



## Worthy of Justice: A Veterans Treatment Court in Practice

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This article examines the purpose and practice of a Veterans Treatment Court (VTC), a new type of problem-solving court designed to connect qualifying former service members in the criminal justice system with social services. While existing studies of VTCs explain these courts by focusing on veterans' distinct needs or deservingness based on their military service, this article argues that these courts are being created because of societal beliefs about veteran worth. By revealing how court staff, participants, and volunteers in one VTC invoke beliefs about veteran worth, the findings of this study show that VTCs link worth to veteran identity, leaving participants suspended in conflicting notions of state and individual responsibility for criminal behavior.

Beginning in 2008, Veterans Treatment Courts (VTCs) emerged as a policy response to a growing concern that US veterans have unique needs that are not being met by the criminal justice system.<sup>1</sup> By 2018, there were nearly 500 VTCs or specialized court programs for veteran defendants throughout the country, each focused on connecting qualifying veterans with social services such as therapy, housing, and employment (Tsai et al. 2018). These new courts represent a variation of "problem-solving" treatment courts, such as drug, mental health, prostitution, and domestic violence courts, developed to reduce recidivism and work toward offender rehabilitation (Winick and Wexler 2003; Winick 2014). VTCs signify a departure from earlier courts that focus on particular behaviors and activities, such as drug use or prostitution, toward a population deemed *deserving* of this criminal justice option because of their military experience (see Russell 2009).<sup>2</sup>

Scholars often explain these courts by noting that some aspects of military service and/or training lead directly or indirectly to criminal activity, and that veterans have special medical needs, such as posttraumatic stress disorder (PTSD), that only a specialized court exclusively for veterans can address (see Douds and Ahlin 2018). However, these explanations are difficult to reconcile with the realities of VTC practice. Notably,

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many of the veterans in the criminal justice system did not experience combat, the majority of participants in VTCs do not suffer from PTSD, and many have come to VTCs after many years of substance abuse and criminal activity (Flatley et al. 2017; Tsai et al. 2017). Additionally, veterans' past and/or current substance use and mental health challenges—which closely correlate with criminal behavior in the veteran population—often stem from experiences that predate and/or are not directly related to their service (Culp et al. 2013; Tsai and Rosenheck 2015).

These complex relationships between military service, the criminal justice system, and social welfare benefits underscore the need for further examination of the justification for these courts and how these justifications shape their practices. This article suggests that VTCs are predicated on the notion that veterans are not just deserving—meaning they are owed because of the service they provided—but *worthy*—meaning they have distinct value or merit. This justification also shapes court practices in terms of how personnel and participants understand and represent court practices. Through a detailed case study of a VTC, with a specific focus on court personnel, participants, and volunteers, this article illustrates how beliefs about veteran worth shape court practices. It shows how court personnel and volunteers distinguish not only between veterans and nonveterans, but also between worthy and unworthy veterans. The VTC's emphasis on veteran worth means that it also celebrates the value of military service and contributes to feelings of conflicted gratitude on the part of participants.

Looking at how notions of worth inform the purpose and practice of these courts, this study shows new dimensions of the double-edged nature of therapeutic jurisprudence, which is both a normative theory and a movement to use law in order to enhance the psychological well-being of criminal defendants (Wexler and Winick 1991). It also provides insights into social welfare decision-making and procedural justice, shedding light on how individual and group identity affect perceptions of, and compliance with, the criminal justice system (MacCoun 2005; Tyler 2005). Deciding who is worthy and unworthy of public benefits is “moral work” that regulates vulnerable populations, rather than simply helping them (Piven and Cloward 1993; Hasenfeld 2000; Maynard-Moody and Musheno 2003).

The findings of this study show that VTCs are more than just a new application of therapeutic jurisprudence. VTCs link worth to veteran identity, leaving participants suspended in conflicting notions of state and individual responsibility for criminal behavior. Although they do aid people who are suffering, VTCs are also part of a deeply problematic military and criminal justice system in which socially, economically, and politically marginalized groups are more likely to find themselves in the criminal justice system, just as they are more likely to enlist in the military, struggle during their service, and face challenges when they return (Lutz 2008; Musheno and Ross 2008).

## I. VTCs AS PART OF THE THERAPEUTIC JURISPRUDENCE MOVEMENT

VTCs, like other specialized courts designed to provide psychosocial services to certain criminal defendants, are part of criminal justice reforms designed to blend retributive and rehabilitative goals. These efforts draw from and contribute to therapeutic jurisprudence, a movement premised on the normative theory that courts should work to enhance the psychological well-being of criminal defendants (see Wexler 1990; Wexler and Winick 1991). These “problem-solving courts” frame particular criminal defendants (e.g., those with diagnosable mental health disorders) or certain acts (e.g., prostitution) as “problems” that a combination of criminal sanctions and social services can “solve.” The first specialized courts were for juveniles in Cook County, Illinois. These courts

were founded in 1899 and grounded in the common belief that youth offenders deserve rehabilitative options and should not be held to the same criminal standards as adults (see Mack 1909; Kupchik 2006). Given that only certain individuals are given these criminal justice options, treatment courts draw on and produce “identity categories” for different social groups, deeming certain individuals deserving of public benefits because their criminal behavior is somehow different from that of the regular defendant population (Lyons 2014). In Foucauldian terms, these “tricky” political structures combine “individualization techniques and totalizing procedures” (Foucault 1982, 778; see also Lyons 2014).

VTCs are part of the class of problem-solving courts called treatment courts, which create a distinct legal subjectivity. The issue in these courts is not guilt, but rather who deserves medical and/or psychological treatment and who is complying with treatment (Casey 2004).<sup>3</sup> Treatment courts are based on the assumption that certain criminal behaviors are rooted in disorders that make offenders less blameworthy. These carry with them the implication that certain individuals lack autonomy—that is, that their criminal behavior is not totally within their control—yet they still deserve the stigma that comes with being in the criminal justice system (Johnston 2012). Mental health courts, for example, are predicated on the belief that some criminal behavior is based on mental health disorders and that both punishing through sanctions and treating the underlying mental health disorder will prevent recidivism (Bernstein and Seltzer 2003; Perez, Leifman, and Estrada 2003).

The creation of treatment courts such as VTCs illustrates that law does not simply “produce” behaviors, as the therapeutic jurisprudence literature often suggests (Winick 2003). Law also reflects and magnifies understandings about individual behavior and attempts to “solve” salient social and political problems by treating these problems as individual pathologies (Tiger 2012).<sup>4</sup>

As part of this movement, VTCs are distinct. Though they require participants to be diagnosed with a mental health and/or substance use disorder, the main criterion for entry is military service. This difference means that explanations for why VTCs are being created necessarily include beliefs about what makes veterans different from other criminal justice offenders.

