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UNIVERSITY OF CALIFORNIA,  
IRVINE

Reintegrating an “Army of One”: Understanding the Culture and Mechanisms in Veterans  
Treatment Courts

DISSERTATION

submitted in partial satisfaction of the requirements  
for the degree of

DOCTORATE OF PHILOSOPHY

in Criminology, Law and Society

by

Nicole Sherman

Dissertation Committee:  
Assistant Professor Keramet Reiter, Chair  
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2017



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- 2016** Barragan, M., Sherman N., Reiter, K., & Tita, G. (2016). Damned if you do, damned if you don't: Perceptions of guns, safety and legitimacy among detained gun offenders. *Criminal Justice and Behavior* (Special Issue).
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- 2014** American Society of Criminology - “A Qualitative Exploration of Gun Use, Identity, and Legal Consciousness”
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## **ABSTRACT OF THE DISSERTATION**

Reintegrating an “Army of One”: Understanding the Culture and Mechanisms in Veterans Treatment Courts

By

Nicole Sherman

Doctorate of Philosophy in Criminology, Law and Society

University of California, Irvine, 2017

Assistant Professor Keramet Reiter, Irvine, Chair

Recognizing that criminal behavior stems from multiple loci, Veterans Treatment Courts (VTCs) utilize a therapeutic jurisprudential approach to simultaneously treat PTSD from combat trauma, substance abuse issues, and criminality. VTCs are especially important to examine because of their potential success in curbing recidivism for their clients. For example, the Orange County Veterans Treatment Court (OC VTC) that is the site for this dissertation has maintained a recidivism rate of 10.4% for their 87 graduates since its formation in 2009 (Superior Court of California, County of Orange, 2016). This research constitutes an in-depth institutional ethnography of one Southern California VTC, the Orange County VTC. I draw on over three years of nonparticipant observation at 117 court sessions in the OC VTC, and more 23 in-depth interviews with both current court participants and graduates and a judge, exploring participants' experiences with and perceptions of the OC VTC.

Chapter 1 explores how the court functions, providing a detailed account of the court process. I also analyze how participants become involved with the court and what contributes to their decision to enter the court program. Chapter 2 examines the legalization of treatment in VTCs vis-à-vis the role of and deference to the court treatment team. In this chapter I show how the

treatment process provides accountability to participants to their treatment, but also has coercive elements in its application. Chapter 3 focuses on the procedural justice-related elements of the court and analyzes participant perceptions of the court. This chapter illuminates the importance of emphasizing outcomes of rehabilitation and how this context filters perceptions of procedural justice for participants. Finally, Chapter 4 analyzes the utilization of identity in the court process, which provides the framework and narrative of participant identity transformations in the court. This theory-driven explanation of programmatic procedures will expand understandings of not only VTCs, to understand what contributes to a participant's decisions to change.

## INTRODUCTION

Matt, a late-twenties, former Marine, steps up to the podium to read essay. He is dressed formally, his long blonde hair pulled back into a pony-tail. Today is a momentous occasion for him, for he is graduating the Veterans Treatment Court program after approximately three years in the program. Before Matt reads his essay, the probation officer of the court addresses Matt and the audience, stating that “He was in a pretty dark place when he came to us...he can now lead a substance free life...be a positive role model for other veterans to follow.” The judge of the court also speaks, noting that Matt is “such an example to so many people. It was risky to take you in...you set a part for people behind you.” A mentor in the court hands Matt a challenge coin, often given to and collected by military members to symbolize overcoming challenges. This challenge coin represented his time in the court and his ability to make it through the program. Another mentor gives him a pen with the Marine insignia on it, “the Birdie on the ball...to remind you it was your service that got you here.” The Veterans Justice Outreach Officer, or treatment liaison of the court remarks that Matt is “a real example of persistence and a warrior spirit.”

With the beginning of the graduation ceremony underway, Matt begins to read his essay. He is wrought with emotion, choking up as he describes what brought him to the court. As he explains the crime he committed, he explains that he was “a young Marine with his head hung low, trying to cope with a senseless war.” He had experienced trauma in the service, and his coping mechanisms had failed him when he returned from war. Matt had tried to kill himself. First, he describes that he tried to run his car into a concrete barrier off the freeway in an attempt to end his own life, fueled by mental health issues and alcoholism. He survived his initial

attempt, but had caught other vehicles in the fray. When he saw what he had done, he tried again to kill himself, this time stepping into oncoming traffic. He was pulled aside by a man before he was struck by a vehicle. As the man grabbed him tight, he told him it would all be okay.

Matt entered the VTC, defeated and troubled with mental health issues and substance abuse problems that stemmed from his combat overseas. He completed the rigorous treatment that the court ordered, had stayed substance free for a sustained period of time, and had completely transformed his life. Matt explains that he had been hopeless before court, but, with the court's help and through treatment, he had reoriented his life for the better. He had just been accepted to a prestigious college to pursue anthropology, and he had a new outlook on life.

I begin with this story to exemplify the profound transformations that veterans claim to have undergone through this program. This court asserts that it is able to rehabilitate those afflicted by the psychological wounds of war through treatment and access to resources. However, this story also demonstrates several mechanisms at work in this program, mechanisms that will be analyzed in depth in this dissertation, including the notion of identity as exemplified by the "warrior spirit" mentioned, the treatment aspect of the court, and the narrative of the "wounded warrior" transforming himself or herself<sup>1</sup> for the better.

Veterans Treatment Courts (VTC) were designed to attend to the specific causes of combat veteran offenders' crimes, recognizing that mental health issues, substance abuse, and criminal behavior are intrinsically linked. VTCs aim to treat this intersection, rather than focusing solely on the criminality of the offenders. Judge Robert T. Russell, responsible for the one of the first VTCs (Buffalo, New York, established in 2008), highlights the proactive approach

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<sup>1</sup> There are both men and women in the OC VTC as participants. However, the number of women in the court is extremely small relative to men. Thus, I will typically refer to the participants generally with male pronouns.

that defines the VTC's nature: VTCs attempt to focus on the myriad of issues that surround veterans returning to civilian life: substance abuse, mental health issues, strained relationships, homelessness and unemployment (Russell, 2009). VTCs attempt to treat the roots of these issues for veterans who have criminal justice system contact; rather than react to crime, the court focuses on preventing future criminality. Once participants are admitted, the court directs attention to rehabilitation rather than strict punishment (Cavanaugh, 2010). In sum, the VTC model operates with a mixed focus on increasing individual responsibility and enlarging support networks, guiding participants through the process by veteran mentors.

With this dissertation, I ask how does a veterans treatment court function, and how does a participant experience their program? I focus on several aspects of VTCs to understand the, how participants navigate the program and what motivations shape court process. Specifically, this dissertation explores the nexus of narrative-driven therapeutic approaches, constituent perceptions of legitimacy of the court, the use of "re-labeling" to promote pro-social identities and subsequent behavior, and a variety of other mechanisms employed by the court to encourage compliance. More specifically, I examine what contributes to a participant's decision to comply with the law and how the courtroom subculture and programmatic features contribute to this decision to desist from criminogenic lifestyles.

This dissertation uses longitudinal observations of court proceedings and interviews with court participants and actors to analyze VTCs. I have completed observations for 117 court sessions, each lasting between two and three hours, including pre-court lobby interactions. In addition to court observations, I interviewed 23 people, including 13 graduates and 9 who were current participants at the time of the interview, and one past judge of the court. Finally, I analyze sets of essays read out loud in the court. In addition to the dozen of essays I've captured



with observations of promotions, sanctions, and graduations, I have collected five sets of participant essays. This focused field site approach allows me to analyze the Orange County Veterans Treatment Court (OC VTC) in depth to gain a better understanding of how the court functions, how actors in the court interact, and how participants reconstruct their lives following their criminal justice system interaction.

VTCs present a complex and viable location for understanding desistance of crime, because the participants in the court present with a wide variety of issues. Most (if not all) of the participants in veterans court are trauma-afflicted, whether through the traumas of war, a particularly traumatic incident that occurred while on military duty, or through military-sexual trauma. Stemming from that trauma, most participants present themselves in court with some kind of mental health issue, most commonly in this court, Post Traumatic Stress Disorder. The effects of trauma are often compounded when veterans attempt to self-medicate their issues, often through the form of severe alcohol or drug use. Therefore, VTCs are a rich-context to further our understandings of how mental health issues and substance abuse problems fit into a rehabilitative and desistance-driven criminal justice response to crime.

Furthermore, the particular court that is the subject of my dissertation accepts people convicted of a wide variety of offenses, from violent assaults and family violence, to possession charges and DUIs. This variation is based on the particular agreement between the District Attorney's office and the other court stakeholders. Some courts only let in small-charge misdemeanors, while others, like the OC VTC, accept relatively high-level felonies, and cases with multiple serious felonies at that. This provides a diverse context to understand the complexities of desistance and rehabilitation.

The military veteran also comes into contact with the criminal justice system at alarming

rates. In the most recent survey of jails and prisons conducted by the Bureau of Justice Statistics, the authors find that nearly 8% of all inmates are military veterans (Bureau of Justice Statistics, 2015). Considering that veterans that make it to the jail system only represent a fraction of those that come into contact with the law at all, as is the case with the criminal justice system in general, veterans represent no small portion of the offenders affected by the criminal justice system.

This case study addresses the following overarching research questions. The first set of research questions concerned the mechanisms of the VTC and the role of the VTC in the context of specialty courts. I wanted to understand:

- How does the VTC function?
- What mechanisms are similar to other specialty courts or are different from other specialty courts?

Next, I wanted to focus on how individuals experience the VTC. More specifically, I wanted to know:

- What contributes to a participant's decision to comply with the law?
- What does the courtroom subculture look like, and how does this subculture foster program progress for participants?

This case study also addresses numerous specific research questions:

- How do veterans become involved with VTCs? How are VTCs viewed in the veteran community? How do participants in VTCs share their experiences with the veteran community?
- How is identity negotiated in the collaborative court? How does the court view the participant? How does the participant view the importance of their identity in

the court?

- How do participants view the sanctioning process and rules of the court? How does the context of the court shape perceptions of procedural justice, legitimacy, and subsequent compliance?
- How is the “narrative” constructed in the VTC? What do the narratives that are shared in and out of court mean to the participants?

## **DATA AND METHODS**

This research has two goals, the first of which is to portray how a veterans treatment court functions and what their procedures look like. Second, this project examines what mechanisms underlie the court procedures to facilitate outcomes for the participants of the court.

The Orange County Veterans Treatment Court is part of the Superior Court of Orange County, California. It operates within the Collaborative Court system in Santa Ana, California. The court currently has approximately thirty participants, and has graduated approximately 87 participants over its eight years of operation (2009 – today). Participants in this four-phase program (comprised of treatment plan development, ongoing treatment, stabilization, and achievement/graduation) meet for progress reports every week in their first phase, every two weeks in phase two, every three weeks in phase three, and once a month in phase four. At the end of each phase, each participant reads an essay to the court that catalogues their treatment, motivations, and expectations as they move onto the next phase of the program.

This project utilized a variety of methods of qualitative inquiry. First, this dissertation employed an ethnographic case study approach consisting of both observations and interviews to understand the mechanisms of change in the OC VTC and what the subculture looks like at the collaborative court. Additionally, this dissertation utilized content analysis techniques to examine

court participant essays and court-related documents.

*Understanding the OC VTC Subculture and Mechanisms of Desistance*

The study uses both ethnographic observations of court processes and semi-structured, open-ended interviews with court participants. Court sessions for the OC VTC are held once a week for approximately three to four hours. I observed pre-procedural interactions in the lobby between participants, along with court proceedings, weekly, for a total of 117 weeks. I observed court participants discussing their programmatic concerns and commenting on what they think is working with other participants, and often having uplifting conversations with their veteran mentors. Court participants were court-ordered to arrive by 1:30, though court often did not start until 2:30-3:00. Court sessions lasted approximately 45 minutes to an hour and a half depending on the size of the calendar and whether there were promotions or graduations. After the court sessions, “second call” cases were heard which included evaluations of potential participants or problematic cases.

Observations were written-down regarding court procedures, dialogue in the court, and interactions within and between participants and court staff. I completed preliminary observations from July 2013 - June 2014. During this period, I focused on what mechanisms were observable in court, how I wanted to record data, and what preliminary themes surfaced. Next, I recorded observations weekly almost every Tuesday from September 2014 - January 2017. I recorded details about what was said by the judge, participant, and treatment team, as well as the progress of each participant. For a list of observational concepts I recorded, please see Appendix A. Concepts of interest in observations include type of language employed by the judge, supportive statements from other participants, average time spent on each participant, and jokes made in court, among other indicators of interest. These observations provided a thick

description of the court proceedings, as I recorded exact language used in the court (quotes) as well as situational observations. For twelve weeks towards the end of the data collection period, I recorded the frequency of comments made by the judge to show not only what kind of language was used and how the judge interacted in depth, but also how often certain statements were used and what linguistic patterns emerged.

For the duration of my observations, I focused on capturing the array of interactions between the people at the court. While some of the interactions captured are nonverbal (crying, body language at the podium), most of the interactions captured include conversations between participants, participants and mentors, and participants and legal actors, with special emphasis on interactions with the judge. Thick description allows a researcher to capture the nuances that emerge in everyday action, and thick description typically follows an analytic goal of providing context to theoretical constructs (Creswell & Creswell, 2013; Geertz, 1973; Holloway, 1997; Ponterotto, 2006; Schwandt, 2015).

With these two methods of observation in mind, I analyzed the data through an iterative coding process. First, I coded the thick description observations for general themes pertaining to courtroom interactions. Then, I re-coded the observations more specifically for the themes. Because description of VTCs in the literature is under-developed, a simple categorization of court proceedings lays a foundation for a more nuanced description of participant experiences. These experiences and perceptions of the court were examined by completing in-depth interviews with participants (and former participants) of the court. Overall, a modified grounded theory approach was used to discern the themes and theoretical approach to be examined more specifically with subsequent analyses (Abbott, 2004; Charmaz, 2014; Strauss & Corbin, 1990)

Additionally, I have conducted in-depth interviews with current VTC program

participants and participants who have graduated from the program (Creswell & Creswell, 2013; Patton, 2015). I interviewed a total of twenty-two participants, thirteen of whom were graduates of the program, and the other nine of whom were in the program at the time of the interview. I then transcribed these interviews myself and using third-party transcription services. I selected participants for the interview based on a convenience sample (Robinson, 2014). The court was very careful about participation in the interviewing process, so I considered a specific approach to ensure participants did not feel coerced to participate. During court sessions, a court mentor facilitated my access to participants, where I identified who I was, the research I was planning and the process for the interviews. I approached participants before and after court in the lobby.

Once participants consented to participate, I scheduled a time during their next court hearing to conduct the interview, typically before the court started for the day. Most interviews with current participants of the court were conducted at the court in a closed office before court started. When interviewing participants that were currently in the program, I varied participation on a basis of phase progression to capture the range of experiences from the variety of stages participants were in. For graduates of the program, I approached participants after their graduation ceremony to ask them if they would participate in an interview about their experiences at the court. For graduates, I scheduled a time and place to conduct the interview at a later date, or over the phone. Finally, I also utilized the probation department to reach out to previous graduates who were in the program before I began my research. The probation department contacted veterans and gave them my information, and then contacted me to set up an interview if interested. I acknowledge that issues of selection bias may be evident in this research, as not every participant was approached, nor did every participant agree to participate in the interview once approached. However, a wide range of experiences were captured in these

interviews from participants who represented the court both demographically and stage in the process.

Interviews begin with questions about the processes of veterans treatment court and generally covered topics about identity, programmatic fairness, and veteran communities among a variety of other topics (see Appendix B for participant and graduate interview instruments). Questions were open-ended, generally exploring how veterans experience the VTCs, and interviews lasted between 45 minutes and 3 hours. I concluded each interview with a survey-like, scaled question section in which participants were able to denote how much they agree with a statement from one to five, with five being the strongest agreement. This allows me to apply a numerical scale to some of the questions in the interview to understand how participants' perceptions of the court and its processes relate to court outcomes and/or other perceptions (i.e., does perceived procedural justice in the VTC lead to a deeper commitment to compliance?), and additionally helps to summarize the sentiments expressed in the open-ended portion. Participants were also encouraged to elaborate on their answers if they desire, and this often led to new lines of questioning.

Finally, I collected sets of essays from participants. I typically asked for essays after conducting interviews with participants, and then followed up with participants to send me their essays. Participants did not always save copies of their essays, but I was able to collect five sets of essays that included promotional essays and graduation essays. These essays were also coded thematically, with specific attention to language used in essays, the narrative of the essay, and how participants viewed the court and treatment.

### *The Research Site*

The OC VTC was one of the first VTCs established following Judge Russell's Buffalo

VTC and the Anchorage, Alaska VTC, and it was the first VTC implemented in California. This court also serves as one of four mentor courts, a title which allows for jurisdictions from all over the world to observe and seek advice for implementing similar courts in their purview. The OC VTC oversees the intense therapy, community service, and societal reintegration of each of its participants. Generally, a participant will enter a guilty plea upon becoming a client of the court, with the hopes of striking the case from all records after a successful graduation from the program. California VTCs are allowed to operate based on Penal Code section 1170.9, which states that sanctions such as probation and treatment are eligible in lieu of jail or prison time for a military veteran, who can show a service-related connection between his/her criminal activity and PTSD, traumatic brain injury (TBI), or other mental illness. Once a candidate is determined to have service connection mental health issues, the candidate enters a strict program that utilizes a therapeutic jurisprudential framework (Pratt, 2010).

Though treatment plans vary slightly based on personal needs and offense type, the court client will usually undergo intensive psychological therapy for mental health treatment and substance abuse treatment. The court typically requires mandatory group meetings, AA meetings, and other programs (alcohol offender programs, MADD panels, batterer's intervention). The participant must also meet requirements to use time productively and is, therefore, encouraged to enroll in school, seek employment, and engage in community activities. The court also offers assistance through Veterans Affairs, homelessness assistance, and in and out-patient treatment when necessary. Clients appear semi-regularly (in intervals of 1-4 weeks, depending on their phase) in court before a special VTC judge, where the probation officer and caseworker update the presiding judge on the client's progress, sanctions, and various life details. Veteran clients are assigned veteran mentors, who also meet with participants regularly and



provide stable support for the duration of the program.

The program lasts at least 18 months, but longer if necessary. Participants work their way through the four-phase program, promoting to new levels as time constraint and life progress requirements are met. Sanctioning occurs for a variety of reasons, commonly for failed drug tests, diluted drug tests (urinalysis tests that appear to indicate a “flushed” system), or missing meetings or court appearances. The sanctions can vary from a requirement to write essays to overnight jail stays to restarting a phase. Each time clients promote to the next phase, and also upon graduation from the VTC, they read personal essays regarding their treatment, growth, and goals. The OC VTC relies heavily on participant narrative, as exemplified in essays and public conversations with the court officials, to drive treatment and to act as a beacon for other veterans to join the court. After a the 18-months have passed (or longer), veterans who have shown they have markers of rehabilitation, through sustained substance abstinence, abiding by court and legal rules, increasing support networks, and an ability to carry these sentiments after court supervision is over can graduate the VTC program.

Participants in the court are generally male, between the ages of 22-40, white, and with a high school education. The following table provides demographics for the participants of the court, broken down by active participants (collected at the end of my time in the court), those who had graduated the court, and those who had terminated the court or had been terminated from the court. The demographics demonstrate that participants are mostly divorced or single and almost half are parents. When it comes to substance abuse issues, most participants reported alcohol as their primary drug of choice, with between 6-10 years of drug use.

**Table 1. OC VTC Demographics**

	<i>Active</i>	<i>Graduated</i>	<i>Terminated</i>	<i>Total</i>
	n=31	n=87	n=47	n=165
	%	%	%	%
<b>Gender</b>				
Male	96.77	96.55	91.49	95.15
Female	3.23	3.45	8.51	4.85
<b>Age</b>				
18-21	0.00	4.60	4.26	3.64
22-30	35.48	62.07	53.19	54.55
31-40	35.48	16.09	23.40	21.82
41-50	25.81	3.45	4.26	7.88
51-60	0.00	8.05	6.38	6.06
61+	3.23	5.75	8.51	6.06
<b>Ethnicity</b>				
White	61.29	51.72	70.21	58.79
Hispanic	22.58	36.78	25.53	30.91
Black	6.45	6.90	0.00	4.85
Asian	0.00	2.30	4.26	2.42
Other	9.68	2.30	0.00	3.03
<b>Education</b>				
HS/GED	58.06	45.98	59.57	52.12
Some College/Voc	35.48	41.38	25.53	35.76
College Degree	6.45	12.64	10.64	10.91
Other	0.00	0.00	4.26	1.21

<b>Marital Status</b>				
Divorced	32.26	18.39	27.66	23.64
Married	16.13	19.54	23.40	20.00
Separated	16.13	9.20	4.26	9.09
Single	35.48	52.87	42.55	46.67
Other	0.00	0.00	2.13	0.61
<b>Parents</b>				
Yes	48.39	22.99	10.64	24.24
No	51.61	77.01	89.36	75.76
<b>Employment</b>				
Employed	38.71	35.63	23.40	32.73
Unemployed	58.06	62.07	70.21	63.64
Unknown	3.23	2.30	6.38	3.64
<b>Primary Drug</b>				
Alcohol	54.84	70.11	40.43	58.79
Cocaine	0.00	1.15	0.00	0.61
Marijuana	12.90	6.90	17.02	10.91
Meth	19.35	10.34	17.02	13.94
Opiates	0.00	2.30	4.26	2.42
Heroin	9.68	0.00	10.64	4.85
LSD	0.00	0.00	2.13	0.61
Vicodin	0.00	0.00	2.13	0.61
Other	3.23	4.60	4.26	4.24
N/A	0.00	4.60	2.13	3.03

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<b>Years of Drug Use</b>				
0-2	3.23	4.60	6.38	4.85
2-5	9.68	25.29	21.28	21.21
6-10	38.71	33.33	27.66	32.73
11-15	19.35	16.09	14.89	16.36
16-20	9.68	8.05	8.51	8.48
20+	12.90	8.05	8.51	9.09
Unknown	6.45	4.60	12.77	7.27

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*The Veteran Narrative and Court Commitment*

To understand the basis of the court’s ideology, it is necessary to explain the ethos of the court and its commitment to treat veterans who have sustained traumatic psychic wounds from being in the service. As Cartwright (2011) notes, it was after the Vietnam war that government agencies like the Bureau of Justice Statistics began documenting the number of veterans held in prisons. The costs of war saw increasing investigation, as the National Vietnam Veterans Readjustment Survey was conducted. This survey showed that 15% of Vietnam veterans were afflicted with PTSD and that half of those with PTSD were arrested at least one time. However, the concern over criminal justice interaction of PTSD-afflicted veterans was juxtaposed with the negative sentiments surrounding the Vietnam War. Even though the war’s effects were documented and the problem of veteran-involved crime had increased in the post-war period, most veterans were neglected in terms of treatment and consideration in legislation. In fact, history paints a painful depiction of Vietnam-era veteran treatment, where homecoming reception was riddled with shame and social isolation (Johnson et al., 1997). As Blank discusses,

a returning Vietnam veteran “received little from the nation that could contribute to a solid feeling that the war had been useful to the country...or to humanity at large” (1982, p. 914).

As a relatively recent phenomenon, Veterans Treatment Courts represent a “give back” attitude for the service of the United State military members (Cartwright, 2011; Cavanaugh, 2010; Hawkins, 2009). After observing the court for over three years, I suggest that the court makes commitments to the court constituents which separate it from not only traditional courts, but other specialty courts as well. While the focus of this dissertation is not on the production of these commitments per se, the court demonstrates these commitments through the mechanisms it employs. Research has demonstrated the harmful effects of PTSD and its association with increased criminal justice involvement (Yager, Laufer, & Gallops, 1984). These courts, and other specialty courts, utilize therapeutic jurisprudence to treat participants rather than punish them (McNiel & Binder, 2007). This approach exemplifies the general thrust of the court, which suggests that the wounds of war leave lasting marks on veterans, and there lies some responsibility in the criminal justice system to consider these. This commitment is similar to the ethos of specialty courts in general: that the law can be wielded as a tool to help people rather than produce harm. The law can be used to produce rehabilitative transformation in participants. Therefore, the court focuses on the harm done from military service to restructure the lives of its participants.

Furthermore, however, the specific VTC this research is based in has made it clear through speech from their actors that they aim to treat this generation of veterans better than previous generations, most saliently, perhaps, Vietnam-era veterans. It is through this history of Vietnam-era veteran treatment that this particular VTC justifies its existence. Again, while these commitments and their creation are not the focus of this dissertation, this brief explanation

provides insight into the cultural ideology that these courts tap into, seemingly, to drive the court and its mechanisms. Traces of this commitment can be seen in the mechanisms employed in the program, which will be explored in-depth in this dissertation.

### **Dissertation Roadmap**

This dissertation analyzes what mechanisms exist in a relatively recent brand of specialty and problem-solving courts: Veterans Treatment Courts. As such, this dissertation does not necessarily seek to answer the question “Are Veteran Treatment Courts working?” but rather to complicate our understanding of court mechanisms at the collaborative and problem-solving level.

This dissertation addresses several, inter-related theoretical frameworks to understand how the Orange County VTC cultivates a subculture that promotes desistance. The following sections integrate the overarching role of identity in reorienting participant lives towards reintegration into a pro-social lifestyle. The dissertation proceeds in the following way. Chapter One provides a thick description of one veterans treatment court as well as an analysis of how participants become involved with the court. Chapter Two examines the collaborative approach to treatment and legalization of treatment within the court. Chapter Three examines the mechanisms of the court by way of rule enforcement and treatment to explore the role of context in procedural justice. Finally, Chapter 4 analyzes the concept of re-labeling, identity negotiation, the co-construction and utility of narratives in court.

## CHAPTER ONE

### “Today’s Army Wants to Join You”: Veterans Treatment Court Overview/Process & Mechanisms

#### Introduction

*...I pled guilty and entered this program to avoid prison. I had no idea how badly I was broken, no idea how much help I needed, and no idea that change, real change was possible. If someone would have told me that all I needed to do was ‘lean in’” and ‘be vulnerable’.*

When Dexter read his graduation essay, he began by telling the audience his essay had to be cut to a small portion of its original size. When we talked about this during an interview, he told me that he wanted to take the audience back to his past, go into detail about the horrors of his childhood, his trauma in the military, and the other issues he faced that he felt required intense therapy to help. He had learned all of this, he mentions, from his time at the court. Through treatment, he became aware of just how much he needed treatment. He credits the court with not only keeping him out of prison and giving him opportunity back, but also with changing who he was so that he could actually make positive changes in his life. But, what he illustrates with his graduation essay, is that his initial decision to enter the court was made to “avoid prison.” Other participants also reported that while they originally came into the program to avoid harsher sanctions and a criminal record, they stayed for and seemed to find worth in the treatment the court provided.

This chapter has two goals. First, in this chapter I will explain how participants become involved with the court and what contributes to their choice to enter the court. This decision will be explored through an analysis of how participants learn of the court, who facilitates their involvement, what kind of information participants have when making their decision, and what

factors into their decision to plead into the program. The second goal of this chapter is to explain, in detail, how the court functions. This section of this chapter will explore the process behind the court, the general rules of the court, and how the court attempts to function as well as its mission and goals.

