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## Pausing in the wake of rapid adoption: A call to critically examine the veterans treatment court concept

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### ABSTRACT

Veterans treatment courts (VTCs) are currently the fastest growing specialized court in the United States. In the wake of this rapid dissemination, the field has begun to empirically research VTCs but has acknowledged that little is known about them. While initial examinations of VTC program structure, operation, and outcomes have been conducted, the concept itself has yet to be critically examined to date. Therefore, this work calls attention to the need for critical discussions and evaluations of the VTC concept itself, specifically its underlying assumptions and ongoing policies and practices. To begin this inquiry, we first discern several assumptions on which the VTC concept exists and then analyze the related discourse and criticism available to assess the validity and potential effects of these assumptions. Next, several VTC policies and practices that are based in these assumptions and have the potential to be discriminatory are identified, and their current implementation and effects are investigated. A discussion of the identified assumptions and practices congruity with punishment philosophies ensues. Finally, state of empirical knowledge on VTCs is reviewed, revealing its infancy. The conclusion highlights key elements discovered in this work and presents corresponding recommendations and guidance for future consideration and research.

### KEYWORDS

veterans treatment court; veterans court; offender rehabilitation; specialized courts; criminal justice policy

### Introduction

The veterans treatment court (VTC) concept has become the fastest growing specialized court program this century, reaching an overall dissemination level second only to that of drug courts (Baldwin & Drapela, [Forthcoming](#)). With the concept emerging in 2004 (see Smith, 2012) and a publicized model in 2009 (see Russell, 2009), the concept has been adopted by jurisdictions across the majority of states (Justice for Vets, n.d.a, b) during the last decade. As of June 2016, more than 450 veterans treatment courts (VTCs), veteran dockets, and veteran tracks (Flatley, Clark,

Rosenthal, & Blue-Howells, 2017) were operating in 43 states (Justice for Vets, n.d.b) with additional programs in the planning stages. However, this exponential growth has been undertaken in the absence of VTC-specific empirical research and evidence-based practices.

It is in the wake of this rapid adoption that VTC research has begun. Studies have discovered a wide variability in their structure and operation (Baldwin, 2013, 2015; Flatley, Clark, Rosenthal, & Blue-Howells, 2017; Justice Programs Office, 2016; McGuire, Clark, & Blue-Howells, 2013), but the field acknowledges that there is much left to empirically establish about these programs as these studies are limited. Although several examinations of VTC structure, operation, and outcomes have been conducted, the concept itself has yet to be critically examined. Therefore, this article presents the first healthy skepticism of the VTC concept to date and aims to initiate further critical discussions and evaluations of VTCs among practitioners and scholars. Continued assessments of extant research and completion of empirical studies should be necessary for the continued dissemination of VTC programs and the allocation of resources to support them.

This work calls attention to the need for critical discussions and evaluations of the VTC concept itself, specifically its underlying assumptions and ongoing policies and practices. To set the foundation for this line of inquiry, the VTC concept and its emergence are first described. With the context established, we discern several assumptions at the core of the VTC concept and then assess the validity and potential effects of these assumptions through a critical review of discourse and criticism in the criminal justice and VTC-specific literature. Next, the VTC policies and practices that are based in these assumptions and are potentially discriminatory in nature are identified and investigated through an examination of their current implementation and effects. Then, we explore whether these assumptions and practices align with various punishment philosophies. Finally, we examine how much is empirically known about VTC effectiveness, fidelity, and models in the wake of their widespread dissemination. The conclusion highlights several of this work's key findings and offers potential recommendations for policy and research, calling for them to be scrutinized by much needed future critical inquiry.

## **The VTC concept and its emergence**

The VTC is a specialized court that diverts offenders with a record of U.S. military service from the traditional criminal justice process to its program. The VTC program aims to address the underlying causes of participants' criminal behavior and facilitate successful reintegration into civilian life through service connection, mandated treatment participation, and other

requirements.<sup>1</sup> The VTC, thereby, also strives to increase public safety and decrease criminal justice system costs through the reduction in participant recidivism (future contact with the criminal justice system).

However, this innovation did not result from a systematic evaluation of criminal justice data. Early accounts indicate that VTCs and veteran-focused court programs or tracks were developed by judges who noticed veterans on their dockets (for example, see Russell, 2009; Smith, 2012), and these judicial observations occurred during this era of increased social awareness of and concern for veterans affairs.<sup>2</sup> A growing focus on this subpopulation has resulted in the term “justice-involved veterans (JIVs)” and contributed to the development of the VTC concept. The VTC is the criminal justice system’s first programmatic response to offenders with a history of military service,<sup>3</sup> constituting a historical change within the criminal justice system, and this judicial innovation represents the acknowledgment of issues long ignored and society’s commitment to veterans, which are briefly reviewed below.

Several factors have converged to drive American society’s increasing interest in veteran affairs. First is the growing recognition of service members’ needs, wounds both visible and invisible, and of the relationships between those needs and military service (Baldwin, 2013, 2017; Brown, 2008; Cartwright, 2011; Wright, Carter, & Cullen, 2012). This realization has heightened during the most recent era as more than a decade of sustained combat has been underway and highlighted by the reintegration of recent era veterans. Additionally, concerns persist regarding service members’ potential risk to public safety due to their training (Archer & Gartner, 1976; Castle & Hensley, 2002; Grossman, 1996; Wright et al., 2012), as well as costs associated with criminal justice system interaction. Finally, the American public possesses a respect for and commitment to aid those who have served in the U.S. Armed Forces. As such, legislators, policymakers, and the criminal justice system do not want to repeat the now-acknowledged mistakes from previous eras.

The increased social and institutional interest in veteran affairs has fueled a focus on the reintegration of military personnel into civilian society, resulting in the identification of various challenges that include homelessness, mental health issues, barriers to service and benefit access, substance misuse and addiction, and crime. Not only does social consciousness recognize the existence of these re-integration challenges, but the relationships between these issues are becoming more understood and accepted. For example, service elements (e.g., combat exposure and institutionalization) can cause mental health issues, which may result in self-medication that then increases the likelihood of contact with the criminal justice system (Brown, 2008).

The recognition of relationships between extralegal challenges and criminal behavior among this group has drawn specific attention to veterans in contact with the criminal justice system. Recent estimates indicate that 8% of the incarcerated population is comprised of veterans (Bronson, Carson, Noonan, & Berzofsky, 2015). However, some researchers have argued that these approximations may be under-estimates for a variety of reasons such as lack of systematic identification and self-identification issues related to definition variation, benefit termination, and stigmatization (Baldwin, 2017). Furthermore, despite the documented decline in incarceration rates, an increase in offenders with a history of military service has been anticipated based on the current era's higher survival rates relative to previous conflicts, changes in warfare, repeated and longer deployments, removal of troops from overseas, and time to onset (e.g., Baldwin, 2013, 2017; Brown, 2008, 2011; Brown, Stanulis, Theis, Farnsworth, & Daniels, 2013; Reger et al., 2009; Wright et al., 2012). Additionally, attempts at systematically identifying a history of military service status among criminal offenders have emerged, and further development of these mechanisms is expected (Baldwin, 2016; Baldwin, Hartley, & Brooke, 2018), which will likely result in a statistical increase.