## II. EXPLAINING VTCs

The simplest explanation for VTCs is that veterans have distinct social and medical needs that are best addressed by a treatment court tailored specifically to those needs. Current perspectives on veterans’ trauma complement medicalized approaches to criminal misconduct within other treatment courts, meaning it can be easy to explain the creation of VTCs as a simple extension of therapeutic jurisprudence. There is increasing social recognition of the psychological toll of war-time trauma (as well as the challenges facing veterans who did not experience combat) and of difficulties with reintegration into peacetime life (Fassin and Rechtman 2009; MacLeish 2013; Smith and True 2014; Martin 2017). For this reason, the VTC model upon which many courts are based includes veteran “mentors” who help participants with court requirements. The presence of these mentors contributes to the argument that VTCs are different than other treatment courts because they recognize the distinct nature of “military culture” (Baldwin 2015; Douds et al. 2015; Castellano and Scott 2017; Douds and Ahlin 2018).

Although they are modeled after drug and mental health courts, VTCs are distinct in that they are also justified by the belief that veterans deserve different treatment than

other criminal defendants. As noted, in treatment courts predicated on therapeutic jurisprudence, the dominant belief is that offending has to do with individual pathologies. For VTCs, there is an extra step in that the military service either explains or is related to the pathologies that contributed to criminal offending (Caine 2009; Russell 2009; Cartwright 2011; Stratton and Lagarce 2012; Perlin 2013; Lucas and Hanrahan 2016). For example, Merriam argues that this proliferation of VTCs speaks to three goals: (1) expressing gratitude for and recognizing military service and sacrifice; (2) easing the transition from military to civilian life; and (3) fulfilling a societal obligation to “fix those who were broken” in service to that society (2014, 689). While these explanations focus on the individual veteran and the pathologies that may develop due to military service, they also focus on what society *owes* veterans.

As VTCs proliferate, scholars have begun to question the assumptions underlying their “rapid expansion” (Baldwin and Brooke 2019). Easterly (2017) points out that VTCs are created where there are judicial actors who are familiar with veterans and, to a lesser extent, where there are Veterans Administration (VA) outpatient health centers. Most notably, Baldwin and Brooke point out that VTCs are being created due to prevalent but unfounded assumptions about the link between military service and crime, the limits of the current court system to address military combat and trauma, and the perception that veterans are a cohesive group of individuals deserving “special consideration for their service and sacrifice” (2019, 4). However, recent data show that many of the individuals in VTCs were not “broken” by their service, that only a small number of courts require combat experience, and that many participants have been out of the military for decades (Flatley et al. 2017; Tsai et al. 2017).

Furthermore, existing research suggests that veteran identity and “military culture” are central to court functions, but this is also a misleading descriptor (McCormick-Goodhart 2013; Ahlin 2016; Douds and Ahlin 2018). Military culture is varied (i.e., it differs across eras, branches, etc.), and characterizing VTCs with this descriptor obscures what makes these courts distinct from one another as well as what makes them similar. Importantly, VTCs have different rules for entry, meaning that veteran participants are not necessarily a cohesive group. Some VTCs require combat experience, some require an honorable discharge, some require defendants to plead guilty, and certain felonies or misdemeanors render criminal defendants ineligible to participate.<sup>5</sup> These rules underscore the complexity of creating a court for veterans, which is not just a social and political category whose meaning changes over time but also a malleable legal category that differs depending on jurisdiction and institution.

### III. WORTHY OF JUSTICE

Building from the above discussion and drawing on theories of social welfare decision-making and procedural justice, the framework developed here suggests that the purpose of VTCs reflects the belief that veterans are worthy—and not just deserving—of this criminal justice option. VTCs are not being created simply because of attitudes about what veterans did, but because of ideas about *who they are*. As Baldwin and Brooke (2019) point out, these are the only courts that are created for individuals with a particular employment history, but not for anything they actually did as an employee. Further, that employment history is not uniform, yet the worth ascribed to it often is. The purpose of VTCs—to help a vulnerable yet worthy group—shapes its practices in ways that illustrate how courts reflect, shift, and amplify social meanings.

Though the newest form of treatment court, VTCs reflect long-standing social welfare practices that treat veterans as uniquely worthy of public benefits. As Skocpol explains (emphasis added), “Legitimate Civil War pensions were idealized as that which was *justly due to the righteous core* of a generation of men (and survivors of dead men)—a group that ought to be generously and constantly repaid by the nation for their sacrifices. . . . [T]he former soldiers and those tied to them *deserved* all the public provision necessary to live honorable and decent lives free from want” (1995, 103). The image of the deserving veteran contrasts with the undeserving poor, for whom access to social services has always been a struggle (Katz 1989). This observation is not meant to gloss over the fact that veterans have consistently struggled to get public benefits, even benefits they have been publicly promised or legally owed (see Linkler 2011; Adler 2017; Gordon 2018). Further, although veterans’ social status has evolved—most notably in the Vietnam era, where being a veteran arguably became a less desirable social identity (Appy 2015)—the emphasis on veteran worth has reemerged in the wake of the Global War on Terror (GWOT). In particular, joining the armed services in the US is no longer compulsory, meaning that the decision to enlist is also viewed as voluntary and deserving of respect (Horton 2013).

Rather than analyze VTCs’ emphasis on veteran worth in isolation, it is important to see VTCs as part of a broader criminal justice reform effort to distinguish veterans from other criminal defendants. This effort is evident in constitutional, federal, and state laws that increasingly recognize veteran status as a mitigating factor in criminal justice processes (see Jones 2013).<sup>6</sup> Given the malleable legal category, these laws draw on different considerations when determining who counts as a veteran, including branch of service, time spent in active duty or combat, and discharge status.

These laws, like VTCs, illustrate the complex legal, social, and political category of the veteran, and the dilemma of developing criminal justice policies that distinguish veterans from other groups. In their creation and implementation, VTCs reflect and produce beliefs about veterans as a social and political category, and about which veterans should be considered criminal and/or treatable. At the same time, veterans may be difficult to distinguish from one another, as well as from those who never joined the military.

Just as they produce meanings about what it means to be a veteran, VTCs also reflect and reproduce beliefs about who is worthy to receive public services. This has important implications for deciding who should be able to join the VTC and how they should be treated. Individuals receiving public benefits are often evaluated as to whether their needs are genuine, whether they have good character, and whether they are likely to respond to social services (Maynard-Moody and Musheno 2003). These qualities are assumed to some extent in VTCs, because participants have by definition participated in military service. However, like those doling out public benefits, personnel in specialized courts must make character assessments as they determine who is complying, who is not, and what reward or sanction they deserve (Maynard-Moody and Musheno 2012).

Procedural justice theories provide additional insights into how basing a court on worth can shape court practices and, ideally, facilitate compliance with court requirements. Emphasizing the category of “veteran” makes use of three elements of social identity—identification, pride, and respect—that lead individuals to both act on behalf of a group and to hold positive attitudes toward the group (Tyler and Blader 2000).<sup>7</sup> Procedural justice studies suggest that individuals are more likely to comply with authorities if they are treated with dignity, believe that they have a say in outcomes, and believe that the authority is legitimate (Tyler 2000; Kaiser and Holtfreter 2016). Compliance is even more likely when individuals believe that the institution is guided by a moral purpose that it shares with its citizens (Jackson et al. 2012).

