The Pennsylvania State University

The Graduate School

School of Public Affairs

A STATEWIDE SURVEY OF ELIGIBILITY REQUIREMENTS AMONG
VETERAN TREATMENT COURTS IN PENNSYLVANIA

A Thesis in
Criminal Justice

by
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Abstract

Some veterans return home suffering from visible and not-so-visible wounds, including post-traumatic stress and brain injury. In an effort to respond to veterans’ needs, a new form of problem-solving courts is arising, veteran’s treatment courts (VTC), which provide alternatives to veterans who have run afoul of the law. VTCs help veterans access the treatments they need. They are based on other problem-solving courts, such as drug courts and mental health courts, but very little is known about how VTCs operate. Even less is known about the eligibility requirements to participate in VTCs.

This study examines eligibility criteria in Pennsylvania’s 17 VTCs to foster better understandings of the initial stages of the VTC process; the population that is being served by VTCs; and the characteristics of this population. Using a survey of all VJOs and semi-structured interviews, this study describes the eligibility requirements of the 17 VTCs currently in Pennsylvania, outlines the various eligibility requirements of other courts, and explores the differences among them.
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Introduction

By definition, a military veteran is a person who has served at least six months in the military and has received a positive discharge; honorable, general with honorable conditions, or medical (Department of Commerce, 2013). As of 2011, the projected veterans’ population was 22,234,000 (NCVAS, 2012). United States veterans return home from deployments after months, and sometimes years, overseas. One million seven hundred thousand of those veterans came home from Iraq or Afghanistan; one in five of those veterans report symptoms of mental health issues (NCVAS, 2012).

Number of Veterans in Pennsylvania

It is not clear how many veterans come into contact with the criminal justice system because data are very limited. According to the Department of Justice’s Bureau of Justice Statistics, almost one in ten inmates in the United States prisons had prior military service (Wolfe, 2013). In 2012, eleven percent of all Pennsylvania prison inmates are veterans (Hambright, 2012). Pennsylvania’s current veteran population is about 1.03 million (U.S. Census Bureau, 2012; U.S. Department of Veterans Affairs, 2014) and the fourth largest veteran population in the United States (U.S Department of Veteran Affairs, 2014, Pennsylvania Recovery and Resiliency, 2013). Currently, more than 4,800 Pennsylvania veterans are incarcerated in state prison or have been released on parole (Reed, Nash, & Griffith, 2014). According to Justice for Vets, Pennsylvania has the most active VTCs in the United States resulting in seventeen courts (Justice for Vets, 2015).
Issues that Make Veterans at Risk for Criminal Justice Involvement

Many veterans will encounter troubles reintegrating into civilian life, and some will break the law. The reasons they break the law are numerous, but some of the most common reasons are PTSD, TBI, depression, loss of a sense of purpose, problems secondary to substance abuse, lack of community support, and a lack of structure in a workplace (Lavin, n.d.; Justice for Vets, 2015; Melber, 2014; Schaffer, 2010; Wolfe, 2013). Some civilians do not understand what veterans go through when they return home from the military and it can be hard for them to provide adequate support.

A. PTSD

When a person witnesses or experiences a traumatic event, they may experience flashbacks, nightmares and anxiety, and uncontrollable thoughts (Warden, 2006). This mental health condition is known as post-traumatic stress disorder (PTSD) which can cause aggression, risk-taking behavior, depression, and potentially suicide (McCormick-Goodhart, 2013). PTSD can even cause trouble in being able to maintain a job. According to Castille (2010), close to twenty percent of the 1.6 million veterans who are returning from war, suffer from PTSD, but it is important to remember:

“Not all veterans get into trouble with the law. Many systems seem overburdened, lack sufficient resources to meet the needs of those suffering from PTSD, readjustment and other psychological problems, which overall may place veterans at-risk for a host of problems” (Schaffer, 2010, p. 2).

B. TBI

When a person experiences a traumatic injury to the brain (TBI), they might experience cognitive, physical, and psychosocial impairment (Warden, 2006). On occasion, military men
and women experience TBI while in combat if a blow or jolt occurs to the brain (Warden, 2006). TBI and PTSD are only two problems that could cause veterans to suffer. Usually, military members are trained to put on a tough persona and not publicly deal with their problems (Alvarez, 2008); therefore, psychologically, veterans often deny suffering from any such issues. Denial may cause further harm to a veteran due to trying to self-medicate to ease their pains. Veterans often believe there is no escape from their struggles and search for any possible way to get relief due to being trained to deal with their own problems by not showing any emotion (Alvarez, 2008). This may lead them to self-medicate by drinking, using drugs, or engaging in criminal misconduct such as bar fights, domestic violence fueled by alcohol, reckless driving, and sometimes homicides or other major crimes. Substance abuse is a matter of controlling the pain (Christensen, 2014). Sometimes former military members suffer from sleepless nights, flashbacks, panic attacks, and reoccurring nightmares, some of which may include being in battle as a result of PTSD (Alvarez, 2008).
Why VTCs Were Developed

VTCs are developed to seek treatment for veterans who suffer from substance abuse or mental health disorders. They attempt to combine treatment with personal accountability, rehabilitation, and they provide an alternative to prison. Although the reasons why veterans end up in the criminal justice system are numerous, they have their military experience in common. Because they have this commonality, criminal justice professionals have developed a tailored version of the problem solving court to respond to their needs. Those needs are perceived as being unique, or at least worthy of separate treatment, due to their common history of service to the country. VTCs have better resources than a traditional court setting to help veterans with mental health issues that are a result of combat, such as personal mentors, personalized treatments, and VA Benefits which help to keep the veteran on a structured path to recovery.