One of the main ways the court facilitates this rehabilitation is through implementing strict treatment for the participants. Veterans Treatment Courts vary in their implementation, but, each court closely follows the notions set forth by drug courts (Baldwin, 2013). These components promote the non-adversarial nature of the court, the utility of treatment and access to resources for the participants, substance abstinence, and the goals of reintegration that the courts should aim for. The following components, adopted from the ten components of drug courts by the Buffalo VTC, generally govern the VTC proceedings (Russell, 2009):

1. Veterans Treatment Court integrates alcohol, drug treatment, and mental health services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the Veterans Treatment Court program.
4. The Veterans Treatment Court provides access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs Veterans Treatment Court responses to participants' compliance.
7. Ongoing judicial interaction with each veteran is essential



8. Monitoring and evaluation measures the achievement of program goals and gauges effectiveness.
9. Continuing interdisciplinary education promotes effective Veterans Treatment Court planning, implementation, and operation.
10. Forging partnerships among the Veterans Treatment Court, the VA, public agencies, and community-based organizations generates local support and enhances the Veterans Treatment Court's effectiveness.

While most VTCs follow these key components, each jurisdiction has its own rules and relationships that define the court's procedures and implementation of rehabilitative strategies in different ways. This chapter will provide a detailed overview of the procedures of the VTC that served as the research site for this dissertation, the Orange County Veterans Treatment Court. This description of the processes veterans go through to get to the court, how participation is determined, the basic procedures of the court at each progress hearing, and how participants move through the court will serve as a backdrop for the remaining chapters.

### **Initial Involvement with VTCs**

The path to VTCs is varied and complex for many of the participants of this court. There are numerous actors involved with connecting participants to the court, as well as a variety of factors that contribute to a participant's decision to join the court. The intake process is not only a non-linear and diverse process, but also a rather tumultuous time for participants, who are dealing with assorted issues associated with their offense, substance abuse, and mental health issues.

Once a participant pleads into the court, the participant has fourteen days to decide about their fit for the program. During this time, the participant is also being evaluated by the court and

can terminate participation and withdraw the plea if issues concerning eligibility or suitability arise. At this point, the participant is formally part of the program and under the supervision of the court and Probation. During my observations period at the court, very few people opted out of the program once they pled in. Most would-be participants decided before the official guilty plea took place that the court would not be appropriate for them (or the court deemed the participant not suitable or eligible for the program) before this fourteen-day window. Part of the reason for this might be because potential participants are required to sit through the weekly court proceedings before their evaluation in the “second call” portion of the court. Participants are exposed to the court experience and are able to get an idea of what the court process will look like for them. Potential participants also sometimes talk to current participants and the veteran mentors in the court about the court and whether it would be a fit for them.

No path to the VTC looks exactly the same between participants as there is no official route for veteran court involvement. Veterans come to the court with wide disparities in initial court knowledge, having been referred from a variety of sources. This section will explain the different ways participants become involved with the court along with some of the factors that go into their decision to join the court. For many participants, the initial reasons for joining the court may shift as participation in the court progresses, a point this dissertation will address in the final chapter. This section, however, will exemplify the diverse paths to the Orange County Veterans Treatment Court.

### *Initial Referral*

Many of the veterans involved with the court had very different experiences immediately post-offense. The time between the crime and the first VTC hearing varied between participants, as did who told them about the court. This initial referral to the court is of utmost importance to

facilitating the continued use of the court: as evidenced by this dissertation, very few of the people who entered the VTC had previously heard of VTCs. Potential participants, it seems, filter through the criminal justice system and are told of their option to attempt participation in the court through a wide variety of sources.

**Table 1.1 Source that Identified VTC to Participant**

Source	n=22
Lawyer	10
Bailiff	2
Other at court	3
Other person in jail	2
District Attorney	1
Judge at Other Court	1
Veterans Rep	1
Vets Center	1
Wife	1

Potential veteran participants learn about the VTC program through a variety of sources.

For some veterans, their lawyers are familiar with the community court system and have heard of veterans courts before. For these veterans, their lawyer brings up the court as a possibility and is usually able to inform the veteran of the possibility and requirements without too much further leg work from the veteran. However, few participants had heard of veterans courts before they were charged with their offense, so they learn of the potential program at different stages of their court process.

For example, some participants did not learn about the court until they were at a court hearing in the traditional court route, or another problem-solving court, like DUI court. In some cases, the bailiffs in the court heard about the military status of the defendant and told the judge about the possibility. An agreeable judge then sent the case to the VTC. Some judges are also

aware of the court and may send the case to the local VTC if they believe the participant to be a fit based on their veteran status.

For other veterans, the opportunity for veterans court arose when they were in jail, awaiting a court hearing. While some veterans learned of the court from their lawyer once their lawyer had discovered the court, others were visited by a veterans rep. For example, George<sup>2</sup> noted that “A veteran’s rep came to the...and told me about it, would I be interested in it, because I met the criteria.” In this case, the veterans representative was purposefully seeking out veterans in the jail and assessing their suitability for the court and their potential willingness to be a part of the program.

While at face value, it may be desirable for potential participants to have a variety of ways to engage with the court after an offense is committed, this research suggests that no formal structure is in place to identify potential participants and push the case to veterans court for evaluation. This begs the question of who the court may be missing with its current outreach tactics. This research reveals that an informal network has been built to reach a wider net of potential participants. In addition to the outreach that veterans justice groups undertake as part of their program, participants themselves have attempted to spread the word about the court to other veterans.

For example, some veterans have explained that they bring up the court during self-help meetings or group therapy. They recognize that veteran courts are not well-known and take it upon themselves to get the word out to other military members who may find themselves in trouble with the law. In addition to this, veterans may offer information to other veterans who are

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<sup>2</sup> This research utilizes pseudonyms to protect the anonymity for the participants in this court. Any names mentioned in this research is made up to protect identities of those involved with this research.

attempting to get into the court, as gathering information about the court once a veteran has been referred may also present difficulties at times.

### *Seeking Information*

Because so many participants have not ever heard of veterans court, a potential issue that arises from that concerns a lack of information about the court. As a graduate, Alejandro, points out “Before, I knew nothing” because he “was never in trouble so there was no reason for me to know about anything.” Another important step for initial participant involvement with the Veterans Treatment Court then, occurs after participants first learn of the court. At this point, participants must decide whether they want to enter the court, but they must first discern what the court intends to do and how it functions. For some participants, the process of seeking information is a personal undertaking. Some call the court coordinator for more information or look up resources on the Internet. Others leave this task up to their lawyers. In these cases, their lawyers help the participant learn more about the court and work towards a decision for participation. For one participant, Cal, once he heard about veterans court he “did the leg work finding out point of contact and letting my attorney know and we got a date to come in and check it out.” Potential participants, it seems, have varying degrees of information seeking before their first visit to the court.

This is problematic to some extent, because, once the participant enters the court, he is often given very little chance to gather more information once the evaluation begins. Most participants are handed the brochure that was outlined in detail in the above sections, but considering the highly consequential nature of this court on life structure, participants claim they are not given a chance to ask many questions before they accept the terms of the court. Participants are encouraged to stay through court sessions, but watching these proceedings miss a

large portion of the program: the treatment. What's interesting, however, is that the promise of this treatment is what often pushes participants to decide to enter the program.

### *Deciding to Enter the VTC*

The decision to enter the VTC is arrived to by a multitude of reasons. However, it is important to note that this decision is attenuated through the information a participant may have about the program. As evidenced in the previous section, participants are given a range of information about the court. Sometimes, that information only comes in the form of the handbook given to them by court staff, while others may have more knowledgeable attorneys, have sought information on their own through the Internet, or have asked current participants about their experiences, seeking advice on their situations. This disparate amount of information each participant may influence how a participant decides whether or not to join the court program.

Most participants who joined the court felt confident in their decision to join, despite the lack of information that may have been provided to them during the decision-making stage. The decision to join the court could be loosely grouped into three different main reasons:

1. A participant would rather go through a court program than spend time in jail. The time in the program may be shorter than the sentences length the participant would get if they go through traditional court.
2. The participant desires to clear their record or get their cases dismissed, which would happen upon completion of the court program, and would not through traditional court.

3. The participant recognizes the need for treatment and decides to enter the court to gain access to the treatment, often with the promise of some kind of accountability to ensure completion of the treatment.

One of the reasons given by participants for joining the court includes that they do not have to serve out a sentence in jail or prison. For some participants, especially those facing serious charges or multiple charges, the sentence they would be given if they go the traditional court route could be several years, something much longer than the minimum length of time of eighteen months the court comprises. For example, a graduate, Patrick, remarks that “I never even thought I had another choice, mentally for me. I thought that was the best thing for me to do. It was that or go to jail.” This participant suggests that the choice is very clear; the prospect of avoiding incarceration was enough to make a decision for the participant. Furthermore, as participant Miguel suggests:

...at that time, I felt that anything would help me. I mean obviously, I heard the word treatment going around, I heard the word veteran going around, so I just put two and two together. In my mind I didn't know much about it, but I was like well, it's probably going to be something about treatment and not going to jail probably.

When considering that not only will the participant be offered a chance to avoid jail, but to go to treatment instead of jail, treatment is weighed as the better option for the participant. Even when the participant has very little information to make a decision, as seen in this case where the participant knew little more than the name of the court before accepting the terms, the prospect of avoiding incarceration and the myriad of perceived issues involved with that was enough on which to base a life-altering decision.

Beyond the notion of avoiding jail, other participants cited the dismissal and sealing of criminal charges and records as a reason they wanted to go into the court. This factored into

decision-making especially when the sentence that would have been served for the offense was less than the time the participant would have served in the program. For example, participants in the court on minor offenses like drug possession or other misdemeanors would likely spend little to no time in jail, likely with probation in lieu of incarceration. Therefore, the “lighter” sentence and avoidance of incarceration was not necessarily a factor for these participants. However, the chance to clear a criminal record, especially for first time offenders, is extremely appealing. For example, participant George remarks that “...they just told me what the veterans’ court entailed going through the phases up. And then when it’s over, your charges are dismissed, dropped and like it never happened. And that’s what caught my attention.”

For many, the mark of the criminal record was a serious impediment to their plans for their future, particularly with regards to their careers. As criminological research explains, the mark of a criminal record has serious repercussions on the ability to procure employment, due to the nature of criminal record disclosure in the hiring process (Pager, 2003). Many participants in this program had plans for future employment that a criminal record would impede. When graduate Liam described what led him to decide to enter the court, for example, he said that

it sounded like something that could not only help me with the treatment part of what I was going through to make me a better person, but to also clear my record up, which would be extremely important to me due to the career choice I was pursuing at the time.

Liam identifies that the treatment aspect of the court was appealing to him, especially as he had previously described that he had been “reckless” since leaving the Marine Corps and needed help. However, he also identified that the court’s ability to help him with employment in terms of getting his record sealed was important as well.

For some participants, however, the court will be unable to seal or expunge their records after completion of the court. As Nicolas remarks:



Well, I knew a DUI can't be expunged because it's a public safety issue. So legally it can't be expunged. It can be sealed to a certain extent...but a DUI can't be expunged so the benefit is different than if I would have done something else. So it's not like the case can be dropped cause it can't.

Jeremy also comments on this record expungement, explaining that that appealed to him, though he was also trying to avoid less than honorable discharge from the military, which was not a common reason exemplified from participants. But, when I asked if there was anything else that appealed to him, he said "getting my record cleared and expunged," paused, and then said "that was probably the main reason I did it." However, even after program completion, he still had to complete another year of informal probation because it was his second DUI. DUIs tend to complicate the ability to immediately seal and expunge records upon graduation from the program.

With DUI cases, the court is unable to seal or expunge the criminal record in the same manner they are able to for other charges. Moreover, many of the cases in the OC VTC involve DUIs. For those that cannot have their records expunged, yet still chose to participate in the court, another line of reasoning comes with their decision to accept the terms of the program. For most, this involves the aspect and promise of treatment. DUIs represent the importance of the promise of treatment, because they may not hold jail sentences that are particularly severe, and they do not offer the same promise of record expungement. For DUI cases, the lure of treatment, in particular the aspect of forced sobriety and addressing what leads to substance abuse issues sways a participant to decide to enter the court.

For example, Cal remarks that even "if you go through the other programs, you may finish all that, but you're still not addressing any of the treatment issues that caused you to, you know, caused me to drink and drive, so." In this case, the participant recognized the court's potential role in not just treating the symptom of substance abuse and criminogenic decisions,

but the program's ability to get to the root of the issue. This is something the court ethos actively relies in; the court claims to offer access to resources that treat the problem itself, rather than just criminal behavior that stems from the problem. VTCs generally rely on a drug court model which suggests that crime is the result of substance abuse issues, and with VTCs, the result of the nexus of substance abuse issues and mental health issues from traumatic experiences.

Max illustrates this claim in action:

I heard veteran and I was like, I'll try that out. But um, I also heard it was like a program, so therefore at that time in life I knew I needed some kind of help because what I was doing wasn't helping me at all. Like cause I was just, I was on a downhill slope for sure. And um, I was like why man. Why would I be selfish and try to fight this when I can get help if that makes any sense and so like I was like okay, I'll try it. So I did the veterans court, went to there."

Participants, it seems, appreciated the ability to go to VTCs as a chance to seek treatment for substance abuse issues, mental health disorders like PTSD, or other psychologically-based problems, like anger management issues. The VTC also, as an institution was implemented on the basis of a possible "downhill slope" that sufferers of PTSD may experience (Cartwright, 2011). While some of the offenses participants might have committed may be considered relatively minor – first time DUIs compared to serious assault, for example – the court is founded in the notion that these smaller offenses may signal a worsening problem. A DUI could turn into something much more serious, perhaps a more serious crime, or also be the signs of exacerbating psychological distress that could lead to more problematic behavior down the line.

As seen in the quote above, this was a perspective some participants recognized as well. Cal, explained that he understood the path he was currently on was not a healthy one. When he found out that this court would offer him the treatment and path to recovery he needed, he thought it would be "selfish" to take a different route. Whether for himself or those around him,

he recognized the access to resources this court provided, and decided to enter the court on the basis of the treatment it would contribute.

While many participants mentioned at least one of the reasons listed above, others commented on some sort of combination of these reasons that increased the appeal of deciding to enter the VTC. For Alejandro, the idea of losing the case and facing at least five-years of jail time was a piece of his decision. However, he also mentioned that “veterans court gave you the opportunity to prove that I’m not a bad person and what I committed was a result of my PTSD and all that, and it gave me the opportunity to get the help I needed.”

This concept of the “bad person” resonates in several different ways in the decision to enter the court. A “bad person” can mean a tangible criminal record, the concept of being a criminal in and of itself, a person with substance abuse or mental health issues, or recognition of behavior affecting others, like family, negatively, among other things. But, as this participant notes, the Veterans Treatment Court provides a path to rectify being “bad.” The decision to enter this court can mean sealing a criminal record or expunging charges, even charges that may have happened prior to the current case. The decision to enter the court removes a person from a criminogenic lifestyle, pushing the participant away from criminal behavior. The decision to enter the court, according to participants, allows access to resources and the institutional accountability to follow through with treatment to address mental health and substance abuse needs. And, finally, the decision to enter this court changes these things not only for the person going through the court, but also for the people intimately connected with the participant who would benefit from a changed disposition.

This section has explored how a participant reaches the court as well as what goes into decision-making to enter the court. Once a participant decides to enter the court, they plead into

the program and begin treatment. The next section details how the court functions, its legal mechanisms, as well as the handbook participants are given when they first come to the court. This section will lay the groundwork for the rest of this dissertation, highlighting important court rules and the general trajectory a participant undergoes once indoctrinated into the program.

### **A Day in Court**

The small lobby is rumbling with a variety of emotion. Feet tap impatiently as the 1:30pm required “show-up” time recedes into the distance. Veterans greet each other with firm handshakes, phones buzz, and older veteran mentors meet with their mentees before the doors finally open, close to an hour after the ordered reporting time. A crowd of participants, mentors, observers, lawyers and court staff enter the small courtroom, which looks more like a church than a legal setting with its long wooden pews and art decorating the walls. The small cage inside the left edge of the courtroom where in-custody participants and potential participants are waiting is a firm reminder, however, that this is a courtroom. The court staff takes their seats in the front of the room, surrounding the judge’s bench, while the public defender, veterans justice outreach officer, and probation officer flit from participant to participant, performing last minute breathalyzer checks for substances and receiving brief updates on issues that may be discussed in the courtroom in front of the judge later. Most days at the court, the court started late as team members discussed evaluations of cases and problematic progress updates before the participants filled the room. The court started on time approximately once out of every ten proceedings, so participants got used to the delay in the court.

Once the courtroom doors open and participants sidle into the church-like pews of the room, the room fills with hushed discussion between participants and their mentors, continuing conversations from earlier, outside in the court lobby. The bailiffs usually do not attempt to hush

the noise made by the roughly 40-60 people in the room, and the room quickly falls quiet once the proceedings are to begin. After a short period of time after entering the court, usually ten minutes, the bailiff rises and announces the judge's presence, and court finally begins. The judge greets the room, and a booming "Good afternoon" relays the response of the participants. The judge smiles widely, proclaiming how happy he is to see everyone. He calls up the veteran mentors, who introduce themselves by name and military branch, met with loud military calls as the Army and Marine Corps branches attempt to outdo the other service branches. The mentors take their seats, and the judge moves into calling those that are in compliance with court rules and treatment, encouraging them to "stand up and be recognized."

Once all participants who have not had any issues since their last court date are standing, the room applauds their achievement. The judge asks the court coordinator "what we're playing for today", and the coordinator lists the available prizes, usually in the form of a \$25 dollar gas card, \$25 Target card, and one miscellaneous item, each generously donated from local VFWs (Veterans of Foreign Wars), the Long Beach VA, or the Safer California foundation. There are typically two or three names read, each picked from a bowl of names cut into small rectangles. Names of in-compliance participants are called, cheers and jokes are made by participants, mentors, and the court team on their behalf as they accept their rewards for doing well in the program. The judge often commented on participants who seemed to win more than others, even adding the word "Lucky" in front of the name of a participant who won numerous times when he called her for the progress reports. This is normally a time for laughter and more informal interactions before the court gets more serious for the day.

Once the introductory portion of the court has been completed, the judge begins to call the calendar for the day. He typically starts by calling those that are out of compliance, from

minor infractions that result in an extra group meeting or an essay, to more serious sanctions that require jail time or community service, or even potential termination from the program. With each participant, the judge is updated first by the probation officer in charge of the participants, and then by the veterans justice outreach officer (VJO) who handles the treatment side of the program. In my time at the court, there was a single VJO with a secondary partner in charge of the participants, and two primary probation officers (one for almost two years of my research, the other filling in the last year), who were at the proceedings almost every week. The probation officer tells the judge whether or not the participant is in compliance with the program and details what the participant is doing for productive use of time. The probation officer often tells the judge what life strides the participant has made, or what challenges or potentially problematic issues a participant may be dealing with. The veterans justice outreach officer explains to the judge what current treatment may include for the participant, if the participant is an active participant in his/her treatment, and what kind of progress is being made in treatment.

After the updates, the judge speaks to the participant directly. If the participant has had a positive report, the judge commends the participant on a job well done, usually telling them to keep up the good work and not lose sight of their goals. If a participant has had trouble since the last reporting period, however, the judge may offer advice, admonishments, and/or encouragement, depending on the severity or frequency of their missteps. The judge is often stern with the participants in this category, but supportive, offering them suggestions on how to handle their situation while also reminding them that they are on the right track, generally.

The court progresses in this manner, calling one participant after another for at least an hour, usually churning through an average of fifteen participants on a given court date. Once the progress reports are complete, the judge often offers words of encouragement for the veterans,

before releasing them to go about their day. A few veterans and mentors hang around for some extra time, finishing conversations from earlier, while others scurry out of the doors to catch the bus or walk home. The judge and staff, however, continue to call cases. This period of time, referred to as “second call”, accounts for new participants, cases for evaluation into court, and the once-in-awhile problem case that requires further discussion and problem-solving. This period of time is usually characterized by frequent breaks, discussions at the bench and is generally less organized than the progress hearing portions of the calendar. The judge’s disposition also feels slightly looser in this period, as the cases are heard in a less rigid manner. In-custody defendants are called first to facilitate transportation back to their holding facility, followed by problematic cases for current participants and out-of-custody potential participants. During this time, probation, social services, the veterans justice outreach officer, and/or the team-psychiatrist conduct their interviews as part of the evaluation process as well. The court proceeds until the close of the business day, 5:00 p.m., or earlier depending on the caseload.

### **Program Entry Requirements**

At each court session, there is usually a small group of potential participants awaiting evaluation for entry into Veterans Treatment Court. Some potential participants are represented by private attorneys, others are represented by the public defender who oversees most veterans court cases and others in the specialty court. With each participant, the team has discussed their case ahead of time before calendar that day, and during second call after the court calendar, or before court starts if private attorneys are present, the potential participant is informed about the status of their case with regards to the VTC and what the next steps will be. While some potential participants decide for themselves that the court is too rigorous, time-consuming, or not worth the promised outcomes, among other reasons, others are told that they are unsuitable for

participation in the court. While reasons for entering the program range widely across participants, this section outlines the program requirements for potential participants.

#### *Who Determines Eligibility?*

The OC VTC team consists of the judge presiding, a public defender assigned to the court, a deputy district attorney assigned to the court, a probation officer, a social worker known as the veterans' justice outreach officer (employed by the VA), and a psychologist. Together, this team evaluates potential participants and meets at least weekly to discuss progress, problems and cases, generally, before each court date.

While the team works collaboratively to assess each case, the system operates as a funnel of sorts. Cases are brought to the court's attention in a variety of ways, commonly through referrals from other courts and private attorneys. First, the Orange County DA's office determines basic eligibility, such as county restrictions. Then, the team determines suitability for the court. This process includes a lengthy procedure outlined below.

#### *County Residence*

Participants of the OC VTC must live within Orange County boundaries. If they do not currently live within county-lines, they are eligible to move into the county to participate in the program. Their case must also be in Orange County's jurisdiction. However, if the participants accrue another offense during their tenure at the VTC, or have cases in other counties in addition to the OC offense, they may still be eligible for the OC VTC. For cases in multiple counties, the case inclusion is negotiated by the legal team and other probation departments so that outside county cases are monitored. If the offense includes a misdemeanor probation violation, the case is usually transferred to the OC VTC. Misdemeanor cases outside Orange County are sometimes dismissed if the participant is a member of the OC VTC.



### *Combat and Trauma*

The very foundation of the Veterans Treatment Court admits participants on a basis of them serving in a branch of the United States military. However, veteran status alone is not enough for entry in the court, as the type of service and experiences in the military control acceptance into the court. At the beginning of the research for this dissertation, the Orange County Veterans Treatment Court was called the “Combat Veterans Court”. What the original title implied was that combat experience was necessary for court entry. That is, this court perpetuates the notion that there is a difference between combat veterans and veterans who may have never been deployed, or, when deployed, saw no combat.

However, combat and trauma are still key requirements for veterans interested in the court. To be accepted into the program, participants must show evidence of combat deployment, combat-like situations, and/or military sexual trauma while in the military. To show proof of military service, many participants present their Military Service Record, commonly referred to as the DD-214. This document is issued to members of the military upon release from service and denotes the discharge they receive (honorable, less-than-honorable). The DD-214 is the document that veterans use in order to receive military benefits post-service.

### *Probation Requirements*

The participant must be found suitable for VTC by the probation department. In this particular court, the probation officer is an unarmed officer. Therefore, participants must not require an armed officer as part of the terms of their probation. If a participant and their particular offense require an armed probation officer due to the severity of the offense, they are immediately found unsuitable for the court. Consequently, once in the program, some types of probation violations could lead to termination from the program, especially those that would

involve a need to upgrade to an armed probation officer (finding a firearm on a person or premises, for example).

### *Treatment Requirements*

The entry treatment requirements are two-fold: a participant must show that they accept responsibility for their offense and a willingness to change, and they must be eligible for VA benefits. To determine suitability for the program, participants complete an interview with probation, the VA case manager, and a staff psychologist. During the psychological evaluation, the participant is assessed to determine if the participant is willing to work with the program, or if the participant is too resistant to treatment to continue.

### **The Program Outline**

The veterans court is a rigorous program, consisting of four sequential phases participants must make it through to graduate, with varying degrees of legal promises awaiting the end of their journey. Each phase requires different amounts of time to complete, with different requirements for each aspect of the program, including number of self-help meetings required and productive use of time. Participants are assessed in each phase for suitability to promote and eventually graduate based on a host of factors, which will be addressed in the next section.

At the beginning of the participant's participation in the court, they are handed a brochure that outlines their expected program progress, the rules of the court, and general court information. The brochure is quite extensive, but, according to participants I interviewed, comprises most of the information they receive at the beginning of their program. As such, I will explain the contents of this brochure before discussing the specific phase requirements.

### *The Brochure: The First Source of Information*

For many participants, the brochure is the first time they are given information about the court requirements. This 19-page handbook guides the participant through the program in terms of outlining requirements and explaining the court's involvement with the participant.

The handbook starts by welcoming the participant to the program, and, in bold, detailing the three "simple rules" for court participation: Show up, try hard, and be honest. These rules are paramount in court progress: the participant is required to attend all court-mandated treatment and activities, expend effort in their recovery and court commitments, and, if things go awry, be honest with the court staff instead of hiding rule violations. The handbook goes on to explain what the court is, highlighting its voluntary nature and the basics of what the court requires. It is followed by the court's mission statement, a note about supervision requirements of the Veterans Affairs case manager and probation department, with a brief description of program rules on the next page. The handbook also outlines the program fees and treatment procedures, covering drug testing, counseling, the mentor program, and recovery/self-help meetings. At this point, the handbook details the requirements of each of the four program phases and graduation criteria for participants as they move through the program, which are explained in the next section of this chapter.

Next, the court handbook encourages compliance in the program by listing the variety of incentives provided by the program for compliance. These incentives include weekly drawings for gift cards, decreased court involvement (in terms of court appearances), adjustment of curfew, applause, and the dismissal of charges and sealing of the criminal record among other incentives. (The next section explains the legal ramifications of court completion and how charges may be dismissed.)

To cover the other side of the coin, the court next details what possible sanctions might look like when participants are out of compliance. These could include community service, short-term incarceration, sanction essays, increased court appearances and phase demotions. The handbook also includes short sections on social services, confidentiality, graduation, and what to do in the case of grievances. The handbook again repeats the main three rules of the court.

The last few pages of the handbook serve as a resource for participants, offering an “at-a-glance” chart of phase requirements, the phone numbers for court contacts, and a space for participants to write notes. Like the cover of the handbook, this section includes a series of military emblems for each branch of the military.

### *Treatment Phases*

Each participant completes four phases in the program to successfully graduate from Veterans Treatment Court. Each phase varies in length and requirements, but, generally, the court is more strenuous for participants in the first two phases, with opportunities for more participant input in their own program as he/she moves through the phases. There are no strict rules governing the maximum length of each phase, but the court has structured general guidelines for the duration of phases. Participant phase-progress may be impeded by sanctions that reset phase-progression, inability to meet requirements of phases, or the court and/or participation perception that the participant just is not ready to promote for a variety of reasons.

