

# **Public Defender Law Clerks in Veterans Court and Veterans Sentencing Programs**



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## **INTRODUCTION**

This guide is designed to assist other jurisdictions in making optimum use of Public Defender law clerks as part of programs that give effect to veterans sentencing statutes, including Veterans Courts. The goal of such programs is to establish a secure pathway for veterans to restorative, alternative sentencing, which greatly increases access to justice for vulnerable veterans. The Ventura County Veterans Court is a collaborative effort, but other jurisdictions can implement the practices outlined here as part of a more adversarial process. Also, this guide refers throughout to the activities of “law clerks.” Other jurisdictions may wish to assign some of these roles to social workers, paralegals, sentencing mitigation specialists, or other professionals. In doing so, they should be careful to follow all applicable rules regarding the unauthorized practice of law.

## **VETERANS COURT TEAM**

The Veterans Court Team may include Judges; Deputy District Attorneys; Probation Officers; Deputy Public Defenders; and representatives of Veterans Affairs, local treatment providers, and community-based non-profit organizations. The Team assembles in conference before each court session to discuss the progress of individual clients. The Probation Officer usually guides the discussion, but all parties participate, offering their expertise on the best course of action for each client. The judge may or may not participate in Team meetings, but issues orders in open court based on the recommendations of the Team.

## **WHAT PUBLIC DEFENDER LAW CLERKS CAN DO<sup>1</sup>**

Law clerks may be engaged in every aspect of the Veterans Court process. When speaking with clients, they should identify themselves as law clerks and should not give legal advice.

**At Arraignment:** Law clerks help to channel veteran clients into the Veterans Court process.  
Law clerks:

- Identify clients who may be candidates for Veterans Court, based on the Arraignment Questionnaire [Exemplar 1].
- Distribute Veterans Court Flyers [Exemplar 2] to veteran defendants. These flyers are also available to the public in arraignment and misdemeanor courtrooms.
- Complete initial Screening Forms [Exemplar 3] based on personal interviews with clients

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<sup>1</sup> Always under the supervision of an attorney, pursuant to CA Rule of Court, Rule 9.42, and CA Bar Association Rules Governing the Practical Training of Law Students, Rule 3.4.

**In the Public Defender's Office:** Law clerks are on the front line of responsibility for maintaining case files and client contacts. They also participate in Team meetings. Law clerks:

- Verify that files for all Public Defender clients are available in the office as needed. Law clerks check the court calendar and make requests for any missing files. Each law clerk is responsible for his/her own set of clients and their files.
- Check for eligibility. Law clerks review the status of the case with respect to whether it should be on the track for Military Diversion (pre-plea; Cal. Penal Code §1001.80) or Military Probation (post-conviction; Cal. Penal Code §1170.9). They also search for other cases the client may have, past or pending, which could affect the client's suitability for Veterans Court or which could be referred to Stand Down.<sup>2</sup>
- Become familiar with the circumstances of the current case and the history of the client. Law clerks read the police reports, court dockets, and other materials regarding the offense and the client's military, medical, and criminal background.
- Organize each file, checking for any document that may be missing or anything new that may be needed that day. Examples of documents that must be included in every file:
  - Financial Declaration (client qualifies for Public Defender representation),
  - Screening Form [Exemplar 3],
  - Copy of the client's military discharge certificate (DD-214),
  - Veterans Court Agreement [Exemplar 4], and
  - Release of Health Information Form [Exemplar 5].

Each client will also need an Action List for the day [Exemplar 6], to take with him/her as a reminder of what will be required before the next court date, and a Consent Form [Exemplar 7], if the law clerk will be appearing on the record in court.<sup>3</sup> A Plea Form [Exemplar 8] may be needed if the client is being accepted for Military Probation or choosing an alternate disposition which requires a guilty plea.

- Reach out to clients on behalf of the Public Defender as one of their connections to the Veterans Court process. Law clerks call clients with reminders about court dates and any documents to bring, preferably in the days before court. They may also complete screening forms over the phone with clients, or check in on other matters. Law clerks develop relationships with their clients, and feel personally invested in the client's success.
- Prepare for the Team meeting. Law clerks review their clients' history in Veterans Court and the Probation Officer's most recent notes. During a roundtable discussion with the supervising attorney, law clerks suggest what goals should be pursued on behalf of each client. Law clerks may draft memos to the Team regarding a client's eligibility or suitability for the Veterans Court program or for veterans sentencing statute benefits.

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<sup>2</sup> Stand Down is an annual veterans' event which includes legal counselling, a temporary court, and opportunities to perform community service.

<sup>3</sup> Under direct supervision of an attorney, pursuant to CA Rule of Court, Rule 9.42, and CA Bar Association Rules Governing the Practical Training of Law Students, Rule 3.4.