### **Assumptions of the VTC concept**

The extant literature provides several justifications for the VTC concept (e.g., Arno, 2015; Cartwright, 2011; Perlin, 2013; Russell, 2009). Specifically, an initial review of VTC scholarship revealed four rationales for the VTC concept's operation. First, a link between military service and crime exists. Second, the current court system is not equipped to address military combat and trauma and engage these participants. Third, veterans constitute a class. Finally, those who have served in the U.S. Armed Forces deserve special consideration for their service and sacrifice. Although these justifications appear to reflect the previously described environment in which this judicial innovation was developed, these reasons were, at most, partially supported by empirical research or not yet critically evaluated. Therefore, we espouse these rationales constitute assumptions that warrant examination.

The following subsections define and evaluate these four assumptions. Each subsection begins with an explanation of the particular assumption and its presence in the VTC literature. Then, the validity of the assumption and its potential effects are examined through a review and discussion of available literature. Additional questions and issues are presented with the intention for scholars to begin to consider and further investigate in the future.

**Assumption 1: There is a link between military service and crime.** Various entities, including scholars, judges, and legislative bodies justify or call for the adoption of VTCs based on the notion that military service can be related to crime. Nonempirical VTC literature has consistently noted that many judges have noticed a large number of veterans in court, especially drug or mental health court, and that issues resultant from military service can lead to criminal behavior. For example, some scholars hold that criminal behavior can stem from physical or psychological military trauma (Arno, 2015) or combat injury (Perlin, 2013). In his article detailing the VTC approach, Judge Russell has noted the impact of military service, stating:

Military service can impact the lives of veterans and their families in countless ways. Many returning veterans and their families cope with serious issues such as: alcohol and substance abuse, mental illness, homelessness, unemployment, and strained relationships. Oftentimes, these serious issues go unaddressed, and many of the veterans end up in our criminal justice system. With the increase of veterans with serious needs in our criminal justice system, comes the need for the system to develop innovative ways of working to address these issues and needs. One court in Buffalo, New York, has developed a plan for meeting the serious needs of veterans within the criminal justice system and created the nation's first specialized Veterans Treatment Court. (2009, p. 357)

Echoing this, one of Arno's (2015) arguments for the implementation of VTCs is that "in many cases the behavior that leads to a veteran being incarcerated stems at least in part from service-related trauma, suggesting that addressing the trauma may correct the behavior" (p. 1039). More narrowly, others have noted a justification of VTC concept being the perceived prevalence of PTSD among offenders with a military record (Clark et al., 2010; Russell, 2009).

Brown (2008) argued that service members undergo an institutionalization process during service participation that is not undone postdischarge, thus transporting service elements into the civilian landscape. This postulation can be found in other literature that asserts that service members are exposed to violence and aggressive tactics that are not lost or forgotten when the individual enters civilian life postdischarge, resulting in behaviors deemed criminal in a nonmilitary environment (Archer & Gartner, 1976; Castle & Hensley, 2002; Grossman, 1996; Lankford, 2009). Finally, the existing assumption of a military-crime relationship is further evidenced by a belief and the requirement in some cases or programs that VTC admission is dependent on treatment for such issues or "precipitating condition[s]" (Jones, 2014, p. 328).

While serving as evidence of the assumption's existence, the continued adoption of the VTC concept in effort to address issues related to military service and criminal behavior may simultaneously perpetuate the

perception of a military-crime relationship within the public. The assumption of some positive relationship between military service and crime could impact the societal perception of military service, specifically the negative connotation of military service. Factors related to the increased likelihood of crime are not viewed considered desirable. In reading the excerpt from Russell (2009, p. 357), it appears that the “increase of veterans with serious needs in our criminal justice system” has reached a point in which a separate court is needed to serve this population. However, is the VTC concept’s assumption about the military-crime relationship accurate and supported by scientific research?

A large body of empirical research has focused on the military-crime relationship and other effects of military service but has been plagued by limitations that have been discussed in the literature but must be noted here. The most pervasive limitation to this research, including those referenced throughout this article, is selection effects on both the part of the individual and the military institution.<sup>4</sup> Enlistment and termination policies and practices vary throughout history on a variety of factors, including but not limited to voluntariness, age, intellect, mental health, physicality, and behavior. Even the role of criminal history within the military selection process is variable and tied to contemporary issues of a period.

The extant research in this area has produced both trends and mixed findings. For example, studies have revealed indirect relationships between military service and crime in which service was related to risk factors of criminal behavior, such as substance abuse and mental health (e.g., Card, 1983; Wright et al., 2005; Yager et al., 1984). This is important as much research has found mental health issues and substance abuse (known factors related to criminal behavior) to be prevalent among veteran populations (see Anderson & Mitchell, 1992; Bachman, Freedman-Doan, O’Malley, Johnston, & Segal, 1999; Bray, Marsden, & Peterson, 1991; Brown, 2008; Tanielian & Jaycox, 2008). However, research has failed to find direct associations between service and criminal behavior (e.g., Bouffard, 2003, 2010; Bouffard & Laub, 2004; Brooke & Gau, 2018), including between combat experience and lifetime arrests (Brooke & Gau, 2018). Finally, other studies have produced mixed results. Card (1983) discovered that Vietnam War veterans who entered the service with prior criminal histories were less likely to be arrested upon discharge, whereas those without were more likely to be arrested after completion of service, especially for a violent offense.

Conversely, relationships between military service and a variety of positive outcomes have been empirically discovered. Men paroled into the Army recidivated less (5.2%) than men paroled into the community (22.6%) with this finding surviving a 5-year follow-up at 10.5% and 66.6%,

respectively (Mattick, 1960). For Vietnam-era veterans with prior criminal records, military service appeared to deter postdischarge criminal behavior (Bouffard, 2003, 2010; Bouffard & Laub, 2004). Among recent U.S. state prisoners, general service participation was associated with fewer lifetime arrests, and length of military service was inversely related to the number of lifetime arrests (Brooke & Gau, 2018).