#### Phase One: Treatment Plan Development

Phase One is categorized by close monitoring, frequent court activities, and intensive treatment. Phase one lasts a minimum of 120 days. This phase focuses on establishing treatment practices and implanting rigid structure into the participant’s life. During this phase, participants are assigned a probation officer and Veterans Justice Outreach officer from Veterans Affairs. For

this court, all participants have the same probation officer and Veterans Affairs case manager. The participant undergoes a full assessment to determine individualized treatment needs, with which the participant must fully comply. Testing for drugs and alcohol occur a minimum of three times per week at the direction of the probation officer. At this point, all health demands from doctors are considered part of the treatment as well, including taking medications under the supervision of health officials.

Self-help and other recovery meetings are ordered daily, along with the requirement that the participant begins actively seeking a sponsor. This phase also includes weekly check-ins with the probation officer, as well as weekly progress reports to the Judge. This means that participants will attend the court sessions of Veterans Treatment Court every week in Phase One. At the weekly court meetings, participants are also required to meet with their veteran mentors; this mentor is assigned to the participant. Phase One may also include curfew.

To advance to Phase Two, the participant must have no positive substance tests for 90 consecutive days and have no missed meetings or other services for 30 consecutive days. Additionally, the participant must have gained employment or have some other form of productive use of time. This could include education services (college attendance) or community service. Participants also need to compose a Phase Two advancement essay and submit an official request to promote to the treatment team. On top of meeting the legal requirements, participants must show that they have made a “positive adjustment” in the program.

#### Phase Two: Ongoing Treatment

Phase Two focuses on continuing treatment and goals for treatment, identifying challenges and coping mechanisms. This phase lasts a minimum of 120 days. The requirements for this phase are similar to the first, including managing continued care from the treatment

services and weekly reporting to the Veterans Justice Outreach officer and Probation officer. Substance abuse testing is less frequent this stage, occurring at the discretion of the treatment team. Self-help meetings are reduced to a minimum of four meetings a week, and court progress hearings now occur every other week. In addition to continued productive use of time, participants also identify personal goals for additional treatment for things like anger management, parenting classes, or vocational rehabilitation.

To advance to Phase Three, participants must meet the requirements listed above, as well as be able to demonstrate an understanding of recovery concepts. This includes engaging in step-work for recovery support and maintaining self-help meetings as directed by treatment. Once a promotion request and Phase Three advancement essay are submitted, the participant is able to promote to the third phase.

### Phase Three: Stabilization

Phase Three includes maintaining treatment as ordered by the court and the treatment team. This phase lasts a minimum of 120 days. This phase focuses on continuing recovery and focusing on “daily living skills” and community reintegration. Recovery and support meeting requirements drop to three meetings per week on minimum, and semi-weekly meetings with the treatment team become more infrequent. Court progress hearings now occur once every three weeks. Participants are encouraged to engage in sober activities and continue productive use of time and contribute to the community under direction of the treatment team. Advancement criteria is similar to the second phase. However, participants must now be maintaining employment or pursuing vocational or academic degrees, with community service as a separate component from productive use of time. Phase Three also requires an advancement essay and promotion request for the fourth and final phase.

#### Phase Four: Achievement/Graduation

Phase Four, oriented towards working on transitioning from the VTC structure to a non-mandated lifestyle, lasts for a minimum of six months, the longest phase of the program. This phase continues the requirements of previous phases while relaxing the number of required court progress hearings to once per month, permitting random drug tests, and requiring two recovery/self-help meetings each week. The key to this phase is maintaining the structure of the court and recovery relationships without having them directly ordered in terms of frequency to prepare for continuation of recovery progress post-VTC. Maintenance of productive use of time and establishment of long-term goals also comprise the requirements for Phase Four.

#### Graduation

To graduate, participants must have no positive drug tests for 180 days and no missed services for 45 days. They must complete all mandated treatment and legal requirements. In addition to maintaining services, participants must show that they have achieved a stable and healthy living environment and relationships. Participants must define their aftercare plan to help maintain sobriety and treatment goals and fulfill the goals originally outlined in their treatment plans. For many participants who have lost their driver's license as part of their offense, they must show proof of a California Driver's License and proof of attendance at court-mandated events. Finally, participants submit a graduation request and a graduation essay, which, like the other promotion essays, is approved by the court.

The brochure reminds the participant that the graduation is an event that represents a "time to celebrate your success and to allow others in earlier stages to become encouraged and motivated to succeed as well." The graduation ceremony is typically conducted at the end of the weekly court progress hearing. The judge usually recognizes the graduating participant in the

beginning of the court during the reading of the compliance list. He would ask the participants if it was okay to wait until the end, but noted that he wanted to recognize the participant up front.

When the graduation ceremony starts, the probation officer turns the podium around to face the court, rather than the Judge as progress status updates normally occur. The judge invites any guests of the participant to walk to the front, and he greets them warmly with a handshake and thank you. At this point, family members or friends (and often treatment providers) are encouraged to say a few words on behalf of the participant. Then, the court treatment team usually gives a speech and addresses the participant's growth in the program. The probation officer reads that the formal requirements of the court have been met and clears the participant for graduation. The Veterans Justice Outreach officer comments on the graduating participant's treatment progress. Then, the participant's mentor usually says a few words and presents the participant with a special court Challenge Coin. One of the other mentors specially crafts a hand-made pen for the participants as well, with the emblem of their military service engraved on the clip.

At this point, the graduating participant reads his or her graduation essay to the court, a process that can take five to ten minutes. This essay, the longest of all promotion essays, usually covers what got the participant to the court, the positive progress the participant has seen in since his/her VTC participation, the treatment plan and resources utilized by the participant, and long term goals for continued treatment. More often than not, the reading of the essay is an emotional process, with participants choking back tears, taking deep steadying breaths while the judge and/or family members offer reassuring support. When the participant concludes the graduation essay, the court erupts into clapping from the audience and court team.



The judge reads the text of a congratulatory certificate of graduation to the essay, signs the certificate, and presents it to the participant. At this point, the public defender makes motions to have the record cleared, cases expunged, and to minimize other court commitments per the agreement between the defense attorney and the District Attorney's office. The judge grants the motions, and makes one final statement of encouragement, followed by one more round of applause, and, with the formal graduation of the participant coming to a close, the court is dismissed, and the graduating participant is released from the court's purview.

### **Discussion**

For the Orange County Veterans Treatment Court, participants perceived that the level of information they were receiving at the decision-making stage and upon initial entry into the court was minimal, with the brochure providing the majority of the information. While probation and the VJO interview the participants and make themselves available to participants, I observed that their time was limited in interacting before and after court. Similarly, the public defender was usually kept busy with cases before and after the court. Based on what I observed and what participants suggested, the court relies on a participant to make sense of the information provided in the brochure, leaving explanation of certain factors to the participant's attorney.

Considering that this decision, a potentially life-altering, serious decision is made relatively quickly upon initial involvement with the VTC, one might expect that receiving "enough" information about the court is crucial to the decision-making process. However, even when participants noted that they wish there had been more information, most participants do not seem to think it would have made a difference in their decision-making process. Overall, few participants that I spoke to regretted their decision to enter the court, citing that they would make the same decision over again, even knowing what they know at the point of the interviews about

the court—both the potential positives *and* negatives of the program, such as the constant supervision, the rigors of treatment, or other difficult to handle issues with the court.

For most participants, the willingness to enter the program and forgo negative consequences that may occur due to lack of knowledge and rushed decision-making is in part due their ability to look at the bigger picture and end goal of the program. The reasons most participants listed, aside from the more instantly gratifying notion of staying out of jail or prison or just trusting in their attorneys, deal with long-term goals, such as bettering oneself through sobering up and/or mental health treatment or clearing or expunging a criminal record. These were points that were attended to in the handbook given to the participant or also conveyed through the use of attorneys.

For future research, it would be ideal to interview potential participants who decided *not* to join the court to understand why participants might continue in the traditional court process, despite the opportunity here to clear the record and receive rehabilitation. While I was unable to access this set of potential participants, future research should include this population to better analyze what contributes to a participant's decision to enter the VTC program.

## CHAPTER TWO

### “We Quell the Storm, and Ride the Thunder”: The Legalization of Treatment

#### Introduction

*‘Come on man, its 18 months for the rest of your life, damn stubborn-ass marines, ya’ll got to be so hard-headed, just try it out man.’ And that was it, the beginning of my journey in Vet Court. Since then the quality of my life has changed immeasurably, I don’t spend most of my days in a state of either rage or lethargy. People tell me I smile more. Don’t get me wrong, I still have days where I don’t sleep so well and my spiritual tank is running on empty with the little light flashing, but those days are farther and fewer between, and I have myself anchored in with a support system that works in order to get through the tough spots. The biggest change has been my own willingness to reach out and connect with people instead of bottling my emotions up till my mind tells me that nothing matters anymore and I end up doing something I’m sure to regret. It amazes me how much of a difference taking a few deep breaths makes when I find myself getting rattled. In AA they call it “stinking thinking,” while the college educated folk call them, “cognitive distortions.” Whatever words you choose, it was imperative for me to be able to recognize when certain patterns of thinking were keeping me trapped in a cycle of self-defeating behaviors.*

- Theo, Graduation Essay

I open this chapter with a lengthy quote pulled from Theo’s graduation essay. Theo, a participant who, in his early stages, was surly most days, had one of the most noticeable transformations that I observed in the court. This quote highlights several important mechanisms that will be discussed in this chapter, primarily concerning what I call the “legalization of treatment.” The legalization of treatment concerns the process by which private, therapeutic events and prescribed treatment are enveloped by the legal process, becoming public and legally-binding aspects of the court process.

In Theo’s address to the court during his graduation speech, he highlights the transformation he had gone through to get where he was. He places emphasis on the treatment he received, specifically using language culled from AA self-help meetings, displaying how much

the therapy had contributed to his current state of being. In addition to crediting treatment with making him a person he was happy with, he also discussed how he has connected to people, reaching out when he needs help, a typical goal of the treatment plan and a marker of programmatic success. Theo also demonstrates how he did not want to enter the program at the time, but a case manager urged him to do so by attempting to get him to look at the bigger picture.

The previous chapter discussed how treatment was a part of the decision-making process. That is, participants noted that they understood that treatment would be an aspect of the program, and, to many, this was appealing. In fact, this treatment aspect undergirds the specialty court movement, stemming from practices of therapeutic jurisprudence. Therapeutic jurisprudence contends that the law is an agent that can both harm or help an individual going through a law-related system (Wexler & Winick, 1991). Therapeutic jurisprudence recognizes the need to assist those involved with the law to navigate the law, and practitioners of therapeutic jurisprudence adjust their procedures accordingly to promote psychological well-being for their constituents. In the case of Veterans Treatment Courts, therapeutic jurisprudence reaches participants of the court in two distinct manners. The first is that the judge and other members of the court generally treat participants humanely, recognizing law's influential reach on the general psyche of the participant. This behavior is characterized by creating personal connections with participants, talking respectfully to participants, and, generally, promoting a sense of dignity for participants. This notion of therapeutic jurisprudence will be discussed in Chapter Three, as it contributes to the process of procedural justice and perceptions of fairness in the court.

The second way therapeutic jurisprudence is represented in the VTC is through what I call the "legalization of treatment". I define this term to mean that treatment orders made by the

treatment team are made legal, in that participants *must* comply with these orders to progress in the court. For the VTC, therapeutic practices are interwoven with the legal processes in the court. That is, the psychological improvement of the participant is paramount to a participant's success in the program, and it is monitored through legal means. If participants do not comply with their treatment or put in an earnest effort in their own rehabilitation, they are sanctioned and sometimes held back in the program. To graduate, then, participants must show degrees of improvement in treatment aspects, including participatory efforts, kinds of treatment engaged in, and promise of continued treatment once the participant has exited the program. In fact, the entire program hinges on this very notion—in order to become indoctrinated in the program, a participant must convince a staff-psychologist that they are willing to change. While, in a scathing review of therapeutic jurisprudence by Hoffman (2001), he notes the dangers of relegating judicial officials with no training in psychology can do more harm than good, I explore this concept of the treatment team and judicial deference with regards to treatment in this chapter. Hoffman warns of the dangers of “state-coerced treatment”, and I examine the mechanism by which treatment is coerced: by legalizing it and subsuming it into the legal purview of the court.

As intrinsic as treatment is to the program and its attempt at therapeutic jurisprudence, the treatment can influence perceptions of court effectiveness on behalf of participants. Participants often make claims about the benefits of the court with this goal of treatment and rehabilitation in mind. While many participants recognize that the aspects of treatment ingrained in the court differentiate it from traditional court, participants also comment on the types of treatment received and the potential variation *within* court. As this chapter will discuss, the perception of treatment can influence perceptions of the court writ large.

In order to understand how the court process facilitates desistance strategies, this chapter will first take a closer look at the kind of treatment the VTC provides. Existing literature on the success of specialty courts suggests that VTCs fill a void of dual-diagnosis treatment. My research reveals how flexibility in treatment is negotiated within a “cookie-cutter” environment. Therefore, it begs the question of problem-solving courts: just how specific must diagnosis/treatment be to be considered effective by the participant? While many argue that dual-diagnosis courts are the next step in problem-solving courts, how might treatment be further negotiated? Overall, these questions are posed to better understand how VTCs navigate the collaborative process of problem-solving courts and what collaborative treatment means for participants.

### **Literature Review: Courts, Therapeutic Jurisprudence, and Treatment**

Though specialty courts in general (drug courts, juvenile courts, mental health courts, etc.) have been the focus of much scholarship and evaluation, VTCs have yet to be investigated in much depth. The empirical work on VTCs is decidedly thin, restricted to descriptions of how these courts came to be part of the criminal justice system, how they work, and how prevalent they are becoming, with the exception of Baldwin & Rukus’ (2015) recent research of VTCs in the context of restorative justice. Thus, this dissertation addresses the need for veterans court evaluation by examining how treatment works in the court and in what ways the program may be considered successful. Furthermore, this dissertation assesses participants’ experiences with the treatment, discerning what it means to have a program that is collaborative in nature. While a “one-size-fit-all” approach may be successful in single-issue treatment programs, VTCs may require a more flexible and truly collaborative approach, with collaboration not only between the judge and treatment team, but between the treatment team and the participant as well due to its

multi-issue treatment goals.

VTCs generally follow a Drug Treatment Court model, for which research and evaluation has provided ample support for their proliferation. Drug courts employ a model that facilitates drug treatment, provides community supervision, and substantiates the program with legal authority (Koetzle, Listwan, Guastafarro, & Kobus, 2015). The treatment provided in drug treatment courts more often than not produces positive program outcomes, such as reducing criminality and decreasing substance abuse (i.e., Gottfredson, Kearley, Najaka, & Rocha, 2005; Gottfredson, Najaka, & Kearley, 2003; Peters & Murrin, 2000). Meta-analyses suggest that drug courts effectively reduce recidivism by approximately 10% (Aos, Phipps, Barnoski, & Lieb, 2001; Gutierrez & Bourgon, 2012; Koetzle et al., 2015; Shaffer, 2011; Turner et al., 2002; Wilson, Mitchell, & MacKenzie, 2006).

In addition to a drug treatment court framework, VTCs employ a dual-diagnosis treatment plan that incorporates substance abuse *and* mental health components. Specialty courts designed to treat offenders with mental illness have proliferated in response to the research that suggests people with mental disorders are at greater risk to be arrested and/or incarcerated than those without mental disorders (Fisher et al., 2011; Steadman, Redlich, Griffin, Petrila, & Monahan, 2005). Mental health treatment courts (MHTCs) have witnessed positive program outcomes for those that are treated within the court over those that go through traditional court (Cosden, Ellens, Schnell, Yamini-Diouf, & Wolfe, 2003; Fisler, 2005; McNiel & Binder, 2007; Moore & Hiday, 2006). Participants in mental health treatment courts are more likely to be able to cope with their mental illnesses. Additionally, mental health treatment court participants are less likely to recommit crimes than their traditional court participant counterparts. Like drug courts, a variety of factors may influence recidivism, including, but not limited to criminal

history, length of time spent in court, and whether or not a participant successfully completes the program (Burns, Hiday, & Ray, 2013).

VTCs are one of the growing movement of problem-solving specialty courts built to address the needs of a diverse population. Dual-diagnosis treatment generally includes programs that address both substance abuse and mental health issues. Substance abuse and mental health courts are just one of several diversion programs that aim to treat co-occurring disorders, and offer success in terms of decreasing recidivism by way of rehabilitation (Frisman et al., 2006). However, these courts and their handling of treatment oriented goals fall into a larger body of research concerning therapeutic jurisprudence more broadly, in which the question of treatment is understood through a participant's ability to make a choice regarding treatment. Research points to the improved success of treatment when a participant feels they have a choice in the matter (Winick, 1994). Therapeutic jurisprudence concerns understanding the law's ability to harm or help those who are subject to it; its implications for specialty courts suggests that law can be wielded as a tool to help individuals (Winick & Wexler, 2001).

Researchers have examined how therapeutic jurisprudence is implemented in the court setting, noting that problem-solving courts are an application of therapeutic jurisprudence in action (Winick & Wexler, 2001). Typically, this research examines how the interactions between the judge, subsumed by the treatment process, especially, can act as a therapeutic agent to effect positive rehabilitative goals in participants (Casey & Rottman, 2000; Hora, Schma, & Rosenthal, 1998). Furthermore, research has examined the extent to which the decision to participate in specialty courts contain an element of coercion, and how to avoid this perception by offering participants reminders of the voluntary nature (Winick & Wexler, 2001). While the previous chapter discusses this briefly in terms of why participants join the court, often identifying the



court as the path of least resistance, this element of coercion will be further explored in this chapter, but in a different aspect. This chapter looks towards how treatment becomes legalized, and, at the consequence of legal repercussions, is inherently coercive.

Considering the ample research in the drug court and mental health court realm, this chapter considers how one VTC provides treatment with a multi-issue focus and how participants perceive this treatment. This research fills this void in research focused on VTCs, a fast-growing extension of the problem-solving court regime. With this focus on VTCs over traditional drug court and mental health courts, this research examines issues specific to the VTC context. For example, while the role of drug of choice on participant performance in drug court has been examined, with mixed results (Bouffard & Richardson, 2007; Listwan, Sundt, Holsinger, & Latessa, 2003; Saum, Scarpitti, & Robbins, 2001; Shaffer, Hartman, Listwan, Howell, & Latessa, 2011; Stoops, Tindall, Mateyoke-Scriver, & Leukefeld, 2005), a more pertinent question for VTCs and other dual-diagnoses courts concerns the variation in participant needs within the program. While VTC participants' drug of choice may differ, as in drug courts, VTCs must also contemplate participant need for mental health services, like PTSD. Some participants may have relatively minor substance abuse issues, but require substantial treatment for PTSD or TBI. Even within drug courts, research suggests that drug court programs may be under-specialized to deal with the variety of participants the court oversees (Dannerbeck, Harris, Sundt, & Lloyd, 2006). While findings suggest that coercion into drug treatment does not render programs ineffective (Farabee, Prendergast, & Anglin, 1998), little work has been done to consider how program flexibility may alter perception of program experiences, and, ultimately, compliance with the program. This may be evident in a VTC setting, especially, given the multi-issue treatment and extreme variability amongst offenders. While research has considered how

programs *between* drug courts may differ, (Longshore et al., 2001; Turner et al., 2002; Wilson et al., 2006), this dissertation will investigate the utility of *within* program differentiation.

Focusing research on the VTC context facilitates an understanding of how the court and treatment team navigate multi-issue treatment, with a goal of rehabilitating the participant. As such, this chapter will explore how multi-issue treatment unfolds in a specialty court. One way this will be explored is how the court takes a simultaneous “one-size-fits-all” approach in terms of general treatment, but specifies and tailors a program to fit the participant’s needs as they progress through the program. The court applies certain treatments and therapy to each participant along a baseline: most practices integrate both substance abuse and PTSD treatment, with requirements that applied to every participant, regardless of their specific treatment needs. Moreover, this will be explored through the eyes of the participants, as they explain what works about the program, and how treatment, particularly Veterans Affairs-related treatment and AA, works. How open should treatment be to negotiation between treatment providers, the court, and the participant? Moreover, how does the approach the court takes and its “cookie-cutter” treatment plan affect legitimacy and subsequent compliance for participants?

### **Results: Law to Help, Law to Harm**

In this chapter, I discuss how treatment becomes legalized in the court process of VTCs. I begin by examining the role of the courtroom actors, especially as it relates to treatment needs for the participants. This section shows how the courtroom workgroup works together to administer the most effective treatment that they think they can for the participant, with the rehabilitative goals of the court in mind. Then, the role of the VJO as the primary facilitator of treatment is examined with regard to expectations and participant interactions.

This chapter then examines what treatment looks like for participants, as well as how

they perceive it. This section implicates treatment in the way it is pulled into the legal realm and sanctioned against when violated, and incentivized when followed. I also discuss in this section the positive aspects of legalizing treatment as seen in the accountability afforded to participants. I then highlight how perceptions of “cookie-cutter” treatment, or treatment that may be unnecessary hurts participant perceptions of the treatment and is potentially coercive in nature.

### *Courtroom Actors*

*Look around the room, there's, imagine this, there's not a person in this room that does not want you to succeed including the district attorney. You can't do that in these courts necessarily. I mean it's very different it's such an adversarial system. Not that they don't want them to succeed, I think there's people, I mean, it just depends. There's just such a different atmosphere within the collaborative courts where we're all there to see them succeed and do well. And it's not just about locking people up at all it's more let's see what we can do to prevent them from coming back, whatever that is necessary, whatever's needed.*

- Judge, Interview

When I spoke to the judge about how he approaches the VTC, he explained that the nature of collaborative courts is to focus on the offender needs to get them to a non-criminogenic state. This orientation is utilized by each court actor, non-adversarially, to reach common treatment goals, something not seen in traditional courts. The court team works as a close-knit workgroup, integral to the treatment aspect of the program.

Before delving into the utility of treatment in the court program, this section explains the roles and duties of each of the courtroom workgroup members. As research has indicated, the courtroom workgroup must work together to achieve common goals. In a traditional courtroom, these goals are efficient case processing, as well as informally negotiating the outcomes of cases within the bounds of the law (Feeley, 1992; Gebo, Stracuzzi, & Hurst, 2006). Additionally, research points to the power of the judge in making key decisions in how the workgroup functions and what direction the court is to take (Harris & Jesilow, 2000). In the VTC, the nature

of the workgroup has shifted from adversarial practices, with the treatment team working together to effectively rehabilitate participants, with regards to public safety rather than only incapacitation or deterrence based punishment.

In this situation, the judge relinquishes some of the power previously held by his position to incorporate the workgroup more equally in the process. The judge alluded to this process in his interview when he described that “you better be willing to listen and you know and help them guide your decisions.” He notes that

Ultimately, you’re the one that makes the decisions, but you’ve got to listen to them, and you’ve got to be open to their making suggestions to you, and frankly, if they thought I was doing something wrong I’d want them to tell me.

This quote illustrates how the judge is aware of his position in the court relative to those he deemed “professionals”. In particular, the judge purported that Veterans Affairs and the VJO were crucial in the process with regards to treatment, because he needed to know “what’s going on behind closed doors.”

This trend towards involving case managers in the legal process is not unique to VTCs, but a part of a larger movement that utilizes case workers in alternate jail diversion programs (Nolan, 2003). In fact, Castellano (2009) discusses how this involvement now interweaves new locales of discretion, as the case manager operates, in some ways, outside the context of the legal system and within her own set of rules and discretion. The role of the case manager is unique in the non-traditional court programs, like the VTC, as the case manager often increases connections for participants with resources in the community, as well as evaluates treatment and helps manage caseloads in the program, as well as acting as a liaison between the court and treatment facilities (Ares, Rankin, & Sturz, 1963; Castellano, 2009). This aspect of the case manager is seen in the role of the Veterans Justice Outreach Officer, the VJO.

The VJO represents the treatment aspect of the program and manages the participant's therapeutic aspects of the court. At the OC VTC, over the course of my research the VJO<sup>3</sup> was responsible for between 20-50 participants enrolled in the court program. She is also tasked with helping to connect the participant to community resources or residential treatment, as necessary. During the tenure of this research at the court, I observed one primary VJO who worked closely with Veteran's Affairs and the court to manage treatment. She was sometimes accompanied by a secondary VJO who shadowed the primary VJO and filled in for her when she was not in court. Every participant in the court is assigned to this VJO, and she builds close relationships with the participants, identifying specific treatment needs and making recommendations to the judge and the rest of the treatment team based in her expertise and experience with the participants.

While the VJO is in charge of reporting treatment needs to the team and relaying progress or issues in treatment to the court, the probation officer is tasked with keeping an eye on participants in the legal realm. From the probation officers, the team receives updates on home compliance checks, overall compliance in the program, and some life developments that the participant may be going through that could be positive to court progress or potentially impeding court progress. During my time at the court, there were two probation officers with the occasional fill-in if the primary probation officer was absent. The first probation officer was perceived by participants as a fair officer, applying rules evenly. The participants also demonstrated knowledge of a softer side that he emitted, something that will be delved into in Chapter Three of this dissertation. The probation officer that followed him was seen as easy-

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<sup>3</sup> To maintain anonymity, the identity of the VJO will be kept undisclosed. The VJO that served this court for the duration of my research was a women, and thus referred to as "she" throughout the dissertation. Additionally, the judge and probation officers for the majority of my research was a man (referred to as "he").

going by participants, generally fair, but stricter than the first probation officer.

The courtroom workgroup also consisted of the judge. Typically, the judge is seen as the head of the courtroom, but he often deferred to the recommendations of the court workgroup. The first judge during my time at the court was the woman who created the court under her jurisdiction. The second judge was there for a majority of my research, replaced in the last six months of my time at the court. The term of the second judge is the primary period in which this research is based. As part of the treatment team, the judge is updated weekly by the probation department and VJO in the presence of both legal attorneys. The judge hears updates during team meetings before the court begins, and then again when the participants stand before the judge during the progress hearings.

The judge acts as the legal enforcer, applying rules and sanctions as necessary based on the treatment team's recommendations. He recognizes that "they [the treatment team] were the ones that were actually interacting with them [the participants] regularly." This contributes to his ability to "out your ego aside when you walk in there...because the whole goal is to try and help them." When the judge discussed this aspect of his position in the courtroom, he offered that his role was to "facilitate conversations" that get people to the point of graduation. He also noted that although he maintains that you must listen to treatment providers, he was ultimately making the decisions, with their advice in mind. He rarely, however, seemed to publicly go against what the treatment team recommended. He also offers words of encouragement to participants, and, in my observations of the court, attempted to make positive connections with the participants.

The attorneys involved with the court also had relatively permanent posts in the court. During my time at the court, there were two primary public defenders. The public defender assigned to the court at the time oversaw a majority of the cases for the participants. They acted

as a legal liaison for the participant, advocating on their behalf directly to the court. The prosecutor also had two primary deputy district attorneys over the course of my research. The ADAs were in charge of making sure the public interest was protected, but rarely spoke during progress hearings.