These studies predict that veterans in VTCs will have better outcomes than veterans placed in other criminal justice settings, and this prediction drives the proliferation of VTCs (McCormick-Goodhart 2013; Russell 2015; Baldwin and Brooke 2019). However, data on VTCs suggest that participating in a VTC may not lead to better individual outcomes. Individuals who are racial minorities and with long-term criminal records may not enter or stay in court; one study suggests that these individuals are disproportionately forced to return to the regular criminal court system due to not complying with the treatment programs (Johnson 2016). Notably, nearly a third of VTC participants quit, die, or are forced to leave the program. Compared with justice-involved veterans in other treatment courts, VTC participants spend more time detained throughout the process (Tsai et al. 2018). Still, scholars and policymakers argue that these courts are an important vehicle to aid a population who should not be treated the same as other criminal defendants.

The ongoing creation of VTCs and their questionable efficacy underscore the theoretical as well as practical need for further research into *how* the VTC's premise—that veterans are worthy of this criminal justice benefit—shapes court practices. Looking at how the VTC both draws on and produces the social identity of “veteran” can further illustrate the microdynamics of how courts establish legitimacy and how law is harnessed to both aid and regulate vulnerable populations. Understanding this relationship between purpose and practice—and specifically as it applies to a group of people deemed socially and politically worthy in relation to their military service—can illustrate how law helps create, reallocate, and maintain power in society.

#### IV. STUDYING A VTC IN PRACTICE

Since many of the participants in VTCs are not necessarily individuals with service-related needs (Tsai et al. 2017), looking at stated explanations for the creation and administration of justice in VTCs can leave an incomplete picture of their purpose and practice. Further, cross-national quantitative data show variation in court rules and procedures that make it hard to generalize the relationship between purpose and practice without qualitative analysis (Flatley et Al. 2017). An intensive case study approach enables a more detailed and nuanced analysis to generate theory about how understandings of veteran identity shape the creation and implementation of VTCs. This qualitative approach illuminates how “substantive values and meanings” are produced and reproduced through law (Silbey 1992, 45). Drawing on observations of what people do as well as what they say they do (see Castellano 2007), this article utilizes a narrative style of data presentation in order to integrate different perspectives on specific events and activities (Eisenhardt 1989; Cunningham 1997).

The data collected include observations of one VTC's weekly court hearings, which ranged from sixty to ninety minutes, from January to December 2017. Each court observation included between four and twelve individual hearings.<sup>8</sup> Each hearing was presided over by a judge and typically attended by the participant, a probation officer (as this court is postdisposition, there was no prosecutor present), a mentor, and a defense attorney. At the hearings, the research team (the author and research assistants) took detailed notes of the exchanges between these parties. The field notes include information on audience participation as well as de-identified information from participant observation taken before the hearings with the participants, where team members were able to engage in casual conversations and hear different perspectives from participants, mentors, family members, clinicians, and other observers of the process.

The data also include interviews with seventeen individuals who helped to create this VTC and continue to work with it. Those interviewed include the judge, two probation officers, one defense attorney, three assistant district attorneys, five mentors, three clinicians, one case manager at a residential facility, and one of the state's trial court evaluators. The data also include local news stories about the VTC, state and federal legislation on VTCs, and relevant policy documents about the creation and implementation of the court, such as the participant manual that outlines the requirements of the treatment program. Finally, a documentarian interested in making a movie about the court filmed the first year of mentor meetings. With the mentors' consent, transcripts of these meetings were shared with me.

Given concerns about vulnerability, anonymity, and privacy, the analysis avoids details about which of the more than 500 extant VTCs this article describes.<sup>9</sup> While the court this article describes is one of the many VTCs that have different criteria for entry, different treatment protocols, and different legal outcomes, the analysis here focuses on themes that reflect the general premise of VTCs: that qualifying veterans should receive distinct treatment within the criminal justice system. The goal of this article is to illuminate how the social interactions of the various players create a particular sense of reality related to VTCs, which can then be used to generalize beyond this specific court (Garfinkel 1996; Travers 1998).

With this interpretive approach, the research team utilized NVivo qualitative software to analyze field notes, interviews, and documents related to the court. The team coded with a grounded theory approach, first looking for descriptive explanations for the creation of the court, then refining the codes and developing memos on the patterns within the text (Charmaz 2006). Analyzing the hearings, the team similarly began with descriptive codes about how the judicial actors and veteran participants interacted, and they engaged in member checking in order to ensure intercoder reliability. The team continued to refine the codes through an iterative process to develop an analysis as to how participants and personnel articulated their meanings and values in the hearings (Lens 2009). The codebook eventually included broad categories that focused on how the participants explained the court's purpose, their understandings of their work, how the judge encouraged compliance, how defendants explained their compliance, references to the military, references to substance use or mental health, references to social or political context, and court rules and procedures.

The following discussion draws on this data to reveal how beliefs about veteran *worth*—and not just deservingness—based on the moral value of military service shape this court's practices. The data is presented to show how beliefs about veteran worth shape the perspectives of three distinct actors: court personnel (paid staff), court participants, and court mentors (volunteers). The examples draw on both quotidian and less frequent court dynamics. Though this is just one of many VTCs, with distinct rules and people that shape court interactions, the analysis provides more generalizable insights into the creation and implementation of VTCs. The findings show that beliefs about veteran worth are partial, complicated by the complex social, political, and legal category of “veteran” and the challenge of creating a court that both celebrates military service and acknowledges its potential harms.

## V. COURT PERSONNEL: HONORING THE DISTINCT WORTH OF VETERANS

In court personnel's explanations for the VTC, one sees how beliefs about veteran worth shape perspectives about individual culpability for criminal behavior, leading to a thorny categorization of different criminal offenders. Court personnel had to reconcile beliefs about veteran worth with knowledge that there was a tenuous relationship

between the participants' military service and their reasons for being in the courtroom. These findings underscore how divergences between the purpose and practice of these courts illustrate broader challenges in making determinations about who is worthy of criminal justice benefits.

Interviews with court founders suggest that beliefs about veteran worth—specifically, that veterans have distinct capabilities and are different than other criminal defendants—motivated the creation of this court. In our interview, the district attorney (DA) who spearheaded the initiative to create the court stated that he was well aware of the number of veterans in the region's homeless population and felt that "we had to do something for these guys" (Interview 2017). The assistant DA further emphasized that veterans "have some valuable skills to add to the workforce" (Interview 2017), as did the probation officer assigned to the case. The chief probation officer asked rhetorically, "Who doesn't want to help veterans?" and described the "honor" of being selected to host a VTC in the region (Interview 2017).

These different expressions illustrate views about veterans being different from other criminal defendants with regard to individual culpability. Notably, the perspective that veterans are worthy includes the belief that veteran criminal behavior is a societal and political, not individual, failure. Accordingly, the state was obligated to remedy this failure by helping veterans in the criminal justice system. The chief probation officer suggested that these veterans' criminality stemmed from their military experience, and "that's just not right" (Interview 2017). The judge similarly suggested that this group of individuals would only be in the criminal justice system if there was something "not right" with the treatment of veterans and that the criminal justice system should be used to help them: "[I]f they're having troubles criminally, then they're obviously not engaging in services and getting treatment that they needed" (Interview 2017).