- Keep the files up-to-date. After court, law clerks annotate each of their files with summaries of the day's Team discussions and court orders.

**At the Team Meeting:** Law clerks attend Team meetings both as participants on behalf of their own clients and as observers of the process for other Public Defender clients. Law clerks:

- Advocate on behalf of their clients as appropriate, subject to the guidance of the supervising attorney.
- Pay attention to the collaborative input of various professionals on the Team when discussing other clients: *something relevant to one client today may also be helpful to a future client.*
- Take notes on the Team's recommendations for treatment plans and court orders regarding every Public Defender client, both as a fallback for gaps or errors in other participants' notes and to enable reassignment of clients among the Public Defender's staff as needed.

**Before Court:** Law clerks meet with clients outside the courtroom to carry out communication that is integral to the Veterans Court process. Law clerks:

- Verify the client's contact information, especially phone numbers, which may have changed since the last court appearance. Give new clients the Veterans Court Flyer [Exemplar 2] and complete their Screening Forms [Exemplar 3].
- Complete any documents needed for their files or in court, such as Consent Forms [Exemplar 7] or Plea Forms [Exemplar 8]. It saves valuable time before court if law clerks pre-fill most of the information on these forms.
- Explain what treatment recommendations were made by the Team, and present the client with his/her options, so the client can make an informed decision and is not surprised by what happens in court.
- Reinforce what the clients are being told by their probation officer and treatment providers (e.g., "Everyone says you're doing great—keep up the good work;" or "You're running out of time to get this DUI class done;" or "You are on thin ice here—you cannot miss appointments with your Probation Officer.").
- Remind clients about what they will have to do before the next court date to remain in compliance. Provide each client with an Action List [Exemplar 6], which may be filled out in advance, and remind them to wait for their minute orders from the bailiff.
- Save a copy of the Action List [Exemplar 6] for each client so it can be added to the file.

**In Court:** With proper consent from the client, law clerks appear on the record on behalf of their clients<sup>4</sup> to update the judge on each client's progress. Law clerks:

- Report on the client's compliance with treatment.
- Ask for the Team's recommendations to be ordered by the court.
- Set the next court date and continue to stay fines and fees.
- Inform the judge that a client is withdrawing from Veterans Court, if the client has not agreed to the Team's recommended treatment plan or the Veterans Court terms.

**Delivering Legal Benefits:** Law clerks facilitate delivery of Veterans Court's legal benefits. Law clerks:

- Draft motions and orders, including Graduation Motions [Exemplar 10] and Motions to Seal Records [Exemplar 11], upon a client's successful completion of the Veterans Court program.
- File and present these motions in court.<sup>5</sup>

**Delivering Other Benefits:** During the course of developing relationships with their clients, law clerks can provide important moral and practical support. Law clerks:

- Help clients obtain copies of their military records.
- Help clients access services from veterans' organizations or community-based groups.
- Acknowledge clients' triumphs and frustrations.
- Prepare Certificates of Graduation [Exemplar 12].

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<sup>4</sup> Under the direct supervision of an attorney, pursuant to CA Rules of Court, Rule 9.42, and CA Bar Association Rules Governing the Practical Training of Law Students, Rule 3.4.

<sup>5</sup> With proper consent from the client and under the direct supervision of an attorney, pursuant to CA Rules of Court, Rule 9.42, and CA Bar Association Rules Governing the Practical Training of Law Students, Rule 3.4.

# **Exemplar 1**

## **Arraignment Questionnaire**



## **Exemplar 2**

### **Veterans Court Flyer**

IF YOU SERVED IN  
THE U.S. MILITARY  
OR NATIONAL  
GUARD,  
  
YOU **MAY** QUALIFY  
TO HAVE YOUR CASE  
IN  
**VETERANS COURT**

Anyone who has served in the  
United States Military is  
entitled to a Veterans Court  
evaluation.

Veterans Court can result in:

- **Access to treatment** for the underlying mental health effects of your military service
- **Charges dismissed**
- **Early termination of probation**
- **Fees or fines cancelled**
- **Records sealed**

**Veterans Court gives veteran offenders a second chance.** Participation is voluntary and requires a legal commitment to the treatment program ordered for you by the court.



**Ventura County  
Public Defender**

**Ask your attorney about  
Veterans Court:**

<http://www.pubdef.countyofventura.org/>

**805-654-2201**

**Or contact your private  
attorney**



**What You Need To  
Know About  
VETERANS COURT**



## The Mission of Veterans Court

is to treat current or former members of the United States Military for their service-related **disability issues** and restore them to full membership in civil society.