With this courtroom workgroup composition in mind, it is important to reiterate that the nature of this workgroup is non-adversarial in nature. This team worked together to administer what they perceived to be the best treatment plans to rehabilitate the participants within the bounds of the law. It is through this treatment team, coupled with the mission statement of the court to rehabilitate offenders on a basis of their substance abuse and mental health issues that treatment becomes legalized. Treatment is brought into a legal sphere, into a space traditionally held to administer the law on a basis of punishment for offenses. Here however, a participant's progress in therapy is brought into the public and legal realm, subject to law, rules, and oversight by the court.

Participants seem to recognize this court structure and the roles the court workgroup plays. Xavier, for example, illustrates the way he perceives the roles of the court actors in the program:

The D.A. plays hardball. Everyone's got a role to fill in Vets Court. The social worker is there to listen and to assign you areas where specifically you need to work on in treatment. Probation is there to keep you honest, to make sure you're not pulling a fast one over them.

The judge is there to motivate you when you do good and kick you in the butt a little bit when you do bad and tell you to pick yourself back up and keep moving. The district attorney is there to always fucking put pressure on you and your public defender is there to, I don't know, hang out? I only talked to her like three times and the last two times were when I was graduating.

While Xavier puts this into easily defined terms, he also demonstrates knowledge that everyone in the court has a role to fill, which can be applied to how treatment is utilized, as explored in the

following sections.

### Role of the VJO as a Treatment Liaison

In Veterans Treatment Court, the role of treatment is immediately clear upon entering the courtroom. When the participant is called up for their progress report to the judge, he is flanked on either side by the Probation Department, represented by the court Probation Officer, and the treatment liaison, a representative from Veterans Affairs called the Veterans Justice Outreach Officer. When the judge is updated by the probation department about a participant's progress, he is told first whether the participant is in compliance with the program—has the participant received any probation-related sanctions and is he abiding by his legal requirements and engaging in positive progress? After this, the Veterans Justice Outreach Officer, of VJO is called on by the judge to update the judge on the treatment efforts and progress recently undertaken by the participant. These reports can be brief, sometimes only noting whether there has been any negative behavior, or if progress is being made smoothly.

However, these reports can also be personal in nature, where the VJO discloses relatively sensitive topics in the court. For example, the VJO updated the Judge about a participant in treatment and says, “The report from his counselor is he’s guarded...they really require some digging and pulling to get stuff out of him...he’s showing up but he needs to step-up” in how he engages with treatment. To this, the judge responds that “He will...good job on getting that VCS (Voluntary Community Service) completed.” This report is highly private in nature, yet read freely in a public, open court proceeding. The VJO often notes when participants are “battling demons” and particularly vulnerable, and, when proclaimed in court, may further that vulnerability in making the private, public. This vulnerability and open sharing of intense and



emotional events adds yet another layer to the manner in which treatment becomes a part of the legal process.

The role of the VJO is in no part small. As part of the treatment team in this court, she comprises at least half of the monitoring effort provided. The VJO is responsible for knowing what kind of treatment the participant is engaging in, what happens in therapy sessions, what kind of progress or setbacks the participant may be undergoing, and how it all relates to the bigger picture of rehabilitation. For example, it is up to the VJO, in consultation with the entire treatment team, to determine whether setbacks are part of a larger pattern of negative behavior, or whether the issue is simply a stumbling moment on an otherwise smooth path to recovery. Each of these decisions would yield very different repercussions for the participant, and it is of no small importance to the overall progress in the court. For example, Arvin was terminated for the program after repeated forgeries of his court card and other issues with honesty in the court. However, when Dan was suspected of forging a court card (cards that track self-help meetings like AA and NA), he was given chances to stay in the program, as he was relatively early on in his treatment, and had not presented the depth of honesty problems that Arvin had displayed.

The entire treatment team is a unique characteristic of VTCs, and specialty courts in general. With these teams, the judge must rely on individuals to provide monitoring and suggestions based on perceptions of the participants to guide his hand in judicial proceedings. This very notion is much different than the adversarial nature of traditional courts, in which court actors work against each other to argue a case. Specialty courts depart from this adversarial nature to instead pull together a team of court actors to work together in the best interest of the participant. Here, even the district attorney typically acts in the interest of the participant, barring egregious potential consequences for victims of the crime or the public. The district attorney

typically did not voice her concerns during the court, instead having a more active role in the evaluation of cases and her concerns with potentially troubling clients. For example, she once read the dangers of driving under the influence to a participant entering the court, and also once expressed she was at “the end of my rope” with a participant who was causing trouble, and later was terminated from the program. Other than these few instances, I do not recall hearing the ADA speak during progress reports. Working within this non-adversarial context, the judge also gives up some of his discretion in the courtroom, choosing to work *with* the treatment team, generally deferring to their suggestions.

The reason this is so interesting in the case of specialty courts, and especially the VTC examined here for my dissertation, is that the VJO is part of the treatment team that the judge sacrifices his judicial deference to. While the judge certainly could exercise discretion to halt measures taken by the treatment team, or sanctions suggested by the treatment team, he generally uses his judicial discretion to defer to the whims of those in charge of treatment and monitoring participants. In some ways, this shows a lack of traditional judicial deference, or the manner in which the judge has the most deference in the courtroom. In the VTC, the judge often commented that he is acting on behalf of the treatment team, to which he defers in the manner of treatment, especially. The judge here recognizes that he can act as the arm of the law to enforce them treatment recommended by the team, but that the case managers are the experts in the area, placing trust in their guidance. Here, an inherently non-legal court actor heavily influences the court proceedings for the court’s clients. The VJO is not an attorney, yet she controls the fate of the participant to an equal degree of attorneys on both sides, as well as the probation officer.

The weight of this relationship is evidenced in the court’s “legalization of treatment.” If the judge did less to incorporate the treatment and therapeutic aspects of the participant into their

proceedings, the role of the VJO would be less prominent. However, the court takes the treatment of the participant seriously, leveraging therapeutic aspects of the court against participant progress and setting therapeutic goals amongst the main objectives of the court.

### *The Many Faces of Treatment*

When the VJO updates the judge on treatment progress at the weekly court hearings, she reports on a wide variety of kinds of treatment. For individuals going through the program, treatment comes in many forms. Usually, participants are required to go to self-help meetings with varying levels of frequency depending on their court phase and need. These self-help meetings, while anonymous, are required by the court, and proof is shown with a court card, signed by a meeting leader. These self-help meetings are usually with Alcoholics Anonymous, but participants may also attend Narcotics Anonymous meetings. These meetings are usually required, even if a participant does not have severe substance abuse issues. This form of treatment is utilized to provide frequent support for the participant as well as to provide additional responsibilities for the participant. Generally, as a participant progresses through the program, the number of required self-help meetings each week is decreased. If a participant routinely misses self-help meetings, or has a relapse or other substance-related issue, additional self-help meetings may be required by the court.

In addition to self-help meetings, journaling is also used as a form of treatment and to encourage active engagement with the treatment prescribed through reflection. To go with the self-help meetings, since they are anonymous in nature, sometimes participants are required to journal their experiences, as recommended by the VJO. This technique of therapy is often utilized when a participant relapses or misses treatment meetings. The goals of the journaling are at least two-fold. First, a participant is given a chance to reflect on the treatment. This is

particularly useful in the eyes of the court when a participant may be tossing treatment to the side, and this journaling can reconstruct the notion of the importance of the treatment for the participant. If a participant can, for example, document a change, he may see that treatment and self-help meetings are having positive effects on his life, and their importance and subsequent attendance will become a more positive part of the participant's life. Second, these journals function as a system of accountability for the participant. This form of treatment can also be utilized as a sanction and make it more difficult for a participant to forge their participation. For example, if a participant is potentially forging their court cards, it becomes inherently more difficult to avoid detection with the use of the journals. Even if participants are forging journal entries, they must put in a substantial amount of effort to do so and continue to avoid detection by the court team.

While self-help meetings are an early staple for participants in the program, therapy with a counselor and group therapy are two other cornerstones of the treatment. The treatment regime of the participant is determined in large part by the VJO and Veterans Affairs. This treatment may vary between participants, but every assigned session of therapy is a requirement of the court. Because this treatment occurs as a part of the VA system, the participant does not pay for the treatment, but is rather part of the benefits afforded to them by being veterans. The VJO and Veterans Affairs coordinate individual and group therapy for participants. The participation in and progress of both of these is reported to the VJO, who then reports progress (or lack thereof) to the treatment team. During individual therapy, participants may work on a myriad of issues, including PTSD, substance abuse, family and relationship problems, traumatic brain injury, cognitive behavioral therapies, and other potential mental health issues. In addition to individual therapy, participants also partake in group therapy sessions. Many of these sessions are held at

the VA with other veterans, and cover a variety of topics like PTSD, anger management, meditation, substance abuse, reintegration in a civilian lifestyle, and others. Not only must a participant attend these group meetings, but they also must demonstrate active participation through reports made on their progress by group leaders to the VJO. The VJO then reports this progress made to the rest of the treatment team, as well as whether or not the participant is actively engaging in their own treatment or merely “warming a seat.”

Treatment takes many forms at the Veterans Treatment Court, including somewhat “experimental” therapeutic techniques. For example, a small group of participants joined a group of equine therapy. With this therapy, participants worked with horses as therapy. Several participants noted that they enjoyed this therapy, and the court coordinator even invited the coordinators of equine therapy to the court to announce their capabilities to participants who may be interested in joining. Other participants reported going to meditation classes, to private retreats for veterans, and engaging in community service, in addition to the traditional types of individual and group therapy. If a participant is interested in a form of therapy not originally suggested by the VJO and treatment team, he may bring the idea to the VJO who will determine its fit for the program. This is one aspect of the “negotiation” of treatment that participants are able to utilize, which is covered more in depth in later sections.

Finally, treatment takes the form of tracking and monitoring progress made in a participant’s life. While a participant may not face legal consequences for negative things that may happen in life, like failing exams, going through rough patches with family members, or losing a job, the notion of the quality of participant’s personal life is enveloped in the overall treatment goals of the court. This occurs through sharing of personal details by the VJO or probation officer during progress hearings, or when the judge questions participants about what

is going in their lives as he builds connections with them or tries to uncover the root of the issues they face during the public progress hearings. What might be considered private matters are shared with the court if relevant to court progress, in a sense encapsulating non-programmatic events and emotions in the legal process, as for example, when the judge addressed Francis, a participant in the program, after a methamphetamine relapse. The judge in this case, brought up Francis' kids, tapping into the motion involved with parenting by saying "Francis, you have the ability to do this. You are setting an example. You've got kids too...and he has to say his dad, who's a combat veteran from Vietnam is in jail." In this case, the judge brought issues of family into the legal forefront, this example, to motivate the participant. This process is one way in which treatment and psychologically-related milestones are legalized, with varying consequences for the participant in the court.

#### *Legalization of Treatment: Therapy as Part of the Program*

As discussed above, therapy and treatment become a part of the court process through a variety of manners. First, an expression of a willingness to change and acceptance of responsibility must be perceived by the court for a participant to be granted entry into the VTC program in the first place. If a participant does not express a desire to change or to take the steps necessary to facilitate a positive change, a participant may be barred entry into the program. Therefore, acknowledgement and acceptance of treatment as a condition of program requirements and program completion must be undertaken in order for a participant to be legally allowed to enter the program.

Second, once in the court, a participant must abide by treatment recommendations from the treatment team. If a participant does not follow the directions of his treatment provider, he may be sanctioned, with legal repercussions, such as jail, phase-restarts, essays, community

service, additional groups/self-help meetings, or termination from the program. Additionally, participants must satisfy relatively subjective requirements in treatment progress to be allowed to advance to their next program phase. If a participant is not viewed as “therapeutically” ready to advance, he will not be allowed to do so upon recommendation from the treatment provider. Furthermore, a participant’s potential graduation could also be impeded for these reasons.

This section will describe the ways that treatment becomes legalized, particularly how treatment is utilized to sanction participants with a variety of consequences. I will also examine how the prospect of positive reports and compliance are yielded by participants as incentives to do well in the program, in a setting where “doing well” means attempting to better oneself specifically through participation in treatment. Finally, I will discuss how the legalization of treatment is internalized by participants, instilling a sense of accountability for those involved with the court.

#### Sanctions: Negative Reports

The sanctioning process generally follows two trajectories. First, negative reports are discussed by the treatment team in the public setting, as updates for the judge, and may represent moments of informal sanctioning in the form of shaming for the participant. Second, the sanction could be a formal sanction received for treatment-related issues. These formal sanctions can run the gamut of severity from added self-help meetings, journaling, increased treatment and therapy, essay-writing to reflect on problematic behavior to be shared with the court, overnight jail stays, and set-backs in phase advancements.

A negative report could include missing meetings, or could also be the VJO’s appraisal that the participant is not putting an acceptable amount of effort into his recovery and treatment goals. For example, the VJO was updating the judge on one participant, Lenny, and his progress

following a positive test for methamphetamine, suggesting that he “focus on his recovery efforts more specifically...He’s still in recovery....he needs to get real serious on this recovery.” In this case, the VJO reminds the participant in a public effort, perhaps touching on ideals of shaming to update the judge that the participant is not behaving satisfactorily in his recovery goals.

Recovery, in this instance, refers to the participant’s sobriety; the VJO notes that this is an ongoing process that cannot be taken lightly. The VJO’s words were not the only sanction for this relapse, as the participant was also given a seventy-two hour jail stay for his interrupted sobriety and drug use. This example shows both the informal shaming that the court includes as part of the sanctioning and treatment process, as well as the formal sanctioning that utilizes the hammer of the law to punish treatment problems. The judge is first updated on the participant’s offense during team meetings before the court, and then then the VJO and probation determine the appropriate sanction and recommend this to the judge. Then, this performance is reenacted, publicly, with the participant standing before the judge. This public performance is important, as it is how the court presents its procedure to the open audience of the court. The VJO updates the judge on the transgression and recommends the sanction that goes with it. Then, the judge comments on this update, addressing the participant, often letting the participant respond the comments and questions made by him. Then, the judge formally orders the sanction as recommended by the VJO and probation department.

The judge does not take these sanctions and missteps in treatment lightly. With this particular exchange, the judge further drew out the aspect of treatment and recovery within this legal setting, attempting to get to the root of the issue. He told Lenny that “the good news is you’ve come a long way...I see you hooking up with others...and then I see this...what’s going



on?” Lenny replied that “I think there’s fears” and refers to things he’s digging up in treatment.

The judge replies:

I got a feeling when you were out in the field, you didn’t fear anything. Not that it’s not scary...you’ve gone through a lot in your life...but you’re being here and being an example to these warriors here...so now we’re going to dig in.

He went on to tell him it comes down to “persons places and things” and “these folks you’re using with, they wouldn’t be out there on the field carrying a rifle.” Lenny responded “No sir.”

The judge replied “You deserve to be here with these wonderful people...the sense of duty in you runs extraordinarily deep,” before sending Lenny back to the audience seating.

This exchange exemplifies just how personal these discussions of treatment can get. It is worth remembering that these court progress hearings are public; they can be witnessed by anyone who wants to enter the court. Here, Lenny opens up to the Judge as the judge brings up relatively personal issues Lenny may be facing. Lenny is encouraged to explain his behavior as the judge and treatment team work towards finding the root of the issue of the relapse. The judge also tries to encourage Lenny by saying that he is capable and worthy of recovery, while suggesting he cut ties with problematic relationships and avoid situations that may lead to relapse.

Sanctions are also given for a variety of reasons. If someone has missed meetings, failed to provide proof of self-help, relapsed in his sobriety, or has not been putting a full effort in their treatment, they may be given a sanction that seeks to rectify or punish depending on the situation. The most common reason participants are sanctioned with regards to treatment is for missing meetings or being late to meetings. When participants are given a sanction, they are considered “out of compliance” for the week, with their names removed from the compliance

list. Only those that are on the compliance list are eligible for the weekly gift card drawings that occur during the court progress hearings.

On rare occasions, participants are removed from the compliance list as the only consequence of their violation. For example, on one occasion, a participant, Theo, missed a treatment appointment due to “sleep issues.” Sleep issues are a relatively common problem for the participants in the program, attributed to the PTSD and other trauma-related issues from their military service. When the VJO updated the judge on Theo’s situation, she described that his missed appointment was due to sleep issues. Missing an appointment would normally result in an additional sanction, either a stern discussion from the judge, community service, or essay writing. In this case, however, no additional punishment was recommended by the treatment team, nor was there clear public shaming made by the court. Rather, the judge told the participant “We’re all pulling for you” before giving Theo a return-to-court date and sending him back to the court audience. What is interesting about this case and the few other instances of this behavior, is that even though treatment is legalized, that is treatment orders are legal orders, the Judge and treatment team exercise some discretion in sanctioning efforts.

While the above scenario exemplifies moments of individualization in the program that was exemplified by concern for the participant’s well-being over public shaming, most of the time treatment-related problems are sanctioned with, at the very least, instances of public shaming followed by encouragement. For example, Xavier missed appointments and did not complete his volunteer community service from a previous sanction as well. The VJO had previously indicated that he was going through a rough period of time. During her update on his treatment progress, she notes: “My opinion is that Xavier is absolutely capable of stepping to the other side of it...it’s time for you to step it up and get to the other side.” With this statement, the

VJO acknowledges that Xavier could be doing better, but encourages him that he is capable of making it through this problematic patch. In response to the situation, the judge reminds Xavier that he, once a medic in the Marine Corps, has helped out many others, encouraging him on a basis of his character. However, this encouragement comes with a gentle, but strict reminder that he cannot continue his out-of-compliance behavior. The judge says:

Man, you are one footstep away from going to jail...what you're going to do is put your boots on and follow through...Don't miss your meetings, or I'll put you in jail. I want to motivate you to follow through...you don't pull back on me... You're going to graduate someday.

The judge frequently utilizes this more informal sanctioning for participants who are considered to be experiencing personal issues, but have also shown a declining commitment to their treatment. The judge will reassure the participant in their capabilities and their self-worth, but also remind them that this is a legal commitment that must be met. If the requirements are not met, more formal sanctions will be administered. When this exchange occurred in the court, Xavier began crying, his body shaking at the podium. It was clear from his behavior that he took the judge's words seriously, and was soon thereafter able to meet his responsibilities in treatment and eventually graduated from the program.

Legalization of treatment also includes taking medications as prescribed by a psychologist, as well as following medical-related orders from a physician. The judge sanctioned participants not only for missing therapeutic treatment, or breaking therapeutic agreements, but also for failing to take medication or failing to attend physical health appointments. For example, Margot, one of the few female participants in the program, did not take her prescriptions. The VJO updated the judge on this, as she had most likely been updated by the treatment provider of this issue and cautioned Margot that medications should not be "played around" with and that

these are doctor's orders. The judge found Margot to be out of compliance, but did not formally sanction her beyond being taken off the in-compliance list and publicly admonished.

### Incentives: Positive Reports

Treatment also becomes a part of the official court record through progress reviews conveyed to the judge by the participant, in answering questions the judge asks about treatment, and by the VJO through the formal treatment update. These reviews could note that treatment has been continuing as usual, with nothing negative to report or contain glowing words of satisfaction in treatment progress. Additionally, when participants are in compliance with their treatment standards, they are on the compliance list, which makes them eligible to win weekly gift cards, movie tickets, and other potential incentives. When participants are called for being in compliance at the beginning of the progress hearing, they are told by the judge to "stand up and be recognized." When each name is read, the participant stands up, followed by applause at the end of the name calling. At this point, people can figure out who may be in trouble for the week, as they remain seated. Often, the mentors in the court look around and indicate their concern for participants when they are not standing. However, participants are immediately incentivized for their positive progress, both in adhering to program rules and by making satisfactory progress in treatment with the informal recognition given to the participant by the court, as well as the more tangible rewards in the form of gift cards and other incentives.

Positive treatment reports usually take the form of the VJO commending the participant on progress made in treatment or for staying steady in court progress. These words of praise are reported to the judge, both in the team meetings and publicly when the participant is standing before the judge. For example, the VJO applauded Nicolas when he faced difficult issues head on, stating that he was "Combat[ing] his own personal demons...doing it exceptionally." In

another instance, both the VJO and, in rare form, the Probation Officer commented that Theo had turned a new leaf in his treatment. The Probation Officer remarked that Theo “Had some turnaround with his treatment which is real positive” and the VJO noted “He’s here for himself now, not swimming upstream the way he was before.”

Often, positive treatment reports include comments that speak to a participant accepting the terms of his treatment. For example, the VJO said Xavier’s “biggest thing” in his turnaround in his treatment “was that he trusted we had his best interests in mind.” When I spoke to the judge during an interview, he mentioned that there came a point with most participants when they realized the court was not out to get them and that they were there to help. The judge highlighted this effort as a positive step in their care, often a turning point in the program that could come from hitting rock bottom, or as one participant said in an promotion essay, “being sick and tired of being sick and tired” (Yadriel). The VJO often pinpointed this turn in treatment, bringing it up during progress reports, and participants themselves sometimes discussed this acceptance in their essays.

To summarize, positive treatment reports are lauded in the court, and participants seem to have some understanding about what to do in their treatment. At some point, participants seem to recognize that they cannot just participate by “warming a chair.” As Dexter puts it, to satisfy treatment requirements, in the eyes of the VJO, “if you’re genuine and engaged, that’s about all she’s going to ask.” Overall, incentivizing positive engagement in treatment adds to the overall legalization of treatment, by providing legally sanctioned “bonuses” for compliant behavior. These incentives are displayed in the formal process of the court, legalizing treatment in the public record or participant interactions with the court.

*Accountability*

One of the most oft-echoed treatment-related positive consequence that participants described to me during interviews and in writing in promotion, sanction, and graduation essays was that the court afforded them the accountability they needed to make it through treatment. Even though, as highlighted in the above section, participants recognize their need for treatment, sometimes at the risk of their own lives, they also recognize that they need a mechanism to keep them in treatment. That mechanism is the legalization of the treatment.

When I asked participants what the court did well, many pointed to accountability in treatment, like Cal who says “I see it with a few others that are having difficulties scheduling and showing up. They hold people accountable to be a member of society again.” Alejandro echoes this by noting that “you’re not doing what you’re supposed to do, they’re going to hold you accountable.” Jake notes that the court was an asset because it “kept me in line, kept me accountable towards being on my A-Game.” As these participants comment, the court builds in accountability to the program. Because participants desire to “keep their nose clean” and “stay off the radar” of the court, keeping a low profile so as not to create problems and prolong their stay in the program, they have an extra incentive to maintain their treatment. Since the treatment itself becomes subsumed into the legal processes of the court, repeated miss treatment meetings or ineffective participation in treatment could lead to overnight jail stays or being held back in phase-promotions. To keep this from happening, the participants view the solution as simple in theory—make treatment an accepted part of their lives.

The overall goal of the program is to reintegrate offenders into a non-criminogenic lifestyle. This includes treating the root of the criminal offending, which the court believes to be mental health issues like PTSD and substance abuse problems. Therefore, to successfully reintegrate and be ready to live a life outside the court, a participant is expected to continue

treatment. Connor discusses how his “PTSD is about as under control as it will ever be” and that “just having so much time sober, learning how to live almost two years sober” has led him to be “pretty confident in [his] sobriety at this point.” He describes being ready to graduate now, even when he did not feel confident earlier in his program. To Connor, graduating the program meant continuing treatment on his own, and the time he has spent in the program has helped him get used to the idea of continued treatment and sobriety. Participants recognize this as getting rid of the safety net provided to them. Many participants note that they think they will be ready to continue their treatment and be on their own when they graduate, but that does not mean the participant does not show some fear for this point in their recovery.

In fact, sometimes this fear becomes so entrenched in a participant’s psyche that they commit what the court calls “self-sabotage”. The notion of self-sabotaging came up numerous times during my observations at the court. This term was thrown around at two different stumbling points, most often in reference to substance abuse issues. The first was when participants were showing some problematic behavior, but had not yet suffered a relapse or diluted test. The court actors, particularly the judge and the VJO, would raise the issue that they feared some self-sabotaging behavior was showing, addressing this concern publicly in front of the court during progress hearings. The other was when something more catastrophic to a participant’s treatment occurred, such as a diluted urinalysis (suggested that this was a way to get a “dirty test” without actually having to drink or do drugs) or through a relapse. The judge often mentioned that these moments of suspected “self-sabotage” reflected a cry for help, usually committed out of fear of leaving the court’s jurisdiction, and thus, reducing their legal accountability to stay sober and in treatment. This sentiment was echoed by participants in interviews, reflecting on the behavior of some of the other participants in the court.

Returning to Connor, the participant who at the time of our interview expressed confidence in leaving the program and being ready to graduate and contribute to treatment goals spent at least another year in the program after some stumbling. He later joked with the court, after getting through his rough patch, that he did not feel ready and that he had gotten too comfortable, a mistake he did not plan to make again. When asked what was holding him back, he replied “I just like it here.” The court put together an action plan for him to build a net outside of court for his graduation and to reinvest in his treatment so he would be more comfortable with leaving the court behind. The court attempted to build this extended safety net for participants once they graduated the program by increasing ties to treatment, Veterans Affairs, and other people in the participant’s life, like family and friends.

*Perceptions of Individualization: One Size Doesn’t Fit All*

Another issue that concerns the treatment aspect of the program was that even though this program attends to the general needs of a veteran—mental health and substance abuse issues. This court, compared to other specialty courts, offers a more individualized treatment than most with its capacity for dual-diagnosis. However, some participants suggest that there is a deeper need for individualization that the court could follow. This usually arises in two different ways. First, participants may feel that they or other participants do not need substance abuse treatment if they do not have a problem with alcohol or other substances. Second, participants may not feel that certain groups or other forms of treatment are effective for them.

During interviews with participants, several participants raised the notion that not every person in the VTC has an issue with alcohol (specifically, but other drugs as well), yet they often have to go to AA or other self-help style meetings. For example, some participants may have issues linked to PTSD, but do not have substance abuse issues to go with it. As Victor points out



“Some of the guys here don’t even have alcohol related cases and it’s like whoa shit, it’s like okay. So why are you guys in AA classes? It’s like I don’t know. It makes no sense to me.”

While some participants did not necessarily agree with their treatment plans – most commonly if they did not think they had a substance abuse problems, but had to go to AA meetings anyway, they seemed to still eventually take something away from the meetings.

Michael explains how he did not want to go to AA at first:

I didn’t want to go to substance abuse treatment, I wanted treatment for my actual problems. But you know, I worked my way into it, going to AA I recognized pretty quickly, maybe not in the first meeting, but I recognized that the twelve steps are helpful, the twelve steps describe a sane method of dealing with your problems.

Michael described how at first, he would go to the meetings and say he was part of a court program, and not an alcoholic. But as he went to the AA meetings and understood the philosophy behind it, he was able to apply the twelve-step method to other areas of his life. He also recognized he had some behaviors of an alcoholic, and began that treatment aspect in earnest after realizing this.

Individualization was also seen in needing to negotiate treatment further. At times, especially in the first phase, participants had a perception of having little say in their own treatment. As Max describes a conversation he had when he did not agree with the treatment plan

Like you may, oh you couldn’t make this appointment, alright, but don’t let it happen again. In terms of uh I think you don’t agree with having to go this group? Well why not. This is why I think you should. Oh you’re not going to go to group? Guess what, you don’t have a choice anymore. You know? And they also have a very persuasive way of saying I think you should go to this group. Um, basically I’m volun-told to go this group. This group is really good for you, you should go to this group. You don’t think you should go to this group? I think you should go to this group. Nah I really think you should go to this group. It’s kinda like our arm’s twisted into going to these groups. But they have, being mindful that I know that that’s their job.

