

## Veterans Courts Help Some, But Leave Many Others Behind

By Jack Karp

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In this December 2019 photo, Charles Quiett receives an American flag from Judge Michael Gallegos after being the first person to graduate from Veterans Treatment Court in Maryville, Tennessee. (Tom Sherlin/The Daily Times via AP)

No one asked Manuel Gomez if he was a veteran when he was arrested for burglary in Los Angeles in 2014.

A former U.S. Navy quartermaster, Gomez had contracted tuberculosis during a deployment, making it difficult to do his job and leading to mental health issues and a drug addiction that got him kicked out of the service. Once a civilian, he turned to crime to support his habit.

Gomez would seem like the ideal candidate for LA's veterans treatment court, a specialized court that coordinates with the U.S. Department of Veterans Affairs and other organizations to help former service members who run into trouble with the law because of addiction or mental health issues.

But Gomez was never told about the program. Even if he had been asked, his general — rather than honorable — discharge would have barred him from participating in the court.

"I hold myself accountable, and I make no excuses. But nobody even thought about asking the question, are you a veteran? There was no outreach VA worker. Nobody was properly informed about veterans treatment court," Gomez told Law360.

Instead of getting help, Gomez, who now works as a supervisor for LA County's Department of Veterans Affairs, was sentenced to six years in prison.

Veterans treatment courts have helped thousands of former service members get much needed help for addiction and mental health problems rather than being incarcerated. But strict eligibility criteria, difficulty identifying veterans in the justice system, and a limited number of courts combine to turn away many veterans who most need their services, according to veterans' advocates.

So those advocates are trying to change how the courts operate to ensure that no veteran in need falls through the cracks.

"This is not radical. This is about giving a veteran who raised their right hand to serve the United States a hand up, not a handout," said retired U.S. Army Colonel D.J. Reyes, who mentors veteran defendants in Florida. "They made a mistake. Does that mean we just throw them in prison with no rehab or treatment?"

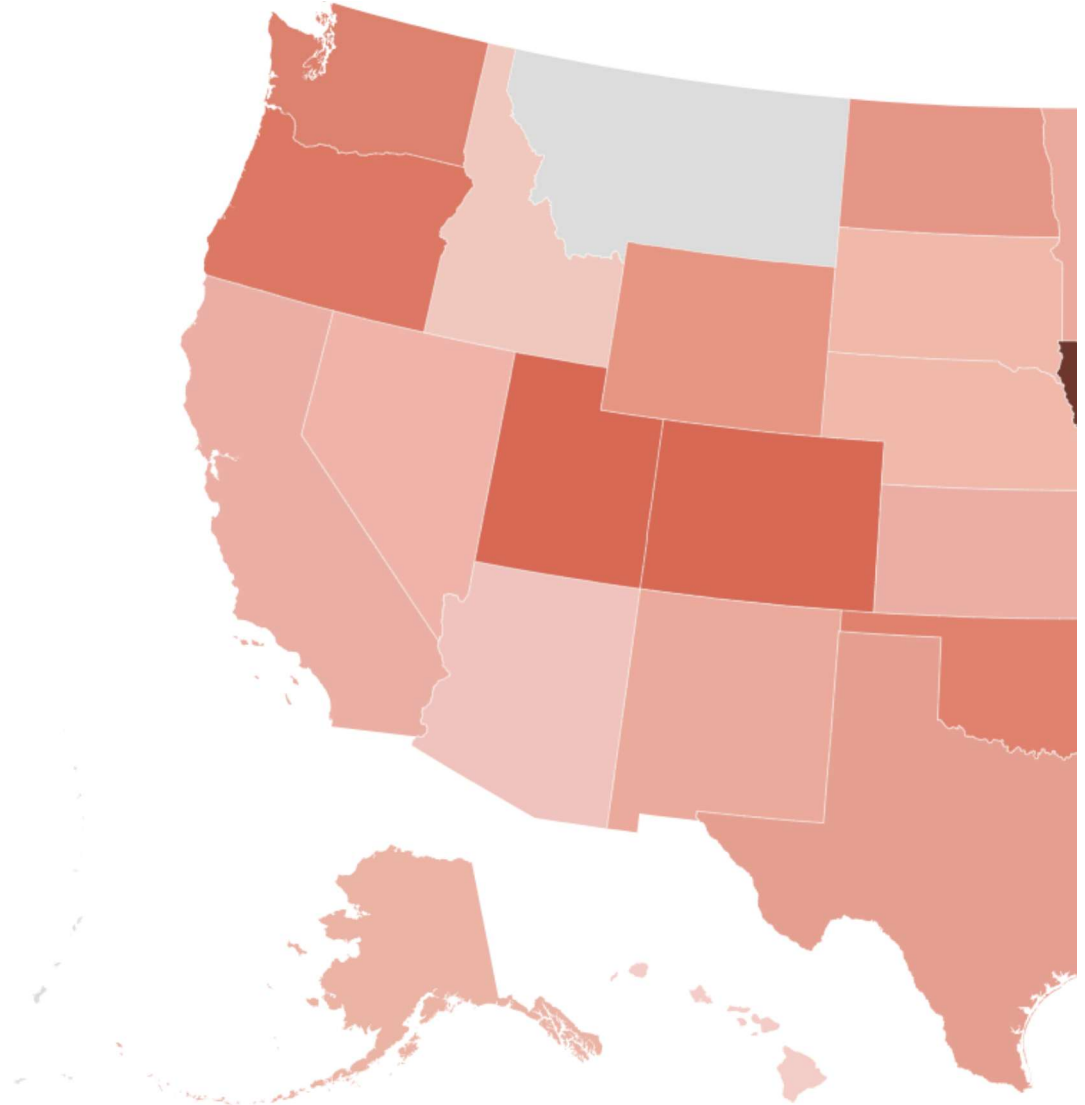
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# Veterans Treatment Courts Expanding, But More Needed