Other statements suggest that part of these beliefs about worth have to do with interpersonal familiarity with veterans, echoing Easterly's (2017) finding that VTCs are created in places where the judge was a veteran or was related to veterans. One of the founding clinicians noted that most of the people in law enforcement were veterans and/or knew veterans. Though not a veteran, the DA had once worked on a military base as a civilian trial attorney in General and Special Courts-Martial. Another early collaborator in creating the VTC was a veteran who returned from deployment, went to law school, and was interning with the state's central district court office when the state's first veterans court was created. He continued to work with the state to help other district courts create VTCs. During our interview, he described in detail the substance use issues facing veterans returning from the GWOT wars, where opiates were handed out indiscriminately. The VTC judge also had family who were service members. Creating a court was therefore an opportunity to help a population that they could identify with and whom they could deploy resources to help.

Interestingly, court personnel viewed participants as worthy even if they did not believe that the participants' criminal behavior and military service were directly related. During our interview, the judge promptly noted that the relationship between military service and criminal behavior can be tenuous:

Interviewer: And do you see a real connection between people's service and their criminal behavior?

Judge: Not particularly, and we don't require that. It's not like we require that, for example, that somebody be in combat across the board because they had military service. But is there a correlation between them being in combat or not in combat and this crime of breaking and entering? I don't think that there's much. (Interview 2017)

Similarly, one of the court's clinicians stated that she could not think of one person in the court at that time whose criminal offending was directly related to military trauma, noting that most of the individuals had some trauma from before service (Interview 2017). According to another clinician, the negative effects of childhood trauma may have even been alleviated or improved by the structure provided by military service (Interview 2017). The court's probation officer, himself a veteran, offered a more nuanced perspective on the connection between veterans' service and subsequent offenses. He noted that even if they did not experience combat or trauma, there are many things that happen in the service—for example, being denied medical care because of "Other than Honorable" discharge papers—that could lead veterans to mental health challenges and substance use.

Highlighting the "moral work" that characterizes discretion in social welfare services (Hasenfeld 2000; Maynard-Moody and Musheno 2015), these opinions underscore how beliefs about veteran worth shape court personnel's understandings of the VTC. Whether or not military service is the proximate cause of veterans' criminal behavior, these different parties were able to identify with veterans as a unique social group deserving of additional public resources. While these findings may have been different if the court had required combat experience, as a small percentage of VTCs do, justifications for this court involve distinctions between offenders based on group status rather than military experience. These personnel associate veterans' criminal behavior with state action or inaction, which contributes to the belief that the state should provide resources to address it. Beliefs about veteran worth therefore influenced these parties' understandings of what makes someone culpable for committing a crime and who deserves sanctions and/or resources.

## VI. PERSONNEL AND VOLUNTEERS: CELEBRATING MILITARY SERVICE

By analyzing how court personnel and volunteers represented this VTC's work to the public, particularly in contrast to the day in and day out of court procedures, the findings show how beliefs about veteran worth are tied to beliefs about the value of military service. When explaining the VTC's program to stakeholders, court personnel reproduce, entrench, and even amplify such beliefs. These practices occur despite the fact that VTCs emerged due to the supposition that, for some defendants, there is a connection between military service, substance use and mental health disorders, and criminal offending (Russell 2009).

For the first several months of court observations, it was difficult to ascertain what made this court for veterans distinct from a regular drug or mental health treatment court. As in other treatment courts, the "theatrical direction" fostered an image of collaboration between the various personnel and participants (Castellano 2017). The judge called individual participants to stand at a podium, and the probation officer read a summary of their compliance and progress through the treatment program.<sup>10</sup> This judge showed displays of empathy, enthusiasm, and care, which is common in treatment courts, asking participants personal questions about their living situation, their paid work and their community service work, and their weekly activities (Moore 2011; Castellano 2011, 2017). In these check-ins, the emphasis on veteran identity was more implicit than explicit.

By contrast, rituals geared toward the public illustrated how personnel communicated their understandings of what distinguishes this VTC from other courts and these participants from other criminal defendants. Among the variety of public events—such as

court anniversaries and graduations—aimed at presenting the court to the media and local stakeholders, the VTC's first graduation was most illustrative of the ways in which this VTC celebrated veterans and the value of military service. The graduation was held a little over a year and a half after the court opened its doors.<sup>11</sup> This event was for the first four graduates of the program, three of whom (one decided not to attend) sat together in the jury box of the courtroom. Media, local politicians, and leaders from the state's court system (who are responsible for funding this court) and other court personnel crammed into the courtroom. Despite not being required to attend, veteran participants sat in the audience, their presence illustrative of the court's efforts to encourage a group identity. The event was formal, a feeling of celebration pervaded, and, unlike regular court days, the ritual was full of military references.

The most notable military references were efforts to relate, if not equate, participation in the VTC to military service. The session opened with the pledge of allegiance, with all audience members standing. The volunteer mentor coordinator was called forward by the judge and gave a speech about the “challenge coin” he was offering to the graduates. He explained how challenge coins are an important part of military culture. He noted that the coin's origins are not well known and can be considered “up to myth,” but that they may have to do with extra wages paid for by a silver dollar. In the ceremony, the mentor explained that offering each graduate a coin should be thought of as “a gift to show recognition, to challenge the receiver to perform the best he can, and to think themselves able to perform mission completed, to make himself and his peers proud.”

Following this military metaphor of VTC graduation as “mission completed,” the probation officer offered a speech to one of the graduates that celebrated the graduate, the VTC, and military service. He walked to the center of the court with an American flag wrapped in a glass box. He offered the flag as a gift with the following story: “Everyone knows September 11, 2001, a big tragedy. On that day, events occurred where people fell. . . . When I joined the military to prepare for that day, it meant that many who didn't know me took the opportunity to train me to be the leader I am today.” He continued by comparing this graduation to his daughter's recent promotion in the Marines. He then explained just how meaningful the flag gift was: “I wish I had the honor to work with you and give you the flag I flew in Al Assad to honor 2001.”

This example, full of analogies between military service and the VTC, underscores how beliefs about veteran worth translated into distinct court practices. The honor that comes with having served is like the honor of completing the program; the training of the military is like the training provided by the court. Such ceremonial practices further distinguish these veteran participants from other criminal defendants, and this VTC from other treatment courts. One important paradox is that part of the court's premise is that drug use, mental health challenges, and criminal activities are somehow related to military service, yet they still celebrate the military and the defendant's participation in it.

## VII. PARTICIPANTS: CONFLICTED GRATITUDE

By forging a group identity predicated on worth, the court encourages individuals to feel motivated to comply with the challenging probation requirements. However, observations and interviews suggest that participating in the court created conflicted feelings for participants. During court hearings, participants often expressed both gratitude for what the court offered them and resentment for having to comply with the program's strict requirements. These conflicted feelings illustrate the contradictions inherent in blending therapeutic goals with punitive ones in any treatment court (see Moore 2006; Castellano

2011; Moore and Hirai 2014). At the same time, they also underscore the distinct dynamics of a treatment court that is predicated on the value of military service but also recognizes that military service itself may be related to participants' substance use, mental health challenges, and criminal offending.

