of suicide in the veteran population.¹⁷ From 2001 to 2011, male Veterans Health

¹¹ Robert M. Bray et al., *Trends in Binge and Heavy Drinking, Alcohol-Related Problems, and Combat Exposure in the U.S. Military*, 48 *SUBSTANCE USE & MISUSE* 799, 803 (2013).

¹² See, e.g., J. Douglas Bremner et al., *Chronic PTSD in Vietnam Combat Veterans: Course of Illness and Substance Abuse*, 153 *AM. J. PSYCHIATRY* 369 (1996); see also RICHARD A. KULKA ET AL., *TRAUMA AND THE VIETNAM WAR GENERATION* 109 (1990); Miles McFall et al., *PTSD and Health Risk Behavior*, 17 *PTSD RESEARCH Q.* 2 (2006).

¹³ DRUG POL'Y ALLIANCE, *supra* note 4, at 5.

¹⁴ See, e.g., Brunello et al., *supra* note 8; see also Isabel G. Jacobson et al., *Alcohol Use and Alcohol-Related Problems Before and After Military Combat Deployment*, 300 *JAMA* 663 (2008); Marc-Antoine Crocq, *Alcohol, Nicotine, Caffeine, and Mental Disorders*, 5 *DIALOGUES IN CLINICAL NEUROSCIENCE* 175 (2003); Donna M. White, *Living with Co-Occurring Mental & Substance Abuse Disorders*, *WORLD OF PSYCHOL.*, <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance-abuse-disorders/> (last visited May 8, 2015).

¹⁵ See Andrew Golub & Alexander S. Bennett, *Introduction to the Special Issue: Drugs, Wars, Military Personnel, and Veterans*, 48 *SUBSTANCE USE & MISUSE* 795, 796 (2013); see also INST. OF MEDICINE OF THE NAT'L ACADEMIES, *SUBSTANCE USE DISORDERS IN THE U.S. ARMED FORCES* 158 (2012).

¹⁶ JANET KEMP & ROBERT BOSSARTE, DEP'T OF VETERANS AFFAIRS, *SUICIDE DATA REPORT*, 2012, at 15 (2012); Vsevolod Rozanov & Vladimir Carli, *Suicide Among War Veterans*, 9 *INT'L J. ENVTL. RES. & PUB. HEALTH* 2504, 2505 (2012).

¹⁷ Personal communication with Dale M. Vande Hey, Regional State Liaison South Central Region, Office of the Deputy Assistant Secretary of Defense for Military Community

Administration users had higher rates of suicide, and their rates maintained relatively constant in comparison to all U.S. males.¹⁸ Estimates on the number of homeless veterans are also problematic. However, it has been estimated that 12,700 OIF/OEF/OND-era veterans were homeless in 2010,¹⁹ and overall, approximately 47,725 veterans are homeless on a single night.²⁰ Finally, Gulf War-era veterans were unemployed at higher rates than nonveterans in 2013 and 2014.²¹

As already noted, veterans can face a vast constellation of issues that may often be interconnected. Additional issues include reintegration into society, social support, and specific issues related to family. Findings indicate that the veteran population may have a higher prevalence of specific issues (e.g., mental health issues, reintegration, substance abuse) that have been shown to be related to illegal, violent, or hostile behavior.²² These issues may put veterans at a higher risk for incarceration than the general population.²³

and Family Policy (Aug. 2014).

¹⁸ JANET E. KEMP, SUICIDE RATES IN VHA PATIENTS THROUGH 2011 WITH COMPARISONS WITH OTHER AMERICANS AND OTHER VETERANS THROUGH 2010, at 9 (2014), available at http://www.mentalhealth.va.gov/docs/Suicide_Data_Report_Update_January_2014.pdf.

¹⁹ *Background and Statistics*, NAT'L COALITION FOR HOMELESS VETERANS, available at http://nchv.org/index.php/news/media/background_and_statistics/ (last visited March 15, 2016).

²⁰ U.S. DEP'T OF HOUS. & URBAN DEV., THE 2015 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS 1 (2015), available at <https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf>.

²¹ Economic News Release, Bureau of Labor Statistics, Employment Situation of Veterans—2014, at 5 (Mar. 18, 2015), available at http://www.bls.gov/news.release/archives/vet_03182015.pdf. Gulf War I era veterans were the only exception; their unemployment rates were relatively low. *Id.* at 3.

²² Eric B. Elbogen et al., *Criminal Justice Involvement, Trauma, and Negative Affect in Iraq and Afghanistan War Era Veterans*, 80 J. CONSULTING & CLINICAL PSYCHOL. 1097, 1098 (2012); see also Greg A. Greenberg & Robert A. Rosenheck, *Mental Health and Other Risk Factors for Jail Incarceration Among Male Veterans*, 80 PSYCHIATRIC Q. 41, 42 (2009).

²³ See, e.g., Greenberg & Rosenheck, *supra* note 22, at 42; see also Kraig J. Knudsen & Scott Wingenfeld, *A Specialized Treatment Court for Veterans with Trauma Exposure: Implications for the Field*, 52 COMMUNITY MENTAL HEALTH J. 127, 127 (2016); Andrew J. Saxon et al., *Trauma, Symptoms of Posttraumatic Stress Disorder, and Associated Problems Among Incarcerated Veterans*, 52 PSYCHIATRIC SERVS. 959, 961 (2001). Substance abuse is a consistent link to criminal justice involvement for veterans. See Daniel M. Blonigen et al., *Risk of Recidivism Among Justice-Involved Veterans: A Systematic Review of the Literature*, CRIM. JUST. POL'Y REV. 1, 11, Paper No. 0887403414562602 (ONLINE FIRST version Dec. 17, 2014). Higher levels of alcohol abuse also lead to increased levels of violent offending, especially spousal abuse. See Edward W. Gondolf & Robert A. Foster, *Wife Abuse Among VA Alcohol Rehabilitation Patients*, 42 HOSP. & COMMUNITY PSYCHIATRY 74, 74–78 (1991). It is important to note that selection by both the individual and the military institution is a challenge rendering experimental design impossible and results in the veteran population having different characteristics than the civilian population. Criminal offending before enlistment has

For example, PTSD and TBI have been shown to be highly prevalent in this population (e.g., designated as the signature injuries of OIF/OEF/OND veterans²⁴), and anger and aggression constitute potential correlates of those conditions.²⁵ Additionally, self-medication is continually an issue.²⁶ These behavioral correlations may increase risk for contact with the criminal justice system.

However, the actual number of veterans in contact with the criminal justice system is largely unknown. Information on veteran status is not routinely requested by agencies in the criminal justice system, and when it is collected, offenders may be reluctant to report military status because of the potential loss of benefits.²⁷ Although these studies are subject to the same concerns just noted, two recent studies have provided some insight into the number of incarcerated veterans. In 2009, 6.3% of a sample from the Maricopa County Jail inmate population identified as having served in the U.S. military.²⁸ In 2004, approximately 10% of state and federal prisoners had reported serving in the U.S. military, which is fewer than reported in previous years.²⁹ However, small percentages of these incarcerated veterans were from the OIF/OEF era (16% of Maricopa County inmates and 5% of state and federal inmates),³⁰ and the OND era had not yet begun. At the time, White and colleagues noted the context of their findings, anticipating a significant influx of veterans in the future.³¹

been found to be a strong predictor of military service. See Robert J. Johnson & Howard B. Kaplan, *Psychosocial Predictors of Enlistment in the All-Voluntary Armed Forces: A Life-Event-History Analysis*, 22 *YOUTH & SOC'Y* 291, 303 (1991). However, the ability to account for selection effects is limited in these data.

²⁴ INST. OF MEDICINE, *supra* note 15, at 158; Golub & Bennett, *supra* note 15, at 796.

²⁵ Shoba Sreenivasan et al., *Critical Concerns in Iraq/Afghanistan War Veteran-Forensic Interface: Combat-Related Postdeployment Criminal Violence*, 41 *J. AM. ACAD. PSYCHIATRY & L.* 263, 265 (2013).

²⁶ See, e.g., Jeremiah A. Schumm & Kathleen M. Chard, *Alcohol and Stress in the Military*, 34 *ALCOHOL RES.: CURRENT REV.* 401, 403–04 (2011).

²⁷ Discussed *infra* subpart I(B).

²⁸ Michael D. White et al., *A Hero's Welcome? Exploring the Prevalence and Problems of Military Veterans in the Arrestee Population*, 29 *JUST. Q.* 258, 269 (2012). Maricopa County Jail is the fifth-largest county-level jail in the country. *Id.* at 277.

²⁹ MARGARET E. NOONAN & CHRISTOPHER J. MUMOLA, BUREAU OF JUSTICE STATISTICS, *VETERANS IN STATE AND FEDERAL PRISON, 2004 1* (2007), available at <http://www.bjs.gov/content/pub/pdf/vsfp04.pdf>.

³⁰ White et al., *supra* note 28, at 270; NOONAN & MUMOLA, *supra* note 29, at 3.

³¹ White et al., *supra* note 28, at 278.

B. THE SPECIALIZED COURT MOVEMENT

The second conceptual foundation of the VTC is the ongoing specialized court movement and its related research, which are of primary interest to the current study. The specialized court movement is predicated on the notions that specialized groups demand particular sets of services or responses that may not be readily accessible and that specialized courts are vehicles for connecting offenders to those services. The purpose of these specialized courts is to address the legal and extralegal problems of the offender, while still protecting the public. Traditional criminal courts aim to determine guilt or innocence. If the offender is found guilty, the responsibility to “correct” him lies primarily within the correctional system. Traditional criminal courts may impose other sanctions, such as restitution or community service, but the focus of those sanctions is to help restore society. This idea that specialized courts can directly help offenders coincides within several theoretical frameworks (e.g., therapeutic jurisprudence and restorative justice).

Therapeutic jurisprudence holds that courtroom actions have therapeutic and nontherapeutic effects.³² For example, the emotional well-being of the non-legal participants may be affected by the way they are treated by the legal actors.³³ Therefore, the court should adjust its actions to aid in the therapeutic process, while not compromising the principles of due process.³⁴ Certain principles and values, such as respect, dignity, noninvasiveness, and sense of community, are to be incorporated into the legal process.

Restorative justice is an approach that aims to reintegrate offenders back into the community and make all parties whole by bringing offenders, victims, and community stakeholders together. Specifically, restorative justice calls for the following: (1) the community, victim, and offender to be voluntarily brought together; (2) an expanded focus from legal needs to also include extralegal needs and healing; (3) the shift from an adversarial

³² See, e.g., JUDGING IN A THERAPEUTIC KEY 3-9 (Bruce Winick & David Wexler eds., 2003); see also Michael L. Perlin, “His Brain Has Been Mismanaged with Great Skill”: How Will Jurors Respond to Neuroimaging Testimony in Insanity Defense Cases?, 42 AKRON L. REV. 885, 912–13 (2009).

³³ See, e.g., Bruce J. Winick, *Therapeutic Jurisprudence and Problem Solving Courts*, 30 FORDHAM URB. L.J. 1055, 1063 (2003); see also David B. Wexler & Bruce J. Winick, *Therapeutic Jurisprudence*, in PRINCIPLES OF ADDICTION MEDICINE (Richard K. Ries et al. eds., 4th ed. 2009).