Military service has been referred to as a “bridging environment” (Browning, Lopreato, & Poston, 1973; Xie, 1992), offering exposure to opportunities such as education, job training, leadership skills, social independence, and discipline that individuals may not have been afforded without that military experience (Browning et al., 1973; Elder, 1986; Elder & Caspi, 1990; Elder & Hareven, 1993; Sampson & Laub, 1996; Xie, 1992). Sampson and Laub (1996, Shaw, Churchill, Noyes, & Loeffelholz, 2003) have regarded service participation a positive turning point due to the structure, formal and informal social control, and exposure to prosocial bonds provided by the military. For marginalized social groups or those from disadvantaged environments, World War II-era service proved substantially beneficial (e.g., Elder & Shanahan, 2006; MacLean & Elder, 2007; Sampson & Laub, 1996).

Some studies have examined the perception of various relationships from the service member perspective and reveal little belief in the direct military–crime relationship. Examining incarcerated World War I and II veterans and the wardens who oversaw them, Lunden (1952) discovered that most inmates did not believe their postmilitary criminal behavior was related to their service. The prison wardens, too, perceived little or no connection (Lunden, 1952). In a modern sample of offenders in contact with a VTC, Brooke and Baldwin (Forthcoming) found no perceptions of a direct connection between their service experience and subsequent criminal behavior. However, many felt their recent arrest was indirectly related to service by way of an extra-legal issue, believing that their military experience caused or at least contributed to their extralegal challenge(s; e.g., substance abuse, mental health issues, family problems) and that the extralegal challenge(s) cause their most recent arrest. Additionally, the majority of VTC personnel (more than 70%) in a national sample of VTCs believed in a variety of relationships between military service, legal issues (e.g., arrest, crime), and extralegal issues (Baldwin, 2013, 2017).

If empirical evidence, and even perceptions, have been more supportive of an indirect relationship between military service and crime via extralegal issues, why is there a need for a VTC when specialized courts that address these issues already exist? Why not send veterans and service members with a primary diagnosis of substance-abusing behavior to drug court, mental health issue to mental health court, or co-occurring diagnoses to

co-occurring disorder court? Why not send veterans and service members with particular offenses to the appropriate offense-specific court, such as domestic violence court, gun court, child support court, prostitution court, homelessness court, and sex offender court? Although VTC participants may suffer from various challenges that are already the foci of other specialized courts (e.g., mental health, substance abuse), it is argued that the underlying issue of those challenges for this group is the military trauma (Cartwright, 2011) or training and resultant institutionalization (Brown, 2008). VTCs are in operation because they address the military experience as, arguably, other courts cannot (Assumption 2).

**Assumption 2: Traditional court systems are not equipped to deal with military combat and trauma and engage this offending population.** Some have argued that existing courts are not suited to handle the complex issues related to military service. Perlin (2013) argued that current judicial system is unequipped to deal with combat experience because it is not transferrable to (or evident in) the civilian population (Perlin, 2013). As such, he holds that they should be treated by and with services that are well-versed in understanding these specialized factors (Perlin, 2013). Relatedly, court programs employing military camaraderie and utilizing officials with their own record of military service, veteran-specific services (e.g., PTSD treatment), and a veteran-specific treatment provider (the VA) would better engage criminal justice-involved veterans and service members (Cartwright, 2011; Perlin, 2013; Russell, 2009).

Although additional research is needed to fully assess the validity of these assumptions, available evidence, although limited, lends support to these assertions. Research has found that veterans have perceived not being understood by civilian treatment or service providers; therefore, they may not fully engage in those treatments and services (Cartwright, 2011; Perlin, 2013). However, the primary service provider in the VTC is the VA, which is the veteran-specific and -familiar provider. Using the VA as the principal provider should theoretically increase VTC participant engagement.

Offenders with a history of military service also may not fully participate in a traditional civilian court program due to a lack of military cultural competence among the courts' actors. Deviating from other specialized courts, the VTC participants are, obviously, offenders who all share the military experience, but many members of the VTC Team are also veterans themselves. Although not included in the 10 Key Components of Veterans Treatment Courts (Russell, 2009), most VTC programs have a mentor component or service (Baldwin, 2015; Justice Programs Office, 2016). VTC participants are matched with law-abiding veterans in the community for support and guidance using the bond of shared military experience (Cartwright, 2011; Justice Programs Office, 2016); this peer mentoring is

similar to the peer support they experienced in the military (Justice Programs Office, 2016). These unique program characteristics result in a sense of military camaraderie in some VTCs, which has been anecdotally reported to decrease feelings of isolation and stigmatization and increase feeling supported and understood (Baldwin & Rukus, 2015; Cartwright, 2011; Russell, 2009).

The early positive effects of using shared experience and culture to increase engagement and improve well-being leads us to question why specialized courts using similar strategies have not been adopted for paramilitary professions, such as those in law enforcement and corrections. Similar to military service, work in these criminal justice occupations involves exposure to negative psychological and physical situations (Finn, 1998; Pasillas et al., 2006) and their own unique subcultures (Conti, 2006; Crawley, 2006; Kauffman, 1988). Researchers have found job-related stress in these fields to be associated with substance abuse and physical and mental-health problems (e.g., Hurrell et al., 1984; Knudsen & Wingenfeld, 1995; Lindsay, 2008; Norvell et al., 1998; Walker, 1997), which have also been shown to be related to military participation (Anderson & Mitchell, 1992; Bachman et al., 1999; Bray et al., 1991; Brown, 2008; Tanielian & Jaycox, 2008). Similar to military experience serving as the underlying issue of extralegal issues, officers' public service experience could be the underlying issue of some of their extralegal issues. Despite the similarities, there is not a specialized court that targets individuals of these occupations—or any occupation.

**Assumption 3: Veterans are a class.** The VTC is the only specialized court concept that utilizes employment status as principal criterion for participation. In all other specialty courts, the crimes themselves and/or crime-related extralegal issues are at the root of target population definitions. Generally, drug courts target those with types of drug offenses and/or substance abuse issues; mental health courts target offenders whose offense is related to a mental health issue; prostitution and domestic violence court participants were screened for admission based on their qualifying offenses of the same name; etc. Although qualifiers for VTC participation are often disparate across VTCs,<sup>5</sup> two requirements consistently initiate the eligibility screening process in each VTC: 1) criminal offense 2) U.S. military service (substantiated by a DD-214).<sup>6</sup> Therefore, in the most rudimentary statement regarding their target population, VTCs target offenders who have a history of U.S. military service, which constitutes the first use of employment status (current or prior) as any—let alone principal—eligibility requirement in any specialized court.

