

POLICY BRIEF

Veterans Treatment Courts in New York State: Progress and a Roadmap for Growth

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Challenges for Returning Veterans

New York State is home to more than 800,000 veterans, including many who recently completed their military service.¹ Nearly 100,000 of them began serving during the post-9/11 era. The proportion of post-9/11 veterans is expected to rise rapidly in New York State, from approximately 11% currently to 22% by 2025.² Most veterans adjust to civilian life without major difficulties; they further their educations, work, raise families, and contribute to their communities.

Some veterans do experience challenges reintegrating into civilian life. Aside from the health risks men and women in the United States military face during active duty, many veterans also suffer from mental health conditions following their service. Several studies have shown that a substantial portion of veterans who have deployed to Iraq or Afghanistan after September 11, 2001 suffer from mental health disorders such as post-traumatic stress disorder (PTSD) or major depression, as well as substance use disorders.³ A 2010 survey of New York State's veterans by RAND Corporation found that 22% of returning post-9/11 veterans have a probable mental health diagnosis based on symptoms over the last 30 days, with about equal numbers (16%) screening for major depression and PTSD. Compared to similar individuals in the general population, veterans are 8 times more likely to have PTSD and 2–4 times more likely to have major depression.⁴

Behavioral health issues among veterans are associated with various related problems such as homelessness, unemployment, strained relationships, and criminal behavior.⁵ Several studies have shown increased risk of criminal behavior for veterans with substance use issues and PTSD.⁶ Based on the 2011/2012 fielding of the National Inmate Survey, the Bureau of Justice Statistics reported that 181,500 veterans were in jails and prisons in the United States, comprising about 8% of the incarcerated population.⁷ About half of those veterans in prison (48%) and jail (55%) reported that a mental health professional told them they had a mental health disorder at some point in their lives. This compared to 36% and 43% of nonveterans in prison or jail, respectively. PTSD was particularly found to be more problematic for veterans than nonveterans. In New York, about 5% of the more than 50,000 under State custody either as inmates of State prisons or as incarcerated parolees are verified veterans.⁸

Overview of Veterans Treatment Courts

Veterans treatment courts (VTCs) are a type of specialty court geared toward veterans who have committed low-level crimes and have mental health or substance use issues. VTCs provide an alternative to incarceration. Veterans choosing to use VTCs are offered mental health counseling and can be connected to various community-based services, as well as local, State, and federal agencies specializing in veterans' affairs. These resources can help veterans with job training and placement, as well as housing and transportation.

VTCs are modeled after drug and mental health courts (See [Box 1](#) for History of VTCs), two specialty courts designed to treat individuals suffering from a substance use or a mental health disorder. These courts are examples of "problem-solving courts," which "share a commitment to the principles of

Challenges for Returning Veterans (continued)

therapeutic jurisprudence and believe the court system should play a critical role in addressing some of society's most pressing ills," by helping to address problems in the community.⁹

Participation in VTCs is voluntary. Upon successful completion of the program, which generally takes 14 to 18 months depending on the criminal charge, veterans can typically have their record cleared of the relevant criminal convictions, have charges dropped or reduced, avoid incarceration, or receive a reduced term of probation.¹⁰ If a participant fails to meet the requirements of the program (e.g., disobeys court orders or fails a drug screening), he or she is typically subjected to court sanctions, which may include community service, fines, jail time, or transfer out of the VTC back to a traditional criminal court.

Box 1. Early Beginnings of Veterans Treatment Courts in New York

- The **Honorable Robert Russell** started the first VTC in Buffalo, New York, in January 2008 in response to the growing number of veterans facing charges for non-violent offenses.
- He was inspired by the transformative power of military camaraderie and his experiences with drug and mental health court dockets—two other types of specialty courts that he had previously introduced to New York State in Buffalo.¹¹
- NYSHealth awarded two grants to the New York State Unified Court System. The first, in 2009, supported a process evaluation of the Buffalo VTC to codify key elements of a VTC and develop a training curriculum for VTC staff.¹² The second, in 2010, supported the spread of VTCs across 14 jurisdictions in New York State.¹³
- In 2017, almost half of the 62 counties in New York have a VTC available.¹⁴ According to the New York Governor, between 2008 and early 2017, more than 4,500 veterans have been helped across the State.¹⁵



Structure of Treatment Courts

Because of varying legal regulations and provisions across different jurisdictions and a lack of clearly codified terms and definitions, the structure of VTCs can vary from state to state and even within states. However, there are three core components:

- **Judicial oversight** requiring regular court appearances.
- **Therapeutic treatment** through mandatory attendance at treatment sessions for medical care, mental health care, and addiction services. This includes frequent and random testing for drugs and alcohol.
- Opportunity to be connected with **social services**.