In 2004, Alaska established the first known VTC in the country. Alaska’s VTC was established for former United States military members to assist veterans who are charged with misdemeanors by connecting them with resources throughout the Department of Veterans Affairs (Everett & McKelvie, 2011). In 2008, Judge Robert Russell established the second VTC in Buffalo, New York (Buffalo New York, 2011). While presiding over Buffalo’s Drug Treatment Court and its Mental Health Court, Judge Russell noticed many veterans on his docket. After overseeing a Vietnam veteran in court who had no ambition to get through the system, Judge Russell developed a rehabilitation model court to address the challenges that veterans faced. After a few sessions, Buffalo launched their own VTC in 2008 (Melber, 2014; Christensen, 2014). The judge created this court to meet veteran’s specific medical needs (McCormick-Goodhart, 2013). Buffalo, New York’s VTC became a model for other VTCs
established after 2008 (Buffalo New York, 2011). Currently, in the United States, there are at least 180 VTCs and maybe as many as 340 located in forty different states (Dyhouse, 2014). Although not every state has a VTC, the number of courts is slowly rising.

Because VTCs have been around for a few years, researchers are starting to evaluate whether they can help reintegrate a military veteran back into society. According to Veteran’s Affairs Pittsburgh Healthcare System’s (VAPHS) Veterans Justice Outreach specialist, Beverly Vanderhorst, VTCs are designed to provide the support needed to help veterans who got into trouble and are now facing legal issues (Zottola, 2010). In essence, researchers are working to better represent veterans in a court of law and reintegrate them into civilian lifestyle.

By moving veterans into an appropriate treatment setting, we can reduce their time spent in jail, which will reduce overcrowding in prisons (Roberts, 2010). Veterans will have the opportunity to be treated on a one-on-one basis where the treatment is not the same throughout the program. Ultimately, VTC could reduce the time a veteran spends in the criminal justice system (Roberts, 2010). The courts are able to connect veterans with the appropriate benefits, treatment, and support services (Economist, 2011). Once a veteran is stable and back to the civilian world, VTCs help to promote employment, fix relationships between family members, and help veterans continue on with their lives (Economist, 2011). VTCs work to re-establish veterans as productive members of their communities.

The overall purpose of VTCs is to provide veterans with a second chance to repair and rebuild their lives, to avoid criminal prosecution, and possibly receive a lighter sentence (Smith, 2012). In some instances, certain charges can be expunged from a veteran’s record if he or she successfully completes the program. VTCs look to assist veterans in moving towards self-
sufficiency thus leading them to enhance their ability to live an independent, law-abiding and employed lifestyle (Justice for Vets, 2015).

**The VTC Team**

Although every VTC has a different setup, they typically employ a team model including a judge, district attorney, a public defender, a probation/parole team, an executive commander, a drug and alcohol consultant, pretrial services, the Veterans Justice Outreach (VJO) Coordinator, community providers and a peer mentor coordinator (Justice for Vets, 2015). Every member plays a part in contacting and talking to the veteran,

In most cases, the team reviews applications before the hearings and selects the veterans that are in the most need for substantial help. There are a variety of restrictions varying across the state on eligibility and the intake process, such as the nature of the crime, if a victim was involved, the type of criminal history a veteran may have or the type of discharge status and branch of the veteran. The team determines which services the veteran needs based on his or her issues and where to access those services. When the decision is made, veterans who are accepted into VTCs have to attend court each week.

As for every problem-solving court, VTCs have their pros and cons. Critics, according to McCormick-Goodhart (2013), have argued that it is unfair to create special courts based on veteran status because it can be perceived as preferential treatment—a “get out of jail free card”—simply because of their service in the military. Critics also portray the thought that veterans do not deserve special treatment because they should know better than break the law and self-medicate. According to the Nevada American Civil Liberties Union (ACLU), there is disparity in treatment between similarly situated veteran and non-veteran offenders. Why should
one person be treated differently from another person who committed the same crime? The Colorado ACLU believes that the definition of the word veteran is both “too broad and too narrow.” There is no way of adequately knowing who is a veteran compared to those who think they are a veteran (McCormick-Goodhart, 2013).

On the contrary, VTC advocates believe that veterans should be treated differently. Veterans already receive many benefits due to their military status, some examples being medical care, loan guarantees, employment preferences, and educational support; these benefits reflect society’s appreciation for those who sacrifice their life for their country (McCormick-Goodhart, 2013). According to McCormick-Goodhart (2013), Justice Seamus McCaffery of the Pennsylvania Supreme Court states, “It is important that we as a society give veterans back to their families the way we got them.”

Advocates have also argued that VTCs do not provide special treatment, but rather the appropriate treatment. Ideally, this treatment should be made available for all criminal defendants who need it (McCormick-Goodhart, 2013). In the context of a broader criminal justice system, advocates of problem-solving courts look toward rehabilitation instead of punishment because problem-solving courts use therapeutic justice to address the root cause of the offender’s crime (Pratt, 2010). Therapeutic justice uses treatment to help remove the offender’s problems and return them to society as a responsible citizen (Pratt, 2010).

