Evaluating Veterans Treatment Courts Implementation and Areas for Improvement

Approved by Dr. Chery Banachowski-Fuller  April 11, 2018
Evaluating Veteran Treatment Courts Implementation and Areas for Improvement

A Seminar Paper

Presented to the Graduate Faculty

University of Wisconsin-Platteville

In Partial Fulfillment of the Requirement for the Degree

Master of Science in Criminal Justice

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May 2018

Under the Supervision of Dr. Cheryl Banachowski-Fuller
Acknowledgments

Reaching this point in my academic career with the completion of my Master’s Degree could not have been achieved without the guidance, wisdom, and encouragement of many. It has been a humbling yet worthwhile experience.

With this opportunity I would like to thank some of the many people who have helped me along my journey. First, I wish to give credit and thanks to my late mother Mary Ann Carter. Her wisdom, courage and unwillingness to ever give up on the good in this world was unparalleled. She was a true visionary who left me a great example to aspire to, helped me develop good work ethic and a never give up attitude.

My wife and children also deserve a great deal of credit. My wife and I work full-time, have young children and have been working to complete our graduate degrees at the same time among fulfilling numerous other responsibilities. This could not have been achieved without their patience and understanding.

I wish to thank Retired Brown County Sheriff Tom Hinz who currently serves as a Mentor Coordinator for the NEWVTC. His willingness to quickly aid me in acquiring information relevant to NEWVTC and his willingness to provide his personal insights were invaluable.

Finally, I wish to thank my advisor Dr. Cheryl Banachowski-Fuller for providing guidance within the completion of this paper and being accessible when needed during the completion of the Master’s Degree program.
Abstract

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Statement of the Problem

Veterans Treatment Courts (VTC) focus on treatment of underlying conditions such as mental health conditions, drug and alcohol abuse in lieu of criminal sanctions (Ahlin & Douds, 2015). According to the American University Justice Programs Office (AU-JPO) the first Veterans Treatment Court (VTC) was established in Buffalo, New York in 2008 and 304 VTC’s have been established nationwide as of July 2016 (AU-JPO 2016). Veterans particularly those who were involved in combat operations have trouble re-adjusting to civilian life when they return from deployments (Canada & Albright, 2014). These challenges are compounded when veterans struggle to find or maintain employment, suffer from substance abuse issues and experience untreated mental health concerns which may be combat related.

As more veterans’ face deployment, the chance of veterans encountering the criminal justice system increases because of unmet mental health needs (Canada & Albright, 2014). As of 2013 approximately 2,744,379 veterans served in Iraq and Afghanistan and 11 to 20 % were projected to have Post Traumatic Stress Disorder (PTSD) with an estimation of over 300,000 Veterans of Operation Iraqi Freedom (OIF) and Operating Enduring Freedom (OEF) being impacted by PTSD (AU-JPO, 2016). Many veterans of other conflicts are unaccounted for in these numbers. Estimates place approximately 700,000 veterans in the corrections system (Ahlin & Douds, 2015). Many veterans who face sanctions from the criminal justice system experience PTSD due to their combat related experiences (White, Mulvey, Fox & Choat, 2012).
AU-JPO conducted a survey of VTC’s in 2015 with 104 VTC’s responding and indicating they could accommodate a total of 5,298 participants while California, Massachusetts and Minnesota have enacted laws outlining treatment of adjudicated veterans and requiring screening to identify veterans who have been arrested and charges have been filed against (AU-JPO, 2016). VTC programs address many of these underlying concerns associated with veterans becoming entangled in the criminal justice system but with only 304 VTC’s in existence are not readily available to all veterans who may be in need VTC programs.

**Purpose of the Study**

The purpose and significance of the study is to identify areas where improvement in VTC programs could be achieved. VTC’s are in their infancy. The research explores if the need for VTC programs is being effectively met or if more VTC’s are needed to effectively fulfill the needs of eligible veterans who are facing criminal charges with applicable criteria to receive the services provided through VTC’s. It is projected with the limited number of VTC’s and resources available needs of veterans facing sanctions through the criminal justice system are not sufficiently being met. Due to lack of comprehensive arrestee data prevalence of veterans in the arrestee population is unclear (AU-JPO, 2016). Additionally, veterans arrested are not always identified as veterans and it remains unknown they may be eligible for VTC services. Almost half of surveyed VTC programs indicated they did not have a systematic process to identify eligible veterans at the time of arrest.

**Methods of Approach**

The methodology used is a qualitative review of secondary research and implementation of statistical data to support the argument that an insufficient number of VTC’s exist to support
the need for veterans facing sanctions from the criminal justice system where treatment of mental health conditions, drug abuse or alcohol abuse may better serve veterans and the community than incarceration. Peer reviewed sources to include academic journals and scholarly papers were used as sources of information and research. Further information has been acquired from VTC's in operation.

**Anticipated Outcomes**

It is anticipated this study will reveal many veterans need alternative court and treatment options which address the underlying issues that contributed to them becoming subject to sanctions of the criminal justice and court systems. Issues which are frequently addressed by VTC’s are drug and alcohol abuse, mental health issues and maintaining stable employment all of which may be affected by a veteran’s service in the military. It is also anticipated research will show an insufficient number of Veteran’s Courts exist to effectively address the needs of veterans’ who are subject to sanctions.
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Evaluating Veteran Treatment Courts Implementation and Areas for Improvement

I. INTRODUCTION

Veterans particularly those who were involved in combat operations have trouble re-adjusting to civilian life when they return from deployments (Canada & Albright, 2014). As of 2013 approximately 2,744,379 veterans served in Iraq and Afghanistan with 300,000 Veterans of OIE and OEF being impacted by PTSD and many more to be considered from other conflicts (AU-JPO, 2016). Approximately 700,000 veterans are in the corrections system (Ahlin & Douds, 2015). Many of these veterans’ struggle to reintegrate into society and exhibit anti-social behaviors. Those behaviors coupled with untreated mental health issues may lead them toward substance abuse and the criminal justice system. On a post deployment reassessment 49% of National Guard and 43% of Marine Reserves reported psychological health concerns (Russell, 2009). These men and women who served their nation may not know what options or resources are available to them, may feel ashamed to ask for help, or may not have access to VTC’s since only 304 VTC’s were in place nationwide as of July 2016 (AU-JPO, 2016). The number of courts continue to grow but the numbers remain small in comparison to the geographical area they cover and the number of veterans who are served comparing to the number who need their services.

Many veterans who face sanctions from the criminal justice system experience post-traumatic stress disorder (PTSD) due to their combat related experiences (White, Mulvey, Fox & Choat, 2012). As veterans experience these conditions and they go untreated the likelihood they will be arrested and face criminal sanctions increases exponentially. The 2000 Bureau of Justice Statistics report indicated 81% of incarcerated veterans indicated they experienced drug use problems, 35% were identified as experiencing alcohol dependency, 23% were homeless within
the past year and 25% were identified as mentally ill (Russell, 2009). Those veterans who become immersed in the criminal justice system in part because of their post combat struggles may need alternate options to treat the underlying conditions which may attribute to their crimes.

VTC’s connect veterans to these treatment options while protecting the public against crimes committed by veterans but the availability to partake in these options through VTC’s are in short supply. The estimated population of Dane County, Wisconsin is 531,273 while the estimated veteran population from 2012 to 2016 was 24,654 (U. S. Census Bureau, 2017). In October 2014 the Dane County VTC conducted its first session (Wisconsin Court System, n.d.). According to Veterans Justice Outreach Specialist (VJOs) Edward Zapala and Dane County Branch 11 Clerk Rebecca Krull the Dane County VTC accepted 32 applicants into the program since 2014 while 168 applied (E. Zapala, & R. Krull, Personal Communication, February 8, 2018). Dane County VTC has 15 slots for the program, two vacancies are available for veterans to enroll into the program while 18 veterans are on the waiting list and the program is projected to take 18 months to successfully complete (R. Krull, Personal Communication, February 7, 2018). If the program is successfully completed participants have their charges reduced or dismissed.

Veterans Treatment Courts (VTC) focus on treatment of underlying conditions such as mental health conditions, drug abuse, and alcohol abuse in lieu of criminal sanctions (Ahlin & Douds, 2015). In 2004 a drug court in Anchorage, Alaska began offering services to veteran participants (Yerramsetti, Simons, Coonan & Stolar, 2017, p. 514). A prevalent number of veterans in Buffalo, New York were entering the criminal justice system and were on the docket for Judge Robert Russell’s Drug Treatment and Mental Health Treatment Courts, ultimately leading to the development of the first specialized treatment court for veterans (Russell, 2009).
In 2008 the first VTC was established in Buffalo, N. Y. by Judge Robert Russell (Crawford, 2016). This was the first court to have a veteran only docket. At its inception in 2008 Judge Russell’s court was the only active VTC in the United States (Russell, 2009).