VTCs can have up to 11 or more different types of staff involved in an individual veteran's case.¹⁶ VTC staff typically also work in other parts of the judicial system, but often complete specialty training to support VTC efforts. Some of the staff also work on a volunteer basis as part of the VTC program. Key roles of VTC programs include:

- Judges play a central role in determining whether to create a VTC in a local jurisdiction and when such cases should be heard. The presiding judge also heads the collaborative treatment team, which typically includes the prosecutor, defense attorney, clinical staff, veterans outreach center, court mentors, and the Department of Veterans Affairs. In this capacity, the judge regularly reviews progress reports detailing veterans' compliance with treatments, drug test results, cooperation with the treatment providers, and progress toward abstinence and law-abiding behavior.
- District attorneys/Prosecutors review all potential participants for eligibility and actively participate in staffing cases. In essence, they are the program gatekeepers that allow justice-involved veterans to participate in treatment programs and avoid incarceration, oftentimes in exchange for a guilty plea that will likely be expunged upon successful completion of the program. As opposed to the characteristically adversarial relationship with defense attorneys in traditional adjudication courts, district attorneys and prosecutors are part of the collaborative team with defense attorneys in the VTC environment, working toward helping veterans restore their lives.
- Defense attorneys represent and counsel the veterans in all court proceedings.
- Mentors serve a variety of roles, including coach, advisor, sponsor, and supporter. Mentors typically are military veterans themselves and serve on a volunteer basis. They listen to the concerns and problems of participants and assist them in finding resolutions. "VTCs rely heavily on veteran peer mentors to provide around-the-clock support, advice, and camaraderie for participants, and ensure they attend treatment services and prosocial events."¹⁷

Challenges for Returning Veterans (continued)

- Veterans Justice Outreach Specialists (VJOs) work with the courts to help eligible justice-involved veterans get mental health services. VJOs may conduct assessments, treatment planning, and referrals to VA services, including educational benefits, health services, and other VA benefits that help promote income and housing stability. VJOs also inform officers of the court about whether a veteran is complying with VA treatment programs and may assist in training law enforcement officers about PTSD or traumatic brain injury.¹⁸

Box 2. Ten Key Components of Veterans Treatment Courts

1. Integrate alcohol, drug treatment, and mental health services with justice system case processing, which can include the cooperation and collaboration of the traditional partners found in drug treatment courts and mental health treatment courts with the addition of VA health care networks, veterans and veterans family support organizations, and veteran volunteer mentors.
2. Promote public safety while protecting participants' due process rights using a non-adversarial approach to deferment.
3. Identify eligible participants early and promptly in the VTC program.
4. Provide access to a continuum of rehabilitative services, so that the treatment team can consider co-occurring problems such as primary medical problems, homelessness, unemployment, and family troubles.
5. Monitor substance abstinence by frequent drug and alcohol testing.
6. Establish a coordinated strategy, including a continuum of graduated responses, by rewarding cooperation as well as responding to noncompliance.
7. Ensure judges maintain ongoing judicial interaction and supervision with each veteran participant.
8. Monitor and evaluate program progress to measure the achievement of program goals and gauge effectiveness against its stated objectives.
9. Ensure that all VTC staff are involved in continuing interdisciplinary education to promote effectiveness of VTC planning, implementation, and operations.
10. Forge partnerships among VTCs, the VA, public agencies, and community-based organizations to generate local support and enhance VTCs' effectiveness.

Source: Justice for Vets. (2009). The ten key components of veterans treatment court. Alexandria, VA: National Association of Drug Court Professionals. Retrieved from: <http://justiceforvets.org/sites/default/files/files/Ten%20Key%20Components%20of%20Veterans%20Treatment%20Courts%20.pdf>.