³⁴ See, e.g., Michael L. Perlin, “You Have Discussed Lepers and Crooks”: Sanism in Clinical Teaching, 9 CLINICAL L. REV. 683, 719 n.195 (2003); see also Michael L. Perlin, “And My Best Friend, My Doctor, Won’t Even Say What It Is I’ve Got”: The Role and Significance of Counsel in Right to Refuse Treatment Cases, 42 SAN DIEGO L. REV. 735, 751 (2005).

proceeding to group conferences for reintegration; (4) the actions to be less punitive than traditional criminal courts; and (5) participants and stakeholders to feel restored.³⁵

Research has examined the existence of therapeutic jurisprudence in the specialized court system and its courtroom actors,³⁶ especially within mental health courts and drug courts,³⁷ as well as mental health law.³⁸ Therapeutic jurisprudence is often cited as the theory underlying these courts,³⁹ and most recently VTCs.⁴⁰ However, it has been argued that some specialized courts do not fully adhere to this ideology because they maintain that coercion is not only acceptable, but also necessary in the therapeutic process toward recovery. For example, mandated treatment with the threat of sanctions for noncompliance is often, if not always, employed by these courts. This coercive nature is arguably in opposition to therapeutic jurisprudence.⁴¹ Additionally, eligibility requirements of these courts exclude various types of offenders whom are in need of treatment and services, which may not fully embody a complete therapeutic or restorative model.⁴²

³⁵ Restorative justice events are not all the same because the participants vary from case to case. However, several events are necessary for restorative justice to occur. *See, e.g.*, John Braithwaite, *Restorative Justice: Assessing Optimistic and Pessimistic Accounts*, 25 CRIME & JUST. 1 (1999); *see also* TONY F. MARSHALL, RESTORATIVE JUSTICE: AN OVERVIEW (1999), available at <http://fbga.redguitars.co.uk/restorativeJusticeAnOverview.pdf>; JOANNA SHAPLAND ET AL., RESTORATIVE JUSTICE IN PRACTICE (2011); Declan Roche, *Dimensions of Restorative Justice*, 62 J. SOC. ISSUES 217 (2006).

³⁶ *See, e.g.*, David B. Wexler, *Two Decades of Therapeutic Jurisprudence*, 24 TOURO L. REV. 17 (2008); *see also* REHABILITATING LAWYERS (David B. Wexler ed., 2008); David B. Wexler, *Therapeutic Jurisprudence and the Rehabilitative Role of the Criminal Defense Lawyer*, 17 ST. THOMAS L. REV. 743 (2005); Bruce J. Winick & David B. Wexler, *The Use of Therapeutic Jurisprudence in Law School Clinical Education: Transforming the Criminal Law Clinic*, 13 CLINICAL L. REV. 605 (2006).

³⁷ *See, e.g.*, Peggy Fulton Hora et al., *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America*, 74 NOTRE DAME L. REV. 439 (1999); *see also* Nicola Ferencz & James McGuire, *Mental Health Review Tribunals in the UK: Applying a Therapeutic Jurisprudence Perspective*, 37 CT. REV. 48, 51 (2000); Nancy Wolff, *Courts as Therapeutic Agents: Thinking Past the Novelty of Mental Health Courts*, 30 J. AM. ACAD. PSYCHIATRY & L. 431 (2002).

³⁸ *See, e.g.*, BRUCE J. WINICK, THERAPEUTIC JURISPRUDENCE APPLIED (1997); *see also* David B. Wexler, *Putting Mental Health into Mental Health Law: Therapeutic Jurisprudence*, 16 L. & HUM. BEHAV. 27, 32 (1992).

³⁹ *See* DAVID B. WEXLER & BRUCE J. WINICK, LAW IN A THERAPEUTIC KEY (1996); *see also* Hora et al., *supra* note 37, at 448.

⁴⁰ Michael L. Perlin, "John Brown Went off to War": *Considering Veterans Courts as Problem-Solving Courts*, 37 NOVA L. REV. 445 (2013).

⁴¹ *See, e.g.*, Rebecca Tiger, *Drug Courts and the Logic of Coerced Treatment*, 26 SOC. F. 169 (2011).

⁴² *See, e.g.*, AVINASH SINGH BHATI ET AL., URB. INST., TO TREAT OR NOT TO TREAT:

Problem-solving courts—especially drug courts—have also been examined through the lens of restorative justice,⁴³ resulting in conflicting views on their embodiment of this ideal.⁴⁴ Recently, VTCs have been evaluated in terms of their adherence to restorative justice, but have fallen short of fully embodying the ideal due to the exclusion (voluntary and involuntary) of specific stakeholders.⁴⁵

While both theoretical viewpoints (i.e., therapeutic jurisprudence and restorative justice) believe the law can and should be used as an agent of healing, arguably, these are not dominant theories within specialized courts but have been “attached” to them.⁴⁶ It has also been argued that components of theories, and not the complete theories, can be found within these courts primarily because programs and courts are typically not created specifically based on a theory but in reaction to a problem, challenge, or issue, as well as administrative mandates.⁴⁷

In line with other specialized courts, VTCs attempt to connect their offending population with services and treatments in lieu of incarceration. In addition to the veterans’ issues previously mentioned, veterans also face barriers to obtaining the treatments and services that are meant to address those challenges. Two barriers to receiving care in the current system have

EVIDENCE ON THE PROSPECTS OF EXPANDING TREATMENT TO DRUG-INVOLVED OFFENDERS, (2008), available at http://www.urban.org/UploadedPDF/411645_treatment_offenders.pdf.

⁴³ See generally DRUG COURTS IN THEORY AND IN PRACTICE (James L. Nolan Jr. ed., 2002); JOHN BRAITHWAITE, RESTORATIVE JUSTICE & RESPONSIVE REGULATION (2002).

⁴⁴ See, e.g., Andrew Fulkerson et al., *Understanding Success and Nonsuccess in the Drug Court*, 57 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1297 (2013); see also John Braithwaite, *Restorative Justice and a New Criminal Law of Substance Abuse*, 33 YOUTH & SOC’Y 227 (2001); Cary Heck et al., *Assessing the Effects of the Drug Court Intervention on Offender Criminal Trajectories*, 20 CRIM. JUST. POL’Y REV. 236 (2009); Faith E. Lutze & Jacqueline G. van Wormer, *The Nexus Between Drug and Alcohol Treatment Integrity and Drug Court Effectiveness: Policy Recommendations for Pursuing Success*, 18 CRIM. JUST. POL’Y REV. 226 (2007); Michael M. O’Hear, *Rethinking Drug Courts: Restorative Justice as a Response to Racial Injustice*, 20 STAN. L. & POL’Y REV. 463 (2009). For a short review, see Baldwin & Rukus, *supra* note 3.

⁴⁵ For a complete analysis of a VTC’s embodiment of restorative justice, see Baldwin & Rukus, *supra* note 3, at 202–03.

⁴⁶ See, e.g., Timothy Casey, *When Good Intentions Are Not Enough: Problem-Solving Courts and the Impending Crisis of Legitimacy*, 57 SMU L. REV. 1459, 1465 n.17 (2004); see also E. Lea Johnston, *Theorizing Mental Health Courts*, 89 WASH. U. L. REV. 519 (2012).

⁴⁷ See, e.g., Berman & Feinblatt, *supra* note 2, at 125–28; Julie Baldwin & Joseph Spillane, *Theoretical Complexity of Drug Courts: Implications for Policy & Practice*, Presentation, ACADEMY OF CRIM. JUST. SCIENCES, 47TH ANNUAL MEETING: BEYOND OUR BOUNDARIES: THE INCLUSIVITY OF CRIMINAL JUSTICE SCIENCES 199 (Feb. 2010), available at <http://www.acjs.org/uploads/file/2010AnnualMeetingProgramforWeb12-26-14.pdf> [<https://perma.cc/S85H-HZSL>].

been identified: veterans having difficulty (1) obtaining insurance coverage and (2) overcoming the (real or perceived) stigma they experience related to receiving mental health treatment.⁴⁸ First, while it has been noted that the U.S. Department of Veterans Affairs (VA) may be the main source of mental health services for veterans,⁴⁹ veterans must meet numerous eligibility requirements to first be eligible for services through the VA. VA service determination requirements include specific discharge status, active military service, active and completed duty for Reservists and members of the National Guard, and an absence of outstanding felony warrants; further restrictions apply to incarcerated or paroled veterans.⁵⁰ Due to these restrictions, mental health care is not readily accessible or covered by military healthcare benefits for all veterans. Second, some military personnel are resistant to mental health care, which emanates from anticipated negative perceptions by peers and leaders and is disproportionately greatest among those most in need of mental health services.⁵¹ OIF/OEF soldiers with a post-deployment mental health disorder, including major depression, generalized anxiety, and PTSD, were found to be twice as likely as those without these issues to have a higher concern about stigmatization and obstacles to mental health services, and only 23% to 40% of those with a post-deployment mental disorder sought mental health care.⁵² Given these barriers, VTCs partly emerged in an effort to connect veterans in contact with the criminal justice system to the treatments and services they need but may not be able to easily access and/or readily want or accept.

II. VTC RESEARCH AND THIS STUDY

Since their creation, VTCs have been the subject of numerous media and periodical reports and commentaries. However, little empirical research currently exists, and scholars have noted that VTCs have not yet been well

⁴⁸ DEP'T OF DEFENSE TASK FORCE ON MENTAL HEALTH, AN ACHIEVABLE VISION: REPORT OF THE DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH at ES-3 (2007), available at <http://justiceforvets.org/sites/default/files/files/Dept%20of%20Defense,%20mental%20health%20report.pdf>.

⁴⁹ David DeMatteo et al., *Community-Based Alternatives for Justice-Involved Individuals with Severe Mental Illness: Diversion, Problem-Solving Courts, and Reentry*, 41 J. CRIM. JUST. 64, 68 (2013).

⁵⁰ U.S. DEP'T OF VETERANS AFFAIRS, FEDERAL BENEFITS FOR VETERANS, DEPENDENTS & SURVIVORS, at Introduction, 101-02 (2014), http://www.va.gov/opa/publications/benefits_book/2014_Federal_Benefits_for_Veterans_English.pdf [<https://perma.cc/G2KG-59UF>].

⁵¹ Charles W. Hoge et al., *Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care*, 351 NEW ENG. J. MED. 13, 20-21 (2004).

⁵² *Id.*

researched.⁵³ Several articles and notes have appeared, primarily in law and policy reviews, providing an overview of the VTC operation, criticism, and origins;⁵⁴ explaining the need for VTCs;⁵⁵ describing a VTC in Alaska⁵⁶ and discussing recidivism.⁵⁷ Several presentations on VTCs have been given at the annual conferences of the Academy of Criminal Justice Sciences (ACJS)⁵⁸ and the American Society of Criminology (ASC).⁵⁹ The first two panels dedicated to VTCs occurred at the ACJS annual conference in 2013⁶⁰ and 2014,⁶¹ and research examining a VTC's embodiment of the restorative

⁵³ See, e.g., DeMatteo et al., *supra* note 49, at 70.

⁵⁴ Tiffany Cartwright, "To Care for Him Who Shall Have Borne the Battle": The Recent Development of Veterans Treatment Courts in America, 22 STAN. L. & POL'Y REV. 295 (2011); see Jillian M. Cavanaugh, *Helping Those Who Serve: Veterans Treatment Courts Foster Rehabilitation and Reduce Recidivism for Offending Combat Veterans*, 45 NEW ENG. L. REV. 463 (2010); Hawkins, *supra* note 3; Russell, *supra* note 2.

