

# Justice-Involved Women Veterans: Recommendations for gender-inclusivity in Veterans Treatment Courts

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## Abstract

*Veterans Treatment Courts (VTCs) are one of the many specialty courts that have evolved over the past twenty years. During this time, hundreds of VTCs have emerged despite little empirical support for their effectiveness. The VTC literature touts the success of these courts and suggests that the veterans who sacrificed so much for our country's safety and prosperity deserve a "second chance" from our criminal justice system. Much of the VTC research includes mostly male justice-involved veterans (JIVs) with little mention of JIV women, women as VTC teammates, and a glaring void regarding women mentors. This article reviews recent VTC research and summarizes what we know about JIV women. Additionally, we identify gaps in the literature concerning the characteristics and needs of JIV women. Lastly, this article makes recommendations as to how the justice community could better serve the needs of JIV women.*

**Keywords:** women veterans, veterans treatment courts, justice-involved veterans, therapeutic jurisprudence

For the past two decades, many justice-involved veterans (JIVs) have participated in Veterans Treatment Courts (VTCs). VTCs have provided JIVs with second chances to avoid the stigma, pain, and enduring consequences of incarceration through collaborative, evidence-based approaches like those found in drug and mental health specialty courts. VTCs emerged in the early 2000s and as of 2020, there were 476 VTCs in over 33 states (National Drug Court Resource Center, 2020). According to Douds and Ahlin (2019), over 7,700 veterans have participated in VTC since its creation; however, only a small fraction of those participants are women. In 2014, the Disabled American Veterans (DAV) recommended that the Department of Veterans Affairs (VA), the Department of Justice (DoJ), and the Department of Defense (DoD) developed initiatives to better understand the experiences of women veterans involved in all facets of the criminal justice system, particularly VTCs. Yet, little funding, programming, or research has emerged over the last five years to support these initiatives (DAV, 2014). This commentary takes a closer look at VTCs and offers unique perspectives on JIV women in these specialty courts.

## What We Know about Women Veterans

### Characteristics of Women Veterans

Despite the historic and projected growth of women veterans, they constitute one of the smallest subgroups of veterans and are considered one of the most understudied groups in veterans' research (Loftquist, 2017). Over 2 million women veterans reside in the U.S. and its territories, and they make up about 9% of the U.S. veteran population (U.S. Department of Veteran Affairs, 2017). Loftquist (2017) reported that veteran women make up about 1.2% of adult women nationwide. About 66% of women veterans identify as White, 19% identify as Black, and 9% as Hispanic. Black women in the military are overrepresented (19% v. 12%) while Hispanic women are underrepresented (9% vs. 16%) in comparison to their civilian counterparts. Most women veterans are married (49.4%) and slightly more than 16% have never married. Many women veterans have no children (71.4%). Women veterans report higher levels of education than their civilian counterparts in that slightly over 20% have a bachelor's degree, compared to 18% of civilian women and almost 14% have advanced degrees compared to 10% of civilian women. Interestingly, while over 95% of veteran women have no health insurance, almost 70% do not use the VA healthcare system, despite a sizable portion of women veterans (23.4%) with service-connected disabilities (U.S. Department of Veterans Affairs, 2017).

### Characteristics of Justice-Involved Women Veterans

Most women veterans (56%) served during the Gulf War, Operations Enduring Freedom (OEF), and Operation Iraqi Freedom (OIF) while another 24.5% served during peacetime, and another 18.6% served in World War II, the Korean War, or Vietnam (U.S. Department of Veterans Affairs, 2017). The U.S. Department of Labor (DoL) projects the total population of women veterans will grow between 9.6% to 11.8% per year from 2017 to 2025. Further, the DoL (2017) expects women veterans to comprise at least 10% of the

veteran population in all states by 2025 (Lofquist, 2017). While these data paint a portrait of women veterans, it fails to provide information about JIV women veterans.