While some participants feel that their treatment was on track with what their expectations are, others, like Max, express a desire for more input into their treatment plans. Max explains how the court leverages its authority to send participants to new groups and treatment they may not otherwise go to, even if they do not want that particular treatment. Max calls this being “volun-told” to participate in new treatment. VJOs and the treatment team can suggest that a participant try a new group, and the legal order of a participant to follow the orders of the treatment team explicitly enforces the suggestion.

This notion of not having enough of a say in the treatment plan can recall notions of coercion as it relates to treatment. Even if participants feel that they have a choice in the entering the court, coercion must be more closely investigated in participant perceptions of the *actual* treatment they are “volun-told” to complete. By mandating the kinds of treatment participants have to get without input from the participant, the process is at once legalized, reinforcing the treatment through legal means, but also undermined if a participant does not believe in the necessity of the treatment, which could affect future compliance.

### **Discussion**

Most participants recognized that there was a need for treatment due to their mental state or their substance abuse issues. While some participants decided to enter the program for the treatment aspect it provided, other participants did not recognize the need for treatment until later in their program. This recognition could come from noticing that things in their lives had changed for the better. Once a participant was able to link the treatment with some of the positive progress in their lives, the importance of treatment became clearer to them, and often, there was a deeper investment in the treatment. This did not seem to be the case for every participant, as participants sometimes indicated that they “jumped through the hoops” of the court just to get

through the program. However, for most of the participants I talked to, treatment was an important step in the right direction to reclaim their lives.

While the literature suggests that treatment in court, and furthermore, increasing focus through specialty courts do meet the varied needs of offenders, this data suggests that, while participants do recognize the importance of treatment and commit to treatment regimes in the program, there are some issues that come from situating treatment in the legal realm. One issue is that the court has limited flexibility in individualizing program requirements for participants. If the court varied the treatment requirements too much between participants, it could potentially be perceived as unfair and hurt the court's image of equality that they have thus far maintained. However, several participants identified during their interviews that increased individualization was desired by participants and that the program sometimes felt "cookie-cutter" in its approach. Participants did not see this as a particularly harmful problem, but they did note that individualization could be approach in at least two different ways.

One issue of individualization stems from assigning treatment to someone who may not have an issue with that particular set of problems. Participants identified that sending someone who does not have substance abuse issues, for example, to have to participate in AA meetings or other substance abuse related treatment, may take the spot of someone else that may need those resources. While participants note that sobriety is important in the program to both avoid negative influences in their lives that could be associated with drinking and to have clear heads while completing the program, they also recognize not everyone there has a substance-abuse related issue.

The second problem that participants identified is a greater need to have a say in their own treatment plans. Some participants suggested that they did not think a treatment or therapy

would be useful for them, but often did not have much flexibility in what they could or could not do, at least until later stages in the program. This issue, however, appears to be mitigated once participants both accept their program and gain trust in the court. That is, if a participant does not agree with a treatment plan, they may be more likely to comply when they have a deeper sense of trust in the court. This trust signifies that a participant is willing to put faith in the court's decisions regarding treatment, because the court knows what is best for the participant.

Future research should investigate further how courts may be able to supply additional room for individualization in treatment to better meet participant needs. For some potential participants, this inability to control one's treatment could potentially have harsh consequences, and could potentially contribute to those leaving the program. If the court is unable to impress upon the participant the importance of treatment and that each component of the treatment has the participant's best interests in mind, this could become a point of contention for participants, which could lead to programmatic failure or early self-termination from the program.

In particular, this issue of coercing treatment for those that do not need did not come up often in the interviews I conducted with participants, but could have contributed to program terminations or in the initial decision to enter the court. Future research should attempt to reach this population, as coercion of treatment is a logical extension of the legalization of treatment. While participants may have had issues with aspects of the treatment, for the participants that made it through the program, it did not seem to be enough to justify dropping out of the program.

#### *Therapy as Contributing to Decision to Change: See the Change*

As detailed in the previous section, incentivizing and subsuming the treatment into the legal realm appears to have simultaneously beneficial and negative consequences, though the benefits seem to outweigh the negatives, at least for the participants.

My research indicates that when participants are able to see the changes that are occurring for them—in mental health, physical health, relationships, and general life goals—participants trust in the program more, and thus, become more compliant in the program (a notion explored further in the next chapter). With regards to treatment, the encouragement from the court staff, including the judge, even when things have gone awry in an individual’s program, appears to go a long way with the participants. Facilitating the ability to have participants “see the change” or at least become aware that they are on the right path to positive outcomes seems to be in the court’s best interest, especially with regards to treatment. As the judge indicated in my interview with him getting a participant to “buy into” the program is key with regards to accepting treatment and gaining the most from it.

To put this chapter into perspective, I want to end with a quote from the judge concerning treatment and what happened when it failed or participants did not take it seriously. When I asked the judge what the hardest thing about the program was, this was his response. I felt the need to include this quote in its entirety, because I believe it shows the earnest effort the judge made on behalf of the court to rehabilitate and help people going through it. Despite the issues that may involve coercive treatment, or the issues that come with legalizing treatment, it is important to remember that the court actors are deeply invested in assisting the participants in the court. The success of the participants indicates the success of the program, allowing for continued funding of the court. Success also reflects well on the institutions involved with the court, such as probation, the public defender, and the district attorney. Still, the level of care seems to go beyond legal obligations, especially as perceived by the participants in the court. Though they are bound by the law, the court ethos comes from a place of helping, rather than

harming, and with careful tweaks in administration of treatment, the court process could be optimized.

*It was hard to see people fail. It was hard to see at times. When you did more, when you were working harder than they were. That was difficult at times. When people didn't buy into the program and all they did was just fight, and they would end up getting kicked out inevitably because if you don't accept the program it's very difficult to stay in that type of environment. Um that was difficult for me. To see these guys that you do care about a lot and you try to give them everything that you can to assist them and they don't take it. That was hard...*

*...That's really hard. Because um, this is such an opportunity. It's so different than you've ever, they had all the resources there to get their lives back in order to get them into a position where they're law-abiding again. Take care of the things that led you to the criminal justice system whatever it was: addiction, mental health whatever, but we had all the options there that they could take to keep themselves from coming back. And when they didn't take it that was tough.*

## CHAPTER THREE

### The Fair Fight: Contextualizing Procedural Justice in a Veterans Treatment Court

#### Introduction

*Interviewer: Do you feel like they treat you fairly?*

*Phillip: I feel like they treat you fairly and for some reason, I don't know why, they love you. And like I - I still don't know why. Because it's just hard for me to fathom that. More than fair.*

*Interviewer: Do you think that you would have gotten that level of treatment in another program?*

*Phillip: Absolutely not. No.*

*Interviewer: Or going through traditional court.*

*Phillip: No. I had been sentenced like nine times already.*

*Interviewer: So, what do you think Veterans Courts do well?*

*Phillip: They help rehabilitate troubled - troubled service members hopefully - hopefully back to as good as they could - as they could get me. They just guide me and give me direction and link them. And it's all social work. They just hook them up. Put them where they need to be. Tell them what they need to do. Set them up with who they need to see. All they do is help them and help and help.*

During my interview with Phillip, conducted within a couple of weeks from his graduation, I was surprised by how much he believed in the efficacy of the court and the compassion of the team members in the court. Phillip had gone through the program with two minor sanctions. For all intents and purposes, he had appeared to take the program seriously, his sobriety paramount to his success after a life of previous crime and substance abuse issues. Phillip's transformation in the court was not unlike other participants – he did not seem to initially buy into the program, but ended up engaged in treatment by the end of his time in the court. From the outside looking in, I had the impression Phillip was not fully engaged in the court. He was not close with his mentor, he was quiet and reserved during court proceedings, and

he was brief in his essays he read during his various promotions. When he got to his graduation however, things were clearly not as they appeared to the outside observer.

Phillip's graduation essay, like the above quoted section from my interview with him, promotes a sense of complete indebtedness to the Veterans Treatment Court. He began his essay by saying:

“It has been an honor and a pleasure to be a participant in this program. I never thought I would say that considering the circumstances that put me here. However, with all sincerity after being here for close to two years, I really do stand behind those words. Words cannot begin to describe the gratitude that I have for this program, as well as the treatment team that has been by my side throughout the duration of my endeavors during my ongoing rehabilitation process.

Both of these quotes, both publicly-oriented (graduation speech) and conversational (interview) portray an attitude to the court and the actors within it that acknowledges the change they helped bring about and the care they took to get participants there. What makes this so interesting is that the court is, for all intents and purposes, a punishment. However, whereas punishment in courts is usually characterized by the punishment dealt in the form of sentencing with a variety of purposes such as retribution, incapacitation, and deterrence, this court exemplifies punishment with a different goal: rehabilitation. This conception of punishment as rehabilitation has implications for how participants in a court like the VTC perceive their experience. This chapter explores how procedural justice, which usually suggests that process is just as important, if not more important than the outcome of a legal process, is complicated when the goal of punishment and the legal outcome is rehabilitation.

The previous section introduced the concept of trust in the treatment team when it comes to the regimen of a participant's treatment plan. This notion of trust in the legal team involved with the court, however, has implications that reach beyond the treatment realm and into the



participant's overall perception of the court, and, ultimately, their compliance. This chapter analyzes the participants' perception of the court through a procedural justice framework, exploring the role of program rules, sanctions, and extra-legal factors like fairness, and how these court mechanisms facilitate trust in the court, promoting a participant's dedication to complying with programmatic demands.

Procedural justice has traditionally been explored in adversarial situations, where there is a much clearer line between the law and those operating under it, than in a non-adversarial setting like the VTC. In court, for example, procedural justice is centered in civil and/or criminal cases, where a specific legal outcome is achieved through an adversarial process. However, because VTCs are non-adversarial in nature, where the court team and participant work towards a common outcome, conceptualizations of procedural justice are complicated. Furthermore, while the court utilizes law as a tool to achieve an outcome, this outcome has a goal that goes beyond a simple legal outcome. In the case of VTCs (and other specialty courts) the goal of the court is to rehabilitate a participant to lead a better life: one not only without crime, but with treatment goals concerning substance abuse and mental health issues as well. This also complicates the concept of procedural justice. Procedural justice studies usually find that the means or process to get to an end matter just as much, if not more than outcomes, to a participant in a legal process (Lind & Tyler, 1988; Peterson-Badali, Care, & Broeking, 2007; Sprott & Greene, 2010; Thibaut & Walker, 1975).

However, my research suggests that when the ends are not just a singular legal outcome, but rather the successful rehabilitation of one's life the end often justifies the mean, an inverse to traditional procedural justice findings. While traditional procedural justice issues (fairness, trust) seem to also play into participant belief in the court's legitimacy, and does have some influence

on compliance, the notion of rehabilitation complicates the process procedural justice research usually suggest exists. That is, when rehabilitation is the end goal, it also become subsumed into the process of the court as well and influences participant perceptions of fairness and trust. Even if participants perceive unfair processual issues, their overall perception of the court and belief in its legitimacy are mediated by the court's perceived ability to rehabilitate and treat a participant. In a sense, the end goal of rehabilitation and the perception of the court's ability to provide rehabilitation justifies the means.

### **Literature Review: Re-Examining Procedural Justice**

The previous chapter discussed the inherent complexity of dual-diagnosis and how this dissertation will explore participant perceptions of flexibility in treatment. This section will advance those understandings further by analyzing the mechanisms and perceptions of the court through a procedural justice framework. My analysis reveals that belief in court legitimacy, and its association with compliance, depends not just on perceptions of procedural justice, but also on the therapeutic treatment context of the court. Therefore, the link between belief in legitimacy, procedural justice, and compliance is more complex than previously conceived. The legitimacy-compliance nexus is complicated by the context of the court as perceived by the participant. That is, the participants' belief that they are in the right place, at the right time mitigates how important the perceived importance of fairness of rules and sanctions are for compliance. First, this section will elaborate how authority in the courtroom is dispersed amongst a team rather than specific legal actors, considering specifically the role of the judge in these courts.

One of the key aspects of specialty courts is that they are non-adversarial. Whereas traditional courts typically employ clearly defined roles for each of the legal actors (district attorney, defense attorney, judge), specialty courts instead embrace a collaborative approach in

which the legal team is unified in a goal of successful reintegration into society and a decreased risk of criminal recidivism (Turner et al., 2002). While many specialty courts ultimately place the control of participants in the hands of the judge, the judge routinely refers to the treatment team, consisting of both legal actors and treatment specialists. In this regard, the role of the judge cannot be understated; the judge dictates the structure of the program within which the team must confer on the best approach to program processes. The VTC functions specifically as a treatment court, placing the importance of treatment before all else. The rehabilitation goal of this program considerably alters the typical concerns in procedural justice research, as outlined below.

Considering how the processes of the legal system may be punishment unto themselves based in the complexity and perceived unfairness in court, procedural justice looks towards the process as key to a person's experience and future compliance with the law as they navigate legal processes (Feeley, 1992). Procedural justice and legitimacy frameworks suggest that if people perceive an institution and/or the law as legitimate, they will obey the law (Tyler, 2001, 2006). Procedural justice studies assess the manner in which the institution functions, and the variety of factors that influence the strength of perceived procedural justice, which in turn affects belief in legitimacy. Procedural justice research has focused on several institutions within law, including the police (Paternoster, Brame, Bachman, & Sherman, 1997; Sunshine & Tyler, 2003; Tyler & Fagan, 2008) and courts (see below). Court research is generally limited to perceived fairness of treatment by the legal actors involved. According to the literature on procedural justice, defendants and/or plaintiffs are less-concerned with the outcome of court when procedural fairness is detected in the process (Lind & Tyler, 1988; Peterson-Badali et al., 2007; Sprott & Greene, 2010; Thibaut & Walker, 1975). In fact, Casper, Tyler, & Fisher (1988) find that even in

serious criminal cases resulting in harsh punishments, procedural justice matters in outcome satisfaction, albeit amongst a variety of other factors. As such, research points to the importance of investigating treatment, as well as outcome, an approach taken in this dissertation as well. By analyzing not just if something works, such as measuring recidivism or program completion by itself, procedural justice studies suggest that measuring why something works, and what affects attitudes and perceptions throughout the course of a case, has value as well.

This dissertation builds on existing procedural justice literature to better understand the context of the court in the debate over process versus outcomes. Just as more recent studies have analyzed the effect of social networks (Papachristos, Meares, & Fagan, 2012) and community safety (Barragan, Sherman, Reiter, & Tita, 2016) on procedural justice, I analyze how the non-adversarial court context, beyond its apparent mechanisms, affects participant perceptions of procedural justice. Furthermore, this analysis will focus on the continuing decision to comply with the law, as operationalized through continued program attendance and the decision to desist from criminal behavior. Overall, my research will add another dimension to the procedural justice framework. In addition to understanding how fairness, treatment by legal actors, and control over the process influences satisfaction with outcomes and legal compliance, I explore how the context of the court, both in time and place, affects the link between process and outcomes. That is, the extent of a participant feeling like he/she is in the “in the right place at the right time” facilitates notions of the importance of fairness for procedural justice. While procedural justice elements are present in participant perceptions of the court, the extent to which the outcome is itself embedded in the process adds to the procedural justice literature. When the end goal is not only legal compliance, but rehabilitation as well, the outcome is enveloped in the process, and can mitigate some perceptions of court processes, such as fairness and trust, that in

traditional procedural justice literature are more dominant in perceptions of legitimacy.

### **Results: The Influence of Context on Procedural Justice**

In the case of treatment-based specialty courts, the concept of procedural justice is, to some extent, flipped on its head. While participants certainly discuss programmatic concerns and rules through perceptions of fairness, their perceptions of procedural justice are ultimately metered through other components of the court, like treatment, and the outcome of the program: graduation and restoration of pro-social abilities in life. That is, the eventual outcome of the program matters for a majority of the participants more than notions of perceived fairness of court procedures, in terms of compliance with the program. This is seen in the way that participants excuse circumstances of unfair treatment in lieu of the bigger picture of the program.

This can be seen at several different stages of the court process. First, when participants are sanctioned, they use fairness rhetoric to make sense of their punishment. However, for the most part, participants stay in the program, even after experiencing sanctions that they perceive as unfair with relatively grievous consequences. Participants also refer to fairness when discussing their treatment by court professionals. Participants often discuss their interactions by noting that each team member has a job to do, and that fairness is more institution-based rather than individual-based. When reflecting, even if the process did not seem fair, the participant notes an understanding of why sanctions had to happen, and that even if the participant felt anger or dissatisfaction with the process, it was ultimately worth it.

Overall, these notions of fairness are mediated by a participant's belief that they are in the right place, at the right time. That is, the court and its treatment program are necessary components of the participant's life, and the potential outcome of transforming one's life ultimately outweighs the negative perceptions of some of the procedural elements of the court.

This concept of contextualizing the procedural justice framework adds that participant perception of fairness, especially in a long-term rehabilitation-based context, matters less for overall legal compliance. Even when participants view the program and the rules within it as unfair, the perception of dissatisfaction is mitigated by feeling fulfilled overall by the program and with the program's promise of positive outcomes, both legally and therapeutically.

The complexity of procedural justice concepts, which are useful in understanding why people abide by rules, regulations, and law will be examined by detailing the way the court processes shape participant perceptions of the court in the following manner. That is, these traditional notions of procedural justice, legitimacy, and compliance listed below are mediated by the context of the court as a non-adversarial treatment program, rather than a court with a purely legal outcome for those that experience it. To understand how the context of treatment mediates perceptions of procedural justice for participants, I examine:

1. Is the process fair?
2. What happens when sanctions occur?
3. How do assessments of fairness affect subsequent behavior?
4. How do perceptions of fairness and trust in the court alter perceptions of legitimacy in the court?
5. Do the means justify the end, or the end justify the means?

Again, this research demonstrates that the court actors and court processes generally reflect elements of procedural justice. However, the relationship between these elements is filtered through the belief in the court's ability to treat participants therapeutically as well. This relationship is mediated by two factors: the motivation of the "big picture" and trust in the court to facilitate the outcomes of rehabilitation. I begin with this argument: the context of the court

and its perceived ability to provide rehabilitative treatment to participants presents a “big picture mentality.” That is, where traditional procedural justice demonstrates the importance of process over outcome, this research adds to this concept by noting that while the process certainly matters to participants of the court, it is mediated by the rehabilitative outcome the court can provide.

### *The Big Picture*

To begin with, my research demonstrates how traditional notions of procedural justice are complicated by the *context* of the analysis and legal setting. In the case of the VTC, participants are going through a court system, but this system is focused on rehabilitating offenders (through the use of treatment as law, as discussed in the previous chapter). This is crucial to the participant’s perception of procedural justice, because, in a sense, the outcome of the court, rehabilitation, is also the process by which it occurs. This differs from traditional studies of procedural justice that analyze the role of process and perceived fairness in bolstering the legitimacy of the institution. In this case, I show how participants’ perceptions of legitimacy are equally, if not more, influenced by the court’s ability to provide the care and treatment they expect to receive as part of the program.

When participants conceive of how fairness operates in the court, they often balance their thoughts with the end goal and outcome of the court. For example, George describes how he felt the first period of time in the program had what he described as “extreme accountability,” which he saw as “unfair” at times. However, he quickly followed that statement by saying “but then, I could not be in this Veteran’s Court. I could be in jail and I’d have lost everything.” George mediates his perception of the court being unfair at times by placing his situation in the larger

context. Even if things were bad, that is, things could invariably be worse, by being in jail and not having the opportunity of the VTC.

This same placement of the issues one may have with the court came up when I asked participants if they felt that the court felt like a punishment. Max, for example explains how the court felt like a punishment at first, and that he feared getting a diluted test:

At first, harsh, it feels like a straight up punishment, because um, you know it's be there or be square. Like literally in a square cell. So that part definitely feels like it. The whole, I felt, my view is changing now because it hasn't happened to me yet, but the whole, I thought it was, damn man I took \_\_ gonna have a diluted test. Shit happens you know or you know um, but, so that felt like a punishment the first, but as you get used to it, it becomes a part of, hey man, you're just paying the piper, so this, yeah it is punishment but it's also help. My view has changed so now it's just like hey, it's more help than anything else and uh, like I said, I think about it now I'm just like damn dude, this is fucking awesome dude. This is great, I wish, to whoever, Judge REDACTED or even REDACTED JUDGE'S NAME, they deserve some mad props for this, you know.

When Max realized that this court was there to help him, the court felt less like punishment and more like treatment. In fact, not only did the court feel less like punishment, it also felt like a good thing. Later in the interview, in fact, Max noted that he really was grateful for the court overall. He felt the court had helped him put his life back together, and while he still had work to do, he had fixed many parts of his life with the help of the court. He mentioned that even if he sounded harsh about the court, in terms of the diluted tests and some issues with treatment, he ultimately was fond of the court and felt they did a good job, and that effort was seen by the participant in his rehabilitation. To him, he felt the court was working because the end goal of rehabilitation was met, and evident in successful treatment, even if he did not always agree with the court or think it was fair. Overall, Max, and other participants, seemed to come to the conclusion that the end justified the means, mediating moments of unfair perceptions of the court.



In short, the big picture of the court mattered to participants, even in the face of what they perceived as unjust or unfair treatment. This point will be highlighted throughout the next sections, which analyze traditional notions of procedural justice concerns, such as fairness, understanding, input in decision-making, and trust as filtered through the notion of the big picture. It is important to remember throughout this analysis that the outcome of rehabilitation is also the process, more so intertwined that the traditional process versus outcome dichotomy that procedural justice research has demonstrated.

### General Perceptions of Fairness

Now that I have discussed how participants understood their overall experience at the court as part of a “bigger” picture, I will examine how the traditional notions of procedural justice were evident in my analysis of the court. Participants generally had positive perceptions of fairness, rules, their ability to have some input in the program, and trust in the program, promoting a belief in legitimacy of the court. These findings support the procedural justice literature that fairness in process boosts perceived legitimacy of the court and subsequent compliance. However, as demonstrated in the previous section and throughout the proceeding analysis, even when procedural injustice is perceived by participants, the legitimacy of the court is not necessarily tarnished, as participants filter their perceptions through their belief in the rehabilitative outcome of the court and the court’s ability to provide that.

Overall, participants suggested that they believed the court process was fair. They expressed this by explicitly stating that they believed the rules and their application were fair in both individual cases (to them) and between the participants. In addition to this expressed fairness, participants also responded that they generally had positive interactions with court employees, that they had some input in the treatment process, that the court understood them and

their problems, and that court actors cared and were actively engaged in their job and the welfare of the participants. These concepts facilitated perceptions of fairness for participants.

When it comes to the simple perception of fairness in the court, Patrick said:

They just are a fair program for a lot of reasons, and they help a lot, a lot of people. I think it's a good fair program. And they treat everybody the same. They don't show favorites. Everybody's treated the same. And that's good. Harsh but good. That's what they need. We need.

For Patrick, fairness came in the form of treating everyone the same way and applying rules evenly. He notes that the rules and their application are sometimes stern, but they are administered in a fair manner, which mediates the difficulty sanctions sometimes impose.

Theo demonstrates how he balances his perception of fairness with his kneejerk reaction to apply "unfair" labels to court process, while recognizing he knew the rules and should be held accountable.

I don't know. I think the situation determines - like, I guess, for justice, justice has to be blind otherwise it can't punish everyone equally particular situation where I, came over to my place and I had a bottle of wine in the fridge. I wasn't drinking and they breathalyzed me and saw that I wasn't drinking, but I still had to spend the night in jail for it because \_\_\_\_.

So, as much as I'd like to think that it was unfair, at the same time, I'd already known the rules beforehand. So, it's really hard to say. I feel like that other 1.5 is really just me not wanting to admit that I was wrong.

With this quote, Theo explains how the court applies rules evenly, by noting that "justice has to be blind." This shows how Theo recognizes that the court is not necessarily able to make exceptions to rules, even if a participant did not break a rule intentionally. Theo is not alone in this understanding of the application of rules. Even when participants are upset that a rule has been invoked in sanctioning them for something they did not feel they deserved sanctioning for, they were able to mediate their perceptions of fairness through the bigger picture of justice in the court and equality before the law. Even if they think their situation was not fair, they were able to

understand that the court had its own rules to follow to ensure overall fairness in the court.

This consideration of fair application of rules was evident with most participants in the court that I spoke to. Overall, there were few rules that participants pointed to that were unfair in nature. Their perception of unfair rules was typically relegated to dissatisfaction with the response to diluted urinalysis tests. Participants felt that they were punished for diluted tests when they were not trying to hide substance use, and that the process for determining diluted tests was unfair and too black and white. However, their negative perceptions of these rules did not seem to tarnish their overall perception of fairness in the court, as other factors, including the aforementioned application of the rules mediated perceptions, and is detailed below.

Participants' perceptions of fairness were additionally considered in light of the participant's perception of their interactions with court employees, believing that the court was equipped to handle the issues veterans faced, and, furthermore, that participants felt that the employees in the court genuinely cared about their success and rehabilitation.

#### Positive Interactions with Court Employees

Rules alone do not influence participant perceptions of fairness. In addition to feeling like generally the courts were fair places, participants also felt they were treated appropriately by the court, through positive interactions with court employees. Participants often equated positive interactions with court employees as being treated professionally. Participants cited professional treatment, or being treated with dignity, as contributing to a fair environment, and a generally positive perception of how the court functioned. For example, Alejandro describes that he felt he was treated "with respect and a lot of dignity." Connor echoes this statement, replying that the probation officer of the court "treats you like an equal, which you wouldn't expect out of a probation officer" and the VJO and "everybody just treats you pretty much equal, like your own

person, which is really nice,” and that overall, “our treatment’s just really good.” Overall, participants perceived their interactions to be positive with court employees, especially when they were able to understand that the court actors were simply doing their jobs. As Alejandro states: “I think they’re pretty fair. I mean, again, the way I found it helpful is when I finally understood what everything and how everything works. Everyone has a job to do.”

Not only did participants perceive respect, but court employees explicitly referred to the concept. During one participant, Nate’s, promotion to his second phase, he discussed that he had been “pushed to address issues I wouldn’t talk to with anybody...now I am sitting here because I want to be here.” Furthermore, he ended by saying “I want to thank the court” and his mentor for helping him to be sober and to be a better person than he was before. When Nate was finished with his essay, the judge congratulated him and told him “You have earned the court’s respect.” When participants performed well, the court often congratulated participants for their efforts, using words like “respect” and “honor.” The manner in which the judge reprimands participants and congratulates them typically has a tone of respect to it. Moments of respect become particularly evident in instances like the one described above, and during promotions and graduations, where the judge sometimes outright expresses respect for the participant.

Even when sanctioning, the court is careful to lift the participant rather than beat them down. For example, when Margot had a diluted urinalysis test, she was visibly upset at the podium when she had to address the judge. The judge saw that she was upset and attempted to calm her. He also told her that “These dilutes are difficult, but it all comes out in the wash.” Not only did the judge attempt to soothe the participant, but he also worked around a child care issue she had that conflicted custody lockup she was assigned as a sanction. The judge showed flexibility in his imposed sanction by changing the start date of the lock-up, demonstrating how

even when rules were invoked, he recognized the human element to the court processes. Before dismissing Margot, the judge reminds her “Don’t get down...you’re going to walk out these doors a graduate.” This accommodation, both in terms of the care shown to the participant and to other issues the sanction could impose for the participant shows a particularly high-level of dignity and respect in the legal processes the court imposes. Participants recognize this balancing of rules and care, lifting their perceptions of positive interactions with the court actors.