While much of the VTC scholarship celebrates the "military culture" that distinguishes these courts from other treatment courts, my observations suggest that forging a group identity predicated on military service, along with substance use and mental health disorders, is challenging. In part, this challenge relates to participation rules. This court is more inclusive than many, accepting individuals who may not even qualify as veterans according to important legal regulations that focus on amount of time served and discharge status.<sup>12</sup> This court allows those with "Other than Honorable" discharge status, those with no combat experience, and those who did not complete at least 180 days of active duty to participate. Unlike some VTCs, this court does not require a nexus between service experience and criminal activity. Its main restriction is that it only accepts nonviolent misdemeanors and requires participants to plead guilty.<sup>13</sup> Thus, there isn't necessarily a shared military experience, but rather a shared experience of enlisting.

The most obvious reason for expressing conflicted gratitude is that participants must weigh the pros and cons of acquiescing to a postdisposition treatment court with many requirements. When criminal defendants agree to plead guilty and join this VTC, they are submitting themselves to at least eighteen months of heavy monitoring through five "phases," each with different requirements for court appearances and drug testing. Throughout the program—modeled after the Buffalo VTC, which drew heavily on the drug court model—participants are drug tested biweekly and must engage in different types of group or individual therapy. Some participants struggle with mental health more than substance use; for them, drug testing may be easy to comply with but problematic because it requires travel and interrupts their day. Many participants must also engage in daily individual and/or group therapy sessions. Violations of probation include positive drug tests, failure to attend therapy, or failure to meet other requirements such as curfew within the residential facilities where they may live. The sheer volume of meetings with health care providers and court personnel also means that few participants are able to work during their probation, a dilemma that came up regularly in court hearings. Any infraction could result in punishment at the discretion of the judge, including temporary detention in the local jail, monitoring by a GPS ankle bracelet, or termination from the court and a return to face regular criminal sentencing. These strict requirements are an institutional barrier to entry and filter out participants who are looking for an easy way to either serve or avoid their criminal sentence.<sup>14</sup>

In hearings and in conversations, participants often expressed that they were motivated to join the court as a way to stay out of prison or to gain access to social services and other material incentives. At the same time, my findings suggest that participants had more complex feelings about their veteran identities. For example, I asked one participant interviewee why he chose this treatment program, knowing that it would take much longer to complete the program than to simply complete his criminal sentence. He expressed some frustration with his choice, telling me he "was an idiot" for choosing the program because he did not realize how demanding the probation requirements would be. Regardless, he ultimately seemed comfortable with his choice despite his ongoing compliance challenges. He explained his motive for choosing to participate in the VTC: "I wanted to move all [criminal charges] to Veterans Court because it makes Veterans Court look good. That's why." I followed up by asking, "What makes Veterans Court look good?" His answer illustrated that he viewed this court as an instrument to benefit the veteran community.

The veterans that graduate from there, they're not in the system anymore, and they're rehabilitated. But it doesn't just make veterans look good. It makes everybody that helped the veteran look good, and that's what's most important. So we can get more programs and more courts and more things for veterans.

In his comments, this participant illustrates his belief that the court amplifies the worth of its veteran participants and veterans more generally. That belief informed his willingness to submit to a probation program that he struggled to comply with.

Participants' conflicted gratitude also relates to the complexities of being a veteran diagnosed with a mental health and/or substance use disorder that may or may not have to do with the person's military service. The rare mention of military service in normal court sessions usually occurred when introducing new participants and offered clues concerning the complex relationship between mental health, substance use, and service history. One example was at a hearing soon after the court's first graduation ceremony in summer 2017. The probation officer described a new participant's service as a peace-keeper, and the challenges he faced in a war zone. The judge said "Wow," expressing acknowledgment of the difficulties with peacekeeping work. The participant responded that he did see a lot of burning houses and violence, but he emphasized that his main struggle was bipolar disorder. He said that had suffered his first bipolar episode while in the service and that for years since he had been using illegal substances and had been in and out of the criminal justice system. The judge referred to his medication and therapy and said "Thank you for all the hard work you are doing," encouraging the participant to feel proud of the choice to participate in the treatment program. He responded with gratitude and continued coming to court, expressing thanks for the opportunity to be in it.

The conflicted gratitude about being a participant in this VTC was most evident in hearings involving sanctions for violating court rules. Some participants refused to conform to the court's demands, insisting that the court was making them engage in activities that they did not need. For example, at one hearing in spring 2017, a young woman who had relapsed and was in a detention facility yelled at the judge: "You treat us all the same, and we are not the same!" Her emotional display and challenges with drug use highlight some participants' struggles with the court's requirements, dilemmas that are present in all treatment courts. At the same time, her comments point to frustration with being lumped with other participants simply because they are veterans with substance use and mental health challenges. The court struggled to meet the needs of all its participants: tragically, two participants died of overdoses in the court's first two years.

Those who struggled to comply but were not terminated (I witnessed only two terminations for failure to comply) usually returned to court and offered their gratitude for what the court offered them as veterans who were struggling. For example, over the summer of 2017, the judge sanctioned three participants who had relapsed or otherwise violated rules by requiring them to wear GPS ankle bracelets. They were present in hearings even when they did not have a court date. These participants explained to me and in open court that they were there to show the judge that they were committed to the program. After being detained for another relapse, one of these participants returned to a hearing in July 2017 and offered the court an apology note. For ten minutes, a substantial amount of time in these short court sessions, he read the letter, which meandered through his challenges with alcohol and his beliefs about war, geopolitics, and his military service. His letter focused on his resentment at the challenges he has endured since military service, in particular, his struggle to stay sober and follow the court rules. It also focused on how grateful he was that being a veteran enabled him to access this court.

Just a few weeks later, another sanctioned participant engaged in an uncharacteristically (for both him and the court) heated argument with the judge about removing his GPS bracelet, which he said interfered with his ability to work. The week after his conflict with the judge, the two engaged in an exchange that illustrated how his desire to be a compliant participant intersected with his desire to be a worthy veteran:

Judge: I want to tell everyone you wrote a thoughtful, well-written letter of apology for how you didn't keep your composure.

Participant: I was a jerk, [it] was a reaction. [I should] remember I was a Marine, and should have tact and self-control. I was more disappointed with myself.

By drawing on the social category of veteran, and then linking understandings of self-worth to compliance, the court and this participant coconstructed the meaning of being a veteran worthy of court resources. Worthy veterans are those with “self control” who would not react to being told that they need constant monitoring, and they should be able to draw on their veteran identity to comply with court practices.

This section illustrates how the multifaceted relationship between military service, substance use, mental health, and criminal offending, along with the demanding court requirements, contribute to the conflicted gratitude that participants expressed about being part of the court. This conflicted gratitude, in turn, reveals the challenge of basing a court on societal beliefs about the value, and the effects, of military service. While these personnel work to amplify beliefs about veteran worth, the value of military service, and, most importantly, the value of the court, successful participants must conform not only to court procedures but also to a script that reflects this narrative of the beneficial court and the commendable participant. These dynamics may differ in courts where there is less time for hearings or where the judge takes a different approach to encouraging compliance. At the same time, they illustrate how the creation of VTCs, justified by the distinct needs of veterans, reflects and promotes inconsistent ideas about the benefits and detriments of military service.