⁵⁵ See, e.g., Beth Totman, *Seeing the Justice System Through a Soldier's Eyes: A Call to Action for Maryland to Adopt a Veterans Treatment Court System*, 16 J. HEALTH CARE L. & POL'Y 431 (2013); Samantha Walls, *The Need for Special Veteran Courts*, 39 DENVER J. OF INT'L L. & POL'Y 695 (2011).

⁵⁶ Hawkins, *supra* note 3, at 565; Jack W. Smith, *The Anchorage, Alaska Veterans Court and Recidivism: July 6, 2004–December 31, 2010*, 29 ALASKA L. REV. 93 (2012).

⁵⁷ Smith, *supra* note 56.

⁵⁸ See, e.g., Julie Marie Baldwin, *Getting Inside the Blackbox of a New Specialized Court: Program Evaluation of a Veterans Treatment Court (VTC)*, Presentation, ACADEMY OF CRIM. JUST. SCIENCES, 49TH ANNUAL MEETING: SUSTAINABLE JUSTICE 133 (Mar. 2012), available at <http://www.acjs.org/uploads/file/2012AnnualMeetingProgramFinal12-26-14.pdf> [<https://perma.cc/U2XZ-BEUS>]; Peggy Bowen-Hartung, *Veterans: Criminals or Heroes*, Presentation, *id.* at 132.

⁵⁹ See, e.g., Julie Marie Baldwin, *Veterans Treatment Courts: Discerning National Trends in Dissemination, Structure, and Implementation*, Presentation, AMERICAN SOC'Y OF CRIMINOLOGY, 68TH ANNUAL MEETING: THINKING ABOUT CONTEXT: CHALLENGES FOR CRIME AND JUSTICE 363 (Nov. 2012), available at https://asc41.com/Annual_Meeting/programs/2012/2012%20Program.pdf [<https://perma.cc/SV5D-Q7SJ>]; Julie Marie Baldwin, *Examining Intermediate Outcomes and Program Implementation of a Veterans Treatment Court*, Presentation, *id.* at 253.

⁶⁰ Julie Marie Baldwin, *A Case Study of Veterans in Veterans Treatment Courts*, Presentation, ACADEMY OF CRIM. JUST. SCIENCES, 50TH ANNUAL MEETING: THE POLITICS OF CRIME AND CRIMINAL JUSTICE 127 (Mar. 2013), available at <http://www.acjs.org/pubs/uploads/2013ACJSAnnualMeetingProgramFinalApril2013.pdf> [<https://perma.cc/D232-4Q64>]; Laurie Drapela, *Bringing the Feds Back In: Cross-Agency Implications for Drug Court "Best Practices" Among Veterans Courts*, Presentation, *id.*; Judith Harris, *Therapeutic Jurisprudence and Its Application and Execution in Veterans' Courts*, Presentation, *id.*; Jamie Kim, *Protecting the Protectors: The Need for Veterans Treatment Court*, Presentation, *id.* (all part of panel "Exploring Veterans Courts").

⁶¹ Julie Marie Baldwin & Megan Kienzle, *Perceptions of Justice: The Veteran Experience in Veterans Treatment Courts*, Presentation, ACADEMY OF CRIM. JUST. SCIENCES, 51ST ANNUAL MEETING: PERCEPTIONS OF CRIME AND JUSTICE 105 (Feb. 2014), available at <http://www.acjs.org/uploads/file/2014ACJSAnnualMeetingProgramFinal6-29-15.pdf>

justice ideal using interview and observation data has been published early online.⁶²

Even though specialized courts have been in operation across the country for more than two decades and have been the subject of numerous single- and multisite studies, their national status and development in general have not been fully ascertained. Few national surveys have been conducted to date,⁶³ and when they were, they occurred decades after the specific concept was initially implemented. This lag between emergence and examination is problematic as it does not allow for comprehensive studies of change. Additionally, the lack of understanding of these courts on a national level and over time precludes researchers and practitioners from viewing results from site-specific studies in appropriate national contexts.

III. THIS STUDY

In response to the deficit of empirical research on VTCs and national examinations of specialized courts close to their dates of emergence, the current study provides the first detailed national portrait of VTCs during their national dissemination. Specifically, this exploratory study produces descriptive results to create the premier depiction of VTC establishment, policies, structures, and procedures across the country. This study has the advantage of appearing in the infancy of the development of VTCs, while other specialized court surveys appeared long after the implementation of their respective court concepts. The data employed in this study come from the first national survey of VTCs (administered in 2012).

[<https://perma.cc/GBY4-P9EJ>]; Laurie Drapela, *Understanding “The Things They Carried”*: *Assessing the Effect(s) of VTC Mentors on VETCO Client Progress*, Presentation, *id.*; Richard Hartley, *Evaluation of Veterans Treatment Court: Program Implementation and Success Through the Veteran Participant’s Perspective*, Presentation, *id.*; Joseph Rukus & Julie Marie Baldwin, *Healing the Wounds: An Examination of Veterans Treatment Courts in the Context of Restorative Justice*, Presentation, *id.* (all part of panel “Veterans Treatment Courts: Examining Veteran Experience, Perception, and Success”).

⁶² Baldwin & Rukus, *supra* note 3.

⁶³ For a survey of drug courts, see Harlan Matusow et al., *Medication Assisted Treatment in US Drug Courts: Results from a Nationwide Survey of Availability, Barriers and Attitudes*, 44 J. SUBSTANCE ABUSE TREATMENT 473 (2013). For a survey of mental health courts, see Steven K. Erickson et al., *Variations in Mental Health Courts: Challenges, Opportunities, and a Call for Caution*, 42 COMMUNITY MENTAL HEALTH J. 335 (2006); see also Allison D. Redlich et al., *Patterns of Practice in Mental Health Courts: A National Survey*, 30 L. & HUM. BEHAV. 347 (2006). For a survey of domestic violence courts, see MELISSA LABRIOLA ET AL., CTR. FOR CT. INNOVATION, *A NATIONAL PORTRAIT OF DOMESTIC VIOLENCE COURTS* (2010), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/229659.pdf>. For a survey of a combination of treatment courts, see Robert H. Peters et al., *Co-occurring Disorders in Treatment-Based Courts: Results of a National Survey*, 60 BEHAV. SCI. & L. 800 (2012).

IV. DATA AND METHODS

A. SURVEY DESIGN

The survey was created and administered in Qualtrics, an online survey program, following the guidelines set forth in Dillman, Smyth, and Christian.⁶⁴ Qualtrics standardized the spacing and layout of the survey elements that have been shown to affect responses.⁶⁵ Although the ability to use the Internet varies widely within the general population, the court personnel in this study's population (with the exception of 1 out of 114) had the access and ability to utilize the Internet (confirmed during the creation of the national compendium).

The full survey contained seventy hybrid, closed, and open-ended items. Hybrid items provided the respondents with predetermined answers to choose from and an "other: specify" box where they were able to type in their own responses. Scale responses were fully labeled to increase reliability and validity.⁶⁶ The items were divided into eight sections, and this study utilizes responses to items from the following five sections:

- Court Description (fourteen items)
- Eligibility (five items)
- Process (ten items)
- Veteran Peer Mentors (six items)
- Court Supervision (three items)

B. CREATING THE POPULATION FRAME

Because a comprehensive list of VTCs across the country did not exist at the time, the first step was to create the population frame. Three resources were employed in creating the population frame: Google Alert, Justice for Vets, and administrative court offices. First, a Google Alert was created with the terms "veterans court," "veterans treatment court," and "veterans court legislation." Between June 2010 and May 2012, an initial list of 528 media

⁶⁴ DON A. DILLMAN ET AL., *INTERNET, PHONE, MAIL, AND MIXED-MODE SURVEYS* (2014).

⁶⁵ See, e.g., *id.*; Cleo R. Jenkins & Don A. Dillman, *Towards a Theory of Self-Administered Questionnaire Design*, in *SURVEY MEASUREMENT AND PROCESS QUALITY*, 165, 177–93 (Lars Lyberg et al. eds., 1997); Leah Melani Christian, *The Influence of Visual Layout on Scalar Questions in Web Surveys* (2003) (Master's thesis, Washington State University); Leah Melani Christian & Don A. Dillman, *The Influence of Graphical and Symbolic Language Manipulations on Responses to Self-Administered Questions*, 68 *PUB. OPINION Q.* 57, 58–81 (2004).

⁶⁶ Jon A. Krosnick & Leandre R. Fabrigar, *Designing Rating Scales for Effective Measurement in Surveys*, in *SURVEY MEASUREMENT AND PROCESS QUALITY* 141, 149–52 (Lars Lyberg et al. eds., 1997).

reports/Internet resources was compiled. Second, in May 2012, Justice for Vets (a nonprofit organization that connects veterans involved in the criminal justice system to VTCs) posted a list of VTCs on their website, and this list was compared to the author's list and incorporated where necessary.⁶⁷ Finally, the administrative court offices in each state were contacted in May of 2012 to determine whether the VTCs on the list existed or were in progress of establishment, as well as whether other VTCs existed within their jurisdictions or nearby. The author's research team called the administrative court offices again in October of 2012 to achieve the most up-to-date population frame.⁶⁸ This second round of calls added twenty-three VTCs to the compendium, resulting in a total population of 114 operating VTCs.

C. DATA COLLECTION AND THE RESULTING SAMPLE

Several methods from the "best practices for increasing response rates to online surveys"⁶⁹ were utilized to boost the response rate. These methods included the following: (1) pushing the survey through easy access (URL provided directly via e-mail); (2) frequent reminders; (3) persuading respondents that their responses will be used; (4) providing rewards; (5) extending duration of availability; and (6) assuring anonymity of responses. Overlapping with these recommendations is the Dillman approach that also focused on personalized and repeated contact.⁷⁰ How these methods were implemented is explained below, along with how the data were collected.

In June 2012, each VTC listed in the population frame at that time was called, and a contact from each VTC was asked to participate in the survey. Potential participants were told that their responses would be used for both research and practitioner purposes, that their responses would only be reported in aggregate, and that they would be sent an executive summary of the results if they participated. A personalized e-mail also containing this information, as well as the survey link, deadline, and contact information of the principal researcher, was sent to each contact who agreed to participate. Three weeks and one week before the initial deadline, follow-up e-mails were sent to those who either partially completed or did not begin the survey. After the deadline, the principal researcher called those who did not complete the survey to determine whether they were still willing to participate. If they

⁶⁷ Ultimately, the Justice for Vets list was incomplete in comparison to the compendium created by the author. For the comparison, see Baldwin, *supra* note 1, at 214–18.

⁶⁸ For the list of VTCs in the population, see *id.*

⁶⁹ See Duncan D. Nulty, *The Adequacy of Response Rates to Online and Paper Surveys: What Can Be Done?*, 33 *ASSESSMENT & EVALUATION IN HIGHER EDUC.* 301, 304 (2008).

⁷⁰ DILLMAN ET AL., *supra* note 64.

were, they were given an extension; if they were not, an alternate contact was requested. Five potential participants provided an alternative contact because they were either no longer interested or felt unqualified to complete the survey.

Between August and October 2012, these alternative contacts and additions to the compendium⁷¹ were contacted in the same manner and provided the same information previously presented. Those willing to participate were sent an e-mail with the survey link and deadline. After the deadline passed, the research team contacted the potential participants who had not yet completed the survey and provided them an extension. One week before the extended deadline, the potential participants received reminders by phone and/or email. The survey closed on December 1, 2012.