**The Importance of a VJO to VTCs**

A Veterans Justice Outreach (VJO) coordinator works with law enforcement and courts to provide veterans who have broken the law with treatment by focusing on VA-based behavioral health care-based programs (McGuire & Clark, 2011; U.S Department of Veteran Affairs, 2014).
This will prevent jail time, homelessness, and focus on providing the appropriate treatment to eligible veterans. VJO’s are tasked with facilitating timely access to VA benefits to veterans who are arrested, incarcerated, or otherwise involved with the justice system (McGuire & Clark, 2011). According to Stewart (2011), if a justice program exists for veterans in a community, the VA builds working relationships with providers to see that eligible veterans receive the care they need. If there are no justice programs in the community, VJO’s will reach out to providers to try to connect veterans with the appropriate treatments.

A VJO plays many roles in providing help to veterans. VJO’s serve veterans of all eras by assess his or her health needs and identify appropriate treatment services. They also serve as a key team member on majority VTC teams. VJO’s cannot accept custody of a veteran if the veteran is referred right after an arrest nor can they guarantee acceptance into VTC without extensive research on the veterans military background (Stewart, 2011).

**VTC Eligibility**

According to Pratt (2010), there are limited data on eligibility requirements of VTCs. Some research shows that VTC eligibility can include a non-violent offender who has served in the military, suffer from a mental illness, such as PTSD or TBI, and are facing criminal charges (Cavanaugh, 2010). The mental disorder usually needs to be connected to the veteran’s time served in the military (McCormick-Goodhart, 2013). It is not known what types of crimes are eligible, felony, misdemeanors, or both, if the offender has to be eligible for Veterans Affair (VA) benefits, and if the type of discharge he or she received from the military will determine eligibility. It also has not determined if the branch of the military matters in eligibility, if the
veteran has a past criminal history, or if the crime needs to be directly related to the mental disorder the veteran may be experiencing.

Some courts have developed a questionnaire to give to potential candidates to determine basic eligibility:

“Criteria for eligibility and enrollment are based on several factors: combat vs. non-combat veterans, type of military discharge, criminal charges (i.e., violent vs. non-violent offenses), and the eligibility and enrollment guidelines for the Department of Veterans’ Affairs. If it is determined that a Veteran is eligible for the VTC, various screenings take place,” (Madison County VAC, p. 2).

The questionnaire includes the participants name, social security number, if they have ever served in the armed services, if they were in the reserves or national guard, what branch they served in, when they first entered into the military, when they were discharged from the military, the type of discharge they earned, whether it is honorable, general under honorable conditions, dishonorable, or medical discharge, and if they have ever received services from the Veterans Affairs hospital (Governor’s Task Force, Illinois, 2010).

Eligibility is based on a number of factors, such as the branch of armed forces, the type of discharge, the number of years served, and where the veteran has served (Travis County, 2009; Institute for Veteran Policy, 2011). The courts must have the inability to serve the offenders needs. McCormick-Goodhart’s Penn State Law Review (2013) states that the defendant must suffer from “brain injury, mental illness, or mental disorder.” The disorder must stem from the service spent in a combat zone or other similar hazardous duty area and the disorder must have materially affected the defendant’s conduct. This study looks at the eligibility requirements among VTCs in Pennsylvania.
The process of determining eligibility may be complex and encompass many stakeholders from different agencies (Belenko, Fabrikant, & Wolff, 2011). Different levels of expertise and perspectives are fundamental in determining eligibility and admission into any problem solving court:

“Veteran Treatment Courts are similar to Mental Health, Drug and DUI Courts. All parties are collaborating in this effort to address the needs of military Veterans who turn to various crimes in the aftermath of military service. These Courts address the needs of all veterans ready, willing and able to abide by the court sanctions and make the necessary changes in their lives,” (Schaffer, 2010, p. 2).

A. Discharge

Researchers believe that honorably discharged veterans are accepted into VTCs, but they do not know if any other discharge is considered (Travis County, 2009; Institute for Veteran Policy, 2011).

B. Offense Type

Researchers think that misdemeanors are accepted into VTCs, but they do not know if any other offense are considered, nor do they know if every misdemeanor is accepted (Cavanaugh, 2010).

C. Criminal History

Researchers think that a veteran’s criminal record can impact whether or not he or she is accepted into VTCs, but again, they do not know to what extent (Belenko, Fabrikant, & Wolff, 2011).
D. Available Care

If eligible for VA benefits, veterans usually have free medical and psychological care through the Veterans Affairs Office. Eighty-nine percent of incarcerated veterans are eligible for VA benefits, many just do not take advantage of them (Lavin, n.d).

E. Problem-Solving Court Eligibility

Because VTCs are fairly new, data on eligibility into such courts are sparse. In order to understand VTC eligibility, eligibility requirements of other problem solving courts has been drawn into this research. Different problem-solving courts have different eligibility requirements. According to Belenko, Fabrikant, and Wolff (2011), eligibility for mental health court is based on a complicated and variable decision making process. The eligibility process involves multiple parties representing different interests and expertise (Belenko, Fabrikant, & Wolff, 2011). The offender is eligible for mental health court if they have a combination of a mental illness and a criminal charge. In most cases, the offender needs to have committed a crime that was non-violent and considered a misdemeanor to be eligible. In some cases, violent charges and felonies are considered for eligibility purposes (Belenko, Fabrikant, & Wolff, 2011).