There were 552 veterans treatment courts nationwide as of 2021, according to the National Treatment Court Resource Center, and that number is growing. But as many as 85% of U.S. counties still don't have a VTC and far more are needed, say advocates.

Toggle between:  Counts  Ratios

Veterans per treatment court



*Note: As of 2021, there were zero veterans treatment courts in Connecticut (140,684 veteran population), Mississippi (155,272), Montana (80,953), New Jersey (283,485), Puerto Rico (64,295), Vermont (31,971), and Washington, D.C. (19,377). Guam's total veteran population was not listed in the 2021 American Community Survey 1-year estimates.*

## Treatment Instead of Incarceration

Hundreds of diversionary courts intended specifically for criminal defendants who served in the military have sprung up across the country since the first veterans treatment court, or VTC, was established in Buffalo, New York, in 2008.

VTCs integrate the criminal justice system, the VA, drug treatment programs, community organizations and veteran mentors to offer help and services rather than incarceration to former service members who run into trouble with the law due to substance abuse or mental health issues.

A growing number of veterans need that help, according to experts, who blame that increase on post-traumatic stress, traumatic brain injuries, addiction, military sexual trauma and difficulty readjusting to civilian life after repeated deployments during the wars in Iraq and Afghanistan.

One in three veterans report having been arrested, according to the Council on Criminal Justice's Veterans Justice Commission. Around 181,000 veterans are currently behind bars, according to All Rise, a nonprofit that provides training and best practices for specialized treatment court programs.

"When we take our young men and women, and we train them to be part of the most lethal force on the planet, and then we ask them to go do their job, some of them struggle when they come home with just being normal again," said Veterans Justice Commission Director Jim Seward.

So VTCs are intended to sentence veterans who plead guilty to usually lower-level, nonviolent offenses to addiction and mental health treatment and mentorship rather than prison. Defendants attend regular treatment sessions, discuss their progress with the court, and undergo random drug testing, among other requirements.

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Colonel D.J. Reyes

U.S. Army

"We want to drill down to the root cause instead of just doing a Band-Aid fix," said Reyes. "Treat them, reassimilate them back into the community with their loved ones, and then they become productive, tax-paying citizens."

The programs have been successful, according to experts.

VTCs help approximately 15,000 veterans each year, according to Scott Tirocchi, division director of Justice for Vets, All Rise's veterans court division.

The court in Hillsborough, Florida, where Reyes mentors defendants, averages a single-digit recidivism rate, he said. In Ohio, Cuyahoga County's court has a graduation rate of 76.2%, according to Judge Andrew J. Santoli, who presides over that VTC.

And only 9.1% of the participants of the VTC in Oklahoma County, Oklahoma, are charged with a new offense after completing the program, according to Program Coordinator Kiel Kuroki, a U.S. Air Force veteran who participated in a veterans diversion program himself.

"I would say that is wildly successful," Kuroki said.

### **Falling Through the Cracks**

But many of the veterans who most need help aren't getting it, advocates say.

According to the U.S. Department of Justice, VTCs only serve about 10% to 15% of justice-involved veterans.

That's in part because many courts have strict — some advocates say too strict — eligibility requirements.

Approximately a quarter of all VTCs don't admit those with other-than-honorable discharges, often because those without honorable discharges are ineligible for most VA benefits, and VTCs use VA benefits, Seward said.

That's what happened to Gomez, who received an other-than-honorable discharge from the Navy as a result of his mental health problems and addiction. Many veterans' other-than-honorable discharges result from post-deployment PTSD or even policies like Don't Ask, Don't Tell, which mandated the discharge of openly gay service members, Gomez points out.