Veterans have unique experiences and stressors from their military experiences that differ from the general population such as the ongoing effects of war time trauma and require specialized care tailored to their needs (Russell, 2009). These concerns and conditions have become a part of the mission of VTC’s. Through a collaborative effort VTC’s integrate drug, alcohol and mental health treatment into case processing and focus on treating the underlying conditions while promoting sobriety, recovery and stability (Russell, 2009). The overall mission of a VTC is to habilitate veterans through diversion from traditional criminal justice systems while providing them the tools they need to lead a productive and law-abiding life (Russell, 2009).

VTCs function as a team which consists of a judge, prosecutor, defense counsel, a probation officer, court coordinator, community treatment providers and the U. S. Department of Veterans Affairs (Crawford, 2016). Through this team effort a VTC connects veterans to needed services, mentorship and helps them travel the road to recovery. VTC’s link veterans with service providers who share or understand the unique experiences of military service and the distinctive needs which may arise from that service (Russell, 2009). Most of these services are provided at no extra cost to the community because veterans benefits can be used to access the needed resources through VA health care and other VA services.

Judge Russell’s court has served as a model to establish other VTC’s nationwide. Each VTC varies somewhat within its structure yet Russell’s court remains the blueprint for other
courts to follow. VTC’s have increased to 334 nationwide and the number is projected to continue to grow (Yerramsetti et al., 2017, p. 514).

Numerous veterans who enter the criminal justice system suffer from untreated mental health conditions and drug or alcohol abuse. It is important to treat these conditions which contribute to veterans committing crimes and face sanctions through the criminal justice system. If veteran offenders are treated for underlying mental health conditions and substance abuse while addressing their crimes they have a better shot at life success (DeAngelis, 2016). VTC’s focus on treatment of underlying conditions such as mental health conditions, drug abuse and alcohol abuse in lieu of criminal sanctions but many affected veterans are not able to acquire these services through VTC due to resource shortages (Ahlin & Douds, 2015). If these conditions remain untreated veterans who are experiencing them will continue to experience them, may struggle to meet basic needs for themselves and their families and may become a burden or a danger to the community. It is important to consider and explore options as well as accessibility to the options which may be available to address and treat these concerns. Additionally, information to identify veteran status is not readily requested or identified by criminal justice agencies and veterans may be reluctant to share this information when requested because they fear losing access to veteran’s benefits (Baldwin, 2016).

The purpose of the study is to identify areas where improvement in VTC programs could be achieved, identify if the need for VTC’s is being met and if more VTC’s need to be established to meet potential needs. The research will show veterans suffer from war time trauma and experience conditions such as PTSD and TBI which many times goes untreated. Additionally, expansion of VTC’s to every jurisdiction is projected to better serve veterans and the community by providing treatment for underlying conditions which are contributing factors
to criminal justice system entry of veterans. Treating these conditions in lieu of incarceration will provide measures which better serve veterans and the community while achieving significant cost savings. Theoretical framework will be explored to gain understanding as to why veterans face the criminal justice system at disproportional rates, what tools are available to reverse this trend, what is working and investigate where improvements can be made. Identifying causal factors and viable solutions is vital to aiding veterans, ensuring effectiveness and efficiency of VTC’s while protecting the public against those crimes which may be committed by veterans.

Medical experts agree warzones are impactful enough that no one returns from a warzone unchanged (Veterans Intervention Project, 2009). High numbers of veterans returning from combat zones suffer from symptoms of PTSD and TBI which are in conjunction with their service. Many of these veterans’ struggle to reintegrate into society and exhibit anti-social behaviors. When these conditions go untreated veterans may self-medicate with the use of drugs or excessive consumption of alcohol leading to criminal justice system entry. It is important for these veterans who served their county to have options for treatment of the underlying conditions which may factor into their entry into the criminal justice system and for them to have a path to recovery, so they can return to being productive members of their communities. VTC’s offer these options in conjunction with veteran benefits used through coordination with Veteran’s Administration. The number of VTC’s and vacancies in those VTC’s are in shortly supply and therefore a select few are accepted into the program.

This paper will target behaviors which lead to veteran criminal justice system entry, effects of PTSD and TBI on veterans, veteran use of drugs and alcohol to self-medicate, laws guiding the use of VTC’s and recidivism rates of those veterans who successfully complete a
VTC program. This paper will also explore the availability of VTC programs and screening processes to identify arrested or charged veterans. Therapeutic Jurisprudence and Restorative Justice will serve as theoretic framework for positive change which may contribute to improved screening to identify veterans and may improve availability VTC’s to a higher number of veterans. Drug treatment courts will be compared in the hope of deducing components of an ideal VTC. Finally, recommendations will be made to improve accessibility, awareness, efficiency and effectiveness of VTC programs.

II. Literature Review

The literature is addressed in six sections. The first addresses targeting causes and factors of veteran criminal behavior. The second discusses PTSD, TBI and their effects on veterans. The third section addresses Veterans use of Alcohol and Drugs to Self-Medicate. The fourth draws attention to laws and legislation guiding the use of, implementation of, study of and potential expansion of VTC’s. The fifth discusses reported recidivism rates of veterans who complete VTC programs. Finally, the last section addresses problems and potential areas of improvement for existing VTC programs.

Targeting Causes of Veteran Criminal Behavior

A crucial factor in identifying causes of criminal behavior for veterans is identifying those veterans who are involved in the justice system. Many jurisdictions do not screen for veteran status of those who are booked into their jails. Increased emphasis is being placed on identifying veterans who are arrested and booked into jails. The Veterans Intervention Project (VIP) in Travis County, Texas is one jurisdiction which is placing emphasis on identifying these veterans with the hopes of gaining awareness of veterans involved in the criminal justice system.
and providing appropriate services to these veterans where feasible and appropriate (Veterans Intervention Project, 2009).

Causes of criminal behavior among veterans will vary as some commit crimes for reasons which are not linked to their military service while the commission of crimes by other veterans can be directly linked to aspects and experiences of their military service. A wide range of studies correlate combat trauma and criminal behavior with some increased risk factors for criminal justice involvement identified as unemployment, homelessness, misuse of alcohol and use of illegal drugs (Slattery, Dugger, Lamb & Williams, 2013). Challenges in transitioning from the military lifestyle which is at times referred to as the Military Total Institution (MTI) frequently leads to homelessness, domestic violence and criminal justice entanglement (Brown, Stanulis, Weitzel & Rodgers, 2015). In many cases TBI and PTSD can be directly linked to a veteran’s military service while TBI and PTSD have been linked to increased veteran entanglement in the criminal justice system (Timko, Midboe, Maisel, Blodgett, Asch, Rosenthal & Blonigen, 2014). The longer a war lasts the greater the impact will be. The Global War on Terrorism (GWOT) began in 2001 and after 13 years and impacting millions of veterans’ operations were significantly scaled back with troop withdrawal from Iraq and significant troop reductions in Afghanistan (Barton, 2014). As these veterans return from warzones to the civilian world they return with visible wounds and wounds which are much more difficult to see yet the invisible wounds linger within the hearts and minds of these brave men and women who sacrificed of themselves for the greater good of others.

PTSD and TBI Effects on Veterans

Between 2001 and 2013 more than 2.2 million American veterans returned from service in Iraq and Afghanistan. Most veterans are strengthened by their military service, but combat
experiences have left a significant number of veterans with PTSD or TBI (Justice for Vets, n.d.). Research suggests these veterans are impacted with significant mental health challenges such as PTSD, TBI, Depression and increased risk of suicide (Slattery et al., 2013). An estimated 320,000 veterans of the Iraq and Afghanistan Wars suffer from TBI (Justice for Vets, n.d.). PTSD and TBI have been an issue of concern for veterans returning from combat zones for a long time. Symptoms were not readily recognized, properly diagnosed and were referred to by different terminology than they are today such as shell shock now known as TBI and battle fatigue now known as PTSD (Barton, 2014). Generally, these conditions were approached with more societal compassion and understanding than current times while veterans were less likely to be arrested when they suffered from these conditions and acted on them (Barton, 2014).

PTSD is defined as a disorder which has resulted from extreme trauma or trauma stressors with symptoms such as avoidance, re-experiencing events, numbing effects and increased arousal (Slattery et al., 2013). A traumatic brain injury (TBI) is defined as being caused by a blow or a jolt to the head or a penetrating head injury with effects and disrupts normal functions of the brain (Slattery et al., 2013). TBI can lead to reduced frustration tolerance, reduced problem-solving skills, impulsiveness, poor decision making, depression and engaging in illegal behavior (Timko et al., 2014).