Veterans Eligible for Treatment Courts

As with the structure of VTCs, eligibility requirements vary across jurisdictions. More specifically, eligibility can vary depending upon the era in which the veteran served, whether their mental health problems are service-connected, or the severity of the crime they have committed. Exhibit 1 describes eligibility criteria of VTCs nationally, based on an inventory of VTCs conducted by VJOs. Some courts limit eligibility to veterans who served in a certain war era or who have a military-related condition. Most are open to admitting active duty military or individuals serving in the National Guard or Reserve programs, as well as combat veterans.¹⁹

Exhibit 1. Veteran/Military Admission Criteria for VTCs across the United States

ADMISSION CRITERIA	PROPORTION OF VTCs WITH CRITERIA*
Accept only veterans with military-related mental health conditions	20.2%
Accept only combat veterans	5.6%
Accept only Operation Enduring Freedom and Operation Iraqi Freedom veterans	2.2%
Allow active duty military	71.3%
Allow Reserve/Guard	66.8%
Allow veterans ineligible for VA health care	67.5%

**Based on VTCs that were part of a June 2016 inventory conducted by VJOs for the U.S. Department of Veterans Affairs.*

Source: Flatley, B., Clark, S., Rosenthal, J., & Blue-Howells, J. (2017). Veterans Court Inventory 2016 Update: Characteristics of and VA involvement in Veterans Treatment Courts and other Veteran-focused court programs from the Veterans Justice Outreach Specialist Perspective. Washington, DC, US Department of Veterans Affairs, Veterans Health Administration, March 2017. Retrieved from: <https://www.va.gov/HOMELESS/docs/VJO/2016-Veterans-Court-Inventory-Update-VJO-Fact-Sheet.pdf>.

Challenges for Returning Veterans (continued)

VTCs focus on veterans charged with lower-level crimes (Exhibit 2). They typically do not accept veterans charged with homicide, armed robbery, rape and other sex-related offenses, or aggravated assault.

Exhibit 2. Plea and Offense Admission Criteria for VTCs across the United States

PLEA AND OFFENSE ADMISSION CRITERIA	PROPORTION OF VTCs WITH CRITERIA*
Accept post-plea veteran defendants only	30.6%
Accept pre-plea veteran defendants only	17.2%
Accept both pre- and post-plea veteran defendants	52.2%
Accept felony only	13.7%
Accept misdemeanor only	20.0%
Accept both felony and misdemeanor	65.7%
Consider domestic violence charges, but no other violent offenses	17.9%
Consider violent offenses excluding domestic violence	3.9%
Consider both domestic violence and other violent offenses	61.9%

**Based on VTCs that were part of a June 2016 inventory conducted by VJOs for the U.S. Department of Veterans Affairs.*

Source: Flatley, B., Clark, S., Rosenthal, J., & Blue-Howells, J. (2017). Veterans Court Inventory 2016 Update: Characteristics of and VA involvement in Veterans Treatment Courts and other Veteran-focused court programs from the Veterans Justice Outreach Specialist Perspective. Washington, DC, US Department of Veterans Affairs, Veterans Health Administration, March 2017. Retrieved from: <https://www.va.gov/HOMELESS/docs/VJO/2016-Veterans-Court-Inventory-Update-VJO-Fact-Sheet.pdf>.

What are the Benefits of Veterans Treatment Courts?

Many benefits of VTCs have been cited, including reduced recidivism, alcohol and drug use, more stable housing, more opportunities for employment, improved relationships with friends and family, improved mental health, and cost reductions.²⁰ Formal research on the effectiveness of VTCs, including statistical controls and comparison groups, is limited. Emerging anecdotal evidence offers reason to be excited about the potential impacts of VTCs. In addition, evaluations of related specialty courts, such as drug treatment courts, provide inferences on the expected impact of VTCs. Below we describe some of the relevant evidence in relation to reduced recidivism and costs.

Reductions in Recidivism

- According to the Honorable Robert Russell, who started the first VTC in Buffalo, New York, there were 71 graduates of the VTC in Buffalo during the first four years of the program, with no recidivism. Judge Russell notes a similar experience for a VTC in San Jose, which had 72 graduates during its first four years.²¹
- An Assemblyman in California reports that 76 participants graduated the Orange County VTC program by 2015 with a recidivism rate of 10.5%, leading to 19,369 jail days saved, worth more than \$2.4 million.²²
- The U.S. Government Accountability Office (GAO) reviewed evaluations of 32 drug court programs for their impact on recidivism.²³ Its analysis revealed that drug court program participants were generally less likely to be re-arrested than similar individuals who participated in the traditional court system. Recidivism rates were 6 to 26 percentage points lower for all participants of drug courts, and 12 to 58 percentage points lower for participants who completed the drug court program.