According to the research from Saum, Scarpitti, and Robbins (2001) study, eligibility criteria for drug court participation was limited to nonviolent, first-time, drug-involved offenders. They were not charged or convicted of an offense involving a weapon, a death, a force against someone, or a serious bodily injury with no prior convictions for violence. On the contrary, a violent felony may be considered something very different in various states. For example, in some states, possession of a large amount of paraphernalia is considered a violent crime (Saum, Scarpitti, & Robbins, 2001). For that reason, many drug-dealers are excluded from
drug court. According to Saum, Scarpitti, and Robbins (2001), excluding drug-dealers could pose as a problem because a person who commits a robbery to support his or her habits may benefit greatly from the drug court program. The offender must demonstrate a need for substance abuse treatment and be medium to high risk (Sphon, Piper, Martin, & Frenzel, 2001).

Most commonly, drug court will review a participant’s charge and criminal history before moving forward. If the participant has been convicted of a violent crime or has been identified as a drug-dealer, the participant will automatically be denied eligibility (Belenko, Fabrikant, & Wolff, 2011). Participants are screened on a case-by-case basis. Participants are screened to help determine if there are other drug use problems or other criminal history (Belenko, Fabrikant, & Wolff, 2011). From here, according to Belenko, Fabrikant, and Wolff (2011), the participant will be assessed to determine the nature and severity of the drug problem and the participant’s motivation for treatment.

Eligibility into drug court also varies depending on the track the participant will be placed. In the courts researched by Belenko, Fabrikant, and Wolff (2011), the diversion track tends to target first-time low-level offenders with a drug possession felony charge, but will not accept drug-dealers. Again, eligibility is determined on a court-by-court basis, so this may not reflect every drug court. For the preplea track, participants eligibility criteria tends to be broader; the charge must be a drug charge. Some courts accept other charges as well if the activity is thought to reflect a drug problem (Belenko, Fabrikant, & Wolff, 2011). In all tracks, violent crimes, members of gangs, multiple probation/parole violations, a low risk offender and having to owe too much restitution are often automatic denials of eligibility. If a potential participant is homeless or has a serious mental health problem, they may be ineligible or referred to a different problem solving court (Belenko, Fabrikant, & Wolff, 2011).
When comparing drug courts, mental health courts and veteran’s treatment courts, there are a few commonalities among the three. Every court appears to have their own guidelines on eligibility. The offender cannot have an extensive criminal history or they will be denied as eligible. The offender must show needs of substantial help and be willing to participate in the appropriate programs. Besides those few basic requirements, the literature does not acknowledge many more eligibility guidelines for VTCs.

F. Challenges to Determining Eligibility

Eligibility is more than just being a veteran, but determining eligibility is a challenge. Researchers barely know the basics: who, what, where, when, why, or how. We do know that eligibility requirements tend to be largely politically motivated (Saum, Scarpitti, & Robbins, 2001). However, Saum, Scarpitti, and Robbins (2001) explain that politically, policies are created as a ‘get tough’ on crime aspect with the belief that criminal offenders will get their ‘just deserts’. On the contrary, depending on the crime, violent offenders could benefit from substance abuse treatments that are required in drug court. There is usually a connection between crime, violence, and association among drugs and if treatment is implemented, there is a chance the violence will discontinue (Saum, Scarpitti, & Robbins, 2001).

Belenko, Fabrikant, and Wolff (2011) use an example with a prosecutor and drug staff. One person may want to admit a low-risk client while another person feels a client who requires long-term treatment may be more acceptable in the program. On the contrary, when a team determines if a client is eligible, if there is no support from the opposing attorney, the client’s selection into the program is affected.
G. Why Eligibility Guidelines are Important

Eligibility rules are important for a multitude of reasons. Without proper guidelines and rules, it would be difficult to determine who is eligible with support to back up the decision. Eligibility helps to determine similar characteristics in the population being studied. This way, researchers can achieve accurate results that may be meaningful for future evaluations. When eligibility pertains to problem-solving courts, it is important to have a specific population that needs similar and specific treatment. For VTCs, veterans are a specific and unique population that has their military experiences in common. Eligibility is important so the courts know what types of treatment they can or should provide.

Eligibility is relevant to several justice issues including procedural due process which refers to the aspects of the due process clause that relates to the process of arresting and trying persons who have been accused of crimes. Procedural due process also applies to any government action that may deprive an individual of life, liberty, or property. If this occurs, a person is entitled to adequate notice, hearing, counsel, and a neutral judge. The principle of procedural due process follows the concept of fundamental fairness (Cornell Law, n.d.). Procedural due process includes the legal rights that are owed to someone in a fair and timely procedure. It is a guarantee of basic fairness. What may be fair in one situation may not be fair in another. Procedural due process guarantees that there is a full and fair decision making process and guarantees the right to be heard. The government can take action which can directly impair a person's life, liberty or property. If people do not perceive that they are receiving procedural due process, they are less likely to obey or respect the law (Cornell Law, n.d.). Eligibility is a critical issue because it impacts all facets of the courts - from serving as a reflection of the philosophy of the court, to administration, supervision, and outcome measures.
For example, according to Rossman and Zweig (2012), courts should broaden their eligibility requirements by removing certain restrictions to include more offenders. Some drug courts restrict eligibility based on the drug an offender has chosen. Drug courts also tend to restrict certain mental health problems. Early drug court models restricted eligibility in participation to nonviolent offenders (Saum & Hiller, 2008); certain offenders should not be restricted from eligibility due to their crimes. By removing eligibility restrictions, other courts may begin to do the same.