Personnel from seventy-nine VTCs responded to the national survey, resulting in a response rate of 69% of the *population*, which is considered high.⁷² Because one member from each participating VTC responded to the survey (n = 79), the available respondent characteristics are presented in Table 1. Slightly more than half of the respondents (51.8%) were male, and one third (32.9%) were either program or court coordinators. The second most prevalent participant occupations were administrator (15.1%) and veterans justice outreach officers (VJOs) (15.1%). VJOs are employed by the VA and serve on the VTC team as the liaison between the VA and VTC.

Although the response rate was high, trends in nonresponses were examined. However, this was difficult as the entire population of VTCs was contacted for participation and the only information known about the nonparticipating VTCs was their locations. Using the regions defined by the United States Census Bureau (West, Midwest, South, Northeast), a contingency table of nonresponse rates (Table 2) was created. While the West had the highest response rate (80%) and the Northeast had the lowest (56%), no significant difference was found between regions.

D. ANALYSIS

After the data were cleaned and organized, qualitative coding procedures were used for the open-ended responses and the write-in portions of the hybrid items. Structural coding was initially used for several reasons. First, the survey was exploratory; second, a goal was to determine categories. Finally, the data came from survey research with multiple participants and

⁷¹ See *supra* subpart IV(B).

⁷² For a detailed examination of the response rate using the American Association for Public Opinion Research (AAPOR), see Baldwin, *supra* note 1, at 66–69.

standardized and semi-structured items.⁷³ Following the interview structure, each question was assigned a structural code or item/topic code. Thematic coding was then used within each structural code—themes (or categories) emerged within items, which were then coded.⁷⁴

Because the purpose of this study is to provide a comprehensive national portrait of VTC establishment, policy, structure, and procedure, more detailed information was desired, so nuanced items were left independent rather than compiled. The themes were later quantified for descriptive analysis.⁷⁵ The following results are descriptive, consisting of percentages of participants responding to items pertaining to VTCs, and create a detailed picture of both convergence and dissimilarity across the national VTC landscape.

V. RESULTS

A. ESTABLISHMENT: NATIONAL COMPENDIUM RESULTS

The most widely publicized VTC was implemented in Buffalo, New York, in January 2008. By November 2012, the compendium revealed that 114 VTCs were in operation, two were in transition, and one was on hold (due to no current participants) in thirty-two states. Figure 1 shows counts of VTCs for years of establishment for the sample ($n = 79$) over fifty-eight months. The majority of VTCs were established in 2011 (26 VTCs, 32.9%) and 2010 (21 VTCs, 26.6%) (Figure 1).

Figure 2 depicts the location of the 114 VTCs in operation by state. While variations exist across states regarding the number of VTCs operating within a single state (from zero to thirteen), the majority of states (64.0%) have established at least one VTC. States with the highest number of VTCs were New York and Pennsylvania with thirteen and twelve, respectively (each with approximately 11% of VTCs nationwide), and California, Texas, and Wisconsin followed with nine each (each has approximately 8% of VTCs nationwide). The majority of states with operating VTCs had only one or two VTCs.

⁷³ See FLOYD J. FOWLER, JR., *SURVEY RESEARCH METHODS* (3d ed. 2002); JOHNNY SALDAÑA, *THE CODING MANUAL FOR QUALITATIVE RESEARCHERS* (2d ed. 2013); DAVID WILKINSON & PETER BIRMINGHAM, *USING RESEARCH INSTRUMENTS* (2003).

⁷⁴ See JOHN W. CRESWELL, *QUALITATIVE INQUIRY & RESEARCH DESIGN* (3d ed. 2013).

⁷⁵ See JOHN W. CRESWELL & VICKI L. PLANO CLARK, *DESIGNING AND CONDUCTING MIXED METHODS RESEARCH* (2d ed. 2011); ABBAS TASHAKKORI & CHARLES TEDDLIE, *HANDBOOK OF MIXED METHODS IN SOCIAL & BEHAVIORAL RESEARCH* (2003).

B. POLICY: GOALS, OBJECTIVES, TARGET POPULATIONS,
REQUIREMENTS, BENEFITS

In an open-ended item, respondents were asked to provide their VTCs' mission statements. Within the mission statements, impact and process goals, objectives, and target populations were first identified and then coded to determine the degree of diversity in goals, objectives, and target populations across VTCs.⁷⁶ Because multiple goals and objectives may be contained within a single mission statement, the number of goals and objectives identified was not limited. Although some of the goals may appear to be objectives, they are goals in the context of their respective statements and are listed as such. Further, specific themes were kept independent and not combined into more general categories to ascertain the degree of specificity within these mission statements.

Of the seventy-nine VTCs, 62.0% supplied mission statements, 15.2% stated that they were operating without a specified mission statement, and 22.8% did not respond (missing). Within the forty-nine mission statements provided, impact goals were identified in each statement (100.0%) and are located in Table 3. However, only 77.6% of the mission statements contained at least one process goal (Table 3). The majority of statements (91.9%) contained at least one objective (Table 4).

The impact and process goals and objectives varied across VTCs. The largest percentages of agreement for goals and objectives amounted to approximately one third of the sample. Specifically, two impact goals regarding crime and safety reached this point: reducing recidivism/creating law-abiding citizens (38.7%) and promoting/maintaining public safety (30.6%) (Table 3). The highest response for an objective fell within this range of percentages at 34.6% for the objective of agency collaboration (Table 4). Having no process goal within a mission statement (22.4%) exceeded agreement in any process goal response category (Table 3). The most reported process goal was providing assistance/services/support to participants at 18.4% (Table 3).

Conversely, as seen in Table 5, target populations indicated by the VTCs' mission statements were similar across VTCs. The majority (51.0%) of mission statements listed "veterans" as the target population, and slightly less than one quarter (24.4%) specified "veterans in the CJ system" (Table

⁷⁶ Impact goals define what changes the program desires to accomplish in the participants or community, while process goals pertain to how the program creators and administrators want the program to operate. Objectives refer to how these goals are to be accomplished, and target population refers to the individuals the programs are trying to reach. PETER H. ROSSI ET AL., *EVALUATION: A SYSTEMATIC APPROACH* 139–68 (6th ed. 2004).

5). A veteran would not be in VTC if he/she was not charged with an offense, which constitutes contact with the criminal justice system. Thus, these items were combined, increasing the percentage to 75.4% of VTCs with a broadly defined target population of veterans in contact with the criminal justice system, which indicated that these courts are highly inclusive. The remaining quarter widely varied with not more than two VTCs (4.0%) agreeing in any category as they began to include offenses types, issues, and veteran and military statuses (Table 5).

While the majority (75.4%) of VTCs appeared to be highly inclusive by the target populations in their mission statements, responses to the eligibility requirement items revealed a contradictory observation. In hybrid items, respondents were asked what conditions or characteristics would exclude veterans from participation. All respondents answered this item. Because various exclusions can exist within a single court, the results presented here are not mutually exclusive. Results indicated that VTCs vary in the specific charges or charge categories they excluded, including exclusions for various military, VA, and criminal statuses; types of charges and sentences; injury to victim; treatment needs; and previous VTC participation. The list of exclusions was extensive even after combining categories, and for the purpose of conserving space, military/VA status and charge exclusions that reached or exceeded 10.0% are listed in Table 6. The majority of VTCs excluded at least one type of violent felony charge (57.0%), but most specific types of violent felony exclusions amounted to less than 10.0%. Exceptions to this were exclusions of *any* violent felony charges (43.0%), sex offenses (26.6%), homicide categories (16.5%), and abuse or sexual offenses against a child (11.4%) (Table 6). While homicide was specifically mentioned by 16.5% of courts in the closed response, this finding alone underrepresents the number of VTCs that exclude veterans charged with a homicide category offense because most VTCs stated in the write-in portion of the item that exclusions depended on the severity of the case. If the charge was too severe, such as homicide, more VTCs than the 16.5% would not accept the case. With regard to military/VA status, more than one third (35.4%) excluded veterans that had been dishonorably discharged from service. Veterans specifically ineligible for VA services (24.1%) or who exited service with a bad conduct discharge (21.5%) were excluded by nearly one quarter.

In a hybrid item, respondents were asked about participation and graduation requirements and were not limited in the number of requirements they could provide. All seventy-nine VTCs responded to these items. Participation requirements are located in Table 7, and graduation requirements are in Table 8. All VTCs (100.0%) required participants to receive treatment, and nearly all (92.4%) required participants to appear

frequently in their VTCs. Most required a contract to be signed (81.0%), regular check-ins with someone outside of the VTC team or treatment providers (75.9%), a guilty plea (60.7%), or probation (55.6%).

The determination of program completion/graduation (Table 8) varied more than the participation requirements. Nearly all VTCs (98.7%) required participants to complete all treatment requirements for graduation. The majority required the completion of all court mandates (79.7%) and probation requirements (65.8%). Approximately half (46.8%) required stable housing or a unanimous agreement among all VTC members that all requirements have been met.

The respondents were asked about the legal and financial benefits offered to veterans for VTC participation and graduation. These hybrid items did not limit the number of benefits that could be chosen or listed, and all seventy-nine VTCs answered these items. Table 9 indicates that the most reported benefit was diversion from incarceration (92.4%). The majority of VTCs dropped (70.8%) or reduced (65.8%) charges for participants and graduates; more than one third (36.7%) withheld adjudication.

C. STRUCTURE: FUNDING, JURISDICTION, JUDGES, STAGES, COMPONENTS

Table 10 depicts structural characteristics, specifically trends in funding sources (hybrid item), jurisdiction (hybrid and open-ended items), characteristics of the judiciary (closed items), and use of a reward/sanction ladder (closed item).⁷⁷ More than half of VTCs nationwide (53.1%) operated solely within their established judicial system's budget, receiving no additional funding. Grants were the most reported type of sole-additional funding (16.4%). The most reported jurisdiction level was the county (60.7%), followed by the state (20.2%). Most VTCs employed the single-judge model (74.7%). The majority of VTC judges were male (74.7%), did not have any military background (55.2%), or presided over another specialty court (62.8%).

Most VTCs employed some type of graduated system of rewards and sanctions (74.3%) and had a mentoring component in their programs (77.2%) (Table 10). The majority of VTCs' mentors were community volunteers not affiliated with the VA (95.0%) (not shown). These volunteers answered calls sent by the VTC to the general public and various veterans' service organizations (e.g., Veterans of Foreign Wars posts, Disabled American Veterans offices). Only 4.9% of VTCs with mentor programs had mentors employed by the VA (not shown). Fewer had veteran participants who were

⁷⁷ Please note that the sample size varies by item due to response rates.

in the final phase of the VTC program (1.6%), came from for-profit (1.6%) or nonprofit (1.6%) programs, or were paid by grants (1.6%) (not shown).

The VA and non-VA agencies (e.g., faith-based, nonprofit, and private organizations) partnered with VTCs to offer services to veteran participants. All VTCs (100.0%) offered mental health services and outpatient substance abuse treatment, and the majority (97.5%) offered inpatient substance abuse treatment, detox treatment, and housing services. Most VTCs also provided vocational (96.2%) and transportation (89.9%) services. Table 11 displays which providers (i.e., VA only, non-VA only, both VA and non-VA, and neither) offered what type of services and treatments. Both the VA and non-VA providers were employed in the mental health, outpatient substance abuse, vocational, and transportation services. Inpatient substance abuse and detox treatments were more frequently provided solely by the VA. Housing was provided slightly more by the VA (40.5%), followed by both VA and non-VA providers (39.2%).