## What Is Veterans Court?

Veterans Court is a team that includes a Judge, Prosecutor, Public Defender, Probation Officer, Veterans Affairs (VA) representatives, mental health specialists, and community-based non-profit organizations who meet to discuss the needs and progress of each client.

Your determination to cooperate with treatment plans and be restored to productive citizenship can weigh heavily toward admittance to the program.

Clients are held accountable for their progress, and noncompliance can lead to removal from the program and the reinstatement of all criminal penalties, including jail time, fines & fees, and a permanent record.

## The Process

If you are found **eligible and suitable** after evaluation by the Veterans Court Team, you will be closely supervised throughout an individualized court-ordered treatment plan with periodic reviews of your progress.

You may be **eligible** if:

- You ever served in the U.S. military. Honorable discharge is not required. Combat is not required.
- You meet the legal requirements for **military diversion** or **military probation**.
- **You may be suffering from**
  - **post-traumatic stress**
  - **traumatic brain injury**
  - **substance abuse**
  - **mental health problems**
  - **sexual trauma****as a result of your military service.**

You may be **suitable** if:

- You are committed to following your treatment plan.
- Ready to obey the court's orders.
- You live in Ventura County.

## Military Diversion

### Requirements:

- Offense is a misdemeanor
- You may have one of the **listed disabilities**

### Possible Benefits:

- No plea, or conviction is ever on the record
- No fines or fees
- Arrest deemed not to have occurred



## Military Probation

### Requirements:

- You were convicted (or pled guilty)
- Eligible for probation
- You committed the offense because of a **listed disability**
  - Stemming from U.S. military service

### Possible Benefits:

- Conviction expunged
- Police/court records are sealed.
- Fines & Fees stayed
- Early Termination of Probation

# **Exemplar 3**

## **Screening Form**



**VENTURA COUNTY PUBLIC DEFENDER'S 1001.80 & 1170.9 SCREENING FORM**

Client's Name: \_\_\_\_\_ Prepared by: \_\_\_\_\_

Case: \_\_\_\_\_ Custody Status: In Out

Gender: M F T

**1. CLIENT INFORMATION**

- a. SSN: \_\_\_\_\_ U.S. Citizen: Yes No
- b. DOB: \_\_\_\_\_ DOB City: \_\_\_\_\_
- c. Phone: \_\_\_\_\_ Secondary Phone \_\_\_\_\_
- d. Email: \_\_\_\_\_
- e. Address: \_\_\_\_\_
- f. Are you currently Homeless? \_\_\_\_\_
  - i. If no, are you at risk of being homeless in near future? \_\_\_\_\_
- g. Employment: \_\_\_\_\_
  - i. If none, currently seeking? \_\_\_\_\_
- h. Emergency Contact (Name/Phone): \_\_\_\_\_
  - i. Relationship: \_\_\_\_\_

**2. MILITARY/NATIONAL GUARD SERVICE DD214: \_\_\_\_\_ Order at <http://archives.gov/veterans>**

- a. Branch: \_\_\_\_\_
- b. Highest Rank attained: \_\_\_\_\_
- c. Rank when Discharged: \_\_\_\_\_
- d. Dates (Mo/Yr): \_\_\_\_\_ Currently Active: Yes No
- e. Job (MOS): \_\_\_\_\_
- f. Deployments, where and when: \_\_\_\_\_
- g. Combat or Combat Zone Deployment: Yes No
- h. Any Discipline during Service? \_\_\_\_\_
- i. Ever serve time in Military Prison/Brig? \_\_\_\_\_
- j. Discharge Status: \_\_\_\_\_

**3. SELF-REPORTED DISABILITIES (circle any that apply)**

- a. PTSD TBI MST
- b. VA Rating: \_\_\_\_\_ If no rating, any rating case pending? \_\_\_\_\_
- c. Substance Abuse: \_\_\_\_\_
- d. Other Mental Health Issues: \_\_\_\_\_
- e. Prescribed Medications: \_\_\_\_\_
  - i. Currently Taking? \_\_\_\_\_
  - ii. If in custody, currently taking? \_\_\_\_\_

**4. CASE DETAILS**

- a. Charges: \_\_\_\_\_ MIS FEL
- b. Exposure: \_\_\_\_\_
- c. DA Offer: \_\_\_\_\_

**5. HISTORY**

- a. Open Cases: \_\_\_\_\_
- b. Other Probations: \_\_\_\_\_
- c. Credits for Time Served (CTS): \_\_\_\_\_