Participants further highlight these positive interactions with court employees when participants compared their treatment in the VTC to what they perceived traditional court routes to be like for those going through them. Patrick describes that “You feel like you’re human and they really wanna help you. From the minute you walk through the door and go through the metal detectors. The cops are nice....Everybody’s nice. Nobody treats you like shit.” He goes on to compare this to other court interactions where he perceives that “you go to other places and I can see why jail guards treat people bad, because they deal with shit shit shit shit shit” and that “they see just another bad guy, the cops picked up on the street and you’re in jail. They treat everybody like that and they have to.”

Patrick describes how this treatment is positive, people there just try to treat people like human beings and not criminals, or less than human, which is how he perceives treatment to be in other legal institutions. He can understand why bad treatment could happen, almost expecting that same thing to happen in the VTC, but he describes the experience as being “nice,” that treatment is different than that in other places. Again, this represents the perception of traditional procedural justice concerns that participants identified when discussing the court process and the way they were treated by court employees.

The judge and other court actors treat participants in a way that participants perceive as

dignified and respectful. This, to participants, goes beyond just being treated in a dignified manner. For example, Dexter explains how he felt he was treated with “utmost respect at all times.” This respect refers to everyday interactions with the court employees and treatment team.

Some attributed this respect to potentially be because of their veteran status. Though Connor, for example, was hesitant to attribute the respect and dignified treatment he felt he received from the court was because of his veteran status, he still explained that he thinks that is where respect originated. He claimed that though he did not like to put his veteran status on a pedestal, he felt that the court treated the participants differently than other courts treat participants due to this elevated status. To participants, this went beyond participant expectations for what court fairness in treatment should look like. Not only were participants treated like humans, they were elevated to being respected by those within the court, taking the dignity in treatment a step further.

#### “Rules are Rules”

The judge of the VTC often invokes the notion of “rules are rules” when he has to sanction participants for what may be considered unfair reasons. For example, in one court session, a participant, on his promotion day to phase four, the final phase of the program, is sanctioned for being late to court. Jeremy has just run into the court, panting and sweaty, about fifteen minutes late. He tells the judge that he is late because he lent his friend his car, and his friend neglected to return it on time. Despite his excuse, the judge orders Jeremy to four hours of voluntary community service, citing that “rules are rules”, but states that “This is a big day for you, so we’re going to allow you to go forward with your phase advancement.”

On another occasion, Jack, received his first sanction when he missed a codaphone (the participant “call back” system the probation officer uses to keep track of participants after hours)

communication with the probation officer through a series of mishaps, none that were perceived as intentional by the court. The judge reminds him that he understands that “rules are rules”, but that “this will be a bump in the road, no issue.” Again, the judge reiterates that the court has strong standards that can’t be broken, even when there is no ill-intention involved on the participant’s behalf. In another situation where a participant failed to report to codaphone the judge addresses the court by stating that, “He asked for something less than jail and I said no...the reason is that rules are rules...I’m not demoting you...this is something you learn from.”

In each of these situations, the judge is upfront in recognizing that the situation called for sanctioning based on the rules of the program. No matter how far the participant is in the program, nor whether the intention of the participant was to commit the offense, the judge and the court were responsible in making sure that sanctions were met with a show of force. In some cases, the judge mitigated the punishment in some ways, so as not to completely disrupt the participant’s trajectory, such as by ordering community service and neglecting to demote a participant or order that they restart a phase. This behavior sets a standard in the court, along with rhetoric for the participants to understand. While the judge must oblige the rules of the program, they do not unduly sanction in some cases.

### *Trust in the Court*

Another mediating factor lies in the participant’s ability to trust in the court’s ability to provide the care and treatment needed to actualize rehabilitative goals. So far, I have demonstrated how conceptualizations of the “big picture” mediate issues of perceived unjust treatment. Perceptions of fairness are generally strong, but unlike traditional procedural justice findings, if fairness is not perceived in the court, framing the process as key to rehabilitative

efforts, with transformative goals in mind as the outcome, participants are less concerned when injustices in the court may occur. That is, they influence belief in the court's legitimacy less than research in other legal settings may suggest.

The second key piece to mediating perceptions of procedural justice, especially as it relates to overall legitimacy in the court, is a participant's perceptions of the court's ability to provide the treatment and rehabilitation they promise as the outcome of the court. This perception, as the proceeding sections will illustrate, is formed through the trust participants place in court actors. This trust functions as an amalgamation of the participant's perception of the court's ability to understand veteran issues and provide care to participants.

#### Understanding Veteran Issues

Participants generally felt that the treatment team and court was equipped to handle the myriad of issues criminally-involved veterans faced. When I asked participants if they thought court actors needed to have a veteran or military background, participants commented that they did not think that was necessary. They described how the court simply needs to show that they understand the issues veterans face, that they could relate in some other way or at least show that they are trying to understand what veterans have been through rather than dismissing their trauma and needs. Some veterans pointed out the judge's family history was enough for him to understand. The judge who presided over the court for a majority of my time there had a father-in-law who had been in the military who he frequently referred to in court sessions. This showed participants that the judge could, in some way, relate to their experiences, and, at the very least, respected the military backgrounds the participants had.

Brad describes how he felt the judge (a female judge at the time) was able to understand his needs because "she actually understood me more than what I initially thought of myself." He



acknowledges that the participants and that the treatment they prescribe in the court is done in their best interest, and with a team that understands what they need. Brad explains, in this quote, how the judge, even though she was not a veteran, understood veteran issues because they “know a lot of you guys,” meaning that Brad perceived she had interacted with and treated many participants in the same position as them.

Participants perceived that the court actors understood their issues and needs as veterans and a special population that requires different care and treatment than other populations. For example, Nicolas describes this need for understanding in the court process:

The veteran’s experience at least once you’ve been in combat is very unique and I think it needs to be treated with people who truly understand it. Like I said everybody has problems and people take drugs and drink for a reason, whether it was, their upbringing or, um but the veteran’s experience is like extreme. So whatever’s happened to other people, it’s amplified. When you go anywhere for 6 months to a year in a place where you know that people live each day wanting you dead, it’s very, it impacts you in a very deep way. Because everyday you know that somebody is hunting you, and, vice a versa, and you’re hunting them, and really, it’s every single day. So it’s not like somebody childhood where their dad comes home drunk once a week. This is every single day so it’s traumatic experience, 24 hours a day for months to a year and depending on how many times you deploy, over and over again.

As Nicolas describes, the needs of a veteran can be complex and extreme, but he felt the court would be able to understand his perspective and treat him accordingly. The needs of veterans are amplified, coming from a system of trauma and that is socialized into them based on the nature of the danger they faced on a daily basis overseas. This trauma requires specialized treatment, something that Nicolas felt the court was equipped to handle. As Nicolas describes, participants felt that the court actors’ ability to understand their issues and the special needs of their veteran status bolstered their ability to treat, something that went a long way in terms of their perceptions of the legitimacy in the court.

Margot also explains how veterans have special needs that the judge and court actors

seem to not only understand, but are also equipped to address. The variables that Margot explains, could be:

traumatic brain injury can make you forget things, uh, you know, someone's just having a particularly bad week or whatever. I think that it does shock me, but again I don't anything, a whole lot to compare it with. But just the fact that you get second chances and third chances, I couldn't, I don't think that's common in other courts.

Again, this level of understanding is compared to what may happen in other courts, and is utilized to show how VTCs can promote a perception of fairness in their treatment. With the judge, Margot describes how she views how the court utilizes the sanctioning process as accounting for veteran's special needs. She notes how the level of care they are given and the room they are given to succeed, despite failure, goes a long way for her:

Well I think he's I mean I think he's hard when he has to be hard but I like that he at least my experience when that door is shut he really means that door is shut and then that next week is a whole new week. And you know they've reserved judgement and it's like these are, this is the protocol and I'm not going to judge you but you are going to either be praised or you're gonna have consequence but we're keep fighting for you. We're gonna keep investing give you shot after shot until, unless they're depleted of course. They give us the benefit of the doubt and I think that's huge for us. So I think he's great. Yeah, I think he's great.

This investment that Margot details shows how the court gives participants multiple chances, understanding that outside influences could cause participants to make mistakes. This level of attention and understanding led Margot to explain how the judge is "going to keep doing this, wow that's shocking, but I think that he gets all the different variables."

### Court Care

Furthermore, participants felt that certain members of the court team, in particular the probation officer, the Veterans Justice Outreach Officer (VJO), and the judge cared about the participants and their progress. While some participants acknowledged that the court was a bit of a "dog and pony show" at times, they also commented that they did not think the court care was

superficial. The ability of the court to not only understand the needs of the participants, but also care for the participants was illustrated through participants' words and demeanor in the court process.

For example, during Phillip's graduation, the VJO became emotional when she addressed his progress. She remarked:

I am so humbled and so very grateful to have witnessed your extraordinary progress...thankful for how much you had the courage to put it all out there...that courage and that ability is what's going to make you an extraordinary social worker someday...don't lose out...I can't do my job without veterans like you...it proves that our work matters.

While stating this, the VJO was in tears. During many graduations, the court team would get emotional with participants, but the VJO became particularly emotional during Phillip's graduation. With her address to Phillip, it was apparent how deeply the court team can care for participant progress. Even when the court team is less outwardly emotional or impassioned in their addresses to participants, their congratulatory statements are respectful and considerate, often laced with personalized comments to participants, which rang sincere to those participants.

Participant perceptions of court care was often pointed out in interviews with the participants. When I asked Nicolas how he felt he had been treated in the program, he replied:

Overall really good. It's hard to get used to, obviously because we're all independent and most of the veterans aren't like complete drug addicts, um, so when you step into these substance abuse classes it's a little abrasive. Um, so it is hard to get used to, um, so you might feel like you're being treated kind of like boot camp again or somethin'. Um, but when you get used to it you truly see how people honestly care. Think the judge cares, the uh public defender, it's just, it's weird to see that side, the law enforcement, the court, have compassion for you. Because it's not, probably most people's experience with speeding tickets it's not, it's not what they get. So, I would say it is a positive experience.

Nicolas explains that the level of care he felt in the court was not something that he felt was normal, calling it "weird." He details how this care is easy to see once you get used to the

program and that the participants are not treated like criminals. Rather, the court treats participants with compassion, which is not an experience he had previously encountered with the law.

Nicolas went on to explain how he felt that this contributed to a positive experience in the program, citing how he felt that he could understand how people who go through the legal experiences can think the system is out to get them, because of how complex and how many moving parts there are in the criminal justice system. What he is alluding to, is how impersonal the criminal justice system can often be, with high caseloads and little time for personalized connections with those that go through the process. However, Nicolas points to the compassion and care he received in the court as facilitating a positive program experience. This compassion occurs at multiple levels in the court, as Nicolas points out, the public defender and the judge. Other participants also note that this compassion is evident in multiple members of the court team, including the court staff like the bailiffs and the clerks.

In fact, it seems that the court truly works as a team with the primary concern for the participant evident. This perception of even the bailiffs caring for the one participant, DJ's, well-being is not unfounded. For example, one of the regular court bailiffs heard that one of the participants was attempting to learn to surf with another participant. This participant, DJ, did not have a wetsuit, which was impeding his ability to go out with the other participant. At one of his next appearances, the bailiff gave DJ a wetsuit that had belonged to her son. This caring act is not something typical of the legal system, as the judge himself commented on how incredibly blessed he was to have a court staff that went above and beyond their expectations and that it was not something you would see every day. In this case, the level of care and concern the court has for participants is evident in that the bailiff went beyond what would be expected of her to do

something kind for a participant to facilitate his court progress (through community building). Like Nicolas and other participants note, this particular veterans court is extraordinary in the level of care devoted to each participant in the court, something that they would not expect from other courts or the legal system writ large.

### **Discussion: Treatment and Trust**

#### *Trust in the Court*

Ultimately, my research indicates that even if participants do not view certain aspects of the program as fair (such as diluted tests or issues with treatment), participants' dis-inclination to comply with the law is gradually mediated by their trust in the court. Participants recognized that the court actors and treatment team had their best interests in mind, and therefore, even if they did not agree with certain treatment regimens or sanctions they received, trusted that the court was acting in a capacity that would ultimately help them.

This trust occurred on at least three different levels. First, participants trusted that the treatment team had their best interests in mind. With this notion of trust, participants felt that the treatment team was there to truly make their lives better. This level of trust was intertwined with perceptions that the court cared about the participant and their progress. The second type of trust participants had in the court stemmed from a belief that the court team were successful in their jobs. In this level, participants felt that the team members were professional and experienced, and, overall, equipped to handle the issues in the court. This trust then, was based in a belief that the direction of the court could be trusted on basis of knowing what they are doing.

A third type of trust that was exemplified in the court stemmed from a trust in the court, more generally, that they were doing the best that they could. This level of trust was often evident when participants talked about sanctions in the program. In particular, participants were

unhappy with the situation that surrounded diluted urinalysis tests. Participants often remarked that they would opt for a different style of testing that would not be contingent upon levels of hydration, such as saliva samples or breathalyzers or even blood tests. Participants argued that these tests were unfair, and that the people who received diluted tests were sanctioned for things that they were not guilty of; rather, it was through the fault of the testing methods. However, when questioned further about what the court could do to improve the situation, participants discussed how they believed that the court was doing their best with the resources they had. They trusted in the institution that if other means were available, they would be used, and that it might just come down to funding for other options of testing that were not available to the court.

Procedural justice asks why people comply with the law, and generally suggest that compliance comes from perceptions of fairness in the process of application of the law as well as trust in the law and belief in its legitimacy. As illustrated in the section above, participant perceptions of legitimacy in the court is facilitated by trust in the court actors in their ability to understand their issues and the level of care received from the treatment team. Additionally, fairness perceptions are mediated by this aspect of trust, insofar as even when situations are viewed as unfair, participants are able to continue in the program and continue to comply with the program because they trust in the court.

### *The End Justifies the Means*

What makes specialty courts a revealing venue for better understanding procedural justice frameworks is their non-adversarial nature, and that compliance with the law is only a part of a bigger picture for the court's constituents. Procedural justice has mostly been concerned with how people under the law feel they have been treated, their subsequent belief in the legitimacy of the institution, and how these things work together to ultimately produce compliant

behavior. Therefore, this framework has mostly been utilized in court situations where an adversarial nature and clear outcome (sentencing, civil case decisions) are the end goal. In these cases, research generally finds that the process matters as much, if not more than the end goal when it comes to perceptions of the legal institution. That is, if people perceive they have been treated fairly by authorities they feel are legitimate, they are less likely to be upset about the outcome of a case.

Specialty courts complicate this notion because the end goal is rehabilitation for participants, and, while legal outcomes are a part of this (case dismissal, no criminal records), the court emphasizes the need for treatment and that recovery should be the ultimate goal for participants. In a sense, the process and the outcome are intertwined, as the goal of rehabilitation is an ongoing process that mediates participants' perceptions of the court. My research illustrates that when the goal is less adversarial in nature, and especially oriented towards treatment, this relationship of the process being equally or more important than the outcome is flipped. Rather, participants are willing to forgo fairness in the process to some degree, when the end goal is their recovery. The importance of this end goal bears substantial weight on a participant's perception of the court. In fact, participant's perceptions of the court's legitimacy and efficacy are mediated through their perceptions of the court's ability to provide them the outcome they desire. In a sense, the end justifies the means.

This complication of typical procedural justice findings is important in understanding how process versus outcome might look different in specialty courts, and demonstrates a need for more research of procedural justice frameworks in the courts. This is not to say that fairness in treatment is not an important aspect of the program. The court, it seems, does a relatively decent job in producing fair treatment and outcomes from the participants, as perceived by the

participants. However, when situations or rules are deemed unfair by the participant, a participant is willing to continue to comply with the program and work towards the end goal of the program because of belief in the court's legitimacy and the significance of the end goal in reestablishing the lives of the participants in the court.

Again, the importance of interviewing and understanding the experiences of those that dropped out of the program is important in future analyses of procedural justice in rehabilitation-focused contexts. In my research, there were a small number of instances where participants addressed that they felt they had not been treated fairly by the court, but continued in the program anyway just to get to the end. However, it is conceivable that in some instances, participants may have dropped out from the court program due to procedural justice based concerns, particularly when combined with the rigors of substance abstinence and the rigors of therapeutic treatment. While future research should examine cases of program termination to understand how procedural justice may be implicated in that respect, this chapter demonstrates the complicated way the procedural justice is invoked in participant perceptions for those participants that were in compliance with the program at the time of interview or had successfully completed the program.



## CHAPTER FOUR

### *Semper Fidelis: Re-Labeling, Identity, and the Power of Narratives*

#### Introduction

*“This is what we work so hard for,” The judge laments while presiding over the Orange County Veterans Treatment Court. Standing at the podium is the soon-to-be graduate of the OC VTC, Michael. With a nervous smile on his face, Michael clears his throat and begins to read his graduation essay. As he recounts what brought him to court, how he has undergone treatment, what he hopes to continue to accomplish once he graduates, and how thankful he is for what the court has done for him, the cage-like door to the in-custody offenders swings open, and the clinking of handcuffs is heard as a potential new participant shuffles out the side door to prisoner transport to head back to the county jail. Within minutes, Michael has finished his essay to an applauding audience, his charges have been lowered and then dropped, and the graduation ceremony is complete.*

The criminal justice system is often thought of as a revolving door. Typically, offenders are viewed as exiting the criminal justice system and reentering soon after release, despite prison time or other forms of punishment (Warner & Kramer, 2009). Veterans Treatment Courts (VTCs), however, seem to represent a different kind of revolving door. While some offenders may return to the criminal justice system on new charges after completion of the program, a majority of the participants walk out of the doors on graduation day and do not return again. With a recidivism rate that hovers around 10%, participants at the Orange County Veterans Treatment Court complete their program and only reenter the courthouse when supporting new participants and old friends (Superior Court of California, County of Orange, 2016). As the

above example of a graduation illustrates, veteran participants are pushed through the program with a goal of graduating, and putting their charges behind them. Many of these participants have remained successful at maintaining an offense-free life after graduation, and, like Michael, will walk out of the doors with clean or sealed records. Yet, like the potential new participant that moved to prisoner transport during the graduation exemplifies, as one participant exits the program, new participants join just as quickly. The transformations I witnessed in this program and that participants discuss going through represent over a year and a half of their life dedicated to changing themselves to become “successfully” rehabilitated and reintegrated into a non-criminogenic lifestyle. This chapter explores the mechanisms that underlie the VTC process to understand what components facilitate this transformation, focusing on the use of identity and narratives as one such mechanism.

The program lasts roughly 18 months, never shorter, but longer if necessary. The participants work their way through the four-phase program, promoting to a new level after time constraints and life progress requirements are met. Sanctioning occurs for a variety of reasons, commonly for failed drug tests, diluted drug tests, or missing meetings/appearances, and the sanction can vary between essays, overnight jail stays, or restarting phases. When a client promotes to the next phase, and upon graduation from the VTC, he/she reads a personal essay regarding their treatment, growth, and goals. This specialty court relies heavily on participant narrative, as exemplified in essays and public conversations with the court officials, to drive their treatment and to act as a beacon for other veterans to join the court.

This chapter focuses on the emergent underlying mechanisms centered around identity and narratives that may promote successful outcomes for the participants of the program. This chapter highlights the manner in which the court reaffirms a positive identity for its participants

through linguistic mechanisms, the use of narratives, and building a veteran community. It is through these mechanisms, I argue, that participants are able to restructure their lives and graduate successfully from the court, armed with the resources, knowledge, and confidence to reintegrate into a non-institutionalized life. Additionally, this chapter explores the extent to which identity and transformative narratives are imposed on participants. By providing clear narrative arcs of damaged soldiers seeking treatment, transformed through treatment, and made capable of pro-social behavior with pro-social identities, the court ethos and actors within the court utilize institutional narratives to instill a set of behaviors and a particular mindset into the participants of the court.

### **Literature Review: Situating Identity-Driven Research**

#### *Reconsidering Identity, Labeling, and Desistance from Crime*

Based on research at the OC VTC, I propose that two critical mechanisms at work are procedural legitimacy and labeling, beyond the actual treatment and therapy received as part of rehabilitation. These two mechanisms promote a participant to decide to change, desisting from criminal behavior. First, the VTC may promote a sense of procedural fairness for clients, in contrast to more traditional criminal justice processes that appear to alienate the very people they are trying to rehabilitate. Belief in procedural fairness bolsters perceptions of legitimacy in the law, increasing legal adherence (Gottfredson, Kearley, Najaka, & Rocha, 2007; Tyler, 2006). The complexities of this procedural justice were highlighted in chapter three. Second, those who go through this court are labeled “veterans” rather than “criminals.” Labeling theory suggests that as labels are assigned to people, they may be internalized and affect future criminality (Becker, 1973; Kubrin, Stucky, & Krohn, 2009; Lemert, 1951). Utilizing a symbolic interactionist approach, this theory recognizes the importance of roles, status, and stigma in

influencing identity. By examining the intersection of labeling theory and perceptions of procedural legitimacy (and thus reintegration) in the new and recidivism-reducing context of veterans courts, this research advances scholarly understandings of the role that court proceedings play in reinforcing decisions to desist from crime and substance abuse.

Criminological theory commonly implies that crime is a slippery slope. Once one crime is committed, more crime is just around the corner. Theories like labeling theory predict that once the label “criminal” is given and internalized by an offender, a person is unable to shake the stigma and re-commits crime. Modern criminological theory has considered the pathways out of crime and the nontraditional paths desistance may take, illuminated by Matza’s notion of “drift”; however, much of this contemporary theory still considers age as the preeminent desistance correlate, as one “ages out” of criminal behavior (Hirschi & Gottfredson, 1983; Matza, 1990; Moffitt, 1993). This dissertation will advance recent desistance theory trends in considering what other mechanisms may prove useful in reconstructing a life away from crime (Maruna, 2010). As such, I posit that labeling theory provides a useful framework to consider the pathway to desistance through the adoption of pro-social labels and subsequent identity.

One point of contention in the desistance literature includes how we define and understand desistance. That is, what does successful desistance look like? If you understand the occurrences of crime as sporadic as Matza contends, how do you determine when desistance has occurred (Maruna, 2010)? This chapter grapples with this concept by offering an analysis of what the process looks like when desistance by way of reintegration into a pro-social identity is the goal. Insofar as the goal of Veterans Treatment Court is to reintegrate a participant into an offense-free lifestyle (desist from crime), the court employs certain tactics, both implicitly and explicitly to actualize this goal. Whether or not desistance is successful, this dissertation

considers *how* an identity-driven desistance may play out rather than whether desistance is truly realized. It might be said, then, that I will consider what influences the decision to desist versus the actual desistance (Maruna, 2010). When considered among the myriad of mechanisms that contribute to potentially successful desistance, how does re-labeling and pro-social identity adoption occur, and how does a participant internalize and react to this relabeling?

Labeling theory has traditionally taken the concept of identity and examined how labeling affects identity through a short window of someone's life. This dissertation will extend notions of labeling by placing it within the course of a life narrative, which considers more fully the fluctuations and stabilities across the life-course (Sampson & Laub, 1997). This perspective will build on the work carried out by McAdams (1988) and Maruna (2010), which suggest that a life-course identity persists within individuals, and this life story serves a sense-making mechanism. Therefore, to successfully desist from criminal behavior, one must adopt a pro-social identity to navigate the unfolding life narrative. This viewpoint, then, purports that at least two narratives exist in desistance: one that includes an understanding of what was and a present and forward-looking narrative that explains the current identity, and how that story diverges from the past. In his seminal book, Maruna contends that this method of desistance supplements rather than replaces other theoretical methods of reintegration, such as life-course theory. This chapter advances that claim, analyzing how identity-driven desistance materializes in the Veterans Treatment Court.

This chapter considers how desistance coincides with reintegration. That is, to what extent does reintegration take a first or simultaneous step of deintegration from a past identity? Research suggests that to create a new life, one must first shed the harmful conditions of an "old life" (Maruna & Roy, 2007; Sampson & Laub, 2003; Shanahan, 2000). This concept of "knifing

off” refers to removing oneself from the past (Caspi & Moffitt, 1993; Sampson & Laub, 2003), their former experiences (Wright, Carter, & Cullen, 2005), their social disadvantages (Rutter, 1999), and, perhaps most salient to this project, stigma (Rutter, 1999; Shanahan, 2000). The process of “knifing off” stigma includes not only shedding deviant labels, but embracing pro-social labels which assist in positive reintegration. Braithwaite’s (1989) conceptualization of reintegrative shaming suggests that reducing stigma and producing reintegrative efforts can assist the desistance from offending (Braithwaite, 2000; Miethe, Lu, & Reese, 2000). This chapter explores what these reintegrative methods comprise as related to identity, narratives, and perceptions of the self. Keeping this in mind, I analyze the complexity of inter-related identity issues. The VTC seems to suggest that military trauma and wrongful treatment leads to the development of substance abuse issues, mental disorders, and subsequent criminal behavior. How exactly does a participant “knife off” some aspects of their life (for example, ex-military friends that also have substance abuse issues) while re-embracing and reintegrating into a veteran lifestyle?

This research proposes an extension of labeling to include what I call “positive labeling”. That is, the court impresses positive identities upon the participants, and the participants internalize a positive veteran identity over a more stigmatized offender identity. This labeling occurs through a variety of identity-oriented mechanisms, which include the use of specific language by court staff, narratives in the therapeutic setting, and community-building among participants, facilitated by the court. These mechanisms push participants to absorb what they believe to be respectable identities, and these identities interact with the court mechanisms to bolster belief in the efficacy and legitimacy in the court, and thus, compliance.

*Institutional and Individual Narratives*

My research also suggests that this identity and re-labeling process is intertwined with the use of narratives in the VTC. Research on narratives in court processes generally expounds two areas: (1) how narratives are utilized in a court setting and how they influence litigants' perceptions of the court, and (2) how narratives are shaped by an institutional setting. With regards to the function of narratives in courts, research has pointed to their ability to empower litigants. Not only do narratives provide a relatable mechanism in which participants can express themselves, but their inclusion in court processes are among the most touted of processes by litigants (Conley & O'Barr, 1990; O'Barr & Conley, 1985). The second area notes how narratives are constrained and influenced by the legal setting. My research will utilize both areas of narrative-driven research and examine how identity, often entangled in narratives, is also expressed and shaped by the narrative process in VTCs.

While accounts of participant involvement in criminal offenses as relayed in court may represent neutralization to some extent, especially in the sense of denial of full responsibility of the participants for their actions (Sykes & Matza, 1957), my dissertation will analyze how narratives construct identity to lead to desistance from crime (Maruna, 2010). Narratives typically consist of a rendering of a part of someone's life, especially the person's relation to the larger world (Linde, 1993; Polonoff, 1987; Rosenwald & Ochberg, 1992). While the relationship between narratives and reality has been debated, this chapter builds on Presser's (2008) suggestion that narratives are mutually constitutive with reality, and the narratives are a product of their collection. This perspective builds on research that indicates the consciousness actualized by narrativity (Bruner, 2000; Linde, 1993; Polonoff, 1987). In VTCs, narratives are prepared and co-produced with the court, then read aloud for the purposes of story-sharing, to achieve the

process' therapeutic effect, and to bolster the perception of the court's ability to reconstruct damaged lives.

