



Shutterstock.com

# FAQs

## VIOLENT OFFENDER PROHIBITION

Under the authorizing statute for the Adult Treatment Court (ATC) Discretionary Grant Program, Bureau of Justice Assistance (BJA) funds may not be used to serve persons who are “violent offenders.” See: [34 U.S.C. § 10612](#). This prohibition applies to programs or activities funded by the BJA award, including match funds contributed by the grantee. This document aims to provide applicants and grantees with answers to Frequently Asked Questions (FAQs) regarding this issue.

### Who is a “violent offender?”

The definition of “violent offender” can be found at [34 USC 10613\(a\)](#).

A person who is presently charged with an offense as described in **34 USC 10613(a)(1)** would be ineligible to participate.

Disqualifying convictions are only those convictions indicated in **34 USC 10613(a)(1)** that occur after the initiation of proceedings that led to the person’s consideration to participate in the drug court program, whereas 34 USC 10613(a)(2) only speaks to convictions as described therein that occurred prior to the initiation of those proceedings.

Note: Not included in the violent offender definition are **charges that are dropped or reduced** to a nonviolent offense or charge prior to a person’s participation in the program, or convictions punishable by **less than 1 year of incarceration**.

### Can BJA provide guidance or a list of examples of what criminal charges or convictions would be disqualifying under the statute at 34 USC 10613(a)?

Due to varying legal definitions among the States, BJA suggests that this would be more appropriate for the grantee to determine based on local laws and circumstances. If the grantee has concerns about a certain charge or conviction as being potentially disqualifying, but after diligent analysis reasonably determines that that charge or conviction does not disqualify the potential participant, then BJA would recommend that the grantee maintain that analysis with grant files to show compliance with the grant conditions.



## Can a BJA-funded adult treatment court grantee provide services to a program participant using non-BJA funds if they have deemed that participant as a “violent offender,” as set forth in the statute (34 U.S.C. § 10613)?

Under the ATC Program statutory authorization, BJA funds may not be used to serve persons who meet the definition of “violent offender.” This prohibition applies only to activities that are funded by the BJA grant award, including the match funds contributed by the grantee. Grantees who intend to serve “violent offenders” with non-BJA funds must track these expenses to ensure separation of funds. Such grantees must maintain documentation that demonstrates the separation of BJA-funded expenses and services from non-BJA funded expenses and services.

In the case of salaries for individuals who may serve both types of participants—nonviolent offenders who are eligible for services with BJA funds, and violent offenders who are not—the recipient must ensure that those individuals accurately track the percentage of time worked with participants in both situations and document that the BJA funds are expended only for the percentage of time working with nonviolent offenders.

## Does the “violent offender” prohibition apply to the Veteran’s Treatment Court Grant Program?

No, the “violent offender” prohibition does not apply to grants awarded with Veterans Treatment Court (VTC) funds. Grantees for that program are required to follow the [Ten Key Components of VTCs](#), which include targeting the correct level of risk and need and considering safety and impact on treatment and interventions for all VTC participants.

## Does an individual’s entire past criminal history contribute to the determination of the violent offender status?

Yes, when analyzing whether a person is disqualified under 34 USC 10613(a)(2), a grantee would have to take into account an individual’s entire past criminal history, regardless of how much time has lapsed since that conviction.

## Would the violent offender prohibition indicated under 34 USC 10613(a)(1) and 34 USC 10613(a)(2) apply to a potential adult treatment court participant that committed the violent offense as a juvenile?

Any juvenile adjudication, no matter how violent the offense charged, is immaterial in determining whether an individual is a “violent offender” or not. Only charges or convictions in a criminal (i.e., adult) court are of significance in making those determinations.

### ABOUT BJA

BJA helps America’s state, local, and tribal jurisdictions reduce and prevent crime, lower recidivism, and promote a fair and safe criminal justice system. BJA provides a wide range of resources—including grants, funding, and training and technical assistance—to law enforcement, courts and corrections agencies, treatment providers, reentry practitioners, justice information sharing professionals, and community-based partners to address chronic and emerging criminal justice challenges nationwide. To learn more about BJA, visit [bja.ojp.gov](http://bja.ojp.gov) or follow us on Facebook ([www.facebook.com/DOJBJA](https://www.facebook.com/DOJBJA)) and Twitter ([@DOJBJA](https://twitter.com/DOJBJA)). BJA is a component of the Department of Justice’s Office of Justice Programs.