One reason for using veteran status is that, as Jones (2014, p. 309–310) stated, “in most cases, it is assumed that veteran status serves as a proxy

for mental health or substance use disorder diagnoses.” Treating combat veterans with specialized services is not different than treating other specialized court defendants with drug or mental services because each group is receiving “appropriate” services (Perlin, 2013). However, Jones also noted that some have questioned whether VTCs and veteran-only tracks provide preferential treatment solely on the basis of the veteran status instead of “acute combat stress or a similarly qualifying disorder” (2014, p. 307). Given the available evidence, both of Jones’ observations are true. While this assumed relationship (Assumption 1) is clear in VTCs requiring combat service or a service-connected issue (e.g., mental health, substance abuse) substantiated by service ratings, military records, or clinical diagnoses, not all VTC programs limit participation to combat-only veterans or those with documented service-connected issues (Baldwin, 2013, 2015). There are VTC programs that accept veterans and service members who do not need clinical treatment and allow them to become participants who are not assigned or mandated treatment, such as participants with misdemeanor traffic offenses and were not mandated to, and thus did not, participate in treatment (e.g., Baldwin, 2013).

The use of a status, veteran status in this case, calls for an examination of compliance with the Fourteenth Amendment’s Equal Protection Clause (Jones, 2014; Renz, 2014). Judge Russell holds that his VTC is compliant based on several factors. First, it is inclusive of all sexes, races, or and genders (McMichael, 2014). Second, VTC participation is not offered to all veterans who appear in the court system as the judges presiding over cases have the discretion of transferring cases to a VTC (Russell & MacKenzie, 2013). Specialized court participation eligibility decisions using set criteria are within judicial and prosecutorial purview (e.g., *State v. Waldenberg* 2013).

Despite these arguments, VTC compliance with equal protection has yet to be established because: (a) direct legal challenges to the VTC have not been made and, thus, ruled on and (b) a full equal protection analysis employing VTC data has not been conducted. In several states, state-level American Civil Liberties Union (ACLU) organizations have drawn attention to VTCs’ preferential treatment of veterans by raising questions related to the use of military status and the consideration of PTSD for veterans but not for nonveterans (Jones, 2014; Lithwick, 2010). However, the ACLU has not addressed the issue through litigation (Jones, 2014; Lithwick, 2010).

Jones (2014) examined VTCs in the context of equal protection but did not utilize VTC data.<sup>7</sup> Based on an analysis of state bills and state and federal case law and sentencing guidelines, Jones (2014) illustrated how veteran status, military service, or combat experience have been considered as mitigating factors in criminal sentencing, arguing that the veteran status

has been formalized as a special class. Holbrook (2014) also noted that judicial leniency has traditionally been exercised toward service members. While Jones initially held that VTCs and their criteria for eligibility are in line with “the general recognition by state legislatures, courts, and sentencing commissions that former military service is an appropriate line of inquiry in the penalty phase of criminal prosecutions” (Jones, 2014, p. 327), recent research challenges this assertion. Survey research has discovered that VTC referrals and/or enrollment may or may not occur at the penalty phase as both pre- and postconviction VTC models are in operation nationally (Baldwin, 2013; Justice Programs Office, 2016).

Ultimately, Jones concluded that these issues of fairness and equal treatment are “unsettled” (2014, p. 331). Despite the use of employment status (military service) as a requirement of VTC eligibility, equal protection has not been examined in regard to VTCs even post-Jones. Why do these issues remain unchallenged and, thus, unanswered to date? Perhaps the desire to do so is trumped by the fourth and final assumption we have identified.

**Assumption 4: U.S. veterans and service members deserve special treatment because of their sacrifice and service.** Society widely accepts the idea that military veterans and service members should be treated differently than civilians (Hawkins, 2010). This is evidenced by the various federally funded and backed benefits, including home loans, educational assistance, and health care, that are available only for veterans and service members (Hawkins, 2010). Additional evidence includes a long-standing “tradition of according leniency to veterans in recognition of their service” reviewed within our discussion of third assumption (*Porter v. McCollum* 2009). VTCs are further evidence as they offer a criminal justice alternative for criminal offenders who have a record of military service.

Why do veterans deserve special treatment by being afforded these benefits? The rationale can only be described as a national morality. “As a matter of equity, those who have served in defense of the United States may be due special consideration in light of their special sacrifices” (Arno, 2015, p. 1039). These individuals have “literally put life on the line for fellow soldiers and complete strangers” (Logsdon & Keogh, 2010, p. 18). This service and sacrifice is not a daily requirement of the U.S. citizenry. While other countries may require military service from its citizens, the United States consistently does not; more often than not, the U.S. military is a volunteer force. To Americans, military service elicits connotations of bravery and sacrifice, which are voluntarily provided in nondraft eras but provided none the less in draft eras. As a result, society deems this group deserving and feels its own sense of duty to attempt to repay these individuals for their service.

While altruistic, affording these benefits to veterans and service members because of sacrifice and service to the United States may be discriminatory in practice. Using the same logic of sacrifice and service, other similarly situated first responders (life dedication to public safety, hazardous careers and training, similar extra-legal issues resultant of service) should also be deserving of but are not provided the same benefits. The unexamined issue with this assumption is that similarly situated occupations are not afforded opportunities to participate in an occupation-based specialty court. Additionally, even as many proponents of VTCs cite this assumption as a reason for having VTCs, VTCs do not offer participation to all who have served the United States. While an admission requirement of all VTCs is a history of U.S. military service, VTC participation is not available to all U.S. veterans and service members. These issues are explored in the next section.

### **Potentially discriminatory practices and policies**

Various entities have examined whether specialized courts (e.g., drug and mental health courts) provide preferential treatment or violate constitutional rights by linking their participants to or providing them with treatment and services while nonparticipants with similar needs do not receive the same benefits. These exercises have generally not found inequity, holding that constitutional rights to treatment and specialized court participation do not exist (e.g., *Jim v. State* 2005). Although a right to treatment has been recognized for those involuntarily confined, the services and treatments (e.g., mental health and substance abuse treatment) that specialty courts link their participants to are not services guaranteed to the noninstitutionalized U.S. population (i.e., participants and their nonparticipant counterparts).

Although VTC teams also strive to connect their participants to resources, VTCs are unique in that these resources are often benefits to which the larger veteran and service member population are also entitled. Through the Department of Veterans Affairs (VA), eligible veterans and service members are entitled to benefits they have earned through their military service. While these entitlements are independent of VTCs, VTC teams often directly connect and/or expedite access to many of these veteran-earned benefits for their participants. This differentiation calls for similar specialized court policies and practices to be examined specifically within the VTC context and for those unique to VTCs to also be explored to ascertain whether they are or potentially are discriminatory.