This analysis draws on research that examines narratives in the context of the organization or institution. In particular, research that explores how organizational logic is communicated suggests that stories may impart “universal lessons” within the organization (Czarniawska-Joerges, 1997; Polletta, Chen, Gardner, & Motes, 2011, p. 115). Such stories are not without their own set of rules to guide their effective telling, however. In fact, organizational stories can be told over time and incompletely (Boje, 1991). Furthermore, opposition to stories can help define the premise of the story (Feldman & Skoldberg, 2002). While this research orientation focuses on how effective stories are told in an organization and what they represent to an institution, this chapter will expand on these concepts to explore how stories are constructed in the court and what the construction process means to participants.

Research in this vein includes the coaching of stories within an organization to divulge compelling narratives. The role of narratives as therapy has been explored in an array of research to date, often analyzing how stories can simultaneously represent “conventional” stories for the institution to utilize, yet “authentic” from the client's perspective (Polletta et al., 2011, p. 115). Studies have shown how institutions shape client stories to make them more effective in their given situations (see for example, Conley & O'Barr, 1990; Loseke, 2007; Merry, 1984; Trinch & Berk-Seligson, 2002). With this chapter, I propose to take this analysis further by examining, first, how these narratives are shaped by institutions and, second, how that affects participant perceptions of the program and their personal narratives. That is, how do personal narratives and institutional narratives work together to form an image for the court and self-image for the participant?



The rise of therapeutic narratives can be explained through Illouz's (2008) analysis of therapy-driven narratives and their proliferation in a broader cultural context. According to Illouz, the use of therapy and narratives formed against a cultural backdrop as therapy focused in on victimization and trauma. Between the medicalization of trauma and the rise of psychological treatment, self-help culture implemented the language and performance tools to propagate therapeutic narratives. Illouz analyzed the medicalization of PTSD and how that helped form the cultural context of therapeutic narratives. Illouz's framework of cultural self-help seems to drive the narratives of the Veterans Treatment Court. One of the key actors in the OC VTC is the Veterans Justice Outreach Coordinator (VJOC), who facilitates treatment for the veteran. The VJOC updates the judge presiding over the cases with each progress report, and the participant's progress is narrated through a therapeutic lens. The judge also underscores the value of treatment, often citing the intersection of treatment, honesty, and self-actualization as key to programmatic success. Much of this treatment involves support group work, as well as one-on-one counseling at the Veterans Affairs treatment center. While the rise of the therapeutic narrative provides a context for therapeutic institutions, my dissertation examines how the therapeutic institution is specified and supported, in part due to collective memory of cultural trauma and a path-dependent trajectory.

This chapter explores the following research questions:

1. What are the experiences of the veterans involved in VTCs?
2. How does the "veteran" label affect identity for VTC participants?
3. What is the relationship between experiences, identity, program completion, and recidivism?
4. How are narratives utilized in the court?

5. How are narratives co-constructed by the court and the participant?

### **Results: Transformation and Dual Identities**

To orient my results, I propose that two different kinds of identities are utilized by the program to reintegrate participants into a pro-social lifestyle. First, there is the identity of the “veteran.” This identity taps into a participant’s sense of self, utilizing notions of deservedness, duty, camaraderie, and a familiar setting to help shed the offender identity and bring a pro-social identity to the forefront. Second, there is a more process-based identity that exists as a participant in the court. This identity is in flux, but generally captures the notion that the participant is someone going through recovery, has been brought to the court with mental health and/or substance abuse issues, and is capable of change.

Based on this research, I suggest that three critical mechanisms underlie identity transformations and program progression. First, the judge and the VTC professionals frequently utilize *identity-oriented language*. This language pushes the veteran identity to the foreground, seemingly overpowering the typical offender-judicial system interaction. This language, often respectful and intimate in nature was a stark contrast to the more formal expectations participants had of the legal process. Second, the court provides a space for participants to *build community* and *bolster community through identity*. Through events, constant meetings, and courtroom camaraderie, the participants restructure support networks with the other participants. Finally, participants’ *sense of structure*, especially as compared to their time in the military, creates a sense of familiarity for the participant as they navigate the court program. This sense of familiarity assists participants in identifying how to behave under the pressure and orders of the court, as well as how to interact with court actors.

In terms of the second identity, the sense of self as the participant moves through the court, the participant's narrative becomes intertwined with the institutional narrative of the court. That is, while the court taps into the "veteran" identity for participants, it also, in some ways, imposes a "participant" identity that involves recovery narratives within it. The participants *assess their status and identity through self-reflective narratives*. With each passing phase, the participants read narrative essays to the court, which catalogues their experience with the court as well as offers an introspective look into the participant's thought processes.

*"Army Strong": The Veteran Identity*

#### Identity-Oriented Discourse

The OC VTC judge oversees each participant as they progress through the court program. The OC VTC judge, therefore, becomes very familiarized with each participant, and often speaks to them in an informal manner. The probation officer and Veteran's Affairs representative update the judge about the participant's progress, and the judge replies to their updates, usually offering positive affirmation about their progress. When issues arise, the judge addresses the participants, offering advice and encouragement while maintaining some formal aspects of typical court processes, such as the official language when ordering the participant to the next court date or ordering additional sanctions.

Typically, when a participant is sanctioned, the judge must give orders to the participant for additional treatment, essays, community service, or to fix a particularly problematic area, like in searching for housing. For example, when a participant misses meetings or treatment sessions, they are usually sanctioned and sometimes must write an essay that addresses the issue. This essay is supposed to provide reflection for the participant as well as publicly address issues in front of the court and other participants. The judge "orders" the sanctioned participant to

complete the essay, congruent with the orders given in a traditional court setting or other specialty courts. However, when the judge gives his orders, he often adds identity-oriented encouragement to complete the orders and make it through the sanction period. For example, Jesse, a young former-Marine who suffered from Traumatic Brain Injury (TBI) missed multiple treatment meetings. The judge issued several warnings at first, taking into account Jesse's memory issues due to the TBI. However, after Jesse missed several more meetings, the judge assigned an essay for the participant to write, addressing the issue of time management. As usual, the judge assigned the essay by way of an official court order. However, after officially making the order, he told Jesse: "You're a combat Marine, I know you can follow orders... You're young, you served in combat overseas, you've earned this."

This language, typical of an exchange following a court-ordered sanction, exemplifies three identity-based parts. First, the judge mentions the participant's military identity by referring to him by his branch of service. By beginning the statement with this reference, the judge appears to be immediately bringing the military to the forefront. Next, the judge reminds the participant (and perhaps the court) that he is capable of following the orders given to him *because* of his military past. In this sense, the judge uses the dual nature of the word "orders" to suggest Jesse's ability to follow them. By moving beyond the court order and into the realm of military orders, the judge calls upon Jesse's military-based duty to reinforce his order and Jesse's responsibility to follow it. Finally, by telling Jesse that he "earned this," referring to the chance to participate in the VTC, the judge emphasizes Jesse's service, and that this court was made for participants like him. If Jesse had not served, he would not be in this court. The judge, in this case, is synthesizing the identity of the participants with the action he expects from them. At the same time, the judge impresses the efficacy of the court onto Jesse by mentioning that he earned

his place in the court, suggesting that this court is the right place for him. Similar exchanges to this example occur frequently at the court.

Other instances of identity-based linguistic cues arise during the progress report phase of the session. The judge often asks participants what their role was in the military and then asks them several follow-up questions about their service. He usually follows the questioning by explaining that this court is like being in the service, and that if the participant can follow orders in the military, they should be able to do the same in the court. Occasionally, he addresses the participants as “soldier”, “Marine”, or “sailor” when he encourages them. Xavier, for example, was an Army medic, and the judge refers to him as “Doc” at nearly every progress report. The judge constantly reminds him of his former role in the military. During several sessions, the judge has pushed this identity recognition further by stating that “You [Doc] took care of so many people out on the battlefield. It’s time to take care of yourself.” The judge uses the progress reports to remind Xavier about his service, and recognize that he has earned this opportunity to focus on his own treatment.

The judge does not just confine identity-oriented language to one-on-one progress reviews, however. Frequently, before court begins, between participant progress reviews, and at the end of court, the judge addresses the participants as a whole. For example, the judge once told the participants after a progress report: “Courage, you’ve got it. You’ve all got it out there to win your battle.” Again, the judge draws upon the military-based characteristics of the veteran participants. He uses their service to remind them that they are equipped with the traits necessary to succeed in court. Furthermore, he couples this mention of “courage” with the word “battle,” evoking, yet again, military-based imagery. By referring to their participation and treatment in the program as a battle, the judge uses language that refers directly to their identity. As such, he

relates participants' military identity to their court-based veteran identity, linking the struggles of the two settings and suggesting that they have the proper traits to overcome the battle. This link also provides a narrative arc, building a community of veterans, who, through treatment can overcome the issues that plague them since their trauma in the military.

Additionally, the judge sometimes refers to the VTC as a place of respect, seemingly holding it in different regards than the other specialty courts he sits in front of. Take for instance, the way that the judge ended a court session one day by saying that it is a "real honor sitting in front of you guys and calling *these* cases." Almost every week, the judge takes some time to mention how honored he is to be sitting in front of the veterans in the court, sometimes referring to them as warriors, filled with a sense of duty. By invoking his sense of privilege in his role in the court, the judge promotes a sense of pride in his clients, based on the veteran identity. Moreover, he uses this pride to set the veterans court apart from the other specialty courts. By emphasizing his honor in calling the cases of these veterans, he seems to be reassuring the participants that this court is the right place for them, and that the veterans court is intrinsically different than other specialty courts. It is through this language that the judge reaffirms a veteran identity for the participants in the court and advocates the legitimacy of the VTC. This is further intertwined with the second identity built by the court, of the court participant in the midst of a transformation, which will be discussed more in the proceeding sections.

This language is also reaffirmed in the courtroom by other participants. Participants often use military jargon when speaking with each other and with their mentors. When the mentors are called up at the beginning of the court calendar during the progress hearings, they are greeted with "Ooh-Rahs" and other military calls when their branch of service is announced. Additionally, participants construct their experience at the court through a veteran identity. This

can be seen in the essays participants write for promotions and read to the court, publicly. These narratives are often riddled with references to a military and veteran identity, as participants frequently compare their military experience to the court, use military lingo to explain their experiences, and refer to their audience as brothers and sisters.

For example, references to military experiences are overt in many of the narrative-style essays read by participants. Connor, for example, outlines how he plans to approach his fourth and final phase in the program and says, “I plan to keep in mind a quote from the Marine Corps: ‘Complacency Kills.’ It may not kill you in the real world, but it can still sure hurt you.” Connor is referring to the program’s final push, where people sometimes fall short of the finish line by loosening the reins on their programmatic goals. Connor directly relates a military experience to the program, demonstrating how he hopes to use military-based characteristics and ideals to make it through the court program.

For the most part, participants demonstrated that their participation in the VTC program made them feel more in tune with their veteran identity. When I asked participants if their level of identification was lessened, made greater, or stayed the same as they progressed through the program, most participants expressed that their connection to their veteran identity grew stronger. Dexter explains how he

hid the fact that I was a veteran. I thought I had to tell the truth and I had to tell that I have been hiding and burying this guilt forever and that people would think that I was weak because of that.

For Dexter, the trauma of his veteran status required that he bury it, especially as it related to how others would see him. The court however, he continues, pulled him from this state of thinking through therapy, specifically prolonged-exposure therapy, which saw him tackle his issue head on. He now comments that he is not afraid to bring up his veteran identity.

Brad explains:

Because initially, my feelings for when I served I was um, I wouldn't say I was ashamed, but I felt like I could've done more. I could've contributed more than what I did. And um, you know, I just felt like I let down a lot of people and then when I said before.

Through this, Brad alludes to the disconnection to his service that came from his separation with the service, that he could have done more for the service. He goes on to say that it was not

until I went through this program I didn't know about all the different other stuff that was being provided to veterans out there, it was just more of like oh, you know there's just like, even though I'm not serving anymore, people do still care about veterans in general. I didn't know about that.

Just by the simple fact of knowing that people, the public, still cared about veterans strengthened his relationship to his identity.

Max also felt his identity as a veteran was strengthened by the program because he felt like "I am more, more of a valuable asset to other veterans now, where as before I probably would have been more like a bad influence." Furthermore, he felt that "the VAs not taking care of me, you know and drugs didn't help" so he was not a positive influence for other veterans. However, he now believes he is "going in the right direction," and "if you wanna go with me, let's go." Feeling like an asset to other veterans helps build the sense of community that the court program provides, which will be explored more in the next section. Miguel echoes this sentiment of being around other veterans as contributing to feeling more like a veteran, in "just being around veterans more, going to the VA. Participating in stuff." Overall, participants provided a variety of reasons they did not associate with their veteran identities previously, including shame, fear, embarrassment, anger, or ambivalence. Their time in the program, however, urged them to rekindle their experience with the veteran identity and assisted participants in placing this identity in a positive light, to be celebrated rather than hidden.

### Community Through Identity



The Orange County Veterans Treatment Court attempts to create a veteran community through a variety of methods. First, the court collaborates with a group of veteran mentors, mostly Vietnam era veterans, who are assigned to each participant. These mentors provide a confidante role for the participants, as mentors do not directly report to the court. This group of approximately fifteen mentors is also responsible for organizing group events, such as softball tournaments, bowling nights, and golfing events. These events build camaraderie between the OC VTC participants, as they often compete against other specialty court participants. The judge applauds participation in the events held by the court. For example, after a softball tournament where different courts competed against each other, the judge had the participants who had played in the tournament come up to the front of the court to be recognized and present that court with the trophy they had won, which remained on display at the front of the courtroom thereafter. The judge commended them for “playing as a unit,” which presented both the community of the court as a unit, while harkening back to the “unit” military members are deployed in, cementing the notion of the community in the court as a veteran community. These events bridge gaps between branches of service, of which the judge commented on as well by stating that they “had nearly every branch of service on that field together.”

Participants seemed to generally have a positive perception of these court activities. Victor noted that some people “just keep to themselves” and that he liked “the way they do the functions and stuff out like that. It kinda helps out a little bit, like the softball function, the bowling function, having that little room back there.” The little room he is referring to is the small conference room in the courthouse where participants would gather before court hearings and eat snacks and talk. This room was later disbanded, and participants were relegated to sit in

the lobby, which was less private. Victor explains that these events were helpful because even though participants had their “own sobriety program going on,” hanging out was helpful.

The participants of the court see each other at the court once a week, and often outside of the court as well. Most of the participants are required to undergo treatment at the local Veteran Affairs (VA). As such, the participants often see each other in self-help groups, AA, and around the VA as they complete program-related requirements. However, other participants build further upon their veteran community, utilizing the bonds forged in court to spend time together outside of court requirements. Margot explained that when they see each other at meetings, they talk and “it’s good because you build camaraderie.” They can talk about things like “court, or if you’re in compliance or not in compliance, or if you gotta go see our probation officer.” This helps to not only push the bond between the veterans, but also as a support network for program-related issues.

When I asked George how often he talks to other veterans in the program, for example, he responded that:

I keep in touch with one in [Location redacted], the surfer down south. I visit with him on weekends, stay with his family and stuff and visit with his kids. Pretty much all the veterans that are in the program, I see them at the VA all the time. So I keep pushing interacting with them.

George attempted to get to know the other veterans in the program, and in doing so has structured a support network and friendships that may last beyond the program duration. Based on similar interviews with participants, these veterans seem to build relationships with other participants for a variety of reasons. George attributes this to the notion that “in the military, unlike any other situation, you bond a little quicker with people because you know your life depends on it.” He goes on to say “the military is funny, we bond when we have something in common. Just like in the court here we bond because we all have that thing in common.” As

George describes, veterans have a particular bond because of the experience they go through. However, the court itself is another experience that the participants share, and can build a community based in that experience as well. Leveraging this bond between people that share connections helps build community in the court and a network of support for those going through the court program.

Some participants build relationships to garner advice and support while going through the program, while others build friendships with goals outside of the program. For example, a group of three participants started surfing with one another. A few months after their first progress report that mentioned this new activity, the participants mentioned that they were attempting to create a group for all veteran surfers to help with therapy. These participants are deeply embroiled with a veteran community, and the connections they made during the program served to expand their veteran bonds.

While many participants formed a veteran community through the program, their connection seemed to be facilitated by a veteran identity. For example, Margot, one of the few female participants explained to me that she felt a “good vibe” in the courtroom in her interview. I asked her what she thinks contributes to that feeling, to which she responded:

I think that’s a common thread that everyone feels in there. When you’re in the military and you know, you’re together for whatever capacity, whether Veterans Court or out there in uniform, you feel common bond, common thread. So I think that brings everybody together from different lifestyles.

Margot comments directly on the bond felt in the court. Because each of the participants was in the military, it seems to be important to the participants that they all have gone through a similar experience, which brought them together to the court. Many of the participants, for instance, begin their essays by addressing their audience as brothers and sisters, fellow warriors, and

comrades. As they discuss their progress through their essays, they often note that they feel they could fall back on their fellow veterans to help them, just like in the military.

The notion of “fellow” veterans and warriors provides added encouragement for participants, as illustrated in Jordan’s phase three promotion essay. He mentions that in his time at the program, he is “scared of failing all my fellow veterans...we all are brothers...I don’t want to let anyone of you down.” Participants draw on the notion of camaraderie to provide an extra impetus to stay on the straight path. When participants struggle, they recognize that their actions, especially as it concerns them being role models to each other, leads them to feel that they are letting the collective community of veterans down. For example, when Andrew was sanctioned for not being honest with the court about the nature of a job he took, one that had him featured in a bar-like situation (which the court deemed reckless disregard for substance abuse recovery), the judge told him to write a sanction essay, which he had to read to the court three weeks in a row to capture the majority of the participants in the court at the time. In this essay, he remarks that “I let the court down. I let my fellow veterans down.” The camaraderie generated by military service is felt in the courtroom. Several interviewees have recalled what it felt like to finally get that brotherhood back, and that that veteran community made the court more bearable.

Essentially, participants in the VTC feel close to other veterans because, as Nicolas notes, even though it can be hard to talk about difficult things, like killing people in front of other veterans, “there’s no way to that we would say those things in front of civilians at all.” As Theo discusses, when he’s with veterans, “I got to share my experiences, and they theirs. Talk about frustrations we’re having,” helping each other in just sharing information and how people dealt with certain situations. Overall, the ability to share experiences and feel comfortable with a

group of people going through a similar experience helped boost community efforts and support networks, which facilitated program completion for participants.

#### Back to Basic: Structure and Familiarity

Identity contributes to a participant's sense of familiarity from their time in the military, providing a recognizable structure for participants to navigate, especially with the characteristics their "veteran" identity implicates. First, it is important to note that one of the things participants identified as a positive of the court, or something that the court does well, is provide structure for participants. This structure helped keep participants busy and also connected to the aspect of accountability that helped participants succeed in the program. By having days and time structured, participants had less idle time, building positive habits with treatment and productive use of time for when participants graduate from the program.

Furthermore, this structure was compared to the participants' time in the military, an analogy that further utilized the veteran identity to create a sense of familiarity. The main trait that provided this connection was that of discipline. Xavier mentions that he's "reverted back to some of that military discipline." He notes that the court "put [him] back on track more when I was in the military. A little more regimented" and that the court does this by "holding you accountable." By being told what to do and when to do it, participants felt like they were back in a familiar structure, governed by rules and navigated by tapping into learned discipline. While this could be interpreted as disciplining by the court or co-dependence with the court, the participants generally favored the structure the court provided. However, the extent to which the structure may be coercive should be explored more fully in future research.

Miguel compares the program to the military as well. In his analogy, he compares the members of the court to roles in the military.

That's because in the military you have NCOs (Non-Commissioned Officers) and so basically you have junior guys, who do all the dirty work. And then there's like the sergeant or the corporal who watches them to make sure they do the work. And then you have officers who sit in the office and tell the sergeant to get the job done and that trickles down. Well the court system is the same way. The judge is an officer. He's the head guy that says hey get this done. And the sergeants and the corporals are the mentees, I mean the mentors. So they make sure they follow-up who's got an appointment, who's going where, who's doing what. Who's doing the dirty work? The guys in the program, clients. So it's just another structured thing.

Miguel is not the only one who recognized this structure and compared court actors to military positions. Several participants referred to this "chain of command" structure that the court had, and remarked that it felt familiar to them. Creating this sense of familiarity seemed to assist participants in navigating what could have been a more complex or alien court structure.

One final example that illustrates this concept of familiarity derived from identity comes from Max, who explains

anything that becomes mandatory, by contract, reminds us of the military. Hey check in at this time. It's the same thing I remember as my platoon sergeant saying, hey, be at the armory at 0430, we're going on a freakin' hump. So, like, there's that aspect of it, there's, what makes it really familiar is like whenever we're waiting on like to see [the probation officer] or whatever and I'm with another veteran, at least we can sit there and shoot the shit. It reminds us of being in the military whereas, hey follow protocol you gotta be at...so there's that.

By explaining that his unit would go on a "hump," or long walk in the early morning, he describes doing difficult tasks as part of directions from higher-ups and the rigid structure of each day. Furthermore, what Max taps into is that this structure and familiarity of the court as similar to military structure is not experienced in isolation. Instead, the comparison of the court to the military also assists in building that feeling of community, as discussed earlier. This community incorporates the veteran identity and the community formed while going through similar structures in the military. This serves to once again strengthen the bond between participants on a basis of the veteran identity.

*“Be All That You Can Be”: The Imposed Institutional Narrative*

While the judge and court staff frequently invoked a veteran identity for the participants, the participants also connect their progress through the program to their prior military service. However, this identity is, in part, imposed by the court, especially when considering the court mission statement as a whole, and court processes like narrative essay writing as participants advance through stages. Identity driven narratives offer participants a chance to structure their experience before and during their time in court, as well as a chance to speculate on what will happen once they graduate the program.

This section of findings builds on the notion of the veteran identity to understand how the veteran identity is intertwined with the nature of the *participant* identity. This participant identity captures the transformative nature of identity and the court’s role in enacting this transformation. This transformation relies heavily on narratives to co-construct identity based on what the court imposes on participants. Narratives are utilized in two interconnected ways for the participants of the VTC. First, participants use a narrative structure to construct their journey from the military, to the court, and through the court. This narrative is usually centered around the military experience and the changes that come with reintegration into a non-military lifestyle. Second, formal narratives are used as part of the court process to express the participants’ experience in the court, how they’ve changed, and what they hope to continue doing to progress through the program. These narratives are a requirement of the court, and, in some ways, shaped by the court both in content in structure. However, these narratives, written with the intent to read to a court audience and marking a period of transition, are often laced with language that cues a veteran identity.

During the interviews I conducted with participants and past-participants of the VTC, respondents typically formulated their experience with the court into narratives that follow a recognizable trajectory. Typically, participants construct their journey from the military, to the court, and through the court as a journey from chaos to enlightenment. As Victor explains in his interview “I was stabbed, I was shot, I was beaten, I was – I survived a warzone, and then a warzone at home. And it’s just like, shit, I don’t know how to deal with it.” Victor constructs a narrative of the wounded veteran who survived against all odds overseas, only to return home to a new battle – reintegration. This quote exemplifies the unofficial mission statement of VTCs: veterans who have seen combat overseas return with not only trauma-related issues, but difficulty in returning to civilian life as well. This chaotic return is partially to blame for veteran-committed offenses, so the court aims to treat the supposed root issue rather than just the symptoms expressed in criminality.

Victor goes on to say that “it [the court] helped me stop everything, all the negative that I had in my life. It helped me open my eyes up to the man that I was before the service, in the service.” Victor attributed his entry into the court as a turning point in his life. Victor had returned from active duty and was immediately medicated due to his mental and physical ailments. He recalls that the first thing that happened when he entered court was that his medication was sorted out, and he felt as though he had emerged from a fog. He felt clear-headed enough to figure out what steps he needed to take to get his life back on track, and return to the person he felt self-respect for. Many narratives were constructed in a similar manner as participants recognized three moments that had significant repercussions for their current state: their time in the military, their separation with the military, and their eventual participation in the court. In this sense, their military identity defined their life trajectory to the point that it brought



them to the VTC. Treatment in the VTC, then, was centered around coping with this trajectory, with combat trauma, and with successful reintegration.

This path, however, is not something a participant is necessarily creating on their own. The court through various interactions, such as judicial interactions, VJO comments on therapy, and the general ethos of the court guide this narrative to the forefront. The mission statement of the court is as follows:

The mission of the Orange County Veterans Treatment Court is to provide an interagency, collaborative, non-adversarial treatment strategy for Veterans in the criminal justice system who suffer from Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), psychological issues, sexual trauma, or substance abuse problems as a result of having served in the United States military. (VTC Program Handbook)

The basis of the court lies in the nexus of substance abuse issues and mental health issues as a result of combat. As such, this court reminds the participant that they are “injured” psychologically, and that this “injury” was a result of them doing their duty in a combat theatre. Furthermore, the court constructs the notion that they as an institution are equipped to handle the issues of this population and that rehabilitation through treatment will get the participant to a more pro-social, reintegrated lifestyle.

While the above discussion highlights the manner in which participants construct their narrative in the court, a second, more direct use of narratives also underlies the VTC process. At each phase and with most sanctions, participants are required to write essays to be read before the court during their progress reports. These narratives, co-constructed by court staff, offer a chance for the participant to share their stories with other participants, court staff, and other audience members. These essays are edited and pre-approved by the court staff and generally follow a pattern that includes how the participant got to court, what they have done so far in their treatment, and what their goals are as they continue through the court. Participants are given a

template for their essays, one that generally includes touching on their past, current treatment goals, and future treatment goals. What this does, then, is create a natural narrative of looking at one's past, connecting it to the current situation, and then highlighting treatment as contributing in some manner to the transformations one is currently undergoing, as well as being responsible for future transformations as well. Since one of the staples of the essay is the treatment factor, this mechanism is highlighted in both the way a participant must internally construct a narrative while writing the essay, and then publicly addressing the narrative when reading it during the court progress hearings.

On the subject of essays, participants, while acknowledging that it helped them work through things to put pen to paper, felt that the essays serve a greater purpose. As Xavier explains:

I understood at like a quarter of the way through it these essays aren't for me. They are for everyone else... Your phase 1 essay is for people who just got in. Your Phase 2 is for phase 1. Your phase 3 is for - graduation is for everyone to give them hope.

He continues that the essays, especially the graduation essay is "the passing on of hope and progress. It's not you personally graduating, but my buddy Fernando's graduating. That's so good for him. Then, you start thinking, I'm right behind him." What Xavier's explanation implies is the passing of the institutional narrative, that the court has produced a graduating and law-abiding, sober, and mentally fit participant. By seeing the product of the treatment and the conclusion of the program, other participants are exposed to the institutional narrative, one that is intrinsically a narrative of therapy, and in a sense, this narrative is imposed on the participant. The extent to which participants recognize this imposition is unclear, but the court does seem to provide the narrative infrastructure for the participant to internalize.