## **Exemplar 4**

### **Veterans Court Agreement**

Name: \_\_\_\_\_

Case No. \_\_\_\_\_

**SUPERIOR COURT OF CALIFORNIA, VENTURA COUNTY  
VETERANS TREATMENT COURT AGREEMENT**

**As a participant in the Veterans Treatment Court, I have been advised and understand the following:**

1. \_\_\_\_\_ I understand and agree that **I may have to plead guilty** to the complaint(s) in order to enter Veterans Treatment Court.
2. \_\_\_\_\_ I understand that **successful completion of this Court program will result in all fines and fees being waived** (with the exception of Victim Restitution, DUI classes and DMV fines). In addition, if eligible, I understand that upon **successful completion of Veterans Treatment Court my case may be expunged and sealed.**
3. \_\_\_\_\_ I understand **I must personally appear before this Court multiple times** unless otherwise instructed.
4. \_\_\_\_\_ I further understand I **will be asked to complete entry requirements requested by the Veterans Court Team in order to be considered for Veterans Court.**
5. \_\_\_\_\_ I will be placed under the supervision of a probation officer while in Veterans Treatment Court. Probation terms and conditions must be adhered to in order to successfully complete Veterans Court. **Probation may include drug and/or alcohol terms/testing and weapons prohibitions. If I have questions, I will speak to my attorney to discuss my specific terms.**
6. \_\_\_\_\_ I agree that Veterans Court **will order me into a treatment program.** This program may be an inpatient/residential or outpatient/community based program. **Successful compliance with treatment is required to be in Veterans Court.**
7. \_\_\_\_\_ I understand that I **must live in Ventura County or be housed in a VA residential treatment program to participate in Ventura County Veterans Treatment Court.**
8. \_\_\_\_\_ I understand that **I may be drug tested.** Any illegal substance found in my sample, including marijuana, will result in a positive test, and may result in sanctions by the Court. If I miss a test without permission, for any reason, it may count as a positive test and I may be sanctioned. If a test shows adulteration of any sort (including flushing or dilution), it may count as a positive test and I may be sanctioned.
9. \_\_\_\_\_ I agree to cooperate with my treatment plan as directed by my treating psychiatrist, doctor, and or therapist.
10. \_\_\_\_\_ I understand that the length of the Veterans Treatment Court can vary, but it is generally a **minimum of 12 months** up to a maximum of 60 months. If DUI classes are required, **I must complete DUI School** before I am eligible for Veterans Court graduation.
11. \_\_\_\_\_ I agree to waive custody credits I may be entitled to for time spent in a court-ordered residential drug/alcohol treatment program unless I successfully complete Veterans Treatment Court and probation.
12. \_\_\_\_\_ **DUI Diversion Candidates Only:** I understand that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of drugs or alcohol or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of my driving, someone is killed, I can be charged with murder.

Veteran's Name (please print): \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Veteran

## **Exemplar 5**

### **Release of Health Information Form**



## Ventura County Veterans Treatment Court

### Authorization to Obtain or Release Health Information

Client Name (print): \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

I authorize the agencies listed below to share information about me exclusively for the purpose of assisting me with treatment and to obtain alcohol, drug, mental health, social, housing services, and/or employment support etc.

- Ventura County Department of Probation
- Ventura County District Attorneys Office
- Ventura County Public Defenders Office
- US Department of Veterans Affairs
- Veterans Treatment Court Mentorship Program
- HUD/VASH (Housing)
- New Directions
- Ventura County Law Enforcement agencies
- Ventura County Alcohol, Drug and Behavioral Health Services
- Ventura County Department of Social Services/Adult Protective Services
- Vet Center
- Ventura County Veteran Services Office
- Ventura County Child Support Services
- Human Services Agency
- Turning Point Foundation
- Community based organizations providing drug, alcohol, mental health, and/or shelter services
- Other \_\_\_\_\_  
(Please specify)

This authorization to exchange information applies to the items below:

- Attendance Information
- Consultation Reports
- Public Health Department Medical Diagnosis
- Discharge Summary
- Medical, Neurological Assessment or Lab
- Medication
- Tests
- Substance Abuse Treatment
- Progress & Attendance Reports
- Psychiatric/Psychosocial Assessments
- Treatment or Personal Service Plans
- Other \_\_\_\_\_  
(Please specify)

If not revoked, this authorization shall terminate twenty-four months from date of sentencing into Veterans Treatment Court and/or the completion of the case.

I understand the following about this authorization:

- Disclosures resulting from this authorization may be in written, electronic, and/or verbal form. I have a right to receive and I will be offered a copy of this authorization.
- A copy of this authorization is as valid as an original.
- I will be furnished a copy of this authorization.
- Under no circumstances am I required to authorize the disclosure of psychotherapy notes.