As we have little data on JIV women, it remains difficult to assess the nature and extent of their experience in the criminal justice system; however, looking at incarcerated veteran data can be a good starting point. Since 1991, the Bureau of Justice Statistics has surveyed state and federal prisoners regarding military service. In their most recent report, Maruschak et al. (2021) gathered data from 107,400 veterans incarcerated in 12 state and three federal prisons. Their report indicates that only 1.8% and 2.1% of the veterans were women serving time in state and federal prison, respectively, which equates to roughly 2,000 incarcerated women veterans. Unfortunately, due to the small number of incarcerated women veterans, the report only provides descriptive data regarding age, race, combat status, service branch, service era, prior incarceration, current sentence, and offense type for male veterans. Using data from a nationally representative sample of inmates incarcerated in state prisons, Brooke and Peck (2019) found that women veterans who had been exposed to combat while enlisted had increased chances of incarceration for a drug offense rather than a violent offense, compared to women veterans with no combat exposure. The authors also found that women Marine veterans were more likely to commit drug offenses than violent crimes, compared to women Army veterans. Lastly, Brooke and Peck (2019) found that discharge status had an effect on women veterans. Specifically, women veterans with a satisfactory discharge were shown to have a lower likelihood of being incarcerated for drug offenses than for violent offenses, compared to women veterans with a less than satisfactory discharge from the military. Findings from reports and studies indicate that military experience has an impact on women veterans' offending. As such, there is a need for programs to address the legal and extralegal issues of women veterans. While gender-neutral, one example of programs in place to provide treatment and prevent reoffending for veterans is VTC.

Baldwin's (2017) study of national VTC data identified the increase in the number of female participants in VTC since their inception in 2009. Based on her review of 79 VTCs across the U.S., women comprise about 5.6% of the VTC participants, which was slightly lower than the national veteran population. Similarly, in one of the most comprehensive studies to date, Tsai et al. (2017) examined over 22,000 veterans in 142 VTCs or other treatment courts using VJO data from the VA Homeless Operations Management and Evaluation System. The data included 418 women (5%), but there was no meaningful discussion of women veterans. Lastly, in their groundbreaking work on VTCs, Douds and Ahlin (2019) discussed the lack of data regarding JIV women and the challenges of identifying veteran women as potential VTC participants. However, these authors, like others, had limited JIV data on women to work with. In sum, we know extraordinarily little about JIV women.

## Where Do We Go from Here?

While we know little about the number of women veterans and some demographical data about incarcerated women veterans, we have yet to paint a full picture of JIV women veterans. These invisible veterans merit more attention and would be better served with a more robust accounting of veteran women in the criminal justice system. The BJS model

should be expanded and updated more frequently. As national, state, and local data sources have yet to prioritize the collection of data regarding women veterans, expanding data collection is the first of many steps needed to gain a more accurate picture of JIV women. As Douds and Ahlin (2019) note, data about JIV women comes primarily from the corrections community, yet there is little information about JIV women at the gateway to the criminal justice system. Similarly, an improved accounting of JIV women would enable the VTC communities to better staff, train, and support more inclusive and gender-responsive efforts. While the national and state-level veteran affairs departments provide a foundation for women service member data, there should be a mechanism for pairing these data with state-wide JIV veteran data. This joint effort must include law enforcement agencies, criminal courts, and correctional institutions and could serve as the first step in capturing more comprehensive and accurate JIV women veteran data.

Therapeutic justice advocates and problem-solving court stakeholders, such as VTCs, could lead the effort to capture these data. Although veteran women's participation in VTC may be more likely a result of discretion by police and other criminal justice personnel responsible for the identification, screening, recruitment, and referral of veterans to VTCs including prosecutors, Veterans Justice Outreach Specialists (VJO) must modify their efforts to serve women JIVs. Baldwin (2017) reported that while many VTCs in her study identified military history early in case processing to determine eligibility, almost half of the VTCs reported that identification occurs later in case processing such as in probation violation, sentencing, or post-sentencing phases. VA officials and other criminal justice personnel have access to a unique database, Veterans Re-entry Search Service (VRSS) that could be employed to identify the gateway to the criminal justice system and allow VTCs to stay true to their founding principles.