PTSD is frequent among veterans of Operation Iraqi Freedom (OIF) and Operating Enduring Freedom (OEF) which occurred in Afghanistan. Thirty percent of combat veterans experience PTSD with 25 percent experiencing depression (Timko et al., 2014). Hundreds of thousands of GWOT veterans will suffer from PTSD and/or TBI while many will receive inadequate treatment or no treatment (Brown, 2011). A side-effect of PTSD is extreme reactions when no threat is present (Timko et al., 2014). Veterans, especially those who serve in combat
are conditioned in fight or flight and are conditioned to select the fight option under dangerous or stressful circumstances and may opt to fight even when the fight option is not warranted (Barton, 2014). These overreactions can lead to arrest for a variety of offenses to include domestic violence related offenses and numerous other offenses. Many veterans with PTSD demonstrate elevated anxiety, depression, self-isolation and PTSD is associated with deadly outcomes with a rate of 22 veterans per day killing themselves (Brown et al., 2015). Veterans who wish to escape the experiences of PTSD, TBI and military services related nightmares may consume high levels of alcohol or use illicit drugs.

**Veterans use of Alcohol and Drugs to Self-Medicate**

War experiences, PTSD and alcohol dependency overwhelmingly influence veteran reintegration to civilian life (Brown, 2011). Between 60 and 80 percent of combat veterans who experience PTSD abuse alcohol and drugs while 75 percent of Vietnam Veterans with PTSD consume high levels of alcohol (Brown, 2011). Approximately one out of every three veterans who seek treatment of Substance Use Disorder (SUD) have PTSD (U.S. Department of Veteran Affairs (n.d.). Sixty eight percent of veterans surveyed post-deployment said they used alcohol regularly to self-medicate their depression or anxiety (Brown, 2011). Use of alcohol and cannabis to self-medicate at the point of entry into Colorado Springs’s VTC appeared to be prevalent with more than half of the participants experiencing significant substance abuse disorders involving alcohol and illegal drugs as part of their arrests (Slattery et al., 2013). To address these concerns with treatment and other resources policies, procedures and laws must be available as a guiding light and those laws should provide a foundation to build on in pursuit of effectively addressing these concerns while ensuring veterans retain or regain their dignity.
**Laws Guiding use of VTC’s**

The state of Oregon enacted Senate Bill 999 which allows the option to defer veteran defendants to diversion programs such as VTC’s, allowing for treatment in lieu of strict prosecution and punishment (Brown, et al., 2015). Awareness of the option to defer is important for it to effectively serve its purpose. In many cases defense attorneys don’t know about the bill and Judges do not know the defendant is a Veteran until it is time for sentencing (Brown et al., 2015). The 2009 Supreme Court Decision Porter V. McCollum mandates defense attorneys present facts which support a defense theory that is grounded on the defendant’s military service, leaving no option to ignore these facts as part of strategy or for other reasons (Barton, 2014). In addition to opening judicial and prosecutorial options to afford treatment in lieu of strict punishment the movement to ensure these options are more readily available is gaining momentum.

California Senate Bill 339 outlines conditions and funding of VTC’s in California. The bill also requires a survey and assessment of VTC’s, challenges in implementing those courts and outcomes of the programs with a target date of completion no later than June 2020 while requiring recommendations for how counties without VTC’s can implement them (California Legislative Information, 2017). Congressional Bill H.R. 4345, the Veteran Treatment Court Coordination Act of 2017 identifies that VTC’s are successful in helping veterans charged with non-violent crimes receive help and provides guidelines of how the Department of Justice shall establish a Veteran Treatment Court Program which provides grants and technical assistance to the state’s circuit courts (Crist, 2017). Recidivism rates for those who are afforded the option to participate in and complete VTC programs is important to consider for future development and improvement of these programs while providing a platform for the development of future legislation and program funding.
Recidivism Rates of Veterans Who Complete VTC Programs

Information on recidivism rates is not readily available for VTC’s yet the information which is available is promising. From 2004 to 2006 one out of 34 graduates of the Anchorage Alaska court which provided services to veterans was rearrested (Frederick, 2014). Data out of a VTC in Colorado Springs, Colorado showed prerelease recidivism rates of 11% while post release recidivism rates after completion of the VTC program was zero (Slattery et al., 2013). In the summer of 2009 Buffalo’s VTC reported a 0% recidivism rate for graduates of its program (Frederick, 2014). A 2011 study of 11 of the 14 VTC’s in place at that time revealed a recidivism rate of under 2% for program graduates while the recidivism rate for state prisoners including veterans who did not participate in VTC’s was 70% (Frederick, 2014). Though successes have been experienced there is much to consider as it relates to the structure of VTC’s and areas for improvement within these courts.

Problems with Current Veteran Treatment Court (VTC) Programs

VTC’s are categorized as problem solving courts. Problem solving courts are structured to address underlying problems of chronic offenders to reduce recidivism. VTC’s were created because traditional methods of the criminal justice system were failing because they did not address the underlying problems associated with veterans committing crimes (Frederick, 2014). VTC’s are usually modeled off other specialty courts such as drug courts and mental health treatment courts while most problem-solving courts follow the structure of drug courts to address criminal behavior risk factors (Slattery et al., 2013). Problem-solving courts focus on treating the underlying problem and focus on outcomes rather than output (Frederick, 2014). This is achieved through the therapeutic element problem-solving courts apply through therapeutic
jurisprudence which incorporates psychological and behavioral insights into the justice system (Frederick, 2014).

The first drug court was established in 1989 in Miami, Florida to address the underlying conditions and causal factors which traditional courts are not structured to address (Frederick, 2014). The model of problem-solving courts focuses on treating underlying problems where traditional judicial models recognize the symptoms but don’t address the underlying problem and its causation (Frederick, 2014). Drug courts function under the following elements, focus on outcomes, system change, judicial involvement, collaboration, non-traditional roles, screening, assessment, and early identification of potential candidates (Frederick, 2014). Though each VTC differs VTC’s function under the same elements of drug courts while adding a veteran mentor as one of the court’s components. Each problem-solving court experiences a great deal of success in meeting their objectives to treat offenders while reducing recidivism. What separates VTC’s from drug courts and other specialty courts while contributing to their success rates is the use of a veteran mentor (Frederick, 2014).

Though VTC’s have experienced a great deal of success criticisms exist and there is room for improvement. Some of the criticisms are lack of fairness in developing a veteran only court, due process concerns because some courts require a defendant to plead guilty prior to being eligible, lack of availability to veterans and inconsistent eligibility standards for VTC’s (Frederick, 2014). The first argument does not hold a great deal of weight because other problems-solving courts such as drug courts, mental health courts and other types are available to non-veterans. For most VTC’s the guilty plea opens access to treatment yet can prevent veterans from gaining employment because the conviction initially is placed on a defendant’s criminal record (Frederick, 2014). The national average for a VTC’s participants is 24 veterans per court
while there is a higher demand and the VTC programs costs less than 10% of what traditional options such as incarceration cost (Frederick, 2014).

One area of concern which was identified through research was veteran dissatisfaction with services they received through the Veterans Administration (VA). Most of recommendations for improvement provided by surveyed veterans who participated in a Midwestern VTC program were directed at the VA and the services they provided in association with VTC’s (Gallagher, J. R., Nordberg, & Gallagher, J.M., 2017). Some of the concerns veterans expressed were they were coerced to take psychiatric medication for problems they were not diagnosed with, received insufficient treatment and the VA should have involved family more frequently in the treatment process (Gallagher et al., 2017). Family provides a support system, create understanding and are directly impacted by the veterans’ PTSD or TBI and crimes which may have been committed in conjunction with these conditions. Key components to the healing process are a support system and empathy especially for those suffering from PTSD or TBI. Though this does not represent all experiences Veterans expressed concern over lack of empathy and compassion from VA staff who didn’t want to listen to them and became adversarial when they had questions or concerns (Gallagher et al., 2017). One of the key components of VTC’s is to take a non-adversarial approach and when VA staff choose to be adversarial instead of empathetic it goes against the grain of the VTC structure (Gallagher et al., 2017).

Some of the key objectives, purposes and goals of this paper continue to be identifying areas of strength within the VTC program structure while identifying areas to improve. It remains vital to the success of these programs to more effectively identifying when veterans have been arrested and continue to explore if the needs of veterans immersed in the justice system are adequately met. It is also important to take the opportunity to learn from what is working well
and what needs improvement while also taking into consideration the theoretical framework which is the foundation problem-solving courts such as VTC’s are built on.

III. Theoretical Framework

VTC’s have officially been in existence since 2008 and function on the premise of treating the underlying issues and conditions which contribute to veterans becoming involved in the justice system while involving veteran mentors to guide in this process. This premise encompasses fundamental philosophies of Therapeutic Jurisprudence and Restorative Justice.