D. PROCEDURE: MEETINGS/SESSIONS, IDENTIFICATION, SCREENING, SUPERVISION

Table 12 displays the results of all participants from mutually exclusive hybrid items that gathered information on the frequency of VTC sessions and VTC team meetings. VTC sessions are the actual court sessions, and VTC team meetings consist of the VTC team coming together outside of court to discuss VTC business and the current and potential participants (e.g., charges, eligibility, progress, challenges, new information). Nearly half of the VTCs held court once a week (46.8%) or had team meetings once a week (40.5%) (Table 12), and cross tabulations revealed that 36.7% both met and held court once a week (not shown). The second highest reports were holding court two to three times a month (35.4%) and meeting as often (21.5%) (Table 12). Cross tabulations showed that 21.5% convened court and met two to three times a month (not shown). Although 12.6% reported that they did not meet outside of court, additional analysis revealed that these VTC teams communicated outside of court. The 2.5% of VTCs that reported never communicating outside of court held court frequently, specifically two to three times a month (not shown).

Respondents were asked whether they had a specified procedure for identifying veterans in contact with the criminal justice system (closed item) and at what stages veteran identification occurred in their VTC (hybrid item). The latter item did not limit the number of options respondents could provide, and all participants responded to these items. These results are depicted in Table 13. Although the majority of VTCs did not have a set procedure for identification (88.0%), the majority reported that identification did occur at

early phases of the criminal justice process: at arrest (45.5%), booking (69.6%), arraignment (70.8%), and pretrial services interview (62.0%). However, approximately half of VTCs (49.3%) stated that identification did continue to occur later at some point after arraignment. A few VTCs (maximum of 5.0%) stated that identification happened late in the criminal justice process, specifically at a probation violation or revocation review (5.0%), at sentencing (2.5%), or while incarcerated after conviction (2.5%).

All participants responded to mutually exclusive hybrid items regarding who screened the veterans and what issues/needs were evaluated at screening, and the results are located in Table 14. The results indicate that VTCs appear to be evaluating a wide array of issues at screening, and these evaluations are primarily conducted by a few individuals. Every VTC (100.0%) reported assessing veterans in the areas of both mental health and substance abuse, and almost every VTC evaluated veterans in the areas of trauma exposure (96.2%) and physical health (93.6%). Most VTCs assessed family relationships (89.8%), social support (89.8%), housing (88.6%), employment (87.3%), and education (84.8%). VJOs were the primary evaluators in most VTCs (75.9%). Approximately one third of VTCs had treatment providers, specifically non-VA providers (35.4%) or VA treatment providers (30.3%), conduct initial assessments.

VTC respondents were asked about the means of supervision utilized in their VTC (hybrid, not mutually exclusive); most participant responses are displayed in Table 15. Traditional means of supervision (i.e., drug testing and reporting to an agency such as probation) were reported by all or nearly all VTCs. Specifically, all VTCs utilized drug tests (100.0%) in some fashion, and the majority (97.3%) had some type of agency monitor the participants and report back to the VTC. The majority of VTCs also verified treatment attendance (94.6%), performed housing drop-ins (76.0%), tested medication levels (65.3%), and verified employment (58.6%).

VI. DISCUSSION

While VTCs were in operation in most states (thirty-two),⁷⁸ sixteen states had neither any in operation nor any planned at the time of the survey. Several reasons as to why these states neither implemented nor planned to create VTCs were explored. First, state populations were examined. The states without VTCs coincide with neither the list of states that had lowest veteran population nor with the list of states that were least populated in general per the 2010 census or 2012 estimates.⁷⁹

⁷⁸ See *infra* Figure 2.

⁷⁹ See *State Totals: Vintage 2012*, U.S. CENSUS BUREAU, <http://www.census.gov/popest/>

Second, this study revealed that the majority of VTC judges (62.8%) presided over another specialty court. Having another specialized court in the jurisdiction may provide an already-established infrastructure, foundation, or additional access to resource(s) that are necessary for, or at least helpful in, establishing a VTC. However, in contrast to other specialized courts, VTCs need to have some type of VA treatment center or provider⁸⁰ nearby for VA eligible participants, especially since many VTCs exclude participants who are ineligible for VA services (discussed later). This study supports that assertion as it found that most services are provided either by the VA alone or by both VA and non-VA treatment providers. No service or treatment provided only by non-VA providers outnumbered services provided by the VA (only or in conjunction with additional outside treatment providers). Although this notion was supported, VA facilities are located nationwide, and the state locations of VA treatment and service centers outnumber the number of states with VTCs. For example, the VA has community-based outpatient clinics in all fifty states and the District of Columbia, as well as American Samoa, Guam, Puerto Rico, the Philippines, and the Virgin Islands,⁸¹ but this study discovered that VTCs are not yet operating in every state. While the VTC may need a VA provider within a reasonable distance, the existence of the VA provider does not appear to be the single driving force in the creation of a VTC.

Third, some researchers have suggested that specialized courts emerged from the practical standpoints of imperatives set forth from justice administration (e.g., addressing failed responses to growing social problems, a focus on public accountability, and an increase in the incarceration rate).⁸² This demand may be stronger in some jurisdictions and weaker, or even nonexistent, in others. The potential differential in these calls could be a contributing factor in the creation of multiple problem-solving courts within one jurisdiction and none in another.

Finally, the first drug courts were established by local entities without federal funding,⁸³ but they spread nationally once federal funding was

data/state/totals/2012/ (last visited May 7, 2015); *Veteran Population*, U.S. DEP'T OF VETERANS AFFAIRS, http://www1.va.gov/vetdata/Veteran_Population.asp (last visited May 7, 2015).

⁸⁰ These providers range in services, but include full VA medical centers, community-based outpatient clinics (CBOCs), or outpatient clinics (OPCs).

⁸¹ *Community-Based Outpatient Clinics (CBOCs)*, THE AMERICAN LEGION, <http://www.legion.org/veteranshealthcare/outpatient> (last visited May 7, 2015); *Facilities by State*, U.S. DEP'T OF VETERANS AFFAIRS, http://www2.va.gov/directory/guide/Allstate_flsh.asp?dnum=1 (last visited May 7, 2015).

⁸² Berman & Feinblatt, *supra* note 2, at 128.

⁸³ John S. Goldkamp, *The Impact of Drug Courts*, 2 CRIMINOLOGY & PUB. POL'Y 197, 200

secured.⁸⁴ This study discovered that more than half of the VTCs in the sample were operating within their own budgets, without any additional funding outside of their court systems. Based on this knowledge and the finding that the year 2011 was the most popular year of establishment for the sample, correlations were run to explore whether grants became more available for VTCs as the years went on and VTCs spread across the country. For the sample, there were no significant correlations between year of establishment and funding. However, the VTC sample consists of courts established between 2008 and 2012, and the relationship could develop in the future to follow that of drug courts. Conversely, VTCs may not need to depend on independent federal grants to proliferate nationally because, if their eligibility requirements mandate the acceptance of only VA-eligible veterans, they may not require additional external funding to operate. Future research should aim to understand why specialized courts in general and certain types of specialized courts exist in specific areas of the country but not in others, as well as how VTCs are diffusing and what their mechanisms for diffusion are.

Generally, treatment-oriented courts are highly self-conscious in articulating formal mission statements and goals. In part, this reflects the need for jurisdictions to justify the investment of time and resources in the nontraditional processing of criminal offenders. While this may be a trend in most specialized courts, this study found that a substantial portion of VTCs did not respond to the open-ended item for mission statement (22.8%) and specifically stated that they were operating without a mission statement (15.2%).⁸⁵

This finding may be related to a relationship between different levels of public support for various target populations. Specialized courts are created within the public and legal community by a variety of individuals (e.g., judges, public defenders, prosecutors, and advocates), and they need public support to emerge and survive. Some target populations may naturally garner more support than others. To illustrate, take drug courts as a contrasting example. Target populations in both drug courts and VTCs are subject to the label of “criminal.” However, the participant population of drug courts consists specifically of *drug offenders*, and VTCs generally target *veterans* in contact with the criminal justice system. Although both participant groups can be legally defined as criminal, “drug offender,” “drug user,” and “drug

(2003).

⁸⁴ *Id.* at 201; James A. Inciardi, *Proposition 36: What Did You Really Expect?*, 3 CRIMINOLOGY & PUB. POL’Y 593, 594 (2004).

⁸⁵ An open-ended item asked the respondents to provide their mission statements, so the missing responses may be the result of VTCs not possessing a specific mission statement.

addict” are labels attached to drug court participants, while “veteran” is the primary label attached to the VTC participant. The term “drug offender/user/addict” may possess a negative connotation while “veteran” may not.⁸⁶ Thus, to increase support, drug courts may need to have clearly defined mission statements espousing specific goals such as reducing future criminality, while VTCs may not need to take steps to create support because support for their target population already exists. However, in this light, it is interesting to note that the two most popular impact goals within VTCs overwhelmingly dealt with future criminality (38.7%) and public safety (30.6%), two primary concerns of the public.

The lack of mission statements and process goals can be problematic. The latter omission lends credence to the argument that specialized courts may know what they want to do in general terms, but have difficulty determining how to achieve those goals.⁸⁷ Some findings from this study support that idea. For example, initial target population in the mission statements, participation requirements, areas of evaluation, and services provided were fairly similar across courts, while actual eligibility requirements, graduation requirements, incentives, and services providers varied. Further, most VTCs did not have a set procedure for identifying veterans.⁸⁸

VTCs without mission statements, process goals, or both should create them. Having such a statement may contribute to a better and mutual understanding of roles, goals, and purposes of the VTC and its partnering agencies, depending on the clarity and content of the mission statement. In turn, a clear understanding and belief in the mission may enhance implementation and collaboration if all parties agree on and fully understand the mission. Relatedly, implementation is important for outcomes as “good” implementation has been shown to statistically increase program success and stronger positive results for participants.⁸⁹ This study shows mission

⁸⁶ Aside from the creation of VTCs, the criminal justice system’s perception of military service as noble is also evident in the boot camp movement after the first Gulf War in the 1990s. Prior to the research conducted on the programs, militaristic routines and mechanisms for behavioral change and character building were incorporated into the correctional setting because the system believed the military experience to be beneficial. Additionally, moving back further in history, offenders had been given the option to serve in the military in lieu of incarceration.

⁸⁷ Julie Marie Baldwin & Laurie Drapela, *Do They Measure Up and Does It Matter? A Critical Analysis of the 10 Key Components of Veterans Treatment Courts* (on file with author). This is also an issue in the ten key components of VTCs, drug courts, and mental health courts. *Id.*

⁸⁸ For a full analysis and discussion, see Baldwin & Drapela, *supra* note 87.

⁸⁹ Joseph A. Durlak & Emily P. DuPre, *Implementation Matters: A Review of Research on*

statements to be a divergent issue for VTCs, but can only hypothesize as to why. Future research should examine why some VTCs are operating without a mission statement, as well as how that affects many aspects of implementation and impact.