Cost Effectiveness

- Specialty courts such as VTCs can keep individuals out of jails and prisons, which has the potential to generate substantial savings over the longer term.²⁴ According to a survey of state departments of corrections, administered by the Vera Institute of Justice, the average cost of prisons per inmate in 2015 was about \$33,000. The costs were reported to be more than twice as much in New York State, at nearly \$70,000.²⁵
- The costs for operating drug courts (which include court appearances, drug and alcohol use assessments, and case management) have been shown to be on par with those of the traditional court system. This means that the unique (or additional) costs to the public of operating drug courts are relatively small compared to what is already invested for operating traditional courts, and can be more than offset by longer-term savings from having improved outcomes, such as reduced probation, jail, and prison time.²⁶

What are the Benefits of Veterans Treatment Courts? (continued)

- In a review of 11 studies on the cost-effectiveness of drug courts, the GAO reported that 8 of the studies found net cost benefits from drug courts.²⁷ These studies compared costs associated with drug court participants and a comparison group of similar individuals who use the traditional court process. The net benefits were measured as the monetary benefit from reduced recidivism, less the net costs of the drug program (i.e., the cost of the program less the cost of processing a case in a traditional court). While most of the studies described cost data that is more than a decade old, the estimates were still substantial. The largest net benefit was for Kings County, New York, at more than \$47,000 per participant, although most estimates were approximately \$11,000 or less per participant. Savings estimates varied across jurisdictions, depending on many factors including the degree to which individuals not participating in drug courts are incarcerated versus put on probation (which is much less costly).

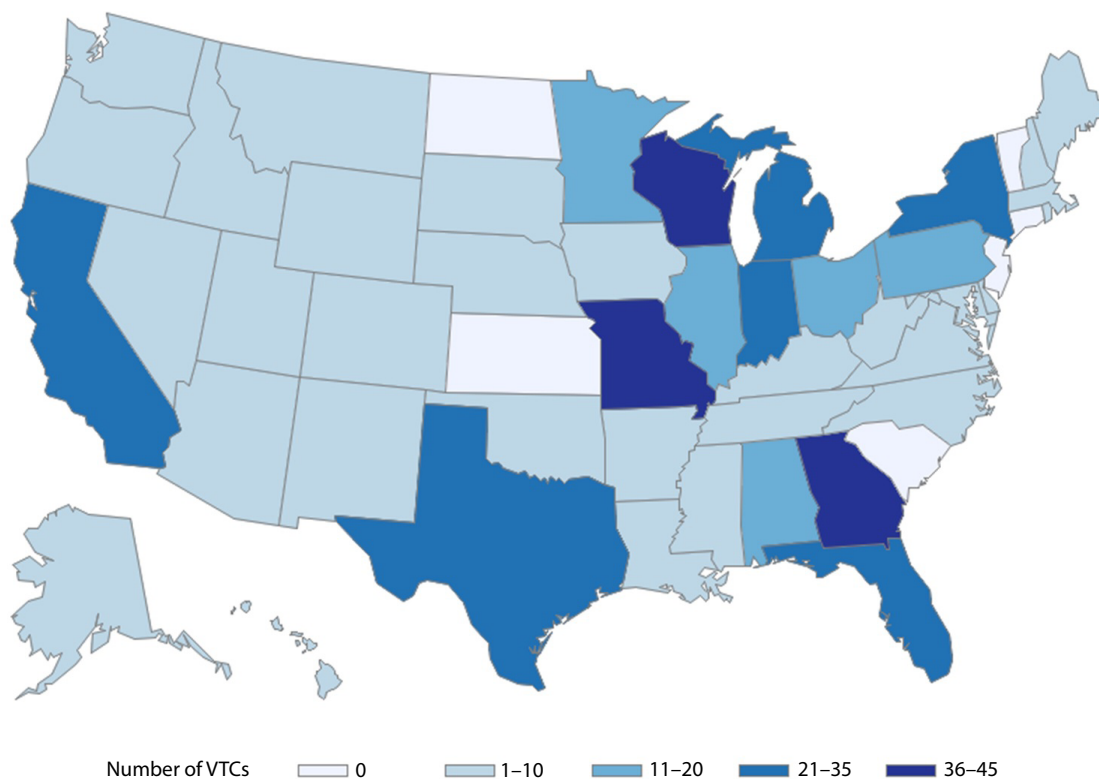
Even though specialty courts may have lower costs relative to traditional courts, additional funding is still typically needed. However, many judges have found ways to work around a lack of funding. For example, some judges simply manage VTC cases on top of their current calendar of cases. Mentors and other staff often work on a volunteer basis. The Buffalo VTC program operated with minimal funding during the first year of the program by relying on existing drug and mental health courts staff and resources. Moreover, unlike drug and most other specialty courts in which local jurisdictions pick up the tab for their participants' treatment, funding from the federally-funded VA system can support treatment for VTC participants.²⁸ Some VTCs across the country also allow teleconferencing for certain staff and defendants, which can further expand access while creating efficiencies.²⁹