And the kinds of issues that often get veterans kicked out of the military are often the same issues that later get them in trouble with the law, according to advocates.

"So I think we need to radically change who's eligible for treatment courts," Gomez said.

Other eligibility criteria keep even more justice-involved veterans from accessing the help they need, according to experts.

About 43% of VTCs bar veterans who've committed violent offenses. And in many of those courts, prosecutors rather than judges decide who gets admitted, Seward said.

"Normally the prosecutor is the gatekeeper," said Seward. "If the prosecutor says, 'No, Jim's a public safety risk, I want him in prison,' then Jim is not allowed into the veterans treatment court."

The criminal justice system also often fails to identify veterans within the system, according to Dr. Christina Lanier, co-director of the National Treatment Court Resource Center.

Some police departments don't ask about military status when a defendant is arrested or booked, and some veterans choose not to report their military experience, Lanier said.

"When I got arrested, I was embarrassed," said Gomez. "I didn't even want to say I was a veteran because I was so embarrassed."

And the exceedingly limited number of VTCs further exacerbates the lack of access. Around 85% of the counties in America don't have a VTC, and there are barely any veterans courts in the federal court system, according to Seward.

Congress did pass the Veterans Treatment Court Coordination Act in 2020 directing the attorney general to establish a grant program to help fund state and local VTCs, but there seems to be no organized effort to create VTCs at the federal level. Only a few federal VTCs have been established by individual federal judges.

"At last count, I think you could count them on one hand," Seward said.

The result is that, while VTCs have helped many service members, a good deal of veterans are still falling through the cracks.

"If there is a veteran and they cannot easily access a veterans treatment court where they can receive veterans-specific treatment, veteran-specific services, then I think you do need more," Kuroki said.

### **Casting a Wider Net**

Those who advocate for and run VTCs are working to seal some of those cracks.

When Cuyahoga County's VTC was established in 2015, the court opened eligibility to any veteran with either a substance use or mental health diagnosis, or both, who pleads guilty to a probationable offense, according to Judge Santoli.

That includes veterans without honorable discharges and those charged with a broader range of low- to mid-level felonies, including some violent crimes, the judge said.

"We wanted to cast a wide net to serve as many people as possible," Judge Santoli said.

Reyes has advocated for loosening the eligibility criteria for Florida's VTCs before the state legislature. And lawmakers responded in 2022 by changing the honorable-discharge qualification and opening the courts to any U.S. Department of Defense worker as well as service members from foreign militaries who reside in Florida, according to Reyes.

"I think they saw the wild success we were having in the veterans treatment court and that a lot of our veterans that are having mental health and substance use problems were kicked out of the military because of that," Reyes said. "Those are the very people we need to help."

The Veterans Justice Commission has also issued a model policy framework that includes making all veterans with any but dishonorable discharges eligible for VTCs. And even dishonorably discharged service members would be allowed to participate if they're diagnosed with a substance use disorder, military sexual trauma, traumatic brain injury, PTSD or certain other mental health conditions defined under the proposed guidelines.

The guidelines also give judges rather than prosecutors discretion in deciding which veterans are eligible to participate in the VTC.

California adopted most of that framework in September, expanding eligibility from defendants with just misdemeanors to also include felonies, while Nebraska enacted the framework this year, according to Seward, who said that about a dozen more states are considering doing the same.

And many VTCs, including Santoli's in Cuyahoga County, are adopting the Veteran Reentry Search Services system, which helps law enforcement agencies identify individuals with military service records who have been recently arrested.

"We're always looking to see where we can fine-tune our best practices, but I think that there have really been improvements in the last 10 years in veterans treatment courts," Judge Santoli said.

And Reyes, who is helping to start up more VTCs at the federal level, is also advocating for including them in the Native American tribal court system, pointing to the large number of Native American veterans with mental health, substance use and military sexual trauma issues.

"We've got a lot of Native Americans falling through the cracks. They haven't heard of the VA. They've been told, 'Don't go to the VA.' They can't get to the VA because they live hundreds of miles away," Reyes said.

These advocacy efforts appear to be working.

In November alone, new VTCs were launched or announced to serve justice-involved service members in Baltimore and four surrounding Maryland counties; Douglas County, Kansas; Tennessee's Eighth Judicial District; and the Cherokee Nation, which will open Oklahoma's first tribal VTC early next year.

Advocates hope that these changes will allow VTCs to help even more veterans in more places.

"You have individuals that decided to serve their country, and some of them come back with emotional issues that led them down the road to substance or mental health issues and which cause them to sometimes commit crimes. And I think it's our responsibility to serve those people and to get them back on the right path," Judge Santoli said. "It's the least we can do."

--Editing by Kelly Duncan. Graphics by Ben Jay.

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