While the target populations in the mission statements were highly inclusive, many eligibility exclusions were subsequently reported. More than half of VTCs (57.0%) excluded some type of violent felony charge, and approximately half reported military discharge and conduct exclusions (45.8%) or any type of violent felony charge exclusions (43.0%). VTCs may have been excluding these veterans because they were ineligible to receive VA service and treatment benefits, which would require the VTCs themselves to find non-VA treatment and services providers. Additionally, program creators may have thought these statuses (e.g., dishonorable discharge, VA ineligible, bad conduct discharge, felony charge) indicate that the individuals were more problematic, higher risk, less amenable to treatment, or more nontreatable than other veterans. With regard to certain felony exclusions, mandatory sentences may have been associated with these types of offenses, which could preclude participation in treatment court. Felony exclusions might also be related to program creators' desire for legitimacy and public support, as well as political and financial support, and individuals may be less inclined to be supportive of rehabilitative efforts for violent felons regardless of veteran status.

Further examining the results regarding eligibility requirements, it appears that the primary considerations for eligibility are not the therapeutic needs of the veterans but are often the veterans' status and charge types. These considerations do not necessarily embody the purpose of the specialized court but do coincide with their practices. For example, VTCs appear to vary in their definition of "veteran," often depending on discharge status, which is related to VA eligibility and not actual *need* for services. Drug courts' use of the term "drug offender" also varies across courts as some define it as an offender with any drug law violation, while others define drug offender as a first-time offender with a drug problem (numerous additional definitions abound). While the purpose of the specialized court is to address the underlying causes of criminality (e.g., drug abuse and/or addiction, mental health issues, lack of social support), the way the target population is defined does not always support the overall goal. Given the understood purpose of the VTC, the following is an example of such a contradiction: a dishonorably discharged veteran in contact with the criminal justice system

who has mental health and substance abuse issues, which may have contributed to his/her dishonorable discharge status, is determined ineligible for participation in a VTC that requires the discharge status of honorable. In this example, “veteran” for this court refers only to those honorably discharged. Veterans not eligible for VTC participation continue their case processing in the traditional court system, which may not connect them with the services they need. A large group of veterans in need may be currently being excluded, contrary to the overall purpose of the court to be inclusive of individuals with problems and needs.

While this study was an important inaugural step, future research needs to gain a better understanding of eligibility requirements and exclusions, focusing on ascertaining why certain characteristics are excluded and what the effects (if any) of these exclusions are. This knowledge is important because these restrictions will directly influence the type of veterans that can participate, which may influence program efficacy. Additionally, future research should determine the characteristics of participating veterans and whether certain types of veterans are over or under represented in the VTC participant population with the understanding of the exclusions’ influences on that population.

In comparison, the graduation requirements are congruent with the participation requirements reported by the majority of VTCs. For example, the most reported participation (100.0% reported treatment) and graduation (98.7% reported completing treatment) requirements specifically dealt with treatment, which was not a popular mention in any component of the mission statements but is a primary goal of specialized courts. While the majority of VTCs had similar participation and graduation requirements, numerous other requirements were also reported. In the attempt to understand effective components and create best practices of VTCs, future research should examine whether relationships exist between various types of recidivism and the participation and graduation requirements that are prescribed, fulfilled, and unmet.

Even though VTCs are specialized courts, not every VTC reported diversion from incarceration (one of the primary goals of a specialized court) as a benefit of participation, but the majority did. With regard to less reported benefits, expunction opportunities were low (5.0% of VTCs offered expunction). If pleading guilty must be a requirement for participation (as it is for the majority of VTCs), including expunction upon graduation or after several years of not having any contact with the criminal justice system might serve as an incentive for more veterans to participate. Future research should examine whether certain factors affect eligible veterans’ participation choices.

Interesting findings emerged with regard to the characteristics of the judiciary, specifically that the majority of VTC judges did not have any military experience and nearly one quarter reported having multiple judges. The existence of many non-military VTC judges was unanticipated in light of previous commentary and recent research⁹⁰ that discussed how the camaraderie of these courts emerges from the shared military experience and how participants feel understood when their judge(s), VTC team members, and treatment providers have military experience. Regarding the number of judges, assigning all cases to a single judge is an attempt by the court to increase consistency.⁹¹ Additionally, this may further facilitate the creation of a bond between the judge and participant through repeated exposure of the same two individuals to each other.⁹² Research has made the case that veterans perceive civilian treatment providers as not understanding the veteran experience.⁹³ Having non-military judges and/or multiple judges may decrease the probability of creating the intended relationship between judge

⁹⁰ The nature and importance of the judicial role in drug courts has been well described elsewhere and recent research has begun to discover its importance in VTCs. See, e.g., John S. Goldkamp, *The Origin of the Treatment Drug Court in Miami*, in 7 *THE EARLY DRUG COURTS: CASE STUDIES IN JUDICIAL INNOVATION* 19–42, (W. Clinton Terry, III ed., 1999); John S. Goldkamp, *The Drug Court Response: Issues and Implications for Justice Change*, 63 *ALB. L. REV.* 923–61 (2000); JOHN S. GOLDKAMP & DORIS WEILAND, *ASSESSING THE IMPACT OF DADE COUNTY'S FELONY DRUG COURT* (Nat'l Inst. of Justice, Research in Brief, Dec. 1993), <https://www.ncjrs.gov/pdffiles1/nij/145302.pdf>; NATIONAL ASS'N OF DRUG COURT PROF'LS, *DEFINING DRUG COURTS: THE KEY COMPONENTS* (1997), reprinted in U.S. DEP'T JUSTICE BUREAU OF JUSTICE ASSISTANCE, *DRUG COURTS RESOURCE SERIES* (2004), <http://www.courts.ca.gov/documents/DefiningDC.pdf>. Specifically, Baldwin & Rukus discovered the importance of camaraderie and the judge's veteran status for the participants. Baldwin & Rukus, *supra* note 3, at 193. Goldkamp et al. discovered through focus groups that drug court participants consistently viewed the judge as the most influential force in the drug court program because of their perceived relationship with him or her. JOHN S. GOLDKAMP, MICHAEL D. WHITE, & JENNIFER B. ROBINSON, *AN HONEST CHANCE: FINDINGS FROM DRUG COURT PARTICIPANT FOCUS GROUPS IN BROOKLYN, LAS VEGAS, MIAMI, PORTLAND, SAN BERNARDINO, AND SEATTLE* (2001), <https://www.ncjrs.gov/html/bja/honestchance/intro.html>. In a different study, Goldkamp et al. suggested that other designs be utilized in an effort to separate other factors that may be influential such as historical periods, the impact of drug court judges and staffing, and changing program policies. JOHN S. GOLDKAMP ET AL., *FROM WHETHER TO HOW DRUG COURTS WORK: RETROSPECTIVE EVALUATION OF DRUG COURTS IN CLARK COUNTY (LAS VEGAS) AND MULTNOMAH COUNTY (PORTLAND)* (2001), <https://www.ncjrs.gov/pdffiles1/nij/grants/194124.pdf> [hereinafter GOLDKAMP ET AL., *FROM WHETHER TO HOW*].

⁹¹ GREG BERMAN & JOHN FEINBLATT, *JUDGES AND PROBLEM-SOLVING COURTS* 8 (2002), <http://www.courtinnovation.org/sites/default/files/JudgesProblemSolvingCourts1.pdf>.

⁹² John S. Goldkamp et al., *Do Drug Courts Work? Getting Inside the Drug Court Black Box*, 31 *J. DRUG ISSUES* 27, 42 (2001) (“direct person-to-person exchanges with the judge are thought to interact to produce a therapeutic effect greater than traditional treatment or deterrent approaches alone could achieve”).

⁹³ Cartwright, *supra* note 54, at 301.

and participant. The ultimate purpose of the bond is to develop a sense of accountability within the participant toward the judicial official, which is hypothesized to increase the probability of compliance. Some VTCs (17.7%) reported that the relationship with the judge was one of the most effective components of the VTC (not shown). Goldkamp and colleagues discovered that the number of judges mattered with a single judge reducing the likelihood of rearrest; however, they also found that the length of time participants spent in treatment was a better indicator of rearrest probability than the number of judges.⁹⁴

These findings produce many avenues for future study. Future research should explore the participant perceptions of and bonds with judges to determine whether differences exist depending on the military status and/or number of the judges, as well as what elements promote the creation of a participant's bond with a judge(s). Although time in treatment has been shown to be more influential than the number of judges, the effect of time in treatment on the bond with the judge has not been determined. Future VTC research should explore these relationships between the judicial bonds, time in treatment, program compliance, and recidivism.

As reported, the VA provided most services, but most veteran mentors were not affiliated with the VA. One possibility for this may be that it is easier for VTCs to organize and recruit mentors outside of the VA. Evidence supporting this hypothesis emanates from VTC and VA relationships. Baldwin found that VTC respondents reported several challenges working with the VA in the areas of treatment and service.⁹⁵ An additional rationale is that mentors are intended to serve as a mechanism of support and not supervision. Mentors affiliated with the VA may be perceived by participants as more of a supervision tool because certain means of supervision are controlled by or at the least affiliated with the VA (e.g., the VJO, drug and medication testing). Future research should examine how mentors are perceived by participants, the relationships between mentors and participants, and the impact of those perceptions and relationships on participants, as well as further explore the nature of the relationships between the VA and VTCs.

As all VTCs required treatment participation, one might have anticipated that treatment attendance would be verified by 100.0% of VTCs. While almost all (94.6%) reported verification of treatment attendance, agency reporting and drug testing surpassed treatment attendance as the primary methods of supervision. Supervision methods in VTCs were mainly

⁹⁴ GOLDKAMP ET AL., FROM WHETHER TO HOW, *supra* note 90, at 139-58.

⁹⁵ Julie Marie Baldwin, *The Veterans Treatment Court Concept in Practice: Issues for Practitioners*, PERSP., Winter 2014, at 74, 82.

hands-on as opposed to electronic monitoring.⁹⁶ On the lower end of the spectrum, mentoring was utilized as a means of supervision by very few VTCs (2.6%). This could be related to the fact that only 11.3% required participants to meet with mentors even though most VTCs reported having mentors, which may indicate that these “mentor programs” are not strongly operating but are merely nominal and/or that VTC program creators may have wanted mentors to function solely as resources for support, not supervision. Future research should examine in what capacities VTCs want and expect their mentors to function, as well as determine how the differing mentor roles impact veterans.

Regarding VTC team communication, although the percentage was small and they convened court two to three times a month, there should be some concern with the two VTCs (2.5%) that reported never communicating outside of court. If these teams update themselves on the various facets of compliance during the court sessions, this could pose problems if disagreements arise between VTC team members about various issues (e.g., compliance, the application of rewards or sanctions). Discord may not present a united front to the participants, which may affect program efficacy and legitimacy.

While VTCs appeared to be identifying targets early, the majority of VTCs (88.0%) reported not having a set procedure for the identification of veterans in contact with the criminal justice system. The lack of set procedure may be the result of the large number of agencies involved, the newness of the programs, and/or premature implementation. Future research should examine why some veterans are being identified at the end or toward the end of the criminal justice process and, in response to their findings, suggest adjustments to increase or create early standardized identification procedures. Because this lack of procedure is problematic for practitioners, VTC personnel should propose identification procedures and meet with the appropriate agencies to determine the feasibility of the proposed procedures and make adjustments where necessary.⁹⁷ All participating agencies should collaborate in this process.

VII. LIMITATIONS

The following limitations apply to this study and its results. First, not all of the VTCs in the population participated in the survey. Unit nonresponse bias was difficult to address with the limited data available (i.e., location), but it was statistically explored and found not to be significant. Additionally,

⁹⁶ *Id.* at 86.