### VIII. VOLUNTEERS: THE PARTIALITY OF WORTH

The mentors’ understanding of their work further illustrates how beliefs about veteran worth shape court practices as well as the vexing dilemma of predicated a court on the complex legal, social, and political category of “veteran.” While some may question the wisdom of having individuals with no social work or legal training guiding participants through the court’s requirements, VTC scholarship regularly emphasizes the important role of veteran mentors in the creation of a “military culture” that “indoctrinate[s] a sense of solidarity and teamwork” (Ahlin 2016, 93).<sup>15</sup> The mentors’ understanding of their work illustrates how this “teamwork” is predicated on beliefs about the value of military service as well as the dilemma of distinguishing between those who could be or should be part of the “team.”

Interview data suggest that beliefs about veteran worth motivated these volunteers, like the court’s founders, to dedicate a significant amount of effort to this VTC. During our interview, the head of the mentor program was emphatic that the participants are “deserving,” even if they only were in the military “for one day.” He noted, and was affirmed by his fellow mentors, who nodded in agreement, that these individuals “raised their hands” to do something “greater than themselves” and “for someone else”

(Interview 2017). Though acknowledging that many of the individuals in the court had drug use and mental health issues even before they were in the service, these mentors still expressed the belief that, because they enlisted, these defendants are worthy of investment.

In explaining why VTC participants are worthy of their voluntary efforts, the mentors distinguished between criminal defendants. When I asked if working with veterans in the criminal justice system affected their opinions of other criminal defendants, meaning nonveterans, in the criminal justice system, the group of mentor interviewees paused to consider the idea. Two mentioned that they feel more committed to veterans because they can identify with them. One reiterated the narrative that there are “reasons” for veteran criminal behavior—which implied that “reasons” for other types of criminal behavior are less understandable and, thus, less defensible—and that veterans are owed:

We're far more indebted to anybody who calls himself a veteran, only because he reached out and tried to do something better than himself, and he faltered for a variety of reasons. And society owes him something. The government owes him something. (Interview 2017)

The reference to reaching out “to do something better than himself” suggests that beliefs about enlistment—even though not all veterans voluntarily enlisted—as a morally worthy act help to explain conduct that is otherwise difficult to understand. The VTC’s probation officer mentioned that he was surprised that mentors bring participants home for dinner given the stigma he has witnessed toward other criminal defendants (Interview 2017). The mentors in this court were so committed that they formed a nonprofit through which they could raise money to aid participants. Individual mentors sought out job opportunities for veteran participants. In mentor meetings, there were frequent references to the mentors’ desire to do more for the participants. In early mentor meetings, the founding mentor coordinator said that founding this group and serving the veterans was the “most important thing” he’d ever done. Another mentor volunteer thanked the group for letting them join, saying “It’s an honor” (Mentor Transcript, November 4, 2015).

In addition to illustrating how much social support exists for this VTC, the mentors’ notable involvement further reveals how beliefs about veteran worth are partial. This partiality, in turn, illustrates the challenge of predicated decisions about criminal justice benefits on beliefs about the value of military service. In deciding who can access the court, the court’s participant manual simply stated that individuals who had served in different branches of the armed forces could qualify. In spring 2018, the mentors drafted a letter requesting that the court change its admissions policies to be more specific and exclusive. Interestingly, they did not want to restrict access to the court based on discharge status, noting that veterans may receive discharge statuses for reasons that should not disqualify them from court support. The mentors wanted the policy modified so that only individuals who had been in active duty for 180 days or had experienced at least one day of combat were eligible.

While they suggested that this change was in line with state law, their letter revealed that their concerns lay in their identification with the participants as “special” individuals:

We believe that those individuals who are selected for entry into the [VTC] are “special” because they, like ourselves, have given an extended portion of their lives for military service to our Country, often far apart from their home and family. (Mentor Letter 2017, on file with author)

Again illustrating how beliefs about veteran worth influenced their actions, the mentors went further in explaining their motivation, suggesting that the court was a privilege for

those who “earned it,” and that they wanted to “upgrade” the veterans that participate (Mentor Letter 2017, on file with author). After meeting to discuss the letter, the court did not follow the mentors’ suggestions. Court personnel reiterated the important but distinct role that the mentors play in aiding participants but not in selecting participants or dictating other court policies.

This conflict over admission policies reflects a general dilemma within therapeutic jurisprudence of deciding who deserves the extra resources offered by treatment courts. It also reveals a challenge specific to VTCs: who counts as a veteran, let alone a worthy veteran? This is a central dilemma in predicated a court on the complex political, social, and legal category of “veteran,” and illustrates the broader challenge of determining who is worthy and unworthy of benefits in the criminal justice system. Beliefs about veteran worth inspired the court’s mentors to generously support strangers, but they did not want their efforts to help those who might not have “earned it” by spending enough time in the military.

#### IX. WORTH AS MORAL POLITICS AND MORAL REGULATION

This section offers additional insights into how the VTC’s construction of a worthy, but only partially worthy, veteran subject reveals the double-edged nature of therapeutic jurisprudence as well as the challenge of predicated a court on the complex social, political, and legal category of “veteran.” Understanding how beliefs about veterans’ worth shaped the purpose and practice of this court reveals law’s constitutive function in society, at once reflecting and producing identities and meanings in ways that can transform, but also reproduce and entrench, social and political vulnerabilities.

First, all treatment courts engage in complex moral politics to distinguish between “treatable” and “untreatable” defendants. But, in VTCs, veterans are treated as distinct from even those deemed “treatable” by drug and mental health courts. The creation of VTCs suggests that it is not simply “treatability” that makes some social groups deserving of opportunities to address the “underlying causes” of criminal behavior. There is also a question of fairness. For therapeutic justice proponents, it is not fair to apply retributive justice norms to people with a substance use or mental health disorder because their disorder is the reason for criminal behavior. The assumption is that society, and they, will be better off if their disorder is treated. In VTCs, these evaluations of fairness extend beyond participants’ current criminal activity and psychological well-being, and into whether these individuals were treated fairly during and after their service.

However, a court predicated on individual responsibility, as all criminal courts are, along with the notion that “something’s just not right” if veterans are struggling in the criminal justice system, reveals the challenge of using criminal justice institutions to redress individual and social ills associated with poverty, substance use, mental health, and now war and militarism (see Wacquant 2009; Tiger 2012). In VTCs, veterans are distinguished as worthy or unworthy through fraught processes such as the determination of discharge status and criminal charge. Discharge status, in particular, reflects deeply problematic practices within the military that leave individuals with substance use or mental health challenges with less access to health care and render them more likely to offend. Nearly a third of VTCs require participants to have access to VA health care (Flatley et al. 2017), but 69–100 percent of individuals with “bad paper” discharges are denied benefits at local VAs, and veterans diagnosed with PTSD and other serious psychiatric disorders are up to eleven times more likely to be VA ineligible (Veterans

Legal Clinic 2016, Legal Services of Harvard Law School). Likewise, individuals may leave the military for any number of reasons, and requiring a certain length of service or combat experience to access a VTC further distinguishes worthy from unworthy defendants. Although VTCs often work with individuals to improve their discharge status and access benefits, these courts work within institutions that can both create and reproduce inequalities, even among groups deemed uniquely deserving in US society.