Signature of Client/Veteran: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# **Exemplar 6**

## **Action List**



## VENTURA COUNTY VETERANS TREATMENT COURT

- VETERANS PROBATION
- MILITARY DIVERSION

### ACTION LIST

Client: \_\_\_\_\_ Attorney/Clerk: \_\_\_\_\_

Today's date is \_\_\_\_\_

By the time you return to court on \_\_\_\_\_, please do the following:

- Order your DD214
- Bring your DD214 to court
- Bring Service Record (not DD214) \_\_\_\_\_
- Bring medical records related to \_\_\_\_\_
- Make an appointment to be evaluated
- Check in at the Vet Center
- Establish residence at \_\_\_\_\_
- Remain in residence at \_\_\_\_\_
- Consult with \_\_\_\_\_
- Sign up for/Regularly attend DUI classes
- Get interlock installed
- Sign up for/Regularly attend DV classes
- Sign up for/Regularly attend Anger Management classes
- Sign up for/Regularly attend Parenting classes
- Other: \_\_\_\_\_



# **Exemplar 7**

## **Consent Form**

## CONSENT FORM

(Pursuant to Section 3.4 of the Rules Governing the Practical Training of Law Students)

Re  
Case No.

Client states that he/she is aware that \_\_\_\_\_ is the attorney of  
(Name or Agency)

record in this case and that \_\_\_\_\_ is a Certified Law Student.

Client further states that he/she is aware that a Certified Student is not a member of the State Bar of California, but is a law student who has been certified by the State Bar of California pursuant to the Rules Governing the Practical Training of Law Students. Client is aware that the Certified Student is permitted to engage in the following activities with the approval and under the direct and immediate supervision and in the personal presence of the supervising attorney (or, in the case of government agencies, any deputy, assistant or other staff attorney authorized and designated by the supervising attorney):

- (a) Appearing on behalf of the client in, or the taking of, depositions; and
- (b) Appearing on behalf of the client in any public hearing, arbitration, or proceeding or before any arbitrator, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer.

Client is further aware that the Certified Student may provide legal advice and conduct negotiations, but only under the general supervision of the supervising attorney, who shall have given prior approval of the legal advice or plan on negotiation to be given or engaged in by the Certified Student to that particular Client.

I consent to the representation by the Certified Student.

\_\_\_\_\_  
Client

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervising Attorney or Agency

**If the form has been verbally translated, please complete the following:**

\_\_\_\_\_  
Translator

\_\_\_\_\_  
Date

This form is a model for the consideration of the Supervising Attorney.

# **Exemplar 8**

## **Plea Form**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF VENTURA**

Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**WAIVER OF CONSTITUTIONAL RIGHTS – GENERAL MISDEMEANOR**

Defendant to  
initial each box

1. I understand that I am charged with a misdemeanor. I have been advised of, and understand, the charge(s) filed against me.
2. I have been advised of and understand that I have the following constitutional rights, and in order to plead Guilty or No Contest, I knowingly and intelligently WAIVE (GIVE UP) my rights: 
  - a) To be TRIED BY A JURY of 12 people selected to hear the evidence and decide my guilt or innocence;
  - b) To CONFRONT and CROSS-EXAMINE witnesses, that is, to SEE, HEAR, AND QUESTION ALL WITNESSES AGAINST ME; and
  - c) NOT TO INCRIMINATE MYSELF, that is, not to be compelled to plead Guilty or No Contest, or to testify against myself.
3. I understand that a plea of Guilty or No Contest will be a conviction, and a judge will then decide what sentence will be imposed.
4. No threat of any kind has been made against me, or anyone associated with or related to me, to get me to plead Guilty or Not Contest.
5. The District Attorney has agreed to make the following motions or recommendations: 

\_\_\_\_\_

No other promises or inducements have been made to get me to enter this plea. I understand that regardless of motions or recommendations by others including the District Attorney, my attorney, and the probation officer, the sentence will be decided solely by a judge.
6. I understand that as a consequence of a plea of Guilty or No Contest, the judge may sentence me to a maximum of 1 year in jail and a \$2000 fine for each offense. The judge may place me on probation for up to 5 years, requiring me to comply with various terms and conditions during that time. If I violate any term of probation, my probation could be revoked and I could be sentenced up to the maximum stated above. If I am not a citizen, this conviction may result in deportation or exclusion from the United States, or denial of naturalization. This plea may also subject me to additional penalties in any other case in which I am on probation. Conviction of California Vehicle Code section 14601, 14601.1, 14601.2, 14601.3, 14601.4 or 14601.5 may result in the forfeiture of my vehicle. In addition, I understand that I will be required to pay restitution to the victim(s) in an amount to be determined by the court, and a fine of \$100 to \$1,000 to the State Restitution Fund. Unless otherwise ordered, the probation and sentencing hearing will be the restitution hearing. Further, I agree that the court may consider all dismissed charges and related offenses in determining my sentence and restitution I might pay.
7. Having in mind the rights I will be giving up, and all the possible consequences of my plea, I desire to plead Guilty/No Contest as charged Count(s) \_\_\_\_\_.
8. I give up my right to delay sentencing at least six hours.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_\_\_, in the County of Ventura, State of California