⁹⁷ *Id.* at 91.

not every item received a response from each court. However, this study's overall response rate (69.3% of the VTC population) was on the higher end of samples' response rate ranges for Internet surveys (7%–88%) and mail surveys (10%–89%)⁹⁸ and for ranges of response rate averages for Internet surveys (34%–58%) and mail surveys (45%–77%).⁹⁹ While the response rate was high, the national illustration of VTCs presented by this study should be interpreted with the understanding that not all VTCs in the population were represented.

This study was exploratory and was intended to produce descriptive results that provided a national portrait of the structure, policy, and procedure of VTCs. This study did not test any hypotheses, which some may consider a limitation. However, there is a dearth of research on VTCs in general, let alone at the national level. This is the first study to provide a descriptive understanding of these VTC elements on a national level, and as such, is descriptive in nature. It is the author's hope that this study may serve to provide current VTC research with a national context for their findings and begin to create the foundation for national-level research on VTCs.

Finally, VTCs are relatively new and may be constantly changing. The national depiction presented by this study may not be invariant, but it does provide researchers and practitioners with an early understanding of these courts on a national level. While the fluid nature of VTCs may be a limitation, it may also be an advantage. The sooner this research emerges, the better chance it has in impacting these courts because they are amenable to change in their young growing state.

VIII. CONCLUSION

The quickly disseminating VTC concept serves as the criminal justice system's primary programmatic attack in addressing the legal and extralegal issues of veterans with which it is in contact. The emerging course of VTC research, and specifically this national study, is transpiring at a critical point in time. The growth of VTCs is outpacing research, similar to the proliferation of drug courts, where national expansion and implementation occurred without a foundation in sound research. VTCs are anticipated to

⁹⁸ See Tse-Hua Shih & Xitao Fan, *Comparing Response Rates from Web and Mail Surveys: A Meta-Analysis*, 20 *FIELD METHODS* 249, 257, 265 (2008).

⁹⁹ *Id.* at 257; Donna Brady Raziano et al., *E-Mail Versus Conventional Postal Mail Survey of Geriatric Chiefs*, 41 *GERONTOLOGIST* 799, 799 (2001); see also Vasja Vehovar & Katja Lozar Manfreda, *Meta-Analysis of Web Surveys* 10–12, http://www.wordminer.org/wp-content/uploads/2013/04/241_0.pdf [<https://perma.cc/2UES-SFEJ>]; Katja Lozar Manfreda et al., *Web Surveys Versus Other Survey Modes: A Meta-Analysis Comparing Response Rates*, 50 *INT'L J. MARKET RES.* 79 (2008).

continue emerging and operating throughout the nation. As evidenced by this study, VTCs are functioning on municipal, state, and federal levels with funding from all levels of government and the private sector. In approximately fifty-nine months, 114 VTCs were established in thirty-two states, and eighteen were in the process of being established in nine states. Other areas were gaining support.

In recent year, organizations have made pointed attempts to further the adoption of these courts nationally in the absence of systematic assessment. Specific attempts include the naming of “mentor courts,” federally funded technical assistance for VTCs, and the creation of the annual VTC conference, Vet Court Con, all of which have contributed to the proliferation of the VTC concept.¹⁰⁰ While the VTC concept continues to disseminate, a further influx of veterans returning from OIF/OEF/OND is expected, while much of the research to date that is informing our knowledge of veterans’ issues has focused on Vietnam-era veterans and some research has indicated that the experience of certain challenges (e.g., unemployment, homelessness, TBI) varies by era. This combination of circumstances should be considered problematic, and to further complicate the matter, OIF/OEF/OND constitutes the longest sustained military operation by the United States since the Vietnam War, and the issues facing OIF/OEF/OND veterans and their families may not reach the maximum point until 2040 or later.¹⁰¹

The criminal justice system’s programmatic response is rapidly diffusing without evidence-based VTC models or practices. Moreover, it is proceeding without full knowledge of the issues that are present and may emerge in a growing population of veterans in the coming decades. Therefore, program creators and administrators must carefully conceptualize their program components and focus on program fidelity. Furthermore, researchers should quickly—but carefully—begin to undertake systematic evaluations of VTCs with the long-term goal of determining evidence-based policies and practices. Future research should not only continue this study’s

¹⁰⁰ Vet Court Con administered 200 hours of training sessions and had keynote speakers espousing their support for VTCs, as well as held a “swearing-in” of eighty-nine mentors who completed a two-day training session. *Vet Court Con 2013*, JUSTICE FOR VETS, <http://www.justiceforvets.org/2013-vet-court-con> (last visited Aug. 3, 2016); *Vet Court Con Makes Historic Debut in Washington, DC*, ALL RISE, Spring 2014, at 8, 8, <http://www.nadcp.org/sites/default/files/2014/Spring14AllRiseMagazine.pdf>.

¹⁰¹ INST. OF MEDICINE, RETURNING HOME FROM IRAQ AND AFGHANISTAN: PRELIMINARY ASSESSMENT OF READJUSTMENT NEEDS OF VETERANS, SERVICE MEMBERS, AND THEIR FAMILIES 494 (2010). Research should continue to attempt to further understand the problems currently challenging veterans and that may emerge in this era of veterans. Additionally, future research should aim at discovering what happens to the veterans who are ineligible for VTC in the criminal justice system in comparison to those participating in VTC.

attempt to understand what these innovative courts are trying to do and how they are attempting to achieve their goals, but should expand its scope to areas including, but not limited to, the following:

- the participants (e.g., who these participants are, the challenges they face, and their perceptions of coercion);
- mechanisms of program diffusion; and
- mechanisms of implementation.

In addition, future research should begin laying the foundations for intermediate and long-term evaluations of program efficacy and effectiveness.

The current study provides an initial comprehensive look at the VTC initiative nationwide, revealing the first glimpse into the current trends in the establishment, policies, procedures, and structures of VTCs across the country. It is the pioneer study on what these programs are attempting to do across the country and how they are doing it at this crucial time. The study was conducted close to the national dissemination of the VTC concept, providing a timely look at their national status, a national context for early site-specific research, and a baseline national context for longitudinal evaluations that have already begun. The findings of this study also allow for future follow-ups to discern aggregate changes at the national level. This study should call attention to the importance of VTC research and caution against widespread adoption of these initiatives in the absence of research. Now, while VTCs are in their infancy, is the opportune time to conduct empirically sound research in an effort to create evidence-based practices to shape and direct the future of these courts.

TABLES

Table 1*Respondent Characteristics (n = 79)*

Respondent Characteristics	Percentage
Male	51.8%
Program or Court Coordinator	32.9%
VJO	15.1%
Administrator, Director, or Superintendent	15.1%
Judge	8.8%
Upper Level Support Staff: Court Analyst, Case Manager, Pretrial Services Supervisor, Clerk	8.8%
Probation Services	6.3%
Attorney: Assistant County, County, Public Defender, Private	5.0%
Other Support Staff: Collaborative, Specialty, or Treatment Court Officer	3.7%
Mentor Coordinator	1.2%
<i>Missing</i>	<i>2.5%</i>

Table 2*Nonresponse Rates by Four Regions (n = 114 VTCs)*

Participated in Survey	Northeast	South	Midwest	West	Total
Yes	15	15	25	24	79
No	12	10	7	6	35
Total	27	25	32	30	114

Table 3
Impact and Process Goals (n = 49 VTCs)
 Not mutually exclusive

Impact Goal	Percentage of VTCs
Reduce Recidivism, Make Law-Abiding Citizens	38.7%
Promote or Maintain Public Safety	30.6%
Gain Productive Lives	14.2%
Reintegrate Back into Society	12.2%
Gain Employment	8.1%
Rebuild Honor	6.1%
Restore Responsibility/Increase Accountability	6.1%
Achieve Appropriate Disposition/Protect Legal Rights	6.1%
Overcome Drug Dependence	6.1%
Overcome Mental Illness	6.1%
Overcome Homelessness	4.0%
Reduce Criminal Justice System Costs	4.0%
Achieve Successful Outcomes	2.0%
Overcome Educational Deficits	2.0%
Return to Pre-service Functioning	2.0%
Increase Compliance with the Court	2.0%
Reduce Time Incarcerated for Those with Substance Abuse and Mental Health Issues	2.0%
Continue with Mental Health Treatment	2.0%
Process Goal	Percentage of VTCs
Provide Assistance/Services/Support	18.4%
“Leave No Veteran Behind”/Identify Veterans in CJ System	14.2%
Create a Non-adversarial System/Coordinated Agency Effort	8.1%
Identify Veterans’ Issues	4.0%
Address Complex Veterans’ Issues	4.0%
Address Treatment Needs	4.0%
Create a Supervised Environment	4.0%
Create a Helpful Environment	4.0%
Work with the Specialized Population of Veterans	2.0%
<i>No Process Goal Indicated (Missing)</i>	<i>22.4%</i>

Table 4
VTC Objectives (n = 49 VTCs)
 Not mutually exclusive

Objectives	Percentage of VTCs
Agency Collaboration	34.6%
Provide with Treatment Services/Program (vague)	28.5%
Use a Problem-Solving Approach (also Court Process to Address Recovery/Rehabilitation, Link to Treatment as Alternative to Incarceration/Traditional CJ System)	24.4%
Provide Substance Abuse Treatment (specific)	10.2%
Provide Mental Health Treatment (specific)	10.2%
Provide Vocational Skills/Job Placement/Job Retention	8.0%
Non-Judicial Supervision	6.1%
Mentoring	6.1%
Assess the Veteran	6.1%
Provide Residential Aid (specific)	6.1%
Provide a Support System	6.1%
Judicial Oversight/Supervision	4.0%
Provide Academic Skills (specific)	4.0%
Provide Compassion	4.0%
Consider Treatment Needs	4.0%
Consider Seriousness of Offense	4.0%
Introduce Ongoing Process of Recovery/Provide Knowledge About Recovery (general)	4.0%
Regular Court Appearances	2.0%
Successfully Complete Probation	2.0%
Provide Social Services (specific)	2.0%
Provide Transition Services (specific)	2.0%
Defer Prosecutions	2.0%
Treat with Respect, Dignity, Recognition of Service	2.0%
Provide Legal Assistance	2.0%
Use a System of Sanctions and Rewards	2.0%
Mandate Court Requirements	2.0%
<i>No Objective Listed</i>	<i>8.1%</i>

Table 5*VTC Target Populations Noted in Mission Statements (n = 49)*

Not mutually exclusive

Target Population	Percentage of VTCs
Veterans/Veterans in the CJ System	75.4%
Veterans in the CJ System with Mental Health Issues	4.0%
Veterans in the CJ System with Substance Abuse Issues	4.0%
Veterans in the CJ System with Substance Abuse Issues Resultant from Combat	4.0%
Active-Duty Personnel in CJ System	2.0%
Veterans Charged with Non-violent Felonies or Misdemeanors	2.0%
Veterans with Misdemeanors	2.0%
Veterans with Felony Charges That Can Be Reduced to Misdemeanors	2.0%
Veterans in the CJ System with Behavioral Issues	2.0%
Veterans in the CJ System with Mental Health Issues Resultant from Service	2.0%
Veterans in the CJ System with Mental Health Issues Resultant from Combat	2.0%
Veterans in the CJ System with Substance Abuse Issues Resultant from Service	2.0%
Veterans in CJ System Eligible for VA Benefits	2.0%
Active Duty Personnel in CJ System Eligible for VA Benefits	2.0%
Veterans in CJ System Whose Criminal Behavior Is Resultant from Service	2.0%
Active Duty Personnel in CJ System Whose Criminal Behavior Is Resultant from Service	2.0%
Honorably Discharged Veterans with Mental Health Issue Resulting from Service	2.0%
Honorably Discharged Veterans with Substance Abuse Issues Resulting from Service	2.0%

Honorably Discharged Veterans with Nonviolent Felony and Service-Connected Condition	2.0%
Honorably Discharged Veterans with Misdemeanors and Service-Connected Mental Health Condition	2.0%

Table 6*Eligibility Exclusions (n = 79)*

Not mutually exclusive

Status Exclusions	Percentage of VTCs
Dishonorable Discharge	35.4%
VA Ineligibility	24.1%
Bad Conduct Discharge	21.5%
Charge Exclusions	Percentage of VTCs
Any Violent Felony Charges*	43.0%
Any Sex Offense Charge	26.6%
Any Traffic Offense	17.7%
Any Homicide Charges	16.5%
Specifically Any Child Abuse/Sexual Offense Charges	11.4%

*The remaining 57.0% of VTCs exclude at least one type of violent felony charge.