Therapeutic Jurisprudence

TJ’s origins were tied directly to the development of mental health law in the 1980’s (King, 2008). David Wexler and Bruce Winick were the first to bring recognition and notoriety to Therapeutic Jurisprudence (TJ) and its impacts within the justice system (Perlin, 2017). Therapeutic jurisprudence is the study of the effects of the law and the legal system on the behavior, emotions and mental health of people (Huskey, 2017). TJ also studies how the law affects the well-being of those involved in its operation and delivery (King, 2008). In TJ the law is viewed as a social force which may create therapeutic or anti-therapeutic consequences while the study of TJ assesses legal rules, legal procedures and the roles of legal actors (Huskey, 2017). The justice system and the well-being of those entangled within it many times are at odds. TJ takes on the philosophy of medicine in the ideal that the law should do no harm when and where plausible (King, 2008). TJ uses philosophy, psychiatry, psychology, social work, public health as well as other fields of study as a part of a reform agenda to effect legal changes designed to increase therapeutic impacts while decreasing anti-therapeutic ones (Huskey, 2017).

Research of Procedural Justice (PJ) suggest there is a commonality between PJ, TJ and Restorative Justice (RJ) in which people are more likely to accept and follow direction from
legal authorities when they believe the process was fair and was grounded in legitimacy (King, 2008). The willingness to accept the outcome is not effectively achieved through coercion but as a commitment in response to being treated fairly (King, 2008). TJ finds value in self-determination and motivation which can be negatively impacted through coercive and paternalistic practices or can effectively be tapped into to positively motivate offenders (King, 2008). Offenders can become a positive force in the process of self-improvement and self-actualization when they are treated with respect, dignity and fairness regardless of their alleged offense.

Problem-solving courts and TJ look to the law to therapeutically benefit society and individuals who become involved in the criminal justice system (Huskey, 2017). If problem-solving courts attack embedded causes of criminal offending and use social sciences to identify and treat those underlying causes the law can act as a therapeutic agent to treat those underlying conditions while not being aware of how the actors of a court impact the process can create an anti-therapeutic result (Duffy, 2011). The VTC approach is a prime example how the law can act and function as a therapeutic agent. Veterans who suffer from PTSD suffer alcohol and substance abuse, homelessness, strained relationships, unemployment and mental illness among other concerns (Russell, 2009). Key components of a VTC integrate alcohol treatment, drug treatment, and mental health services as part of case processing and to restore the veteran and the community (Russell, 2009).

Restorative Justice

Restorative Justice (RJ) developed its roots in the 1970’s in victim-offender mediation programs in North American and Europe but it did not begin to gain notoriety until the 1990’s when it gained steam in response to overly harsh criminal justice approaches of the 1980’s
Restorative Justice is a theory and a process which addresses harm by bringing together individuals affected by that harm with the intent to find agreement in how to repair that harm (Huskey, 2017). One perspective of RJ defines it as a process where all parties with a stake in the offense in question come together to collectively bring resolution and solutions of how to deal with the offense’s aftermath and its implications (King, 2008). Restorative Justice is also viewed as a theoretical approach which personalizes the crime by bringing the victims and offenders together to mediate a resolution which is designed to restore the victim, community and the offender (Huskey, 2017). RJ argues the criminal justice system does not adequately address the restorative needs of victims, offenders and the community (King, 2008). Restoring the victim is one of the key components of RJ while community restoration and offender restoration hold value within the approach to and objectives of RJ (King, 2008).

RJ is community-driven, involves the victim, involves the offender and the interest of the community as part of the process of restoration and achieving a solution which prevents recidivism (Huskey, 2017). A key distinction in RJ is its focus and emphasis on the voice of the victim while ensuring the offender, families and the community are afforded the opportunity to partake in the process. RJ promotes active participation from each impacted party in a process where discussion occurs in a collaborative and deliberate fashion and where the offender may express remorse while the victim has an opportunity to express their feelings, how they were affected and if they choose they may forgive the offender (King, 2008).

RJ does not forbid punishment but punishment when delivered should have purpose. RJ embraces the idea that punishment without purpose is just punishment and therefore is lacking in value if it lacks purpose (Huskey, 2017). Sometimes punishment is necessary or the only option because participants aren’t willing to accept problem-solving options or are too great a danger to
society to be afforded this alternative. RJ encompasses elements of Retributive and Rehabilitative Justice Theories as it is concerned with the victim and the offender with the primary emphasis placed on repairing the harms done against the victim (Huskey, 2017).

Almost every state has some type of RJ initiative in place. Some examples of RJ are Victim-Offender Mediation (VOM), conferencing and sentencing circles (Huskey, 2017). The victim and offender must be voluntary participants, must be present during the process and shall be allowed a voice in the process in which a neutral facilitator facilitates discussion without taking sides (Huskey, 2017). The objectives of the meeting are to identify the action which occurred, its impact and come to some type of resolution which brings about repair and restoration while the victim, community, the offender and all the decision-makers are directly involved in the process (Huskey, 2017).

RJ may serve well in problem-solving courts such as VTC’s and potentially in conjunction with TJ within those courts. Some of the concepts of RJ and TJ align as they both pursue therapeutic outcomes through alternate means to a retributive criminal justice system and are both problem-solving oriented (Huskey, 2017). Awareness and understanding are powerful tools in the healing process. When people are willing to put themselves in the other person’s shoes while developing empathy and understanding the path to positive change and restoration has the potential to flourish. RJ allows all parties to come together and affords victims an opportunity to see sacrifices veterans and their families have made in conjunction with military service while providing the victim the chance to make well informed decisions in the restoration process (Huskey, 2017). All participants of the process are involved in determining the most appropriate options for repair and restoration. These options may be consistent with options already used in the VTC network such as connecting veterans with social services, employment,
treatment, counseling and other options to restore the victim, veteran and the community (Huskey, 2017).

Numerous VTC’s have come to fruition since 2008. VTC’s have been identified primarily as using concepts of TJ but also blend concepts of RJ into their makeup, delivery of services and all-encompassing goal to restore the veterans who partake in VTC’s. The exploration of some of these VTC’s will show how TJ and principles of RJ are imbedded in the missions and function of these courts.

IV. Current Veteran Treatment Court Programs

Veterans Treatment Courts were established in Buffalo, New York in 2008 by Judge Robert Russell. Buffalo’s VTC serves as a model for the development of many other VTC’s throughout the United States. Two VTC’s which are modeled off Buffalo’s example are Dane County’s VTC and the Northeast Wisconsin Veterans Treatment Court (NWVTC) which is based out of Green Bay, Wisconsin. Sixteen VTC’s have been established in Wisconsin to serve the veteran population of 367,226 which reside in Wisconsin (U. S. Census Bureau, 2017).

Buffalo Veterans Treatment Court Program

Buffalo’s Veterans Treatment Court which was established in 2008 was the first VTC to be established in the United States with a sole purpose of functioning as a VTC and serves all of Erie County (Russell, 2009). Buffalo’s VTC is a hybrid of drug and mental health courts and serves veterans who struggle with addiction and/or mental health issues. These veterans are diverted from the traditional criminal justice system into a VTC (Buffalo Veterans Treatment Court, n.d.). The mission of Buffalo’s VTC is to habilitate veterans through diversion from the traditional criminal justice system while providing them the tools needed to lead productive and law-abiding lives (Russell, 2009). Buffalo’s VTC promotes sobriety, recovery and stability
through a coordinated response that addresses drug dependency, alcohol dependency, and mental illness management (Russell, 2009).

Buffalo’s VTC functions under ten key components. These components were adopted from the drug court model then slight adaptations were made for the components to suit the needs of a VTC. The key components are listed below.

1. VTC integrates alcohol, drug treatment, and mental health services with justice system case processing.
2. Uses a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants’ due process rights.
3. Identify eligible participants early and promptly place them in a VTC program.
4. The VTC provides access to alcohol, drug, mental health and other related treatment and rehabilitation services.
5. Frequent alcohol and drug testing is used to measure abstinence.
6. A coordinated strategy is used to guide VTC responses to compliance by participants.
7. Continuous Judicial interaction with each veteran is essential.
8. Achievement of program goals and program effectiveness is measured and monitored through continuous evaluation.
9. All VTC staff should continue interdisciplinary education which promotes effective VTC programming, implementation, and operation.
10. Forging partnerships is vital to the success and effectiveness of VTC’s.

Partnerships should be forged among the VTC, the VA, public agencies, and
community-based organizations which generate community support while enhancing effectiveness (Russell, 2009).

Structure and availability of important resources are vital to the success of this program and reinforces concepts veterans are familiar with due to their military service. Veterans have grown accustomed to structure in their lives. Losing this structure may contribute to their conditions when they separate from military service and they eventually become immersed in the justice system. Lack of accessibility to resources such as drug treatment, alcohol treatment, mental health services, housing, employment services, educational resources among other resources can be a catalyst. Bringing these resources to the table for veterans is a key component to successfully treating and restoring veterans who partake in a VTC program.