One VTC-specific element is the use of Veterans Health Administration (VHA) Veterans Justice Outreach officers/specialists (VJOs) and/or

Veterans Benefit Administration (VBA) specialists, such as Veterans Service Officers (VSOs) and Veterans Benefit Officers (VBOs). Employed by the VA and members of most VTC teams, VJOs secure VTC participants' "timely, reliable access to VA care and services" through their expertise in VA eligibility, enrollment, and admission, as well as their relationships with service providers within the VA (McGuire et al., 2013, p. 3). VJOs are most often the ones advocating for the VTC participants' connection (and expedited connection) to VA services. Further, they are able to directly schedule and expedite VA appointments for their VTC participants. VSOs and VBOs may also serve as VTC team members, but they are in only a minority of programs.<sup>8</sup> VJOs, VSOs, and VBOs are able to inform VTC participants of the various benefits they are entitled to as a veteran or service member. Additionally, all three are able to aid participants in petitioning to amend their discharge status, which, if granted, can increase the benefits to which the participant is entitled.

As such, VTC participants receive direct access to these advocates while in the program, resulting in service-connection claim filings, claim-process and benefit knowledge, and both connection and expedited connection to VA services; most of which would not have been filed, known, or received without this court resource (the direct access to and support from VJO, VSO, or VBO for VTC participants). All veterans and service members not participating in a VTC do not have advocates contacting them to directly educate them of and connect them to entitled benefits. Most veterans and service members are not aware that VJOs, VSOs, and VBOs even exist. VTC participants are informed of these resources if offered participation in the VTC program and are contacted by these service-connecting individuals at least after program enrollment (Baldwin & Rukus, 2015).

However, VTC participation is not available to all veterans and service members. Because VTCs are part of the criminal justice system, the initial—and most obvious—eligibility requirement is for veterans and service members to have committed a criminal offense to enter the criminal justice system. Therefore, only veterans and service members who have committed a criminal offense may be eligible to participate, while nonoffending veterans and service members cannot be considered for participation. Furthermore, the offense type or category has been used as an eligibility requirement. Several VTC advocates (e.g., Buffalo VTC and Justice for Vets) hold that VTCs are primarily modeled after the Buffalo VTC, one of the earlier VTCs that was launched in 2008 (Baldwin, 2017; Baldwin & Rukus, 2015; Cavanaugh, 2011; Hawkins, 2010). The Buffalo VTC restricts eligibility to low-level nonviolent misdemeanor or felony veteran-defendants, as well as requires a "substance dependency and/or mental illness" (Buffalo Veterans Treatment Court n.d.; Cavanaugh, 2011). Justice for Vets

states that only veterans with a clinically diagnosed substance abuse and/or mental health disorder are admitted for VTC participation (“The History,” n.d.a).

Perlin (2013) defends this “cherry picking” or “creaming” with two arguments, which can now be challenged due to the availability of the national VTC study results previously discussed and drug court best practices (both published after Perlin wrote his article). First, Perlin cites a lack of evidence supporting the claim that VTCs neglect high-risk offenders allowing them to be processed through traditional court. However, national study results indicate a somewhat prevalent exclusion of high-risk potential participants (Baldwin, 2013, 2015, 2017). Second, he finds that similarly situated diversionary courts accept only low-level or nonviolent offenders. Although this practice may be the norm, the most prevalent practices do not necessarily constitute the most effective practices. Further, established drug court best practices promote the contrary, supporting target populations of high-risk high-need participants (National Association of Drug Court Professionals [NADCP], 2013, 2015).

Additional eligibility restrictions further narrow the potential VTC participant pool. A nationwide survey of VTCs (Baldwin, 2013, 2015, 2017) revealed that the mission statements appearing to include any veterans in contact with the criminal justice system were not reflective of their eligibility policies, which were more stringent. In addition to current criminal charges and sentences, mental health, and addiction, requirements related to military discharge status, VA eligibility, criminal history, combat experience, and service connection are used by VTCs for eligibility (Baldwin, 2013, 2015, 2017). For example, several VTC programs require combat experience in some form as an eligibility requirement, such as documented combat experience, diagnoses connected to combat service, or charges connected to combat service (Baldwin, 2013, 2015). The importance of this exclusion is illustrated by the finding that most incarcerated veterans do not have a history of combat experience. Specifically, less than 25% of incarcerated veterans in U.S. state and federal prisons reported combat experience (Bronson et al., 2015).

These exclusions may be contributing to differences evident between the VTC participant population and the national veteran and incarcerated veteran populations. For example, contemporary-era veterans (OIF/OEF/OND) are over-represented in the VTC participant population (average of 39%) in comparison to national veteran residents (11.7%), and Vietnam-era veterans are under-represented in VTCs (average 26%) in comparison to both the veteran resident population (34%) and prison-incarcerated veterans (48%; Baldwin, 2017; Bronson et al., 2015). These disproportionate representations within the VTC participant population are evidence of the

discriminatory nature and effect of various VTC eligibility requirements. As a further example, in 2015, 47% of prison-incarcerated veterans did not receive an honorable discharge (Bronson et al., 2015), and these veterans would not be eligible in at least one third of VTCs (Baldwin, 2015), which would potentially produce an under-representation of VTC participants who failed to receive honorable discharges in comparison to incarcerated veteran populations.

Overall, examinations of eligibility restrictions in conjunction with population comparisons indicate that VTCs are only addressing a portion of the JIV population, and some of those excluded may benefit the most from participation. For example, VTCs exclude, to varying degrees, more severe criminal charges and offenders (Baldwin, 2013, 2015, 2017), while high risk and high need offenders should be targeted for the highest gain per drug court best practices. Some VTC programs require mental health and/or substance abuse issues, which excludes veterans who may have other issues that could be addressed through mandated connection to other services, such as housing, discharge status amendments, or medical care. Additionally, we see that older-era veterans are under-represented in the VTC participant population, and this subgroup of veterans has received fewer benefits and protective factors than their recent-era counterparts. Modern-era veterans and service members have more access to services and improved care early on in comparison to previous cohorts, such as Vietnam-era veterans. Further, society's perceptions of and support for military personnel have become more positive and increased post-Vietnam. This support, including employment and educational opportunities, help shape postservice experience and behavior. Furthermore, the lack of formalized model or state mandated standards across jurisdictions cause veterans to be admitted and treated asymmetrically within VTCs (Shah, 2014). Essentially, these practices reward those who meet nonstandardized arbitrary criteria by offering them a criminal justice alternative and direct and expedited access to VA services, which punishes veteran offenders and non-offenders by not affording them the same opportunities. The impact of any linkage or expedient access to veteran-earned benefits, including VA services, through the VTC may be greater due to the system's limited ability in certain areas to serve all who are VA eligible.

### **Congruence with punishment philosophies**

Although important debates regarding these philosophies exist, retributive justice and utilitarianism are the two primary punishment philosophies under which the criminal justice system was formed and continues to operate. Essentially, retributive justice holds that offenders should be punished

because they deserve to be and seeks to punish offenders to deter them from committing crime again in the future. Retributive justice is an offender-focused philosophy based on the concept of moral duty—doing the right thing (Kant, 1952) and stresses that punishment for a crime should be equal and/or proportionate to the offense committed (Fichtelberg, 2005; Litzka, 2010). Conversely, the core idea of utilitarianism is that individuals should act in such a manner that will produce the greatest good for the greatest number (Goree et al., 2004). Utilitarianism is seen as a major punishment philosophy because it aims to deter both the offender and reasonable individuals (Litzka, 2010).