Defendant's Signature: \_\_\_\_\_

**WAIVER OF ATTORNEY (If Applicable)**

I understand I have the right to have a lawyer defend me at all stages of the proceedings, and that if I cannot afford to hire a lawyer, the court will provide one for me. I understand that by acting as my own lawyer, I will receive no special privileges, may act to my own disadvantage, and will not be able to claim later that I was denied effective assistance of a lawyer. I knowingly and intelligently WAIVE (GIVE UP) my right to a LAWYER, and choose to represent myself.

Defendant's Signature: \_\_\_\_\_

**PRIOR(S)**

I understand that I am charged with having been convicted of prior offense(s) (and having served a term therefore in a penal institution), as alleged in the complaint. I understand how the alleged prior(s) would increase the penalties for this offense. I understand that I have the right to a JURY TRIAL to decide whether I was convicted previously, a right to SEE, HEAR, and QUESTION all witnesses against me, and a right NOT TO INCRIMINATE MYSELF, that is, not to be compelled to testify against myself or admit any prior conviction(s) or sentence(s). I expressly, knowingly, and intelligently GIVE UP those constitutional rights and admit the truth of alleged prior conviction(s) and sentence(s).

Defendant's Signature: \_\_\_\_\_

**PROBATION VIOLATIONS (If Applicable)**

I understand that I am charged with violating probation, and could be sentenced up to 1 year in jail for each probation I have violated. I understand that I have the right to a hearing before a judge, a right to see, hear, and question witnesses against me, and a right not to incriminate myself. I give up those rights and admit that this offense violated my probation(s).

Defendant's Signature: \_\_\_\_\_

**WAIVER OF ATTORNEY (If Applicable)**

I understand that I have the right to have a lawyer defend me at all times, including trials, on all charges in this case and hearings on any Violations of probation, and that if I cannot afford to hire a lawyer, the court will provide one for me. I understand that by acting as my own lawyer, I knowingly and intelligently WAIVE (GIVE UP) my right to a LAWYER, and choose to represent myself.

Defendant's Signature: \_\_\_\_\_

**STIPULATION TO COMMISSIONER**

I understand that I may have my case heard before a judge of the Court. I give up that right and agree that the Commissioner may take all pleas, decide all motions, and sentence in this case.

Attorney for Defendant: \_\_\_\_\_

Defendant's Signature: \_\_\_\_\_

**WAIVER OF PERSONAL PRESENCE (If Applicable)**

I understand that I have the right to be personally present at all stages of these proceedings. I knowingly and intelligently give up my right to be personally present. My attorney is fully authorized to act in my behalf.

Defendant's Signature: \_\_\_\_\_

**INTERPRETER (If Applicable)**

I have read and explained all of the above to the defendant in the \_\_\_\_\_ language.

Interpreter's Signature: \_\_\_\_\_

**DECLARATION OF ATTORNEY**

I am an attorney duly licensed to practice in California and am the attorney of record in this matter. I concur that the defendant's plea(s) and admission(s) may properly be entered.

Attorney's Signature: \_\_\_\_\_

**FINDINGS AND ORDERS**

The court finds that the:

1. Defendant understands the nature of the charge(s) and the consequences of his plea(s) and admission(s).
2. Court explained, and defendant understands, that the possible consequences also include:
  - A minimum sentence of \_\_\_\_\_ in jail.
  - PC 290 registration for PC 266, 268, 272, 786, 288a, 289, 314 sub 1 or 2, 647 sub (a) or (d), 647a, or attempts.
  - H&S 11590 registration for H&S 11350 sub (b), 11355, 11355, 11366, 11368, or 11550
3. Defendant has expressly, knowingly, intelligently and understandingly waived his rights as set forth above.
4. Defendant and/or his attorney appeared in open court and entered his plea(s) and admission(s).
5. There is a factual basis for the plea(s).
6. Defendant's waiver of his rights, and his plea and admission(s), are free and voluntary.