Buffalo’s VTC recognizes the unique and substantial needs of this nation’s veterans. In recognition of these needs and that many of them co-occur the court seeks to individually address those needs for each veteran assigned to the court’s docket and realizes that one untreated condition may lead to another (Russell, 2009). The program is built on the four S principle which is service, support, skills and spirit. Some of the key needs which the court recognizes and aims to address through a coordinated effort are providing access to secure housing, nutritional meals, health care, substance abuse aftercare, mental health counselling, and personal development which leads to empowerment (Russell, 2009). When these veterans can reach the phase of empowerment they are able to take back part of their prior identities which made them successful and effective contributors to their communities and families. Veterans can build on those positive facets with new skillsets developed during their time in a VTC program.

Partnerships provide veterans an opportunity to regain sobriety, stability, health and well-being. In pursuit of these goals community partners have been identified as the VA Health Care
network, Veteran benefits Administration, the Western New York Veterans Project, the Veterans Treatment Court team, volunteer veteran mentors, and community health care providers (Russell, 2009). These partnerships provide a vast array of experience and resources to the affected veterans and the VTC program. When the VTC links veterans to services through the VA a significant amount of money is saved since veterans earned these benefits and would be eligible for them regardless of if they were immersed in the justice system. The mentorship of veterans by veteran mentors who may have experienced some of the same concerns or minimally partook in the same military culture provides access and availability to empathy, understanding, guidance and structure which others who are not veterans may lack the background and capability to effectively provide.

Buffalo’s VTC emphasizes accountability and utilization of learned skills while providing a therapeutic environment (Russell, 2009). Emphasis is placed on positive behavior modification with veterans being able to partake in this program and receive treatment while remaining in the community. After successful completion of the VTC program veterans’ charges are reduced or dismissed (Russell, 2009). Buffalo’s VTC serves as a model to many other VTC’s throughout the United States.

With a significant veteran population of 21,369,602 living in the United States a broad demographic is represented and deserves attention (U.S. Census Bureau, 2014). Many of these veterans suffer from combat related injuries or combat related trauma. Many communities recognizing the need for a VTC look to Buffalo’s VTC as a model for developing their own VTC (Russell, 2009). The VTC option prevents crime and treats the underlying condition or conditions which contribute to a veteran committing crime. The Veterans Treatment Court Planning Initiative (VTCPI) was developed in 2010 to provide training for establishing other
VTC’s and collaborates with the Bureau of Justice Administration (BJA), the Department of Veteran Affairs, the National Drug Court Institute (NDCI) and other veteran court professionals (Buffalo Veterans Treatment Court, n.d.). VTCPI grants are used to complete this training and Buffalo’s VTC is used as the model court for the training.

**Dane County Veterans Treatment Court**

The development of VTC’s in Wisconsin started in 2008 when the State Public Defender’s Office and the Wisconsin Department of Veteran Affairs were awarded a federal grant to bring Judge Robert Russell to Wisconsin to discuss Buffalo’s VTC (Wisconsin Court System, n.d.). Shortly thereafter representatives visited Judge Russell’s Court in Buffalo. In June of 2009 a conference called Leave No one Behind: Veterans in the Criminal Justice System was co-sponsored by the Wisconsin court system, the State Public Defender Office, Department of Corrections, Department of Justice, Veterans Administration and the Department of Veterans Affairs (Wisconsin Court System, n.d.). Judges, prosecutors, public defenders, treatment providers and CVSO’s attended the conference, leading to the first Wisconsin VTC in 2009 followed by the implementation of more VTC’s.

Dane County’s VTC follows the model of Buffalo’s VTC. The VTC is used to promote sobriety, recovery and stability through a coordinated effort to provide treatment for addiction, mental health issues, utilizes veteran mentors, and requires regular contact with the court (Dane County Clerk of Courts, n.d.). Dane County’s VTC was the 11th of 16 VTC’s established in Wisconsin, is based out of Madison, Wisconsin and was established in October 2014 with Judge Ellen Berz currently presiding over the court (Wisconsin Court System, n.d.). The estimated population of Dane County, Wisconsin is 531,273 while the estimated veteran population from 2012 to 2016 was 24,654 (U. S. Census Bureau, 2017). According to Veterans Justice Outreach
Specialist (VJOs) Edward Zapala and Dane County Branch 11 Clerk Rebecca Krull the Dane County VTC accepted 32 applicants into the program since 2014 while 168 applied (E. Zapala, & R. Krull, Personal Communication, February 8, 2018). Dane County’s VTC has 15 slots for the program, two vacancies are available for veterans to enroll into the program and 18 veterans are on the waiting list while the program is projected to take 18 months to successfully complete (R. Krull, Personal Communication, February 7, 2018). Many of the veterans on the waiting list will be rejected due to lack of available space within the program. If the program is successfully completed participants have their charges reduced or dismissed.

Eligible veterans must have a criminal charge pending, have served in the U. S. Armed Forces, are eligible for veterans’ benefits, and have a verifiable treatment need with drug dependency, alcohol dependency, PTSD or TBI. Cases can be referred before or after adjudication of guilt with successful completion of a 12 to 18-month treatment plan leading to reduced or dismissed charges (Dane County Clerk of Courts, n.d.). Veterans interested in voluntarily participating in the program must apply to the VTC and if they qualify for VA medical care the veterans will be referred to the VA for evaluation of if there is a need for treatment of a condition such as PTSD. If accepted into the VTC the participant will appear in front of Judge Berz on a regular basis and the veteran must follow through on their prescribed treatment plan to include random drug and alcohol screening (Dane County Clerk of Courts, n.d.). The Northeast Wisconsin Veterans Treatment Court (NEWVTC) functions under a similar premise but serves a much larger geographical area.

Northeast Wisconsin Veterans Treatment Court

The Northeast Wisconsin Veterans Treatment Court (NEWVTC) was established in March 2012 to function as a collaborative problem-solving court to serve the 8th judicial district
which is comprised of Brown, Door, Kewaunee, Marinette, Oconto, Outagamie and Waupaca County (Wisconsin Court System, n. d.). While variation exists among how VTC’s function NEWVTC is modeled off concepts of Buffalo’s VTC and considered other VTC models as part of its development. NEWVTC hearings are held at the Brown County Courthouse in Green Bay, Wisconsin. Waupaca County has since created its own VTC, but Waupaca County is still listed under the umbrella of the NEWVTC. The estimated combined population of the counties currently served by the NEWVTC is 622,066 with an estimated veteran population of 42,443 (U.S. Census Bureau, 2017).

Part of the mission of NEWVTC is to aid our veterans who have stumbled and entered the criminal justice system while a VTC strikes a balance between treating the justice involved veteran fairly and protecting the community (Hinz, 2018). This can be achieved with the use of community resources to help the veteran in need. The NEWVTC program takes one year to a year and a half to complete, is comprised of four phases and requires absolute sobriety. The presiding Judge is Kendall Kelley.

Prompt screening and identification of eligible veterans is important. Eligible veterans are identified by the DA’s Office and Public Defenders who have received information about the VTC through local veteran organizations or by other means. NEWVTC staff screen potential candidates at Friday staff meetings for eligibility to VA benefits or access to their own resources. The candidate may attend court and meet with a Veteran Mentor. The criminal complaint is reviewed and the NEWVTC team votes weather to accept the candidate while considering high risk vs. high reward for the veteran in question (T. Hinz, Personal Communication, February 6, 2018).
The NEWVTC began accepting applicants in March 2012 with 78 participants entering NEWVTC and 42 successfully completing the program as of January 2018 (Hinz, 2018). Applicants are accepted from all five branches of the military. The most likely veterans to experience combat served in the Army and Marines leading to Army and Marine veterans representing the majority of NEWVTC participants (Hinz, 2018).

The NEWVTC team is comprised of a Circuit Court Judge, Veterans Treatment Court Coordinator, Probation & Parole Agent, District Attorney Representative, a defense attorney, law enforcement representative, Veterans Justice Outreach (VJO), County Veterans Service Officer (CVSO), mentor coordinator and treatment personnel (NEWVTC, 2014). Like other VTC’s NEWVTC uses Veteran Mentors and this is a key component to the success of the court. The role of the veteran mentor is to serve as a listener, motivator, a navigator of the road to recovery, and is a Veteran Advocate (Hinz, 2018). To qualify to serve as a Veteran Mentor the mentor must be a veteran, be in good standing with the law, complete an application, agree to a commitment of six months or more, sign a confidentiality agreement, attend training, make weekly contact with the participant and appear at Friday court sessions if possible (Hinz, 2018).