Eligibility restrictions are still common today, due to federal funding for drug courts. When receiving funding, the funds may put restrictions and stipulations on who is eligible in participate in the program. Different funding stems may have different eligibility requirements that may allow violent offender to participate. In other words, some drug courts determine their eligibility requirements through their funding sources. According to Saum and Hiller (2008) it is a goal to expand eligibility requirements to allow violent offenders.

It can be a major challenge to meet the needs of an offender while trying to keep a balance between treatment options and public safety. In Saum and Hiller’s (2008) study, they state that violent offenders, compared to other offenders, recidivate less frequently. That number can be lowered if given the proper treatment. Furthermore, Saum and Hiller (2008) have recommended eligibility requirements be changed by considering a possible participants characteristics and behaviors, looking at the extent of the charges and the crime, and the type of seriousness of the substance abuse problem instead of worrying about an offenders history of violence. Focus on whether or not the offender can be treated with the resources available.

There appears to be a lack of balance between the needs of treatment versus corrections and public safety (Saum, Scarpitti, & Robbins, 2001). Due to the lack of balance, an eligibility
criterion has been expanded to involve more serious crimes. According to Saum, Scarpitti, and Robbins (2001), the focus should not be on just the offender’s criminal history because the number of charges and the number of drug choices does not always predict an offender success in drug court; a history of violence does not predict the outcome of a drug court participant. In terms of eligibility in drug courts, the offenders’ charge, both the type of charge and the seriousness of the charge, and the seriousness of substance abuse problem should be considered rather than an offender’s history of violence. Some drug court models have adapted to different tracks that will help target more serious and repeat offenders in order to broaden eligibility criteria into the court (Saum, Scarpitti, & Robbins, 2001).

Some researchers do not feel all participants are being treated equally. They believe that VTCs “cherry pick,” or pick easier cases over the others just so they can get the support and funds from the public (Justice Policy Institute, 2011). “Cherry picking” creates a problem of fairness and discrimination. The ones who are more likely to succeed will be awarded eligibility, leaving the ones who need the court the most without access to treatment. People who have convictions prior to their military experience are more likely to be excluded from eligibility consideration. By accepting harder cases, treatment, requirements, and sanctions/incentives will need to be adjusted to fit their needs.

VTCs have consequences that may affect the participation of veterans. Veterans opt out of the program because the requirements are so burdensome (Justice Policy Institute, 2011). Prison, to them, seems like an easier way out than going through VTC. Also, according to the Justice Policy Institute (2011), there is a stigma that comes with participating in a problem-solving court. A mental health diagnosis can lead to challenges when searching for employment and housing.
H. The Importance of VTC Eligibility

As of now, Pennsylvania has seventeen VTCs, and they all are premised, at least in part, on the shared philosophy that veterans have earned the right to another chance through treatment, not incarceration (Freking, 2013; Justice for Vets, 2015). But not much else is known about what their commonalities and differences are. This paper takes a step towards understanding those distinctions and differences through a survey of all VJOs who serve all Pennsylvania’s VTCs in Pennsylvania and delving into the panoply of characteristics that VTC participants share. The survey included semi-structured interviews followed by an itemized survey of the eligibility requirements for each court.

Other problem-solving courts do not adequately address the trauma experienced during a veteran’s military service. This cause is unique to veterans. VTCs address trauma through various treatment options. Since VTCs enable veterans to undergo the treatment process with other veterans, veterans respond more favorably to other veterans who have common experiences and needs, which is different from other problem-solving courts. VTCs are also needed because they match defendants with mentors who are also veterans and can relate to the situations that are occurring. VTCs hold veterans accountable for their actions while also addressing the psychological trauma that contributes to criminal behavior. It also helps to determine the reason why the veteran population warrants, needs, and deserves its own problem-solving court. Knowing the importance of VTCs, researchers need to understand the eligibility requirements for each court.
Methodology

This study investigated the eligibility requirements for the seventeen Veteran Treatment Courts in Pennsylvania. The data collection began after acquiring the appropriate IRB approval from The Pennsylvania State University. After contacting the Dauphin County judge who oversees the Dauphin County VTC via e-mail, the researcher received permission to interview him about the newly formed court. The researcher began with a semi-structured interview with the judge at the courthouse. During this interview, the judge and researcher discussed how VTCs came into development and the eligibility requirements for veterans entering into his specific court. Upon further inquiry and interest to learn more, the researcher was invited to attend a VTC session where they met Dauphin County’s team members. The researcher obtained appropriate IRB approval, so she could contact other members of the Dauphin County VTC team.

Following the interview with the judge, the researcher was introduced to the Veteran Affairs Justice Outreach (VJO) Coordinator for Lebanon. The researcher inquired about setting up a meeting to interview her. After successfully having the privilege of interviewing her, the researcher was provided the opportunity to conduct another round of surveys consisting of nine VJOs in Pennsylvania. Over a two month period, the researcher and VJOs discussed the various eligibility and intake processes through various VTCs by using a survey.