In her critique of theoretical justifications for mental health courts, Johnston (2012) identified shortcomings in the court's use of punishment philosophies, which may have implications for VTCs. Specifically, she holds that mental health courts undermine both retributive and utilitarian philosophies because they ignore punishment proportionality by employing a treatment-centric focus, stray from the “just desserts” concept in diminishing the culpability of offenders with mental illness, and incentivize participation by offering treatment services to those who commit a crime when there exists a shortage of community-based mental health resources. Additionally, they stigmatize offenders by implementing a separate court system for mentally ill offenders, and disregard defendants as autonomous actors by selecting, supervising and ordering treatment options.

Similar actions are superficially observable in VTC operations but have yet to be fully explored. For example, looking at VTCs through a utilitarian lens, VTCs can erroneously stigmatize defendants as violent veterans with serious issues that require a separate court program. Simultaneously, VTCs can be viewed as discounting criminal behavior of veterans through offering a diversionary program for military-only populations. Similarly, from a general deterrence perspective, other veterans may observe the incentives that VTC participants receive from the court (e.g., expedited access to the VA, linkage to services, incarceration diversion) as a less severe sentence compared to traditional criminal justice elements. Thus, opponents of VTCs may argue that VTCs may do more harm than good for both the participant and society.

Comparatively from a retributive justice stance, VTCs may insulate their participants from their just desserts punishment because their military status can grant them additional or more lenient avenues of punishment not otherwise offered to similarly situated nonveterans. The diversion of participants from traditional case processing and incarceration constitutes a less severe response to the criminal behavior, which may be a concern for proportional punishment. Not being fully penalized for behavior challenges Kant's argument that individuals, as rational beings who regulate their own

behavior, are ultimately responsible for their actions (Fichtelberg, 2005; Kant, 1952). Lastly, VTCs portray defendants as nonautonomous actors through mandating and overseeing treatment via court order, suggesting that service members cannot be trusted to make appropriate decisions regarding their health and utilization of resources.

A cursory examination of VTCs indicates that they subvert previously discussed punishment philosophies in favor of penal populism and communitarian and participatory models of justice.<sup>9</sup> For example, they incorporate popular moral judgment in a variety of ways. As noted in this work, the VTC concept itself embodies the public's desire to help those who have served the U.S. Armed Forces through their service and sacrifice. This exemplifies recommendations by Robinson (2013) on aligning community values and sentencing practices and by Bibas (2012) on the inclusion of popular moral judgment. The wider dissemination of VTCs in comparison to other specialized courts that targets groups the public deems less desirable or worthy of punishment alternatives, such as sex offender courts and prostitution courts (Baldwin, 2013, 2015; Baldwin and Drapela, *Forthcoming*), serves as further evidence of both Robinson's (2013) alignment and Bibas' (2012) popular moral judgment.

In line with new variant populism, VTCs integrate the community in several ways.<sup>10</sup> First, as previously mentioned, the majority of VTCs have a mentor program (Baldwin, 2013, 2015; Justice Programs Office, 2016) that pairs veterans in the community with VTC participants and can have a mentor coordinator (noncriminal justice agent) serve on the VTC Team. Second, VTCs incorporate arguably the widest range of noncriminal justice treatment and service providers through VTC Team representation and court-mandated service utilization. For example, providers and services can include substance use, mental health, housing, transportation, employment, and public health, and the VA (also a not a criminal justice entity) is a major stakeholder and treatment provider with representation on most VTC Teams. These VTC Teams that are comprised of both criminal justice and noncriminal justice agents are to collectively make decisions about cases and offenders, including sanctions and termination. While certain judgments may be left up to specific criminal justice agents (e.g., such as eligibility by the prosecuting entity or representative), some VTCs utilize full or majority Team consensus, which would embody community-sentencing ideals the most.

### **Unknown effectiveness and fidelity**

Renz (2014) supported the rapid expansion of VTCs nationwide because they provide better treatment for veterans and are cheaper to maintain

than other court programs. But are they more effective and cost-efficient? At the time of this writing (not publication), there is a dearth of evaluation research on the efficacy, effectiveness, and even cost of the VTC concept and its implementation. While several scholarly publications have provided an overview of these courts, few process or outcome evaluations have been conducted, and implementation and cost benefit analyses are not readily available. With the limited research conducted to date, VTCs do not enjoy their own set of evidence-based practices (EBPs).

VTCs' impact on recidivism and effectiveness in serving veteran populations remain unknown as research is emerging but limited. Available evaluation research has found some reduced recidivism rates for VTC participants (Hartley & Baldwin, 2016; Knudsen & Wingensfeld, 2016; Slattery et al., 2013; Smith, 2012). The majority of extant research solely explored the success of the VTC participants but lacked comparison groups (e.g., Holbrook & Anderson, 2011; Johnson et al., 2016; Knudsen & Wingensfeld, 2016; Slattery et al., 2013). To date, only two studies utilized a comparison group. In a large urban misdemeanor-only VTC, Hartley and Baldwin (2016) found that VTC program graduates, followed by current participants, had lower number of arrests than the comparison group (those who were eligible to participate in the VTC but opted out) consistently across 12-, 24- and 36-month follow-up periods ( $N = 300$ ). While Smith (2012), in his evaluation of the Alaska VTC ( $N = 147$ ) between 2004 and 2010, found that court graduates had a lower rate of recidivism compared to the overall recidivism rate for Alaska (i.e., 45% vs. 50.4%, respectively), but terminated participants (31%) and those who opted not to participate in the VTC (41%) had lower recidivism rates. He suggests two possible explanations for these findings: (a) individuals who are in the most need of treatment, stay in treatment while those without issues elect to resolve their cases faster, and (b) those who opted out were arrested for relatively minor offenses.

Despite the promise that these studies show, they both noted that participant opt-out skews findings as they could not employ a true control group through experimental design (Hartley & Baldwin, 2016; Smith, 2012). Ethical issues, including the voluntary nature of these courts, do not permit for random assignment to treatment and control, and individuals can opt out and even drop out for a variety of reasons. Research has discovered such reasons as the time-consuming or rigorous nature of these programs, perceptions of a "better" deal in traditional court, not wanting to plead guilty, and transportation issues (Baldwin, 2013, 2017). Given the differences among studies, VTC's effect on recidivism remains unclear.