Given the diversity of how VTCs operate, including differing eligibility requirements and the services offered to veterans, it is important for research not only to look at the global efficacy of the VTCs, but also to examine which specific components are the most impactful for different types of veterans. In a study of veterans with PTSD who participated in VTCs, it was found that veterans particularly improved when they received a combination of treatment, peer mentor services, and medication. They also note the importance of VTCs being able to hold participants accountable in seeking and complying with a treatment plan, as the stigma often attached with mental health care may otherwise preclude them from seeking it.³⁰

Expansion of Veterans Treatment Courts

VTCs have expanded exponentially across New York State and the nation since the first one was developed in Buffalo in 2008. As of November 2016, there were more than 450 VTCs, located in most states in the U.S. (See [Exhibit 3](#)).

Exhibit 3. Number of VTCs in Each State

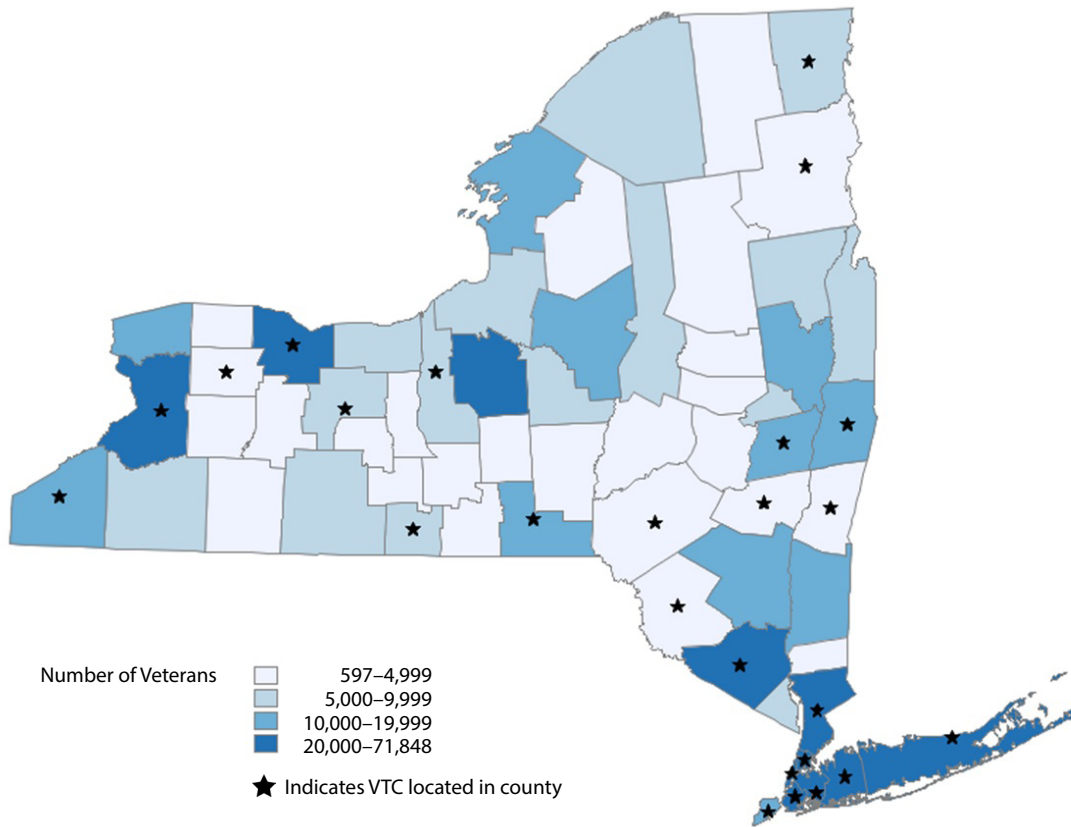


Source: "Veterans Treatment Courts in the United States." American University School of Public Affairs. 2016. Available as of August 30, 2017 at: <http://www.american.edu/spa/jpo/initiatives/drug-court/2015-survey-results.cfm>.