One final way that this can be seen is in the utilization of the character of the “Vietnam veteran.” This identity was frequently brought up by the judge, as he discussed not wanting to turn his back on the current generation of veterans (and those from previous generations), as “we” did in the Vietnam-era of warfare. In fact, in my interview with the judge, he discussed how and why he believed the institution of veterans treatment courts were able to proliferate today. “No doubt in my mind that it was the Vietnam” he begins “it was because of what they went through and what they did as a result of what they went that we have these courts and we have the respect that we have for the people in the uniform.” The judge explains that the treatment of the Vietnam-era veterans by the nation, and the trouble that they went through after going through traumatic experience laid the groundwork for the nation’s recommitment to soldiers. To illustrate this respect both to me and to the court, he often brought up a story about his father. To me, he explained:

My father came home from Vietnam and he was ordered to remove his uniform before going through the terminal in the airport where he landed. So I mean, yeah that’s a very big difference and I have such respect for the Vietnam vets because of what they went through, what they faced over there and how they handled it when they got back and how they’ve taken care of a lot of these guys. And how they’ve been there for them, even though no one was there for them.

This narrative, of the Vietnam veteran that the nation neglected was utilized by the judge to illustrate the court’s renewed dedication to helping veterans. By bringing up this example, participants are able to clearly relate to the notion of the “wounded veteran” and the negative aspects of the coolness they faced, their issues untreated.

When I asked Nicolas what he felt the court did well, he responded by saying “I think they’re just, I think they’re keeping veterans accountable but also helping them understand the root of the problem.” With this statement, Nicolas brings the notion of what specialty courts aim

to do to the forefront: confronting the root issues that correlate with criminality rather than just punishing. He continues by saying

I think it's bringing, I think it's making veterans aware that they don't have to live like that in spite of what it is they've gone through and that even if you do have justifiable issues in your life it doesn't justify criminal activity and that certainly doesn't justify what you're doing to yourself as a result...

With this quote, Nicolas delves further into the idea that there is a place for improvement in the lives of veterans, that even if they have faced trauma and have committed criminal offenses, they are not trapped in that cycle. Moreover, he explains

it's really about just you showing veterans that there's another way to live, that we don't have to go through the same thing that the generation in front of, you know, like the Vietnam vets, like the generations before us went through, like there's no help.

With this, Nicolas connects the notion of having options to the concept that Vietnam Veterans did *not* have these options available to them. Finally, he comments that "I think what they really want to do is show us that there's help available, um they're gonna provide that to us as long as we are accountable and we do what we're supposed to do." Now, Nicolas demonstrates that he believes this is the backbone of the ethos of the VTC. He explains that if veterans seek help, and do their part in the form of treatment and abiding by rules, help will be there.

This quote from Nicolas shows how participants understand the general mission of the VTC, and the extent to which they connect this mentality to their current situation. This represents an absorption of the institutional narrative of the court, the therapeutic narrative that the court embodies. Participants exist and act within the narrative the court provides: the veteran went to war, was changed by trauma, is afflicted with substance abuse and mental health issues, and, through treatment, can therapeutically resolve these issues to the extent of being law-abiding and functional in society through therapeutic means.

Max notes that the therapeutic narrative the court puts forth is “a little fairy-tale-ish, like hey, we’re gonna help all you vets stay out of trouble,” capturing the potential skepticism participants might perceive from this mentality and the way it is imposed on its constituents. However, he goes on to say that “I do like that, you know what I mean? I don’t think it’s too distorted, I don’t think it’s too unrealistic. I think it’s a vision they should keep. I think what they do well in is accountability.” Max continues to explain that even if this mentality might seem too ideal, it also is not entirely unrealistic. He thinks that the court provides the structure and accountability to achieve these goals, and he appreciates the overall mission of the court to rehabilitate troubled veterans after experiencing the traumas of the military.

### **Discussion: The Impact of Identity**

Ultimately, the VTC prepares its participants for reintegration into a non-institutionalized lifestyle. The program is focused on treatment of mental health issues and substance abuse problems to reduce re-offending, and, as such the overall goal of the court is to attend to the root of criminality, rather than the offense itself. By adopting a therapeutic jurisprudential framework, the VTC directs attention to the participant’s identity. That is, by recognizing the law can influence people that are subject to it, the court, through its mission and court actors, continues its mindset of tapping into this influence to positively affect participants of the court. In this case, identity becomes intertwined with the therapeutic jurisprudential framework, impacting the participants through identity transformations, utilizing the legal framework and narrative of the court to do so. Rather than emphasizing the criminal behavior and framing the procedures around punishment, the court restructures the participant’s life around goals of self-help, community building, individualization, and positive reinforcement. In this therapeutic narrative enforced as part of the court institutionalization, identity becomes a mechanism to motivate and instigate

adherence to this narrative, hopeful for transformative effects. Thus, identity is crucial in this process of re-evaluation and reintegration.

Identity is reinforced in a variety of ways in the court, as the veteran identity is pushed to the foreground. Participants are consistently reminded that they are veterans, and their offenses can be overcome through re-absorption of a veteran identity. The judge uses identity-oriented language consistently when addressing the participants. This language not only invokes the veteran identity, but also emphasizes that that identity can facilitate program completion. In using veteran-identity-oriented language, the judge and other court staff positively label the participant. Throughout the course of the program, this label sticks to the participant and provides an identity infused with pride rather than the negative offender label.

The veteran identity is reinforced through narratives in the program. Participants often connect their programmatic experience with their military experience in the essays read to the court. This connection displays the triumph of the veteran identity in improving the participant's life over the behavior that brought them to the court. By recognizing the positive qualities of the military that may facilitate program completion, the participants seem to work through the complex process that brought them to court. This process sometimes involves grappling with the notion that their military experience was partially responsible for their offenses. It is through narratives then, that the participants are able to carefully construct a path that led them to court, and the hopeful path they wish to take through court.

Finally, the veteran identity provides the participants with a community to assist in their time in the court. The veteran label allows participants to construct networks of similarly positioned people to garner support from during their time in the program. This community is then bolstered through the identity, as feelings of camaraderie are spotlighted in the court. Taken

together, the veteran identity eases community building, as the participants are able to identify the common ground they stand on.

Identity matters in the veteran court process. The mechanisms that underlie identity transformation are no doubt complex, but I argue that overall, consideration should be given to the ways that labeling can be positive. While traditionally, labeling theory looks to the negative impacts of labeling, or applying statuses to people who internalize those statuses negatively to produce behavior that conforms to that status, this chapter pushes Maruna's reconceptualization of this theory. Throughout this chapter, I have shown how the actors in the court suggest, or perhaps impose, a new set of identities on the participants in this court. The nature of these identities provides two accessible statuses to apply to their experience, facilitating their navigation through the program: the veteran identity and the identity of a participant.

First, the veteran identity is deeply engrained with the court processes, the language of the actors within the court, and the community the court provides. This veteran identity provides a more "pro-social" character identity for a participant to grasp, which helps shed the offender or criminal label attached to their interaction with the criminal justice system. This identity of veteran is well-respected within the court, and characteristics associated with the identity are brought to the forefront and highlighted as characteristics that will help the participant maneuver the court. The judge utilizes language to identify these characteristics when he speaks to participants, and also calls upon the identity traits associated with a veteran identity in the court, like honor and duty, to encourage participants that they are capable of progressing through the program.

Second, the veteran identity provides an avenue to build and bolster community between participants. This notion of community is important for this program, especially as the judge

encourages participants to utilize each other as resources and reach out when they experience problems. Through the events sponsored by the court and through interacting in treatment groups and at the VA outside of court, participants build community with each other, both as veterans and as participants of the court. The veteran identity and shared experience of the court also bolsters the bond of the community. The camaraderie felt between ex-service members provides a common thread of life experience and trauma, while the shared experience of the court program provides a common life experience of healing and recovery. With these bonds in place, participants are united and comfortable in sharing sometimes difficult experiences with each other. Additionally, they act as a support network in navigating the complexities of the legal system and the court program.

Finally, the veteran identity builds on the structure the participants feel is a particularly useful trait of the court. Many participants pointed to the utility of the structure the court provides, telling participants what to do and when to do it, especially at the risk of legal sanctions. For participants, this was a familiar structure to them. During interviews, participants compared their experience to being back in the military, where structure and orders are engrained in the military institution. Participants are able to employ their veteran identity to navigate this structure, comparing their military experience to the court experience. This familiarity provides a layer of comfort for some participants, able to fall back into patterns of discipline and accountability at the risk of their own success. However, this also harkens back to the unit mentality and the community of the court, as participant success is tied to the success of others, and failing in the program and failing themselves is seen as failing the larger community as well.

The second identity that the court provides is the identity of a participant. It is through this identity that the participant narrative is utilized to structure the transformation a participant is



expected to undergo in the court. Through the “participant” identity, the court imposes an anticipated trajectory of conversions as they progress through this court. Overall, this identity catalogues the participants’ journey to the court as one of the damaged veteran that is healed through treatment and therapy, as well as the adoption of the veteran identity. This “participant” identity captures the rehabilitative effort of the court, generally thought of as the mission court. By addressing the issues the veteran faces, the court imposes this therapeutic narrative on the participant as part of their institution: that the participant is able to heal, that the court assumes some responsibility for rehabilitating the participant, and that the participant is “released” back into society once those rehabilitative goals are met through treatment and therapy.

Capturing these identities has important implications for the desistance, identity, and narrative literature. Using identity can help facilitate pro-social behavior, as court labeling of participants with new, pro-social identities like “veteran” can help shed old, harmful identities like “offender”. A participant is assisted in absorbing this veteran identity, connecting it not only with their ability to succeed in the program, but to become successfully rehabilitated and reintegrated back into a non-criminogenic lifestyle. The utilization of identity has the potential to bridge gaps to other uses of law as a tool to help those that are subject to it, as other prosocial identities could be utilized to assist with a turn away from offending behavior. For example, identities of “parent” or “student” could be used to impose more positively perceived identities onto clients of other specialty courts to promote a positive sense of self, and cull law-abiding behavior based in identity transformations for participants.

## CONCLUSION

The notion that Veterans Treatment Courts are working to improve lives dominates the headlines of news articles written about these relatively new courts. Through the media, websites, and program handbooks for these courts, the claim that the people that go through the VTC program graduate a better person than before they came to the court is held front and center. These are powerful claims—the ability to rehabilitate someone into a law-abiding citizen through treatment and participation in a court program holds compelling implications for the future of rehabilitative tactics in the criminal justice system. I approached this dissertation research with these strong claims in mind, desiring to illuminate the mechanisms that underlie these supposedly effective programs.

While through this research, I do not necessarily ask the question of whether the court program is successful in rehabilitating its clients, I do offer several key mechanisms that undergird the operation of the court to contribute to a participant's willingness to change their behavior. That is, the goal of this dissertation was not to understand what contributes to long-term desistance from crime, but rather what contributes to short-term compliance with the court program and an inherent willingness to engage in behavior that suggests a “decision to change,” or the stepping stones to actualizing rehabilitation and law-abiding behavior.

I began this dissertation with a detailed portrait of how this particular VTC, the Orange County Veterans Treatment Court, functions. I explained the rules of the court and the progression of participants through the court. I also demonstrated how participants initially become involved with the court, the amount and kind of information on which they base their decisions to enter the court, and how participants arrive at their decision to plead into the court.

This research highlights the key decision-making factors as they relate to the clearing of the criminal record, an alternative to jail and prison, access to and accountability to treatment plans structured by the court, and/or a need to change one's life, as the offense represented a "rock bottom" of negative behavior and decisions. This chapter highlights the importance of the opting in process, which represents a participant's first step in their overall decision to change.

In the second chapter, I analyzed how treatment is utilized in the VTC program. In this chapter, I demonstrated how treatment was legalized during the court process. Though participants did not always agree with the kinds of treatment they were given, they did, overall, seem to recognize the value of treatment, especially in later phases of their court progress. This chapter explored how treatment becomes a part of the legal process; the often hidden and private nature of treatment was brought into the spotlight during public court hearings and wielded as a tool of the law to punish non-compliant behavior and incentivize compliant behavior. This chapter expands on the therapeutic jurisprudence literature, analyzing how treatment itself becomes a part of the legal process with attention to how this can both help and harm participants. Utilizing treatment in this manner holds participants accountable to their treatment plans, but may also have negative coercive perceptions as well that could damage participant perceptions of the court and compliance to the program.

Third, in this dissertation I examined how a procedural justice framework, traditionally explored in adversarial legal settings can be applied to rehabilitation-oriented legal settings. Two goals comprised the effort of this chapter. First, an examination of participant perceptions of rules, legal actors, and the court as an institution provided a detailed account of the court process. Second, this chapter advances our understanding of procedural justice, by placing it in a different context than it is usually analyzed, examining how procedural justice, legitimacy, and

compliance with the law functions in a non-adversarial, rehabilitative context. This chapter highlighted the interactions between the legal actors and participants, as well as the institution of the court itself to better understand how perceptions of fairness, trust in the court, and belief in the program's legitimacy are mediated through perceptions of rehabilitative efforts to affect commitment to compliance in the program. Overall, while traditional procedural justice research findings were present in this research, I suggest expanding the existing framework to reexamine the importance of outcomes in settings where the outcomes are not meant to feel punitive, but rather to rehabilitate those under the law.

Finally, in the fourth chapter, I demonstrate how identity is utilized in the court process to facilitate the goals of the court to reintegrate participants into a non-criminogenic lifestyle. In this chapter, I demonstrate how the court, through language and interactions with court actors, mentors, and other participants reaffirms a "veteran" identity for participants. This re-labeling and fostering of a pro-social identity assists a participant in shedding offender labels. The veteran identity offers a community for participants to interact within, forming support networks based in both veteran and participant identities, facilitating court progress. It also provides structure and familiarity to the participants to ease their navigation of the court program. In addition to the veteran identity, the court, through its mission statement and construction of "participant" identities, may impose a second identity and narrative onto participants of a "participant in transformation." This identity offers a therapeutic narrative that participants are expected to reaffirm through their essays and construction of their progression through the court. Taken together, the court implies that participants are veterans, who, through service to the country were traumatized. Moreover, through treatment and a reaffirmation of the veteran identity,

participants can navigate the court structure and utilize treatment to be rehabilitated and reintegrated into a pro-social lifestyle.

### **The Decision to Change**

Altogether, I suggest that the court mechanisms, both legal and extra-legal, function together to influence a participant's perception of the court and themselves as they go through the court, which in turn influences their overall decision to change. The three pillars of the court that influence perceptions the participants hold of the court are: 1) therapy and treatment to attend to the root causes of criminality, 2) procedural justice and belief in legitimacy of the court, and 3) the implication of identity and identity transformations.

The court functions primarily on its basis to provide treatment to veterans who have been wounded psychically and psychologically by war. The court offers access to treatment and resources to get veterans to the treatment they think they need to combat a host of issues associated with military trauma, like substance abuse issues and mental health issues/PTSD. This treatment underlies the foundation of the court and one of the most important things that separates the VTC from traditional court. However, as the second pillar of the court provides, the belief that the VTC is the right place to receive treatment and that it is equipped to do so contributes to programmatic compliance for participants. That is, traditional procedural justice concerns like fairness, trust in court actors, and care by court actors contribute to participant perceptions of procedural justice and legitimacy, but these perceptions are filtered through perceptions of the court's ability to treat and rehabilitate participants successfully. The court, then, operates on a basis of its ability to provide procedural justice, as perceived through the substantial justice it provides in the form of rehabilitation. Finally, identity links into the processes of treatment and procedural justice as it provides the framework and narrative to

undergo rehabilitative transformations. The use of positive labeling assists the participants in accepting treatment, shedding “criminal” labels, and achieving pro-social reintegration into a non-criminogenic lifestyle.

These three mechanisms contribute to participant decisions to change. Through treatment, perceptions of procedural justice filtered through the rehabilitative goals of the court, and identity transformations that participants undergo, the impetus for short-term change is committed to and actualized. The mechanisms described in this dissertation comprise the efforts of over three years of ethnographic work and an analysis of participant experiences at the court as well as my observations of the program. This dissertation provides a new framework to understand other VTCs and problem-solving courts, and, overall, advances our understanding of the complex system of the VTC.

### **Limitations**

At the outset of this research, I wanted to understand the mechanisms that seemed to operate at the Orange County Veterans Treatment Court. This site, the first in California and one of the first in the nation, seemed especially fitting to conduct my research at, considering its role relative to other VTCs. The OC VTC is one of four mentor courts in the nation, meaning that other jurisdictions, sometimes even international jurisdictions, that are attempting to understand how VTCs function, looking for advice and structure on how to institute their own VTC or similar programs, come to this court for training. Other courts often attend the weekly progress hearings, meet with the judge and the various members of the courtroom workgroup to ask questions and witness how the court operates. What this suggests, is that though this research is based on only one location of VTCs, this particular location potentially has a great deal of

influence on other locations, on a basis of its mentorship. However, this research is not without its limitations, especially with regards to generalizability.

This research provided an in-depth, ethnographic investigation into how the Orange County Veterans Treatment Court functioned, based in three years of observations and twenty-three interviews with participants and the judge of the court. While this research explores what seems to contribute to participant perceptions of the court, especially with regards to compliance with the court, the outcomes discussed in this dissertation should be considered a jumping off point for more systematic research to be conducted. Considering the variation in VTC implementation and its wide spread across the nation, these findings should be utilized to illuminate where veteran treatment court research should potentially focus its efforts, especially with regards to the effectiveness of this style of specialty courts. Because the variability of VTC implementations and the legal constraints that may fluctuate between jurisdictions, the mechanisms of this court may not apply evenly across VTCs. However, this dissertation can encourage research with regards to what seems to work within these programs, especially as this research does not necessarily concern long-term desistance from crime, but rather focuses on more short-term processes of decisions to comply with the law, and commitment to rehabilitation, which could have long-term effects for participants.

Another limitation to this dissertation was that the participants interviewed were participants that were successfully complying with the program at the time of their interview. If participants terminated the program or were terminated from the program, I was not able to track them or conduct interviews with them. Without conducting interviews with those that either self-terminated or terminated from the program, this research could be missing pieces to better understand what works and what does not work in the program. Terminating the program could

have important implications with regards to treatment, procedural justice, and identity, or other mechanisms that may influence participant decisions to change and comply with the law and/or treatment plans. For the most part, it seemed as though those that terminated from the program were treated the same during the progress hearings that I observed, which suggests something that may occur during other aspects of the program or internally with the participant that interviews with this population could help uncover.

Along this same line, another limitation of this study is that this research only captures those that opt into the program, it would be useful to better understand why people *do not* opt into the Veterans Treatment Court program. For example, the first chapter noted that participants did not feel they had a lot of information when it came time to make the decision to enter the court, but ultimately joined the program for a variety of reasons that included staying out of jail/prison, rehabilitation or treatment that they felt they needed, or striking the charge from their record. However, what happens when a participant does not feel strongly swayed by any of the reasons listed above? For what charges or kinds of participants might VTCs not be a good fit? This research captures only those participants that chose to enter this court, but does not capture what may make this program unappealing to potential clients.

Finally, during this project, I only interviewed participants at one particular stage of their program progression. Participants were either interviewed upon their graduation (or as past graduates of the program), or during an earlier phase in the program. To better capture fluctuating perceptions of the court and identity transformations, this future research should capture participant perceptions of the court at multiple stages of the court to identify key moments of decision-making as well as potentially changing opinions of the court over time. My longitudinal observations, especially observations of the promotional stages which saw



participants reading essays, which acted as windows into their perceptions of the court, helped to mitigate some of the consequences of singular interviews with participants. I was able to generally track participant progress over time, but, a more systematic interview process would benefit a deeper understanding of court mechanisms and their influence on participants.

### **Future Directions**

Because this project began as an exploratory study, and only one court was utilized as a research site, this line of research on VTCs and the mechanisms exposed within would benefit from comparisons between research sites. As mentioned earlier, VTCs vary widely in their implementation, and a comparison would allow me to examine the different kinds of mechanisms deployed by courts with different rules, procedures, and populations. Other courts take on clients with different levels of charges, vary in length, vary in treatment plans and involvement of court personnel. Additionally, some courts require total abstinence from all substances, like the OC VTC, while others only require that substance abuse levels are lowered for each participant to levels that show improvement. To understand what seems to be most effective in VTCs for the participants that go through the court program, it is important to compare the mechanisms of different jurisdictions.

Ultimately, future research would do well to place the findings from this research to study other specialty courts to determine what similarities and differences lie between specialty court implementation with different target populations. Ideally, this research would be carried out in a community court system, which often utilizes a common staff and judge. Utilizing research sites in multiple types of specialty courts could illuminate the importance of some of the mechanisms researched in this court as applied to other demographics of participants. For example, positive labeling could be explored in a context where an immediately identifiable

identity of “veteran” is not present, but where other pro-social labels might still exist, like “parent” or “student.” Doing so could help explore the complexity of identity in a legal setting like specialty courts, where the goal is not harsh sentencing, but rehabilitation. Both projects would advance our understanding of specialty courts as a growing alternative to traditional sentencing patterns as well as our understanding of patterns of criminality and desistance.

In addition to my focusing efforts on expanding research on specialty courts and VTCs specifically, future research should more fully explore the experience of the military veteran in the criminal justice system. Conducting research on incarcerated veterans to understand what happens to the subset of veterans who do not go through VTCs and to understand their perception of the criminal justice system, for example, seems an equally important endeavor to undertake. The intersection of PTSD, substance abuse, and criminal behavior is deeply rooted in the VTC’s treatment plan, so I would like to investigate how VTC treatment aspects could be incorporated into other aspects of the criminal justice system. For example, a jail in Texas has recently implemented a veterans-only dormitory, and it appears that pro-social identities and community-building are integral to the potential success of this program in curbing recidivism rates and violence within the jail for the affected population, just as my research in VTCs would predict.

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## APPENDIX

### *Appendix A: Observational Variables and Concepts*

#### Court Sessions:

- Length of court calendar
- Average time spent on each participant
- Number of participants at each session
- Number of court mentors at each session
- Number of participants in compliance
- Number of participants sanctioned
- Number of promotions
- Number of graduations
- Number of terminations

#### Interactions Participant/Judge

- Use of military language
- Supportive comments
- References to military identity
- References to other identity

#### Interactions Participant/Participant

- Supportive comments
- Jokes
- Non-verbal support
- Remarks made about court

#### Interactions Between Legal/Treatment Team

- Judge references deference to treatment team
- Team members agree in progress updates
- Team members disagree in progress updates

#### Essays Read in Court

- Reference to military history
- Reference to court changing lives
- Reference to treatment plan
- Thanks court
- Military language
- AA and 12-Step language
- Reference to “Change” from who participant was



## ***Appendix B: Interview Instrument***

This instrument is used for both graduates and current participants, with some questions omitted or worded differently to fit their program status.

### **I. Introduction**

- Explanation of Study & Consent
- How long has it been since you have graduated?
- About how long were you in the program?

### **II. Involvement with VTC:**

1. How did you become involved with the VTC?
  - a. How much did you know about VTCs before your involvement?
  - b. Who facilitated your involvement with the VTC?
2. How did you feel when you had to plead guilty?
  - a. What does pleading guilty mean to you?
    - i. How do you feel about its requirement for the program?
  - b. How much of a choice did you feel you had?
  - c. What were your other options?
  - d. Did you have a private attorney? How much were you informed along the way?
  - e. What made you decide to enter the program?
3. Have you ever been informed of others' experiences in the VTC? Can you tell me about that?
  - a. Did you ask other veterans/participants about their experience?
  - b. What kinds of things did you ask?
  - c. How did you learn about the court? Did you feel like you had enough information?
4. How are VTCs viewed in the veteran community? (By other vets not involved? By other vets in the program?)
5. How do participants in VTCs share their experiences with the veteran community?
  - a. Do you think those outside the court view the program favorably?
6. Do you keep in touch with people from the program? Would you like to?
7. Scale questions: How much, on a scale of 1-5, do you agree with these statements? (5 being strongly agree)
  - a. I feel like a part of the veteran community.
  - b. I have formed strong relationships as a part of this program.
  - c. I share my experience with the VTC with others.
  - d. VTCs are viewed positively by veterans.

### **III. Experience with the VTC:**

8. How do you feel about your experience with the VTC?
  - a. How did you feel in the beginning?
  - b. How did you feel as you continued to go through it?
  - c. How did you feel by the end?
9. Did you feel as though there was a turning point in the program or were you steady throughout?

- a. How much did you believe in the program at each step?
- 10. How do you feel you have been treated in the program?
  - a. How do you think participants should be treated?
- 11. How might you have felt if you were in a different program? Traditional court?
- 12. What do you think VTCs did well?
- 13. What aspects of VTCs could be improved?
- 14. Can you tell me a little bit about your interactions with other veterans in the program?
- 15. Can you tell me about your interactions with court employees in the program?
  - a. How much did you feel that the court employees understood you?
- 16. How important do you think it is for court staff to be veterans?
  - a. How about the judge?
  - b. Did it matter for you?
- 17. How much of a punishment did the court feel like to you?
- 18. Scale questions: How much, on a scale of 1-5, do you agree with these statements? (5 being strongly agree)
  - a. I feel like VTCs are fair programs.
  - b. I feel like VTCs are the right place for me.
  - c. I prefer VTC over a traditional court route.
  - d. I interact with veterans in the program.
  - e. I have positive interactions with court employees.

#### **IV. Identity and the VTC**

- 19. How do you think the VTC has changed how you view yourself, if at all?
- 20. How did you feel at the beginning of your participation in the program?
  - a. How do you feel now?
- 21. How much does having an identity matter to you? What would you say your identity is?
- 22. How much do you identify as a veteran? If someone asked if you were a veteran, how would you respond?
  - a. How much do you think being a veteran helped you at all in your program completion?
  - b. Do you think you identify less, more, or the same after the program than you did before?
- 23. What was your relationship like when you separated from the military?
  - a. How do you feel now?
  - b. Did the court change how you felt about your veteran status at all?
- 24. Scale questions: How much, on a scale of 1-5, do you agree with these statements? (5 being strongly agree)
  - a. I identify as a veteran.
  - b. I am proud of being a veteran.
  - c. Veterans deserve a chance to go through the VTC program.

#### **V. Program Criteria**

- 25. How fair do you think the rules of the VTC are?
  - a. What do you think fair rules look like?
- 26. How difficult do you think they are to follow?
- 27. What did you do to make sure you are in compliance?

28. Were you sanctioned in the program?
  - a. How many times?
  - b. For what?
  - c. Did you feel they were justified?
  - d. How did you feel about the punishment that went with the sanction?
29. What happens if you are in disagreement with the court? (Probe: Can you tell me about a time you have disagreed with the court? What about witnessing someone else?)
30. What do you think about the court essays?
  - a. How much did it help, if at all, to hear them read?
  - b. How much did it help, if at all, to write the essays? Read them?
  - c. How much control did you have over the writing process?
    - i. Did it matter to you?

VI. **Conclusion:**

31. Do you feel like the program was the right decision for you?
32. What might have happened had you not completed the program?
  - a. Do you think you would have gotten to the treatment you needed?
33. What were positive influences in helping you to complete the program?
34. What might have happened if you didn't complete the program?
  - a. Do you think it was worth it?
35. Looking back, would you have done anything differently?
36. Could the court have done anything differently?
37. Is there anything else you think I should know to understand your experiences better?
38. Is there anything you would like to ask me?