In addition to highlighting the challenge of applying therapeutic jurisprudence principles to a group whose identity is defined by military service, this study reveals the ways in which this VTC practiced a form of moral regulation predicated on an idealized veteran treatment court subject. While courts may differ in how they draw upon military service in their practices, the fact that these courts are founded on the belief that veterans are a distinct social group means that they are engaged in a similar form of moral regulation. Moral regulation refers to the ways in which the state develops moral subjectivities and shapes the identity of the regulated subject (Valverde 1994; Ruonavaara 1997). Compliance in a therapeutic jurisprudence system means accepting labels—particularly the label of addict or veteran—defined by the government. In addition, the social category of veteran brings with it identification, pride, and respect, three elements of group-linked or social identity that, when activated, can facilitate trust between authorities and defendants (Tyler and Blader 2000). Encouraging court participants to regard their decision to enlist as making them worthy and to see themselves as veterans regardless of their branch, unit, actions during service, or discharge status is a potent strategy to encourage compliance. Grouping defendants with different challenges into the same category of “veteran” in a VTC can reduce blame on individuals for their legal transgression, but it can also obscure what makes their life histories distinct and lead to additional punishments (Tiger 2012). A VTC may help some by providing access to treatment, but it can also punish vulnerable individuals for failing to stay sober, failing attend therapy meetings, or violating other program requirements.

In these ways, treatment courts do far more than use the law to enhance psychological well-being. Treatment courts are disciplining institutions, encouraging conformity by providing access to sorely needed social welfare services. VTCs are uniquely powerful in this regard in that they are predicated on societal beliefs about veteran worth, and they help foster a distinct group identity based on these beliefs. Like participants in drug treatment programs, individuals participating in treatment courts contribute to “scripts” that support existing institutional and cultural orders (see Carr 2010). In VTCs, individuals are given distinct treatment for having participated in the military, which further institutionalizes the military in US society.

Yet, VTCs have an additional element of acknowledging how state behavior and individual behavior are intertwined. Medicalizing veteran defendants becomes a way to de-responsibilize the state for the violence of war as it responsibilizes individuals for their legal transgressions. By bringing in mentors, clinicians, treatment programs, and others who want to support veterans, these courts further integrate the community into state punishment practices (Hannah-Moffat and Maurutto 2012). The moral regulation within a VTC, thus, highlights much broader social and political dilemmas about the direct and indirect effects of militarism and war on society.

One irony in this account of who is deemed worthy of treatment courts more generally and VTCs in particular is that many veterans made the choice to join the service in order to escape difficult situations at home, an exercise of personal freedom with significant constraints. It is well known that the military recruits in lower-income communities and communities of color where there may be fewer opportunities for social mobility (Lutz 2008; Kentor, Jorgenson, and Kick 2012). Many return to their communities after their

service, and their social integration is one of the most important predictors of whether they will engage in criminal behavior (Musheno and Ross 2008; Culp et al. 2013). VTCs such as this one may honor the value of military service. However, they are another limited response to a military system that recruits individuals who have fewer resources to begin with and does not provide adequate resources to help them reintegrate into civilian life.

#### X. CONCLUSIONS: VTCS AND ONGOING CRIMINAL JUSTICE REFORM

The moral politics and moral regulation within VTCs raise a number of questions for those interested in US criminal justice policy. First, and most obviously, why are other vulnerable groups, particularly racial minorities who are socioeconomically disadvantaged, not treated with similar concern about what pushes them into the criminal justice system? This query is not meant to undervalue the sacrifice of those who choose to enlist, but rather to point out that many of the individuals who do choose to enlist have life histories similar to those who do not and that the same factors that predict criminal offending in the nonveteran population predict offending in the veteran population (see Culp et al. 2013). Trauma, substance misuse, and mental health challenges often predate service, and there is nothing distinctly criminogenic about having joined the military.

Like those who point to military-related trauma, scholars of “urban survival syndrome” point out the challenge of defending accused criminals living in high crime areas with information about the effects of PTSD (Liggins 1999). Alfieri (2009) points out that courts may excuse black male law breaking for reasons of “innate” criminal character but not for reasons of environmental deprivation, cultural deviance, or socioeconomic oppression. Might other vulnerable groups also benefit from a court that encourages them to view themselves with pride and respect, and with personnel who see and evaluate their criminal behavior as a manifestation of broader social and political inequalities?

Next, how do VTCs fit into the broader institutional landscape of both the US military and the criminal justice system? Veterans from the GWOT are four times more likely than veterans from WWII, and two times more likely than veterans from the Vietnam War, to have other than honorable discharges and, as a result, to have difficulty accessing Veterans Health Administration (VHA) benefits (Veterans Legal Clinic, Legal Services of Harvard Law School 2016). Given the relationship between VTCs and the VHA, with some courts requiring VHA access or relying heavily on the VHA for services, a limited number of individuals are able to access these courts or other needed resources. The lack of uniform standards in VTCs means that geographic luck often determines whether one will be able to use this or any treatment court. And it goes without saying that treatment courts are a very limited reform with respect to addressing racial disparities in arrests and charges, problematic sentencing policies, particularly around drugs, and the overpolicing and arrests of vulnerable social groups (see O’Hear 2009).

In these ways, this analysis of the purpose and practice of VTCs points to yet another manifestation of “governing through crime,” or the reliance on criminal justice to address political and social problems in the US (Simon 2007). Proponents of therapeutic jurisprudence want law to address the underlying causes of criminal behavior. However, what is a judge to do when the causes have to do with poverty, the War on Drugs, the military industrial complex, the GWOT, the limited social welfare spending in the United States, and the myriad other “problems” that contribute to the challenges facing

veterans? What other ways might the state intervene to provide services to individuals suffering before, during, and after they leave the military so that a criminal offense and a guilty plea that creates a criminal record is not the only way, or the most effective way, to get sorely needed social services?

Finally, this study also points to questions for researchers looking at recidivism rates within VTCs. While there are a growing number of studies examining who gets into VTCs and what their outcomes are, it will be important to follow up with individuals who do not follow through with the court in order to assess the unanticipated outcomes of removing the social structure once provided by the military and, subsequently, the court. The court analyzed here created a strong sense of community through its robust mentor program and dedicated staff, and other VTCs may differ in this regard. With different rules for entry, treatment requirements, and legal outcomes, other VTCs may have different levels of social cohesion.

At the same time, other case studies find similar dynamics with regard to how these courts mobilize veteran identity to encourage compliance (see Ahlin and Douds 2016; Vaughan, Holleran, and Brooks 2019). However, the challenges that veterans encounter when trying to access health care, partly attributable to the “identity conflict” of being both a soldier and someone in need, mean that VTC graduates may face distinct challenges when it comes to both compliance with the court and continuing medical treatment if and when they are no longer in the court (Smith and True 2014). While a powerful tool to maintain social control and instill a sense of fairness and legitimacy, the emphasis on group identity within some VTCs may contribute to feelings of self-doubt among those who find themselves unable to comply, and may contribute to their feelings of isolation if they graduate (Meehan et al. 1996; Gaudet et al. 2016).