Sample sizes, VTC locales, eligibility requirements, and participant characteristics varied across studies. Because of drastic inter-court differences,

what worked in one VTC may not be generalizable to other geographic areas or participant groups. For example, Smith's (2012) VTC consisted of mostly older veterans (e.g., born prior to 1960), whereas the average age of participants ranged between just under 30 years of age to 41.2 years of age in the remaining studies (i.e., Hartley & Baldwin, 2016; Knudsen & Wingenfeld, 2016; Slattery et al., 2013). This is important because older and younger veteran populations vary greatly in their service experiences (e.g., levels of combat exposure, service era) and subsequent needs (Brown, 2008; Walls, 2011). Also, the military backgrounds of participants were minimally mentioned. While Knudsen and Wingenfeld (2016) and Slattery et al. (2013) noted branch affiliation, service era, and combat experience, service details for comparison groups were not available in the data from the Hartley and Baldwin (2016) and Smith (2012) studies. In understanding the effectiveness of VTCs, studies must consider participant and nonparticipant variations in military experience and how they correlate with program outcomes; however, these data are often nonexistent or difficult to obtain.

Program fidelity has not been addressed by early studies although implementation fidelity must be examined for several important reasons. First, outcomes cannot be accurately interpreted without knowledge of the implementation of the intervention in question. How an intervention or aspects of interventions (e.g., adherence to policy or innovation/deviation) are delivered may positively or negatively affect program results. Second, and similarly, theories asserting the importance of different components of an intervention cannot be tested without knowledge of the administration of each. Third, ongoing evaluation of implementation allows for the early identification of application problems and their quick corrections (Durlak & DuPre, 2008).

Durlak and DuPre (2008) found that implementation matters in five meta-analyses of quantitative and qualitative studies between 1976 and 2006 on child and adolescent prevention and health promotion programs.<sup>11</sup> Implementation determined outcomes in that the level of fidelity affects the outcomes of the program. Achieving "good" implementation statistically increases program success and results in stronger positive results for participants (Durlak & Dupre, 2008). Although VTC program outcomes are extremely important, implementation must be ascertained before outcomes can be fully assessed (Baldwin, 2013).

VTCs do not have program-specific evidence-based practices (EBPs) and deviate from drug court EBPs. Recently, Baldwin and Drapela (Forthcoming) asserted that VTCs share some characteristics with drug courts but are markedly different in other areas, constituting a unique specialized court that necessitates EBPs specific to their model.<sup>12</sup> They also discovered that VTCs have both relied on and deviated from drug court

guidelines and EBPs. For example, drug courts are to target high-risk and high-need offenders (NADCP, 2013). However, in events where a drug court must expand their target populations, it should create:

alternative tracks with services that are modified to meet the risk and need levels of its participants. If a Drug Court develops alternative tracks, it does not mix participants with different risk or need levels in the same counseling groups, residential treatment milieu, or housing unit. (NADCP, 2013, p. 5)

VTCs have been found to not overwhelmingly target high-risk high-need offenders and often engage in “creaming,” restricting eligibility to low-risk offenders (Baldwin, 2015, 2017; Baldwin & Drapela, *Forthcoming*). For VTCs that accept high-risk and high-need participants, research has not ascertained whether the majority of those programs utilize separate tracks and treatment for high-risk/need and low-risk/need participants. With VTC evaluation research only in its infancy (previously reviewed), we agree with Baldwin and Drapela’s (*forthcoming*) conclusion that much collaborative research and work lie ahead to create VTC-specific EBPs, which should become the focus of funding and resource allocation.

## Epilogue

As the wave of support for and number of VTCs continue to grow nationally, this work identifies several aspects and issues that should be investigated by future studies and considered by policymakers and practitioners in their development and implementation of VTC policies and programs. Because this is the first work for identify and begin to examine assumptions at the core of the VTC concept, these assumptions presented herein must be further examined philosophically, theoretically, and empirically to assess their validity and appropriateness for future adoption of these programs. Further, we call on scholars and practitioners to discern whether additional assumptions are inherent in VTC concept and assess their validity and effects, as well as potential effects, through future critical examinations. Authors should attempt to broadly disseminate their findings and encourage interdisciplinary discourse to further advance this line of inquiry.

Additionally, this work also raised the issue of discrimination across and within various groups (i.e., veterans and service members, criminal offenders with a history of military service, and criminal offenders with a history of paramilitary occupations). Although the VTCs’ intention of providing aid and resources may not be discriminatory, some of the actual practices are in their preferential treatment (e.g., service access, expedited access) of participants over and exclusion of many eligible veterans who are entitled to those same services. Our purpose for drawing attention to

this issue is not to propose the abolishment of VTCs and VJOs, but to reveal where inequality could exist so that it can be addressed in other ways. For example, increasing the ability and capacity of the VA to provide services to their full target population, as well as increasing the number of VJOs, VSOs, and VBOs to target veterans and service members who are not VTC participants (e.g., those not criminally involved, ineligible for VTC, do not have a VTC in their jurisdiction). Given the amount of resources and time devoted to military training and institutionalization, evidence-based reintegration training should be developed to prepare for all personnel for service exit and to address the identified underlying causes and correlates of the offending behavior before it reaches the point of contact with the criminal justice system. These or additional trainings could potentially continue for a time period posttermination for newly minted veterans. Additionally, federal, state, and local legislation or VA policies should be assessed to determine whether they promote or inadvertently allow preferential treatment. Ultimately, future efforts should focus on further exploring the inequitable nature of VTCs based on their eligibility policies and implementation thereof, as well as their reliance on untested assumptions of constitutionality prior to adoption. We hope that these issues are further critically analyzed and debated across disciplines with the discourse and findings being widely disseminated.

An overarching theme of Bibas (2012), Dzur (2012), and Robinson (2013) is that “current criminal justice practices,” which were discussed as primarily grounded in various punishment philosophies, should be reformulated to integrate the views of the public and trust the public to make complex moral determinations (Roberts & de Keijser, 2014). In the initial exploration of VTC embodiment of punishment philosophies and new variant populism, we found their subversion of the former but some adherence to the latter. They are closer to this ideal in their inclusion of noncriminal justice agents in the decision-making process. Programs with a mentor coordinator on the Team who has the power to contribute to decisions may more fully exemplify democratized sentencing and punishment as this role may be considered to be more pure public representative, meaning one outside of both the criminal justice system and treatment arena. Trusting the public to make complex moral decisions necessitates them to be informed. The general public has become increasingly informed of various relationships between crime, extra-legal issues, and military service, and some VTC Teams participate in various trainings once or multiple times. However, these trainings have not been empirically evaluated, and other VTC teams do not participate in any training. Specifically, we stress the need for implementation, outcome, and impact evaluations of VTC training programs (on- and off-site) and mentor courts, which serve as a

model in which other VTC programs either currently in operation or being planned are encouraged to observe and emulate. Although these initiatives have yet to be systematically researched, these training options are advertised to jurisdictions nationwide with some opportunities funded by federal and state grants. Further, some of this grant funding requires training attendance by the VTC Team if awarded.