Identification at later stages of the criminal justice process runs counter to the founding principles of VTCs. In their study of the identification process of potential VTC participants in Pennsylvania, Douds and colleagues (2017) found that while there is no standardized process for identification, five identifiers are playing a role in the identification of potential participants. These identifiers are the VJO, police and corrections, the district attorney, the defense counsel, and self-identification. Additionally, in their analysis of the National Institute of Justice's data from a multisite evaluation of eight VTCs, Baldwin and colleagues (2018) found that while identification occurred in the initial stages of case processing for many VTCs (58%), identification also occurred through case processing. Veteran identification at later stages of case processing is less than ideal, as the VTC model is envisioned to work most effectively when veterans are diverted early in the traditional criminal justice process.

In the few instances where women have participated in VTC programs, it is fair to ask about their effectiveness. Are VTCs equally effective for men and women, or are VTCs, like many other aspects of the VA programs, limited in their ability to meet the gender-specific needs of women veterans? While prior research has established gender-specific risk factors leading to the commission of crimes, VTCs remain gender-neutral and do not separate treatment requirements for men and women veterans (Brooke & Peck, 2019). Thus, when

offered to participate in VTCs are women more likely than their male veteran counterparts to opt-out, knowing the time commitment, the difficulty of such a demanding program, and the unlikelihood that their needs will be met by the court and services providers recommended by the court? To answer these questions, more standardized record-keeping must occur at all stages of the VTC process. Additionally, more outcome evaluations of VTCs must consider women veterans and examine whether the current VTC model meets the needs of JIV women.

The VTC model, although based on therapeutic jurisprudence, remains entrenched in military culture and rigidly structured, which may seem untenable and unattractive to JIV women. Family services such as childcare, weekend or evening availability, and accommodations for families with exceptional children are not a key consideration among those who manage the typical VTC program (Washington et al., 2007). Moreover, women JIVs may be reluctant to commit to a 12-18-month program like those offered via VTCs and opt for a more traditional, streamlined plea bargain process that typifies the assembly-line model. Lastly, many women desire services that include family members, yet the VA and other providers (e.g., Vet Centers, and private practitioners) may be limited by legal or resource-based constraints impacting these services (Disabled American Veterans, 2014; U.S. Department of Veterans Affairs, 2015).

The way forward might be found in the 2020 report by The National Resource Center on Justice Involved Women (NRCJIW). The report recommends several strategies for more effective responses to women veterans. They identify key barriers to identifying and serving JIV women veterans including flawed JIV identification protocols, lack of knowledge about available services, loss of VA benefits and Dependency and Indemnity Compensation (DIC), and enrollment obstacles (Ramirez, 2013). The NRCJIW offers a multi-faceted approach that is relational, strengths-based, trauma-informed, culturally competent, and holistic to better serve JIV women (2020). Their approach includes strategies for courts and corrections that focus on gender-specific approaches that include timely and effective identification of veterans, gender-responsive assessment of unique needs and risks, alternatives to incarceration, specialized dockets, treatment protocols, and reentry programs.

## Conclusion

This paper summarizes the research on justice-involved women veterans and identifies factors that contribute to the absence of women veterans in VTC programs. We seek to raise awareness of potential implicit bias among some of the criminal justice players who encounter justice-involved women veterans and the complexities involved in responding to the needs of JIV women. As the proliferation of VTCs continues, so does the need to ask these important questions. VTC team members can help answer these questions and lead the effort toward a systematic process for identifying and interviewing women veterans involved in the criminal justice system. Further, VA staff and VJOs can help address the gaps in awareness and understanding of gender-specific issues and cumulative trauma that women veterans experience by fully incorporating the VRSS. VTC stakeholders must become better informed about mental health, substance use, post-traumatic stress disorder (PTSD), trauma

history, employment, family, and housing issues of one of the most under-researched, under-resourced, and misunderstood segments of the veteran population—the woman veteran.

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