Overall, this analysis points to the need for further bottom-up research into the role of criminal justice innovations, such as VTCs, in tackling broader social and political inequities. Only by close observation can we better understand the contradictions between the stated purpose and actual practice of new legal institutions and how they reflect, reproduce, and alleviate the social ills that they try to address.

#### NOTES

1. While most scholars cite the Buffalo, New York, court as the original VTC, a similar program was founded earlier. Prior to the creation of standalone VTCs, an Alaskan Judge, also a retired US Army Brigadier General, created a special services program for veterans in drug court (Easterly 2017, Smith 2012).
2. The most obvious examples of “deservingness” can be found in public documents and legislation that explain the creation of these courts. For example, The National Association of Drug Treatment Court Professionals has provided testimony titled “Veterans Treatment Courts: Giving Our Heroes at Home the Help They’ve Earned.” National Association of Drug Treatment Court Professionals (NADCP), Veterans Treatment Courts: Giving Our Heroes at Home the Help They’ve Earned, <http://www.house.mi.gov/SessionDocs/2011-2012/Testimony/Committee16-3-15-2011-1.pdf>. Another example is the Illinois state law on VTCs, which argues that service can lead to a variety of pathologies, that these pathologies can explain criminal behavior, and that criminal justice policies must “recognize” veterans and provide treatment: “The General Assembly recognizes that veterans and active, Reserve and National Guard service members have provided or are currently providing an invaluable service to our country. In so doing, some may suffer the effects of, including but not limited to, post traumatic stress disorder, traumatic brain injury, depression and may also suffer drug and alcohol dependency or addiction and co-occurring mental illness and substance abuse problems. As a result of this, some veterans or active duty servicemembers come into contact with the criminal justice system and are charged with felony or misdemeanor offenses. There

is a critical need for the criminal justice system to recognize these veterans, provide accountability for their wrongdoing, provide for the safety of the public and provide for the treatment of our veterans" (Veterans and Servicemembers Court Treatment Act, 730 Ill. Comp. Stat. 167/5 [2010]).

3. VTCs are designed in different ways but usually require a certain number of months of intensive individual and group therapy as well as regular drug testing. They involve collaborative decision-making between a case manager (someone with experience in clinical social work or psychology), a judge, a prosecutor (in preplea courts), a probation officer (in postdisposition courts), and a defense attorney. VTCs have the added component of a Veterans Justice Officer (VJO), who works with the VHA in securing services for qualified veterans. Court participants are told that their participation is voluntary (they have the alternative to go through the regular criminal court process) and are required to show up to hearings where a prosecutor or a probation officer explains their progress through the treatment program. If compliant, they may receive a reward such as a gift card; if not compliant, they may be sanctioned with writing an essay, engaging in community service, or being detained. Participants "graduate" if they complete the treatment program, "withdraw" if they choose to return to the regular criminal court, or are "terminated" if the judge decides to send them back to the regular criminal court.
4. For example, the first drug treatment court was founded in 1989 as a response to mandatory minimum sentencing, which itself was a response to judges' exercise of discretion in sentencing (McCoy 2003). In the 1990s, mental health courts emerged to address the challenge of deinstitutionalization and homelessness in the 1970s and 1980s (Perez, Leifman, and Estrada 2003).
5. Fifty-two percent of VTCs accept individuals both pre- and postplea, while 17.2 percent accept preplea only and 30.6 percent accept postplea only. Sixty-six percent accept both misdemeanor and felony cases, while 20 percent accept misdemeanors only and 13.7 percent accept felonies only. While some restrict the types of felonies, 61.9 percent accept all violent offenses. 32.5 percent only accept VA Health Care eligible veterans. These data are summarized in Flatley et al. (2017).
6. Notably, the Supreme Court held that not mentioning combat experience as a defense in a capital case is grounds to find for inadequate counsel (*Porter v. McCollum* 2009 [per curiam]).
7. "Identification" reflects how one's feelings of self-worth align with judgments of the characteristics and status of one's group; "pride" reflects one's personal evaluation of the group's status, while "respect" reflects one's evaluation of one's personal status within the group.
8. The population on the docket varied throughout the observation but usually hovered around thirty to thirty-five participants, who were obligated to attend hearings on varying schedules, including weekly, biweekly, monthly, and quarterly.
9. While this article relies primarily on the data described above, I also engaged in additional forms of observation to better understand the participants' backgrounds, their histories in the criminal justice system, and the experience of veterans in the criminal justice system more generally. Between June and August 2017, I engaged in weekly two-hour participant observations at one of the residential facilities where some participants live. There, I interviewed six residents, including three participants in the local VTC. I observed group meetings where residents described their struggles with addiction, the law, their families, and rebuilding their lives. Between December 2016 and April 2017, I conducted seven three-hour observations in a veterans pod at a correctional facility in a neighboring state. There, I interviewed six incarcerated veterans about their history in the military and the criminal justice system.
10. Treatment courts may be diversionary, meaning the participants are charged but their charges may be dropped if they complete the program. This VTC is designed to be postdisposition, meaning participants must plead guilty to their charges in order to enter and are sentenced to an eighteen-month probation in which they must complete the court's treatment protocol.
11. The treatment program included an eighteen-month probation, meaning one had to spend a minimum of a year and a half to graduate. If participants were not compliant for any reason, such as missing a drug test, failing a drug test, or missing therapy, graduation would be delayed.
12. One of the more inclusive definitions of veteran status is in federal law, which defines a veteran as "a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable" (38 U.S.C. § 101[2]). However, to qualify for VA benefits such as a home loan, one must serve at least 90 days of active duty during war, 180 days during peace time, or 6 years in the National Guard or Reserves. Massachusetts state law requires either 180 days of active duty, or 90 days of active duty with at least one of those days occurring during wartime, and an "honorable" discharge. Mass. Gen. Laws ch. 4 § 7[43]). In Florida, the term "veteran" means a person who served in the active military, naval,

or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges (Fla. Stat. § 1.01[14]).

13. Only individuals being tried in district court are eligible for this VTC, meaning the court does not accept anyone accused of federal crimes (such as those related to drug trafficking). Crimes that carry more than a five-year sentence are also not allowed, as these would usually be heard by the superior court in the state. Interestingly, arson is not allowed, as residential facilities do not want to host someone who has committed arson. Individuals accused of violent crimes are not generally allowed in the court, but the personnel decide who can be admitted on a case-by-case basis.
14. Throughout my research, I heard stories of veterans in the criminal justice system who chose not to participate in the VTC, preferring to simply accept their sentences. The VTC judge also mentioned being cautious about accepting defendants who did not face serious sentences, as they would be better off pleading and accepting a shorter probation. Further, the state has a pretrial diversion program for veteran defendants who face a jail sentence and have no criminal history. If veteran offenders do not qualify for this program, they may be referred to the VTC.
15. VJO data show that 68.8 percent of VTCs have an operational mentor program averaging eight mentors, with 9 percent having such programs under development; 58.7 percent have a volunteer mentor coordinator, 12.1 percent have a paid mentor coordinator, and the rest of the programs are coordinated by a paid treatment court coordinator (Flatley et al. 2017).

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