IT IS ORDERED THAT:

1. Defendant's plea and admission(s) be entered.
2. This document be filed and incorporated in the minutes of this case.

Dated: \_\_\_\_\_

\_\_\_\_\_

Judge of the Superior Court

## **Exemplar 9**

### **Motion for Admission to Veterans Court**

1 STEPHEN P. LIPSON, Public Defender  
2 Rod Kodman, Chief Deputy Public Defender SBN 210695  
3 COUNTY OF VENTURA  
4 800 South Victoria Avenue  
5 Ventura, California 93009  
6 (805) 654-3033  
7 rod.kodman@ventura.org

8 Attorney for Defendant

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF VENTURA**

11 PEOPLE OF THE STATE OF CALIFORNIA,  
12 Plaintiff,  
13 vs.  
14 JOHN DOE,  
15 Defendant,

Case No.: ???????????

**NOTICE OF MOTION AND  
MOTION TO BE ADMITTED TO  
VETERANS COURT PURSUANT TO  
PENAL CODE § 1170.9.**

Date: March 5, 2014  
Time: 1:30 p.m.  
Place: 37

18 TO: GREGORY TOTTEN, DISTRICT ATTORNEY, VENTURA COUNTY AND TO  
19 THE CLERK OF THE SUPERIOR COURT:

20 PLEASE TAKE NOTICE that on July 24, 2014, at 1:30 p.m., or as soon thereafter as the  
21 matter can be heard in Courtroom 37, JOHN DOE, by and through his attorney, the Public  
22 Defender for the County of Ventura, will move, and does hereby move the court to reinstitute  
23 modify the terms of Post Release Offender Supervision pursuant to its authority under Penal Code  
24 §1203.2(b)(1) and admit him into Veterans Court pursuant to Penal Code § 1170.9.

25 Said motion will be based on this notice of motion, the memorandum of points and  
26 authorities served and filed herewith, such supplemental memoranda of points and authorities as  
27 hereafter may be filed with the court, the pleadings, records, and files in this matter, and on any  
28 and all evidence, oral or documentary, which may be presented at the hearing of said motion.

**MOTION FOR ADMITTANCE TO VETERANS COURT**

1  
2 **CASE # ?????????? SUMMARY**

3 On August 31, 2012, JOHN DOE pled guilty to one count of violation of Penal Code  
4 §23152(b) Driving Under the Influence of Alcohol, a misdemeanor.

5 On August 31, 2012, Mr. DOE was sentenced to 2 days in Ventura County Jail, and  
6 Formal Probation of 36 months.

7 On March 14, 2013, Probation status was converted to Conditional (Informal).

8 Mr. DOE has never violated any term or condition of his probation.

9 Mr. DOE owes no balance on this case.  
10

11 **POINTS AND AUTHORITIES**

12 California Penal Code § 1170.9 is a sentencing statute that requires courts to consider  
13 whether a nexus exists between a convicted person's military service, his mental health, and the  
14 criminal offense for which he has been convicted. Where the court has determined that the  
15 defendant's case fits these parameters, the court can, with the defendant's agreement, commit him  
16 to a program intended to treat his mental health issues.  
17

18 **ARGUMENT**

19 Mr. DOE is precisely the kind of person for which this legislation was intended. He served  
20 in the United States Navy for nearly 14 years, with nearly 4 years in foreign service. A copy Mr.  
21 DOE's Form DD214 is attached hereto as "Exhibit A" and is incorporated herein by reference.  
22 He has been decorated for his foreign combat experience with the Kosovo Campaign Medal and  
23 the Global War on Terrorism Medal for his service in Kuwait and Iraq. He also served in Tunisia  
24 and Liberia. There can be no doubt that Mr. DOE has endured stressful and traumatic experiences  
25 in service to his country. Unfortunately, this DUI incident caused him to be separated from the  
26 Navy. Nevertheless, his good character is reflected in the fact that he earned the Navy Good  
27 Conduct Medal and was Honorably Discharged. A picture of Mr. DOE in uniform is attached  
28

**MOTION FOR ADMITTANCE TO VETERANS COURT**

1 hereto as “Exhibit B” and is incorporated herein by reference. His rank insignia is in gold,  
2 signifying over 12 consecutive years of good conduct.

3 Mr. DOE has already completed a DUI course and paid all fees as ordered by the court.  
4 The option of admission to Veterans Court was not presented to him when he was initially  
5 sentenced.

6 Mr. DOE now seeks to be restored to the community of law abiding citizens, but he fears  
7 that any record of his unfortunate brush with the legal system is already barring his path to  
8 restoration. Mr. DOE has been seeking civilian employment on a military base, but has difficulty  
9 even getting an interview. He wishes to not only have his conviction expunged, but the record  
10 sealed as well. Mr. DOE was an upright, law abiding citizen before his military training and  
11 service and he intends to be so again. He volunteered to serve our country in the United States  
12 Navy and was decorated for his service in foreign war zones. He is now pursuing a Bachelor’s  
13 Degree in Organizational Management from the University of La Verne. He is also a single father  
14 raising a special needs son. Mr. DOE’s son has a disorder that has stunted his emotional  
15 development. He can become angry for little or no apparent reason. This has a negative impact  
16 on his ability to work effectively in school and to maintain acceptable grades.