Additionally, this work called attention to the lack of empirical evidence regarding VTCs' effectiveness in addressing the needs of veterans and reducing various types of recidivism while accounting for program fidelity. Even as researchers are beginning to evaluate VTCs, these scientific endeavors are challenging due to the inconsistencies across programs (e.g., structure, operation, and target populations) because the judicial system does not require a formal VTC model—and currently should not as VTC-specific EBPs have not been established to date. For example, some VTCs only accept nonviolent misdemeanor offenses, while others permit various types of felonies. Some programs only admit participants whom are VA-eligible, have combat experience, or evidence a service-connected mental health issue. Some VTCs include a mentor program, while others do not. Treatment types and providers vary by site. While these differences have emerged in national (e.g., Baldwin 2013, 2015; Flatley et al., 2017; Justice Programs Office, 2016) and statewide studies (e.g., Durlak & DuPre, 2015), findings from one evaluation are not necessarily generalizable to other programs or locations. To address this issue, it is recommended that every VTC publication include a foreword that details the VTC(s) studied and the environment(s) in which it exists and notes the issue of generalizability. Further, this information should be incorporated in the discussion of the study's results and generalizability addressed in the limitations section. Multi-site evaluations will also begin to address the issue of inter-VTC variation. Examining and accounting for program variances are necessary for practitioners and researchers gain insight into what works for whom and where.

Relatedly, there is a need to expand the empirical studies on criminal justice-involved veterans overall (Lucas, 2016). Researchers and practitioners need to understand and recognize the complexity of the military culture. Early studies have suggested that military service is not an experience that can be simply represented by a dichotomous or binary measure (Brooke & Gau, 2018; Douds, Ahlin, Howard, & Stigerwalt, 2013). Service era, branch type, combat exposure, military occupation, and length of service are just some characteristics unique among service members. By continuing to ignore these differences, researchers and practitioners will remain unable to develop evidence-based VTC programs appropriately tailored to participants. As such, it is recommended that differences in service

participation are accounted for when conducting research and evaluations, establishing policies, and developing program practices concerning this population.

In summary, we implore for future philosophical, theoretical, and empirical analyses to critically examine the VTC concept itself, VTC policies and the implementation thereof, and their effects on individuals, groups, and our larger society. Due to the complex nature of these courts and their impact, these discussions and examinations must be interdisciplinary, specifically including both researchers and practitioners from a variety of fields. The dissemination plan for their findings and recommendations should also be far-reaching, targeting a broad audience for maximum impact. Disseminated works should also encourage interdisciplinary discourse to further develop knowledge in the VTC arena. Concerns for the equitable, efficacious, and efficient use of government resources for and treatment of groups by VTCs should be at the forefront of interdisciplinary discussion.

## Notes

1. For early descriptions, see Baldwin (2013), Cartwright (2011), Cavanaugh (2011), Glassford (2013), Hawkins (2010), Holbrook and Anderson (2011), Russell (2009), and Totman (2013).
2. For a macrolevel discussion of the impetus for the VTC concept's development, see Baldwin (2013) and Baldwin and Drapela (Forthcoming).
3. Other nonprogram efforts are discussed later.
4. For a more in-depth discussion, see Baldwin (2017) and Bouffard (2010).
5. See American University 2016; Baldwin 2013, 2015; McGuire et al. 2013.
6. VTCs with military status and VA-eligibility requirements (discussed later) then proceed by looking at current military or discharge status using the DD-214; however, a history of military service remains the initial requirement in those lines of inquiry (Baldwin, 2013; Jones, 2014).
7. In another peer-reviewed work, Renz (2014) summarizes Jones' work (2014) and then examines the State of Virginia Constitution in that it prohibits the catering "to a special class of citizens" (p. 703), which conforms to the U.S. Constitution. She argues that an act of the General Assembly would be required to create a VTC in Virginia because veterans are being considered as a class and are receiving special treatment as VTCs utilize a separate docket to address veterans' cases. However, the article does not proceed to evaluate this legal issue but turns to an explanation of the passing of House Bill 1691 and the resultant creation of a federal-level VTC in Roanoke (Renz, 2014). Although not peer-reviewed, another work appears to address legal issues within VTCs: "Constitutional and legal issues in veteran treatment courts (drug court case review)" (Russell & MacKenzie, 2013). This resource is largely comprised (more than 250 pages of the 297 pages) of reprinted slides focusing on legal and constitutional issues in drug courts and problem solving courts in general (previously referenced) and *The drug court judicial bench book* (Marlowe and Meyer, 2011). The section "Veterans treatment court legislation" (Russell & Mackenzie, 2013, pp. 38–63)

lists definitions and the 10 Key Components of VTCs, as well as recommendations for operation without delineating evidentiary support. Several legal issues are included but only in the recommendations for operation and are related to confidentiality, compliance with statutory eligibility requirements, waivers, dismissals, plea withdrawal, and imposition of fees.

8. McGuire et al. (2013) reported that 12% of their sample had a VBA staff member on their VTC teams.
9. Roberts and de Keijser (2014) describe a “new variant populism,” a type of penal populism where the public is increasingly involved and in control of making criminal justice policy and barriers between the community and criminal justice system are nonexistent. “New populists seek a more engaged and informed citizenry which, it is claimed, will result in a more moderate and humane criminal justice system” (p. 476). However, sentencing will be more punitive if the community has more punitive leanings. In line with new form populism, Bibas (2012), Dzur (2012), and Robinson (2013) call for criminal justice policy and practice to incorporate the views of the community and provide recommendations for how to achieve this (Roberts & de Keijser, 2014). Specifically, Bibas (2012) chronicled the divide between criminal justice stakeholders and the system itself, which was created by obviating “popular moral judgment” (p. 109), and recommended for public opinion to guide individual case outcomes. Dzur (2012) held that barriers between the public and system preclude the public’s influence on the criminal justice system and their understanding of its negative consequences. For resolution, he suggested expanding the jury’s role to include sentencing. Finally, Robinson (2013) espoused that sentencing practices should align with community values, which would then increase legitimacy of the law.
10. Literature has examined VTCs in the context of restorative justice but found the concept to not fully embody the theory (Baldwin & Rukus, 2015; Huskey, 2017).
11. Programs were focused on drug use, physical health, physical development, academic performance, social issues, and mental health issues.
12. See Baldwin and Drapela (Forthcoming) for a full comparison of drug court and VTC development, characteristics, and operation, as well as reliance on and implementation of guidelines and EBPs.

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