In New York State, there are 33 VTCs, which are located in 25 of 62 counties ([Exhibit 4](#)). They tend to be located in the counties with the largest veteran populations; approximately two-thirds of veterans are located in counties with a VTC.³¹

There are different approaches for establishing a VTC. Many VTCs are a docket of another specialty court, which has aided in their spread as the infrastructure for a VTC may already be at least partially in place.³² In fact, drug courts exist throughout New York, which has helped their spread within the State.³³

Exhibit 4. Number of Veterans by County and Location of VTCs in New York



Sources: New York State Unified Court System. Problem-Solving Courts - Veterans Courts. Retrieved from: https://www.nycourts.gov/courts/problem_solving/vet/courts.shtml; New York State Unified Court System, Office of Policy and Planning (personal communication September 14, 2017); U.S. Department of Veterans Affairs, National Center for Veterans Analysis and Statistics. Veteran population. Table 9L: VetPop2016 County-Level Veteran Population by State, Age, Group, Gender, 2015-2045. Retrieved from: https://www.va.gov/vetdata/veteran_population.asp.

Roadmap for VTC Growth

Many states, including New York, seek to offer the best pathway possible to rehabilitation for veterans and to ensure that a VTC is in reach of every veteran in need. Veterans who are involved in the justice system because of mental health disorders, trauma, and substance use should receive treatment rather than jail or prison. VTCs help those who served their country get their lives back on track for success. The following steps will support the further growth of high-quality VTCs across New York State.

GUARANTEE ACCESS TO A VTC FOR EVERY VETERAN IN NEW YORK STATE. New York should take steps to guarantee access to VTCs to every veteran in the state. It is estimated that two-thirds of veterans in New York State currently have access to a VTC. Careful planning is needed to determine the most practical and cost-effective way to create universal access. One approach is to set up a VTC in every jurisdiction (which typically coincide with county boundaries in New York). As mentioned above, some judges have used existing resources from other types of specialized treatment courts to help expand VTCs at a relatively low cost. Drug courts exist across the State, which could facilitate this approach. However, it still may not make economic sense to have a VTC in all jurisdictions, as some counties have few veterans.

An alternative approach to guarantee universal VTC access is to enact a transfer policy so that veterans facing criminal charges in a jurisdiction without a VTC can be transferred to a nearby county with a VTC. For example, Michigan passed legislation in 2012 allowing VTCs to accept veterans from any other jurisdiction in the State if there is no VTC in the jurisdiction where the veteran resides or where the veteran was charged.³⁴ Missouri and Illinois also enacted similar legislation.^{35,36} For such transfer policies to work, it is generally required that the defendants, prosecutors, and presiding judges agree on the transfer. Moreover, having statewide, mutually agreed upon eligibility requirements and standards for VTC operation facilitates the use of transfer policies and helps ensure equitable access to VTCs for all veterans within a State.

Several legislative bills have been introduced in New York to implement a transfer policy for VTCs (e.g., S7814³⁷ and S5677³⁸). Governor Cuomo also supported the use of a transfer policy in his 2017 State of the State address.³⁹

STRENGTHEN THE PEER MENTORING COMPONENT OF VTCs. Broad consensus exists that a crucial component of a successful VTC is a peer mentor program. There is a need to identify a long-term and regular source of funding to train these mentors. New York State has allocated \$1 million that may in part be used to defray the costs (e.g., travel expenses) that volunteer mentors incur by participating in this program as well as provide mentor training, but there is no long-term funding dedicated to training peer mentors.⁴⁰ As VTCs continue to expand, the need for mentors and associated funding will grow. There is also a need to develop an evidence-based, comprehensive, and standardized mentor training curriculum. Existing organizations such as Justice for Vets currently provide trainings for VTC mentors that are useful models.⁴¹ Developing online training programs could help reduce costs associated with

Roadmap for VTC Growth (continued)

mentor training and ensure that on-demand training resources are available to mentors as they help veterans with challenges they have not previously encountered.

BUILD THE EVIDENCE BASE. Supporting systematic data collection on the structure and outcomes of VTCs across jurisdictions will make it possible to understand the relative effectiveness of VTCs in comparison to traditional courts. Collection of best practice information, including but not limited to staffing patterns, use of peer mentors, ways to break down stigma, and codified eligibility criteria and other guidelines, would ensure that VTC resources are organized in the best way to help veterans. Improved data collection could also extend the benefits of VTCs to more people. For example, it is currently not required to ask citizens who are arrested whether they have served in the military. Thus, if citizens do not self-identify as veterans before going to trial, they may not even gain access to a VTC.

These steps for expanding and strengthening the VTC program would guarantee access to a VTC for every veteran in New York State, help veterans fulfill their personal goals, and honor their service.

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