The researcher focused on Pennsylvania’s VTCs due to Pennsylvania having the fourth largest veteran population in the United States. The interviews were done state-wide so the researcher had comparable data. All VTCs in Pennsylvania include a VJO on the VTC Team, and most VJOs serve more than one court. Because they are responsible for tracking extensive data on every veteran in the course of their normal employment, the researcher decided to interview them for the purpose of this study. The researcher assumed that it would not be too
burdensome to ask them to share data they already collect. All Pennsylvania VJOs took part in the survey, and they all provided information on eligibility criteria. All VJOs spoke openly about their courts’ eligibility determination process.

The researcher contacted all the VJOs via e-mail, Appendix A, to request permission to survey them about their county’s VTC. After the first initial telephone survey, the researcher sat down and created an instrumental questionnaire by examining the answers that were given by previous VJOs. The researcher also reviewed previous research on problem-solving court eligibility and determined what should or could apply to VTC eligibility. After a few other surveys, the researcher re-examined the questionnaire and added or took out a few questions. After creating the final questionnaire, Appendix B, the interview surveys were conducted either in person, e-mail, or via telephone. After the data was collected, the researcher put the eligibility requirements into a database, Appendix C, to document and analyzed the surveys. The researcher then identified commonalities and distinctions among the various courts. The column included the county court by name and their responses and the domain included the questions. Through the database, the researcher determined the eligibility requirements for VTCs in Pennsylvania.
Results and Discussion

The sample consisted of ten respondents, all of whom are VJOs in Pennsylvania. The semi-structured interviews allowed the VJOs to speak freely about their eligibility process and what they felt was important. Although results varied among the seventeen VTCs, the survey and follow up questions put the eligibility criteria of VTCs into perspective.

How Veterans First Come into Contact with the VJO and VTC

Meeting with a VJO and getting into VTC is a process that can start at the time of arrest if the veteran self-identifies as a veteran. VJOs reported that they often receive telephone calls shortly after a veteran has been arrested. The calls may have been made by the arresting officer, the veteran, the veterans’ family, or even the warden after the veteran has been detained. During the telephone call, the VJO is made aware that a veteran has been arrested and why. The process can also start with the preliminary hearing after the crime has occurred. With either option, the veteran may be referred to the VTC program by a number of people where they will have the option to apply. Referrals to the program can come from judges, police officers, district attorneys, probation and parole officers, guards from the county jails, or the veteran can self-refer into applying for VTC. Once the referral is received by the VJO, the VJO does a background check on the veterans’ military service to determine his or her military status, branch, whether they are eligible for VA benefits, and if they already have a criminal background. If the veteran is in good standing of basic eligibility requirements with the VJO, the VJO brings the referral to the VTC team to consider if the veteran is eligible for the program.
Eligibility and Factors Considered by the VTC Team

A. Military Discharge Status

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
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*Unless insured elsewhere

A veteran’s military discharge status of honorable, dishonorable, and other than honorable plays an important role in eligibility. Every VTC will accept active and not active military men, women and veterans. Out of the seventeen VTCs, six of the courts that were interviewed will accept dishonorably discharged veterans to participate in VTC and will not dismiss them; ten will dismiss dishonorable veterans immediately and one court does not know what they would do. All seventeen VTCs will accept honorably discharged veterans and five of them will accept other than honorably discharged veterans; twelve out of the seventeen VTCs look at other than honorable discharges on a case-by-case basis. Medically discharged veterans usually fall under the other than honorably discharged category. A medically discharged status is also looked at on a case-by-case basis. Every military branch is accepted when determining eligibility.

In some cases, if the veteran is denied eligible for VTC, the veteran can appeal the denial decision to the judge by writing a letter. Ultimately, it is the team’s decision, which the judge is
part of; therefore, if the veteran is denied, he or she is denied. Appeals have rarely occurred in any of the courts.

B. Nature of Charges and Criminal History

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*Alternatives in Jurisdiction

If the veteran appears to be eligible for VTC, the VJO and the veteran will meet to discuss his or her past criminal history and the actual event that caused the veteran to be arrested and charged. Murder, sex offenses, aggravated assault, assault with a weapon, and very serious felony crimes have restrictions in almost every courts eligibility determination. A majority of the time, there are no exceptions. In very rare cases, four of Pennsylvania’s VTCs will look at aggravated assault and murder cases on a very restricted level. The VJO looks the factors that caused the assault or the murder and determines whether or not any of the factors were correlated with the veterans’ time in the service.

When the VJO and veteran discuss criminal history, the VJO determines if the offense was the first time or if the veteran is a repeat offender otherwise known as a career criminal. One VTC will take career criminals while eleven others will view career criminal eligibility case-by-case. Five VTCs absolutely will not accept career criminals. Seventeen VTCs accept
misdemeanor and nonviolent crimes, most charges being driving under the influence (DUI).

Only one court does not allow DUI offenses. If a specific charge is determined ineligible, there may be an alternative problem-solving court in the jurisdiction of that crime.

C. Nexus Between Charges and Military Service

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When returning to the civilian lifestyle, veterans often suffer from an array of issues. Those issues may include PTSD, TBI, depression, housing, lack of employment, and lack of support. VJOs and the VTC team evaluate every situation on a case-by-case basis. In six of the Pennsylvania VTCs, the veteran’s crime needs to be in connection with the veterans’ service in the military. There are three VTCs that have a grey area on whether or not the crime needs to be in correlation with the veteran’s service because it is not always easy to make that determination.