The NEWVTC recognizes the greatest opportunity for successful intervention is when the veteran is experiencing crisis as they process the initial arrest and incarceration. Immediate intervention is of the utmost importance and is utilized by NEWVTC while ensuring upfront and effective communication to assure successful intervention and offender accountability (NEWVTC, n.d.). Supervision must be coordinated, comprehensive and is an element of how the NEWVTC holds participants accountable while immediately responding to deviation from their treatment plan and/or providing positive response for those who stay the course (NEWVTC, 2014).
Once veteran applicants have been accepted into the NEWVTC program staff will handle their case through an intensive judiciary monitored program which incorporates alcohol, drug, mental health treatment, rehabilitation services, and strict supervision. This will occur in a non-adversarial court atmosphere with a Judge dedicated to teamwork with a common goal of breaking the cycle of drug abuse, alcohol abuse, mental illness and criminal behavior (NEWVTC, 2014). Required appearances in front of Judge Kelley occur on a regular basis and the frequency is contingent on which of the four phases a participant is in. Veteran participants may discuss their case directly with Judge Kendall while unexcused failure to appear will result in an arrest warrant issued for the participant (NEWVTC, 2014). The key objective of the court is to support the veteran participant in their journey to recovery and productivity as they move forward with their lives. As mentioned sanctions may be used to achieve adherence to the program, but it is not the desired method. Positive reinforcement with access to treatment and other resources in a non-adversarial environment is a key objective and component of the court as it aids the veteran along their path to recovery.

This path to recovery is based on the models of other problem-solving courts to include mental health courts and drug courts. It is important to explore those origins particularly the drug court model since many of the concepts of VTC’s are extracted from the foundation of the drug court model.

V. Drug Court Model: A Model for Veteran Treatment Courts

Problem-Solving Courts to include drug courts were established in 1989 because the justice system was struggling to meet the needs of the ever-changing landscape within the criminal justice system and its response to crime as it relates to substance abuse, mental
illness, and other kinds of criminality needed new judicial approaches (Huskey, 2017). Drug courts were established at the state level and local levels in the 1980s in response to rapidly rising incarceration rates of drug offenders and swelling prison populations with the incarceration rate of drug offenders in state prisons rising from 19,000 in 1980 to 121,100 in 1989 (Franco, 2010). Drug arrests rose from 580,900 in 1980 to 1.362 million in 1989 with 83.2% of those arrests categorized as possession offenses. Recidivism rates were high for those who committed drug offenses and were not receiving treatment to address the underlying conditions which contribute to the offense or offenses in question. Drug Courts provide a viable option to address the underlying factors of drug offenses while providing an attainable and cost-effective option to reduce recidivism of those who commit drug offenses.

**Summary of Drug Court Model**

The first drug court was established in Miami-Dade County Florida in 1989 (Frederick, 2014). Over the past 20 years Orange County Superior Court has reportedly saved $75 million by utilizing the drug court model with treatment versus strict incarceration (Rogers, 2014). Drug courts hold offenders accountable while providing them access to extra resources. Drug courts are designed to use a therapeutic jurisprudence philosophy in a collaborative fashion with individualized approaches that immerse offenders in evidence-based treatment (Lutze & Van Wormer, 2014). The goals of a drug court are to break the cycle of drugs and crime, reduce incarceration while increasing public safety, provide integrated and comprehensive treatment while enhancing academic and employment opportunities for defendants (Dane County District Attorney’s Office, n.d.). These specialized courts target offenders who have alcohol and other drug dependency problems with 3,142 drug courts across the United States serving in this capacity as of 2015 (NIJ, 2017).
Drug courts utilize ten components to identify attributes necessary for success and provide structure to implement the program.

The ten components are listed below.

1. Integration of alcohol and drug treatment as part of case processing.
2. Use of a non-adversarial approach which includes the prosecution and defense counsel approaching the case in a way which protects due process and public safety.
3. Eligible candidates are identified early and are promptly placed in drug courts.
4. Provides direct access to a continuum of drug, alcohol, rehabilitation and other treatment services.
5. Frequent drug and alcohol testing occurs to ensure abstinence.
6. A coordinated team strategy governs the drug court’s strategy to participant compliance.
7. Ongoing judicial intervention with each participant is essential.
8. Monitoring and evaluation are used to measure achievement and compliance with program goals and gauge program effectiveness.
9. The drug court team should continue interdisciplinary education to promote effective planning, implementation and operation of the drug court program.

Entry into a drug court is voluntary and drug treatment is provided as an alternative to incarceration (Dane County District Attorney’s Office, n.d.). The drug court model is managed by a multidisciplinary team comprised of judges, prosecutors, defense attorneys, community
corrections, social workers and treatment specialists (NIJ, 2017). As a problem-solving court
drug courts deviate significantly from the typical adjudication approach of strict incarceration
and more traditional versions of community supervision as a drug court model attempts to
address and treat the underlying issue or issues which contribute to the drug court participant’s
commission of a crime and does so in a much more intensive fashion than traditional supervision
or incarceration (Brown, 2011). The drug court model varies in design and the approach to how
it provides services from court to court, but consistently includes point of entry offender
screening, judicial action, drug screening, supervision, use of sanctions, use of rewards, and
treatment along with the use of rehabilitation services (NIJ, 2017). Some of the services which
are provided where appropriate are substance abuse treatment and anger management counseling
with a design to inhibit the motivation for criminal behavior and in turn reduce recidivism rates
(Brown, 2011).

Intervention of substance abuse problems is best achieved at the point of entry into the
justice system and focuses on non-violent offenders as those who become participants in the drug
court program (Dane County District Attorney’s Office, n.d.). Requirements for participating in
the program may include minimum age requirements, no violent felony convictions, no pending
charges for other cases, verifiable treatment needs along with a willingness to receive treatment
and compliance with treatment and drug court requirements.

Screening should occur shortly after arrest. One of the most important components to
achieving favorable drug court outcomes is the use of objective, evidence-based screening, and
evidence-based assessment tools to ensure an informed and effective decision-making process is
viable (Knight, Flynn & Dwayne, 2012). Drug Court screening involves two key components
which are a review of if legal requirements to participate in the program are met and clinical
analysis of if the candidate is suitable for the structure and approaches of the drug court (Knight et al., 2012). Considerations for drug court screening of potential participants should include screening for drug use severity, drug dependency levels, mental health problems, motivation to accept treatment and risk assessment for criminogenic thinking (Knight et al., 2012). Available space in drug courts should be reserved for the individuals with the greatest drug or alcohol dependency issues while consideration is given to if the individual in question will be receptive to the treatment services that will be provided to them. Additionally, it is important to consider if they need mental health treatment and if so what the severity of their mental health condition is. If the mental health condition is significant or the drug court does not have the appropriate resources a mental health court may be a more appropriate option. Testing for criminal thinking scales can identify entitlement expectations, power orientation, efforts to justify inappropriate acts, cold heartedness, criminal rationalization, and individual irresponsibility (Knight et al., 2012). Candidates who test high in these areas may be a good choice to select for drug court. It is likely doing so will increase public safety and reduce criminogenic behavior of the future drug court participants.

Though there is no perfect solution in response to crime and preventing it drug courts have experienced verifiable success at a higher rate than traditional responses to crime. Ramsey County Minnesota’s drug court experienced a recidivism rate of 8% for graduates of their program while the recidivism rate over the same timeframe for those who received sanctions for drug related offenses through more traditional criminal justice system means was 33% (Rogers, 2014). Orange County Drug Court graduate recidivism rates measured over the same length of time were comparably at 28.8% while the recidivism rate for those who were sanctioned for drug offenses by traditional means was 74% (Rogers, 2014). Though there is a significant gap in the
numbers between these comparative courts the success of the drug court model is clearly higher than traditional approaches. With the significant difference in the results among each court it is important to compare additional drug courts such as the Benton & Franklin Counties Superior Adult Drug Court.

**Benton & Franklin Counties Superior Adult Drug Court**

The Benton and Franklin County Adult Drug Court (BFADC) serves an area with an estimated population of 230,000 people and was established in 2003 through a federal grant (Lutze & Van Wormer, 2014). The projected minimum caseload for BFADC is 45 participants with a maximum of 70 participants at one time (Benton & Franklin Counties Superior Court, 2014). The mission of the BFADC is to advance safety and well-being of the community, conserve justice system resources, and rehabilitate non-violent addicted offenders. This is achieved through a variety of means to include intervention with the possibility of sanctions, incentives or rewards among the utilization of other tools and treatment options.

Offenders eligible for participation may be identified by prosecutors, law enforcement officers, the Washington Department of Social and Health Services, or defense attorneys (Benton & Franklin Counties Superior Court, 2014). Potential participants must complete screening through a substance abuse assessment prior to a referral to the court with the referral being processed for eligibility and admission to the drug court program within 30 days of the assessment. If a candidate is accepted into the drug court program their case will be transferred to the drug court for further consideration by the Drug Court Team with a requirement that the participant attends weekly drug court sessions and schedule appointments with a case manager and their drug court defense attorney (Benton & Franklin Counties Superior Court, 2014).
Potential participants are placed on a waiting list. While on the waiting list prospective participants must attend court sessions, attend self-help meetings, comply with treatment recommendations and commit no new offenses. After an order of transfer has been received the voting team which consists of the judge, prosecutor, defense attorney, coordinator, case manager, a law enforcement representative, and a treatment specialist will evaluate and determine if an offender is eligible, determine their propensity for success in the program and will vote if they are to be accepted into the program.