Table 7
Participation Requirements (n = 79 VTCs)
 Not mutually exclusive

Participation Requirements	Percentage
Treatment	100.0%
Frequent Court Appearances	92.4%
Sign a Contract	81.0%
Check-in Regularly Outside of Treatment or Court Appearances	75.9%
Plead Guilty	60.7%
Probation	55.6%
Meet with Mentor	11.3%
Random Drug Testing, Drug/Alcohol Monitoring	8.8%
Sign Release of Information (Treatment Participation & Progress)	3.7%
Random Searches/Home Visits	2.5%
Curfew	2.5%
Obtain Employment, Enroll in School, or Volunteer	2.5%
Not Possess Weapons	2.5%
Pretrial Services Monitoring	1.2%
Medication Screening	1.2%
Reside Within VTC Jurisdiction	1.2%
Agree to Diversionary Plea Agreement/Adjudication Withheld Until Completion	1.2%

Table 8
Graduation Requirements (n = 79 VTCs)
 Not mutually exclusive

Requirement to Graduate	Percentage
Complete Treatment Requirements	98.7%
Complete Court Mandates	79.7%
Complete Probation (If Put on Probation)	65.8%
Achieve Stable Housing	46.8%
VTC Team Unanimously Agrees Requirements Complete	46.8%
Treatment Evaluation Must State Veteran Has Improved	37.9%
Majority of VTC Team Agrees Requirements Complete	36.7%
Six Months of Sobriety	10.1%
Complete All Phases of Program	6.3%
Six Months of Full Day Schedule (Employment, School, Community Service)	3.7%
No New Arrest While Participating	3.7%
Financially Stable	2.5%
Complete One Year of the Program	2.5%
Drug Court Judge Says Completed Program After Five Years	1.2%
Complete Aftercare Plan	1.2%
Write Paper	1.2%

Table 9*Legal and Financial Benefits of Participation/Graduation (n = 79 VTCs)*

Not mutually exclusive

Benefit	Percentage
Diversion from Incarceration	92.4%
Charges Dropped	70.8%
Charges Reduced	65.8%
Adjudication Withheld	36.7%
Early Probation Termination	7.5%
Expunction	5.0%
Reduction in Court Fines/Fees	3.7%
Sentence Modification	2.5%
Reduction in Probation Costs	2.5%
Probation/Parole Revocation Diversion	2.5%
Seal Record	1.2%
Civil Legal Aid	1.2%
Reduced Supervision	1.2%
Benefit and Claim Assistance	1.2%
Opportunity for Favorable Discharge/Retention (for Active Duty)	1.2%
Emergency Financial Assistance	1.2%
Unsupervised Probation	1.2%

Table 10
Structural Characteristics

Funding Sources	Percentage of VTCs
<i>Mutually exclusive</i>	
(n = 79 VTCs)	
Within System Only	53.1%
System & Grants	16.4%
System & Additional Government Funds	8.8%
System & Donations	7.5%
System, Grants, & Additional Government Funds	6.3%
System, Government Funds, & Donations	5.0%
System, Grants, & Donations	2.5%
Jurisdiction	Percentage of VTCs
<i>Mutually exclusive</i>	
(n = 79 VTCs)	
County	60.7%
State	20.2%
Municipal (City, Town)	12.6%
Multiple: County & Municipal	2.5%
Federal	1.2%
Multiple: State & Municipal	1.2%
Multiple: Federal, State, County, & Municipal	1.2%
Number of Judges	Percentage of VTCs
<i>Mutually exclusive</i>	
(n = 79 VTCs)	
One	74.7%
Two	19.0%
Three	3.8%
Four	2.5%
Judge Demographics	Percentage of Judges
<i>Not mutually exclusive</i>	
(n = 105 Judges)	
Male	76.1%
Preside Over Other Specialty Court	62.8%
Mentor Program	Percentage of VTCs
(n = 79 VTCs)	
Yes	77.2%
Have a Reward/Sanction Ladder	Percentage of VTCs
(n = 78 VTCs)	
Yes	74.3%

Table 11*Treatments and Services Available by Provider Type (n = 79 VTCs)*

Mutually exclusive

Treatments/Services Available	VA Only	Non-VA Only	Both VA & Non-VA	None
Mental Health	40.5%	3.8%	55.7%	-
Substance Abuse Outpatient	30.4%	6.3%	63.3%	-
Substance Abuse Inpatient	46.8%	7.6%	43.0%	2.5%
Substance Abuse Detox	46.8%	13.9%	36.7%	2.5%
Housing	40.5%	17.7%	39.2%	2.5%
Vocational Services	27.8%	17.7%	50.6%	3.8%
Transportation Assistance	27.8%	29.1%	32.9%	10.1%

Table 12*Frequency of VTC Sessions and Meetings (n = 79 VTCs)*

Frequency of VTC Sessions <i>Mutually exclusive</i>	Percentage of VTCs
Two to Three Times a Week	3.7%
Once a Week	46.8%
Two to Three Times a Month	35.4%
Once a Month	10.1%
Less Than Once a Month	2.5%
As Needed Basis	1.2%
Frequency of VTC Team Meetings <i>Mutually exclusive</i>	Percentage of VTCs
Two to Three Times a Week	7.5%
Once a Week	40.5%
Two to Three Times a Month	21.5%
Once a Month	7.5%
Less Than Once a Month	6.3%
Do Not Meet in Person but Communicate Outside Court	12.6%
As Needed	1.2%
Never Outside of Court	2.5%

Table 13*Stage of Veteran Identification (n = 79 VTCs)*

Specific Identification Process	Percentage of VTCs
No Set Identification Process	88.0%
Participant Identification Stage	Percentage of VTCs
<i>Not mutually exclusive</i>	
Arrest	45.5%
Booking	69.6%
Pretrial Services Interview	62.0%
Arraignment	70.8%
During Screening for Public Defender	1.2%
After Arraignment, During Case Processing	49.3%
During Probation Caseload	6.3%
Screening/Probation Intake	
During Treatment Court Screening	6.3%
Probation Violation/Revocation	5.0%
During Incarceration After Conviction	2.5%
VA Referrals After Arrest	2.5%
Sentencing	2.5%

Table 14
Initial Screening Information (n = 79 VTCs)
 Not mutually exclusive

Initial Evaluator	% of VTCs	Areas of Evaluation	% of VTCs
VJO	75.9%	Mental Health	100.0%
Non-VA Treatment Provider	35.4%	Substance Abuse	100.0%
VA Treatment Provider	30.3%	Trauma Exposure	96.2%
Other VA Personnel	12.6%	Physical Health	93.6%
Probation Officer	8.8%	Family Relationships	89.8%
VTC Coordinator	6.3%	Social Support	89.8%
VTC Case Manager	3.7%	Housing	88.6%
VTC Caseworker, Social Worker	3.7%	Employment	87.3%
Court-Assigned Psychologist	3.7%	Education	84.8%
Prosecuting Attorney	2.5%	Military or VA Status	5.0%
Correctional Facility	2.5%	Criminal History	3.7%
Judge	1.2%	Benefits	3.7%
Pretrial Services	1.2%	Income, Financial Support	3.7%
Public Defender	1.2%	Risk Assessment, Public Safety	2.5%
Resource Coordinator	1.2%	Motivation Level, Treatment Readiness	2.5%
VTC Program Manager	1.2%	Transportation	1.2%
Lead Peer Mentor with PTSD and TBI instruments	1.2%	Previous Compliance (Treatment, Court, Military Service)	1.2%
Drug Court Treatment Liaison	1.2%	Goals	1.2%
Drug Court Affiliated Doctor	1.2%	Gambling Addiction	1.2%
Jail Diversion Trauma and Reentry Program	1.2%	Medication	1.2%
Treatment to Alternative Street Crime (TASC) Case Management Agency	1.2%	Previous Treatment Participation	1.2%
VSO	1.2%		

Table 15
Means of Supervision (n = 75 VTCs)
 Not mutually exclusive

Means of Supervision	Percentage
Drug Testing	100.0%
Reporting to Agency	97.3%
Treatment Attendance Verification	94.6%
Housing Checks	76.0%
Medication Level Testing	65.3%
Employment Checks	58.6%
Curfew Checks	46.6%
Electronic Monitoring	45.3%
GPS Monitoring	25.3%
SCRAM	6.6%
Mentor	2.6%
Ignition Interlock	1.3%

FIGURES

Figure 1
Number of Responding VTCs Established by Year (n = 79)
 January 1, 2008–November 1, 2012

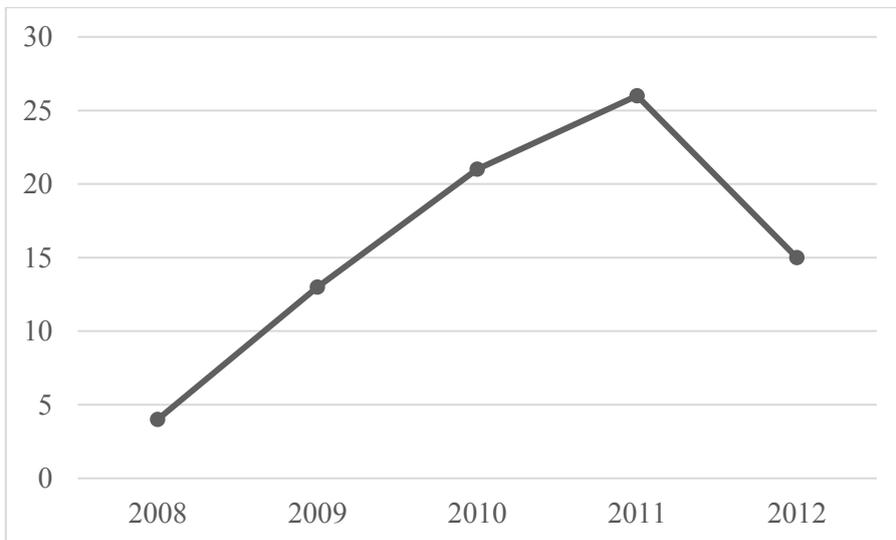


Figure 2

VTCs in Operation in the United States as of November 1, 2012 (n = 114)