D. Role of Victim

The crimes eligible for VTC often entails a victim. The district attorney will determine whether or not a victim was involved in the crime. Thirteen VTCs will investigate what the victim wants, and if the victim declines the VTC option, the veteran is denied eligibility. In majority of the cases, if a victim is involved, the victim is usually a friend or a family member of the veteran. In these cases, the victim tends to understands why the crime has occurred. If the victim is a stranger, the victim tends to understand and will agree to the terms of the court after learning that the offender is a veteran. In two of the VTCs, the victim does not need to give
permission on whether or not the veteran can participate in the program, but the eligibility acceptance decision is weighed heavily based on the veterans’ crime.

E. Plea or Sentence Status

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*One VTC uses a Diversionary pre-plea program

*Charges can be reduced

Various VTCs handle sentencing differently. About a fourth of the courts sentence their veterans as guilty in order to participate in VTC. Over half will dismiss or suspend the veteran’s sentence until after he or she has graduated from the program. In extreme cases, veterans may be gifted the opportunity to have their charges dismissed or expunged off of his or her record. This option is not a guarantee and is always determined on a case-by-case occurrence. Nine courts do not know if they will expunge records or not due to not having the opportunity arise. In rare cases, the judge will use VTC as a sentence and reevaluate the situation once the participant has graduated from the program. In one court, the veteran is sentenced to a diversionary pre-plea program where the offender does not have to enter a guilty plea, but instead has to successfully complete VTC. The case is then pushed back on the court calendars and eventually gets dismissed. In the other courts, if the veteran successfully completes VTC, his or her charge may be reduced from a felony to a misdemeanor or from a misdemeanor to a summary offense.
VTC Eligibility and VA Benefits

VTCs use treatment providers that fall under a veterans VA benefits. Not all veterans are eligible for VA benefits though. To determine VA and VTC eligibility, the veteran will meet the VJO for a general assessment. When the veteran and VJO meet, the VJO will often help the veteran determine if he or she can enroll for VA benefits, if eligible and not already enrolled. If need be, the VJO will help the veteran through the process of enrolling in VA benefits. In situations where a veteran is not eligible for benefits, the VTC team tries to find outside treatment providers to send their participants.

In order to be eligible for VTC participation, eight Pennsylvania VTCs, require veterans to be eligible for VA benefits, unless insured elsewhere. Nine of the VTCs do not require veterans to have VA benefits so long as there are treatment options available within the community.

VTC Team Decision-Making

VTCs consist of a team that includes a VA’s Office representative, the judge, at least one probation officer, court mentors, the district attorney, private attorney, and the defense attorney. On various occasions, the warden from the jail, the counselor from the jail, and the mental health coordinator are included. When a referral is brought to the team’s attention, the team discusses if the veteran is eligible to participate in VTC. The team looks at a veterans file as a whole; they consider the veterans offense, criminal history, treatment needs, VA eligibility status and whether or not treatment is available for the veteran. Some of the VTCs vote on the participation of the veteran as a team once a determination has been made. In other VTCs, the judge, VJO, or DA determines if a veteran is eligible for VTC.
In the eleven courts that do not have a majority vote, the judge and the VJO can discuss vetoing the decision of accepting a veteran into VTC if they feel it is appropriate. Six of the courts go by a majority vote, but in some instances, the district attorney or the judge makes the final decision.

*Amenability to Treatment and Availability of Elements of Treatment Plan*

Once the victim has agreed and the veteran has met with the VJO, another assessment will take place to determine the veteran’s treatment needs and to determine a treatment plan. The VA Benefits Office will determine treatment needs based on factors such as mental health, TBI, PTSD, and substance abuse issues. They will screen for personality disorders, such as narcissism and schizophrenia as well. During the screening process, the VJO and district attorney will evaluate the veteran’s criminal history and determine the driving force behind the most recent offending event. Once the evaluation and screening process is complete, the VJO will discuss the treatment needs with the VTC team. After the discussion, the team will decide on which treatments are best and/or needed most. In every court, the driving force must be something that can be treated. In various situations, there is always a grey area. When a grey area arises, other factors are determined case-by-case. Commonly, the veteran will be accepted into the program if his or her behavior is amenable, but the treatment does not always need to be through the VA’s office; treatment can be offered from places in the community that is outside of the VA’s jurisdiction.

In special circumstances, a veteran may have committed a crime outside of the jurisdiction that he or she resides. To be supervised in the county where they live, most VTCs try to exchange veterans based on county. Some veterans try to use VTC as an excuse to avoid
spending time in jail, but others are very resistant and will not even admit they are a veteran. In rare cases, veterans can be judgmental over other veterans in the program. The judgment is often based on the crime that was committed.

After the veteran has been accepted into VTC and the team determines treatment, the veteran will go in front of the judge to determine the next step of the program. During the proceedings, the veteran will be made aware of what is expected of him or her. The veteran will also be provided with a treatment plan.
Conclusion

Differences in eligibility may give rise to differences in access to justice, which may result in a violation of a person’s procedural due process. These differences are important for analysis for a number of reasons. With these differences in VTCs, not everyone is getting the same access to benefits which cause some veterans to be awarded a second chance in society while others do not have that opportunity. Differences in who is awarded eligible could be seen as discriminatory because a veteran who is not given the same access to certain benefits such as VTCs will not have the opportunity to improve his or her life. Since VTC is fairly new, these differences will help us in the future to better evaluate what is and what is not working.