Once accepted into the program a participant will sign a participation agreement in which the participant agrees to abide by the terms and conditions of the drug court program with the understanding that failure to do so may result in termination from the drug court program and the participant’s case shall return to a court with a traditional adjudication process if they are terminated from drug court. (Benton & Franklin Counties Superior Court, 2014). The agreement also discloses upon successful completion of the drug court program the pending charges will be dismissed with prejudice.

After acceptance to the program each participant will begin or continue a treatment plan which is constructed by the drug court team and is court ordered (Benton & Franklin Counties Superior Court, 2014). The program is comprised of four stages with the possible application of a fifth stage.

The stages are as follows

1. Orientation and Information
2. Restructuring
3. Life Skills
4. Independence and Mastery
5. Aftercare (Optional)

During phase I which lasts 12 weeks or more each participant is required to attend weekly drug court sessions. At weekly staff meetings the drug court team will evaluate participant progress, determine compliance, if treatment plans need to be amended, if interventions need to occur, if sanctions need to be delivered or if incentives should be given to participants (Benton & Franklin Counties Superior Court, 2014). Prior to the conclusion of the weekly court session the judge will discuss with each participant their progress, changes in treatment, other services available to the participant, incentives or interventions to be imposed. After successful completion of phase I participants will advance to phase II, the restructuring phase which lasts a minimum of 10 weeks and requires satisfactory progress in treatment, attendance of required meetings, attendance of required court sessions, confirmed sobriety for at least 60 days, and payment of all associated fees and court costs. Phase III, Life Skills lasts a minimum of eight weeks and is designed to assist participants in maintaining sobriety, increasing accountability to self and others, and developing a greater understanding of addiction and recovery. Phase IV, Independence and Mastery lasts a minimum of 12 weeks and is a transitional phase designed to sustain long-term sobriety through acceptance, exercise of responsibility and development of a thorough understanding of their addiction and the individualized requirements for recovery while demonstrating a strong and sustainable commitment to their sobriety and recovery. If all the criteria are met graduation will follow. Phase V, Aftercare is an optional phase which is encouraged and includes participation in a drug court alumni group and period check-ins with drug court team staff.

The drug court model was used to provide structure for the VTC model. Though the use of both court models has resulted in significant levels of success room for improvement and
change will always exist. In welcoming and encouraging that change, growth and development particularly to VTC’s can occur while each court strives to more effectively serve the community and veterans in need of the services provided as part of the VTC program.

VI. Recommendations for Change

Change is inevitable and when change occurs the change should be purposeful, productive and be in pursuit of the greater good of all impacted by that projected change. Key recommendations for change are improving early identification of arrested veterans, expanding the number of VTC programs available, involving VA staff regularly in VTC training with VTC team members and providing consistent standards as to when a guilty plea is entered as part of VTC case processing to ensure the application of due process.

Improved Screening to Identify When Veterans Have Been Arrested

The greatest opportunity for successful intervention is when the veteran is experiencing crisis as they process their initial arrest and incarceration (NEWVTC, 2014). Due to lack of comprehensive arrestee data prevalence of veterans in the arrestee population is unclear (AU-JPO, 2016). Almost half of surveyed VTC programs indicated they did not have a systematic process to identify eligible veterans at the time of arrest and many arrested veterans go unidentified (AU-JPO, 2016). Many jurisdictions are not collecting this data and failing to do so may handicap VTC’s while limiting the scope of knowledge as to the magnitude of the problems of veterans who are arrested and the plausibility that combat related stressors or injuries which are untreated may relate to their arrest. To ensure veterans who are arrested receive the appropriate resources and services they must be identified. Additionally, acquiring accurate data allows for a greater understanding and an opportunity to research the magnitude of how many
veterans represent the arrested population while providing a pathway to understanding more about what led these veterans to exposure to the criminal justice system, jail or prison.

It is important to identify at the earliest point of entry into the justice system if an arrestee is a veteran. The most viable option to do so is during the booking process immediately after someone has been arrested. This may require adjustments to paperwork utilized for booking purposes coupled with changes to software and databases utilized by jails. The methods of collecting this data will be contingent on available resources and on how much of a priority a local jurisdiction deems collecting this data should be. One of the easiest examples of how this could be achieved is if all jails ask a veteran status question such as have you ever served in the United States military as part of their standardized booking process.

An example where a jurisdiction prioritized identifying veterans booked into jail is Miami-Dade County Florida. Miami-Dade County Jail Administrators realized a significant number of inmates were veterans with an estimate that 10% of the jail population was comprised of veterans (Coffey & Botner, 2012). The Miami-Dade County Jail relies on a series of questions asked during the booking process to determine veteran status of the 200 to 300 inmates booked into the jail each day. Some veterans choose not to disclose their veteran status while others disclose their status. When an arrested veteran discloses their veteran status a VJO Coordinator is notified, can begin the process of confirming veteran status and can coordinate services the veteran is eligible to receive.

Travis County Texas is another place where identifying veterans booked into the jail has become a priority. After realizing that a significant number of veterans booked into the jail were repeat offenders Travis County developed the Veterans Intervention Project (VIP) with the purpose of collaboratively increasing awareness of veterans involved in the criminal justice
A primary objective of VIP is to identify arrested veterans at the earliest point and connect them with the appropriate services at the earliest time. This is achieved through the administration of surveys of veterans booked into the Travis County Jail as part of the booking process.

As arrested veterans are more effectively identified, their needs for treatment and support services are realized. While awareness of VTC’s as a viable option continues to grow so too does the demand for VTC programs.

**Increase the Available Number of VTC’s**

The estimated population of the United States is 327,422,793 people (U.S. Census Bureau, 2017). The estimated veteran population in 2014 was 21,369,602 (U.S. Census Bureau, 2014). From 2011 to 2012 an estimated 181,500 veterans were incarcerated (Bronson, Carson, Noonan & Berzofsky, 2015). Upwards of 48% of veterans in prison were clinically diagnosed with a mental health disorder while approximately 67% of incarcerated veterans who were diagnosed with a mental health disorder experienced combat. In many cases TBI and PTSD can be directly linked to a veteran’s military service while TBI and PTSD have been linked to increased veteran entanglement in the criminal justice system (Timko, Midboe, Maisel, Blodgett, Asch, Rosenthal & Blonigen, 2014). A wide range of studies correlate combat trauma and criminal behavior with some increased risk factors for criminal justice involvement identified as unemployment, homelessness, misuse of alcohol and use of illegal drugs (Slattery, Dugger, Lamb & Williams, 2013). Sixty eight percent of veterans surveyed post-deployment said they used alcohol regularly to self-medicate their depression or anxiety (Brown, 2011).

VTC programs address these issues through a coordinated effort to provide treatment to veterans, while holding them accountable and improving public safety (Russell, 2009). Some of
the key needs which the court recognizes and aims to address are providing access to secure housing, nutritional meals, health care, substance abuse aftercare, mental health counselling, and personal development which leads to empowerment (Russell, 2009). Key components of a VTC integrate alcohol treatment, drug treatment, and mental health services as part of case processing while restoring the veteran and the community.

VTC programs are known for their success rates and low recidivism rates for graduates from the program. A 2011 study of 11 of the 14 VTC’s in place at that time revealed a recidivism rate of under 2% for program graduates while the recidivism rate for state prisoners including veterans who did not participate in VTC’s was 70% (Frederick, 2014). Despite their success a low number of VTC programs are available to the high number of veterans in need of this option. Nationwide 304 VTC programs have been established since the first one was implemented in 2008 (AU-JPO, 2016). Three thousand counties in the United States don’t have VTC programs (Justice for Vets, n.d.). The national average for a VTC’s participants is 24 veterans per court while there is a higher demand for this option (Frederick, 2014). This translates to an estimated 7,296 openings nationwide to participate in a VTC program. Once veterans are placed in the vacant slots another opening will not be available until a veteran leaves the program voluntarily, is removed for non-compliance or graduates the program 12 to 18 months after entry.

Additionally, due to the limited availability of VTC programs veterans pursuing the VTC option may have to travel great distances to participate in the program and not all veteran candidates may be able to do this. Thirty-three of Wisconsin’s 72 counties are represented by 16 VTC programs leaving 29 Counties without VTC representation (Wisconsin Court System, n.d.). An example of where veterans may have to travel greats distances to participate in a VTC program could be observed in the NEWVTC program based out of Green Bay Wisconsin.
NEWVTC serves seven counties which include Brown, Door, Kewaunee, Marinette, Oconto, Outagamie and Waupaca County while the court sessions are held in Green Bay Wisconsin (Wisconsin Court System, n. d.). The combined geographical area encompassed for these counties served by the NEWVTC is 5,146.2 square miles (Wisconsin DOT, n.d.). Thirty-nine percent of Iraq and Afghanistan War Veterans receiving VA care live in rural areas (Sreenivasan et al., 2013). Rural Veterans have limited access to VA Services leaving rural veterans facing criminal charges at a disadvantage and challenged to acquire access to relevant veteran services such as forensic psychiatrists and diversion options. Niagara Wisconsin which is in Marinette County, is served by NEWVTC and is an estimated distance of 93.4 miles from the Brown County Court where NEWVTC hearings are held (Rand McNally, 2018). With the significant distance veterans immersed in the criminal justice system may not have the capability to travel this distance to attend hearings and receive treatment through the VA therefore requiring their case be processed through traditional means that may not address treatment needs. The alternate when diversion options such as a VTC are not available many times becomes jail or prison without treatment of the underlying conditions veterans may be experiencing therefore exacerbating the challenges of reintegration which many combat veterans face (Sreenivasan et al., 2013).