There were limitations with this qualitative study. The VJOs that were interviewed may have interpreted the wording of the researchers’ questions differently than others. The question “does the crime need to be directly related to a “disability” in the military? PTSD, TBI, drug or alcohol abuse that started after his or her military career?” may have been confusing. The VJOs may not have understood what was meant by “military disability;” they may have considered the word “disability” in a different context than how the researcher meant. For example, the word “disability” could have been thought of as a physical problem with a veteran instead of a mental health problem. To prevent error, the question could have been reworded to clarify exactly what the researcher meant or have other questions follow that examined the possibility of screenings for specific disabilities.

Another limitation to this study resulted from the VJOs knowledge. The survey asked about plea tracks, and although every VJO answered, the VJO may not have been completely familiar with the process. This study revealed a commonality of eligibility in Pennsylvania’s various VTCs, as well as gaps that occur when determining eligibility. Most VJOs knew about
the other VTC, but barely any of them knew of the eligibility of the other courts. Explain in more detail.

Future research is necessary to further explore VTCs. Understanding eligibility in such courts is only a piece of a larger puzzle. Additional team members can be interviewed to understand their views of eligibility, the acceptance process, and how their VTCs are run. Other states can be included as well to get a wide variety of different eligibility processes. VJOs may not consider a difference in eligibility a major issue, but simply a way to weed out offenders who may not benefit from VTCs. Research is also needed on alternative options that may be available to veterans that are denied. One VTC does not accept DUI charges. Further research may determine that there is a better alternative for that veteran such as DUI court.

Another major consideration for future research is to utilize actual VTC participants. By interviewing participants, the researcher would get a better feel on how the participants view VTCs and determine their perspective on how effective it is. By interviewing participants, the researcher could determine if the VTCs feel there are any discrepancy in the eligibility process as well as determine any gaps participants find concerning.

There are great disparities in how VTCs define eligibility. These disparities result in very different veteran populations within the courts. It appears that access to justice is influenced by the different veteran population, but further research is needed. The researcher is commencing personal evaluations of VTCs in the northeastern state for better clarification. This study will help the researcher understand the nature, scope, and mission of VTC models prior to undertaking this personal evaluation.
References:


Madison County VAC. (n.d). Understanding How The Veterans’ Treatment Court Works.


Travis County. (2009). Report of Veterans Arrested and Booked into the Travis County Jail; A Project of the Veterans Intervention Project.


Appendix A: Explanation E-mail to VJO’s

All,
I wanted to get into contact with you about discussing veteran treatment courts. For those of you who may not know, my name is Sarah and I am currently a graduate student at Penn State Harrisburg. I am focusing my thesis work on veteran treatment courts in Pennsylvania, specifically the eligibility and intake procedures. I was wondering if I could set up a time to call you discuss what your veteran court(s) are like. If this does not work with your schedule, I have typed up a few questions that I am looking to be answered that I would be more than willing to send to you. I am more than happy to work around your schedule! If you have any questions or concerns, please feel free to contact my thesis advisor, Dr. Anne Douds at 717-948-6667 or asd12@psu.edu. Thank you!
Appendix B: Interview Questionnaire

- For Veterans Treatment Court, what county(s) do you oversee?
- In what year did your court(s) begin?
- Have any surveys/evaluations been done to determine how well the VTC has been doing?
- Can you explain your eligibility process for veterans from the moment they commit a crime? For example, how do they find out about the program?
- Describe the referral process from the moment of the arrest to the time when the VTC learns of the offending veteran who is seeking to be placed in VTC. Who refers them to the program?

Veteran information:

- Do you allow National Guards and veterans from the Reserves into the program?
- Do you accept those who are active and/or non-active? Combat and/or non-combat?
- Do you allow honorably, dishonorably, and/or other than honorably discharged veterans?
- If they fail the program or graduate and reoffend, can they repeat this court?
- What type of offenses does your court allow? Misdemeanors, Felonies, Violent, non-violent, murder, sex offenders, domestic violence?
- Does the crime need to be the veteran’s first offense or does your program allow career criminals?
- Does the crime need to be directly related to a “disability” in the military? PTSD, TBI, drug or alcohol abuse that started after his or her military career?
- Does treatment need to be available through the VA or can it be found within the community?
• What types of treatments are available at your VA?
• How do you decide whether a person is allowed into your court? Is it judge mandated or does your team vote on the defendant?
• Who is part of your team? DA, Probation officer, judge, mentor, Private attorney?
• Is your judge(s) a veteran?
• What is the legal status of the defendant when they enter the program? Are they sentenced? Must they pled guilty, or is the sentence suspended until the program is completed?
• Are their charges dismissed or expunged once they complete the program?
• Is there a capacity in numbers your VTC can take each year?
• How long is your VTC program?
• Do you offer help with housing? Employment? Work release?
• Does your program offer community service or is it part of their sentence in the program?
• Does a prior criminal record affect the eligibility of a veteran?
• Is there a fee to go through this program? If so, how much and how is it paid?
• Are any tests or screenings done prior to the program to determine eligibility?
• Does your court go through phases? If so, what do the phases consist of? Does your court participate in a graduation?
• If there was a victim involved, does the victim need to agree to allow the veteran go through this program?
Appendix C: Results in Table Format

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*Unless insured elsewhere

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*Alternatives in Jurisdiction

C. Nexus between Charges and Military Service

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*One VTC uses a Diversionary pre-plea program

*Charges can be reduced