VTC programs costs less than 10% of what traditional options such as incarceration cost (Frederick, 2014). Increasing the number of VTC programs will improve accessibility, allow for more treatment of underlying concerns which contribute to veterans committing crime, will provide a cost saving measure to adjudication and will improve public safety because it addresses the underlying issues which contribute to crime and in turn reduces recidivism.
Involve Veterans Administration Staff Directly in VTC Training Sessions

For a VTC to function at its peak efficiency and to achieve its optimal level of effectiveness all who play a role within the process must have a thorough understanding of the objectives of the VTC program and the plan to achieve those objectives. Though many veterans have received high quality care from the VA some have criticized the quality of care they received. Most of the recommendations for improvement provided by surveyed veterans who participated in a Midwestern VTC program were directed at the VA and the services they provided in association with VTC’s (Gallagher, J. R., Nordberg, & Gallagher, J. M., 2017). Some of the concerns veterans expressed were they were coerced to take psychiatric medication for problems they were not diagnosed with, received insufficient treatment and the VA should have involved family more frequently in the treatment process (Gallagher et al., 2017). The willingness to accept an outcome and embrace treatment options is not effectively achieved through coercion but as a commitment in response to being treated fairly (King, 2008).

Though the issues of concern do not represent all experiences Veterans expressed concern over lack of empathy and compassion from VA staff who didn’t want to listen to them and became adversarial when they had questions or concerns (Gallagher et al., 2017). Key components to the healing process are experiencing empathy and understanding in conjunction with access to a support system. One of the key components of VTC’s is to take a non-adversarial approach and when VA staff choose to be adversarial instead of empathetic it goes against the grain of the VTC structure.

If VA staff who provide services to the veteran participants of VTC programs are involved in VTC training in addition to their VA related training it may help to bridge the gap between the missions and objectives of VTC programs and how some VA staff are providing
services to VTC participants. It may also aid in increasing the likelihood of expression and application of empathy which may become a second nature part of providing services to veterans involve in VTC programs. Utilization of empathy as part of the treatment process supports the non-adversarial approach which is part of the VTC’s structure and mission. Additionally, involving family in treatment and allowing veterans a voice in their treatment improves the potential for healing, adds a support system and encourages buy in from the veteran participants (Gallagher et al., 2017). Even when the veteran is not knowledgeable enough of their medical, mental health, and other treatment needs they will be more accepting of the treatment if the care provider takes the time to effectively and compassionately explain it to them.

Though VTC programs bring a lot of positive attributes to the table continuing to bridge the gap between unmet needs, what is available, and pursuit of optimal efficiency continues to be a goal. The combined objective of returning veterans who have stumbled to the honor they so deserve, ensuring treatment needs are met, due process requirements are honored, and public safety is assured are additional goals of the VTC program which are worth of aspiring to and continuing to improve on.

**Provide Consistent Standards to Assure Due Process Rights of Participants are Met**

The fifth and fourteenth Amendments provide all citizens the right to due process (Schmalleger, 1999). Ensuring due process rights are upheld is of great importance. Due process concerns have been raised because some courts require a defendant plead guilty prior to being eligible to participate in a VTC program (Frederick, 2014). The timing of this requirement is where due process becomes a concern. The guilty plea for some VTC programs is required prior to entry into the program while others require it once the veteran candidate is accepted into the program and in some cases the VTC functions as a pre-conviction diversion program
Inconsistent eligibility standards have also been reflected as a concern and could be tied to the lack of availability of VTC programs and openings (Frederick, 2014).

If a conviction occurs prior to acceptance into a VTC program and then the candidate is not allowed entry into the program after accepting a plea of guilty as a condition for entry this may conflict with their due process rights. Consistency across VTC programs in when a finding of guilty occurs may aid in ensuring due process rights are upheld. If a guilty plea is not entered until after a post-conviction program is completed and the conditions of that program call for it or after a candidate is accepted into the program this may help fill that void. Additionally, providing consistent standards for acceptance into a VTC program may further strengthen the effort to ensure application of due process rights.

VII. Conclusion

No one returns from a warzone unchanged. Veterans particularly those who were involved in combat operations have trouble re-adjusting to civilian life and exhibit anti-social behaviors when they return from deployments. Those behaviors coupled with untreated mental health issues may lead them toward substance abuse and the criminal justice system. These challenges with re-adjustment are tied with the military as a total installation instilling its culture to the core of those who serve, combat trauma such as PTSD, TBI and other coinciding issues such as unemployment and homelessness. Many times, the skills which are valuable in the military particularly in combat conflict with societal norms. The estimated veteran population in 2014 was 21,369,602. A significant number of these veterans have been impacted by mental health and psychological concerns such as PTSD with upwards of one third of veterans returning from combat operations suffering from PTSD.
As more veterans’ face deployment, the chance of veterans encountering the criminal justice system increase exponentially because of unmet mental health needs. Many veterans who face sanctions from the criminal justice system experience PTSD or TBI because of their combat related experiences. When these conditions go untreated the problems and side effects which accompany these conditions are compounded and tend not to dissipate until properly addressed and treated. Sixty eight percent of veterans surveyed post-deployment said they used alcohol regularly to self-medicate their depression or anxiety. Many veterans with PTSD or TBI use illicit drugs and/or alcohol to self-medicate and to suppress nightmares as well as other effects of PTSD and TBI.

Treatment is vital to addressing and resolving these concerns. Many veterans do not access treatment regardless of their need for it. For veterans in need of treatment to acquire it the treatment needs to be available, guidelines to ensure the availability and applicability of the treatment options must exist and veterans in need of the treatment must be identified. Though the need for treatment has existed for many generations recognition of the need and available resources to accommodate that need have not always aligned. For this reason, it is important to develop and utilize programs which improve awareness and bridge the gap to ensuring those in need of the treatment have access to it.

Many times, this need is not identified until veterans have been arrested and immersed in the criminal justice system. The 2000 Bureau of Justice Statistics report indicated 81% of incarcerated veterans indicated they experienced drug use problems, 35% were identified as experiencing alcohol dependency, 23% were homeless within the past year and 25% were identified as mentally ill. Incarceration temporarily prevents veteran offenders from re-offending but does not address the underlying issue or issues which contribute to veterans committing
crimes and does not prevent them from offending when they are released. It is important to provide a viable option which significantly reduces recidivism, treats the underlying conditions, protects the public and restores the veteran.

VTC programs are an option which achieves this. The first VTC was created and implemented in 2008 in Buffalo New York after Judge Robert Russell who also created Buffalo’s mental health and drug courts realized a need to create a VTC because he recognized his docket was becoming a revolving door for veteran offenders whose underlying conditions went untreated. Judge Russell was aware the needs of veterans differed from traditional offenders and developed a VTC program. VTC programs adopt the principles of the drug court model then add a veteran mentor to the structure. VTC’s function on the premise of treating the underlying issues and conditions which contribute to veterans becoming involved in the justice system while involving veteran mentors to guide in this process. This premise encompasses fundamental philosophies of Therapeutic Jurisprudence and Restorative Justice. VA services are utilized to treat and aid eligible veterans. VTC program recidivism rates of under 2% for program graduates have been reported while the recidivism rate for state prisoners including veterans who did not participate in VTC’s was 70%. This data strengthens the argument to expand the number of available VTC programs and to increase access to these programs.

Nationwide 304 VTC programs have been established since the first one was implemented with more in the planning stages. With more than 324 million residents and more than 21 million veterans in the United States the availability of VTC programs is limited and most veterans in need of this option will not have access to it. Many recognize the need for a VTC with states such as California implementing legislation to attempt to expand VTC programs to all jurisdictions within the state. Expanding the availability and accessibility of these
programs will not only improve access but will reduce costs for adjudication and will significantly reduce recidivism because the underlying issues associated with commission of crime are addressed through treatment and other means.

Further research of VTC programs, their impacts and recidivism rates are important and necessary. Considering this the results have been promising and remain worthy of further exploration.
References


Buffalo Veterans Treatment Court (n.d.) http://www.buffaloveteranscourt.org/