17 Mr. DOE’s military training and combat experience have contributed to an unfortunate  
18 incident that can limit his potential to live life as law-abiding, morally upright citizen, and a  
19 responsible, devoted father. He seeks treatment for the mental health issues he suffers as a result  
20 of those experiences and asks to be admitted to Veterans Court to address those issues and  
21 ultimately have his conviction expunged and the record sealed as allowed by Penal Code § 1170.9.

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**MOTION FOR ADMITTANCE TO VETERANS COURT**

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Dated: July 21, 2014

Respectfully Submitted,  
STEPHEN LIPSON, Public Defender

By \_\_\_\_\_  
Rod Kodman  
Chief Deputy Public Defender  
Attorney for Defendant

## **Exemplar 10**

### **Veterans Court Graduation Motion**

1 STEPHEN P. LIPSON, Public Defender  
2 Rod Kodman, Chief Deputy Public Defender SBN 210695  
3 Martin Kreman, Certified Law Student  
4 COUNTY OF VENTURA  
5 800 South Victoria Avenue  
6 Ventura, California 93009  
7 (805) 654-3033  
8 rod.kodman@ventura.org  
9 Attorney for Defendant

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF VENTURA**

12 PEOPLE OF THE STATE OF CALIFORNIA,  
13 Plaintiff,  
14 vs.  
15 FIRSTNAME LASTNAME,  
16 Defendant,

Case No.: ??????????

**NOTICE OF MOTION AND  
MOTION TO GRADUATE FROM  
VETERANS TREATMENT COURT  
PURSUANT TO PENAL CODE §  
1170.9**

Date: November 6, 2014  
Time: 2:00 p.m.  
Place: 37

17  
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19  
20 TO: GREGORY TOTTEN, DISTRICT ATTORNEY, VENTURA COUNTY AND TO  
21 THE CLERK OF THE SUPERIOR COURT, COUNTY OF VENTURA:

22 NOTICE IS HEREBY GIVEN that on Thursday, November 6, 2014, at 2:00 p.m., or as  
23 soon thereafter as the matter can be heard in Courtroom 37 of the Superior Court, or such other  
24 courtroom to which said motion is assigned, the defendant, FIRSTNAME LASTNAME, by  
25 and through his attorney, the Public Defender for the County of Ventura, will move, and does  
26 hereby move the court pursuant to Penal Code 1170.9(h)(3)(A) to, deem all terms of probation  
27 - including fines, fees, assessment, and programs - satisfied, reduce eligible felonies to  
28 misdemeanors, dismiss the accusatory pleadings pursuant to the provisions of Penal Code §§

**VET COURT GRADUATION**

1 1170.9(h)(3)(C) and 1203.4, and both seal the police arrest record in the dismissed action and  
2 seal the court records of the dismissed action pursuant to Penal Code § 1170.9(h)(4)(D).

3 Said motion will be based on this notice, the pleadings, records and files in this matter,  
4 and any and all evidence, oral or documentary, which may be presented at the hearing of said  
5 motion.

6  
7 Dated: October 17, 2014

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9 Respectfully Submitted,

STEPHEN LIPSON, Public Defender

10  
11 \_\_\_\_\_  
12 By Martin Kreman, Certified Law Student  
13 for Defendant, FIRSTNAME LASTNAME

14 \_\_\_\_\_  
15 Rod Kodman  
16 Chief Deputy Public Defender  
17 Supervising Attorney

1 **FIRSTNAME LASTNAME**

2 **BRANCH OF SERVICE**

3 United States Navy

4 (A copy of Mr. LASTNAME's DD-214 is attached and marked as "Exhibit 'A'")

5 **LENGTH OF SERVICE**

6 14 years, from 1998 to 2012.

7 **RANK AT SEPARATION**

8 E6 – Petty Officer First Class

9 **MILITARY SPECIALTIES**

10 Limited Communications Security (COMSEC) Technician, Naval Modular Automated  
11 Communications Systems II (NAVMACS II) Maintenance Technician, Anti-Terrorism  
12 Training Supervisor Instructor

13 **DUTY ASSIGNMENT LOCATIONS/DEPLOYMENTS**

14 Kosovo, Kuwait, Iraq, Korea, Tunisia, Liberia, Port Hueneme.

15 **DECORATIONS/MEDALS/AWARDS**

16 National Defense Service Medal, Meritorious Unit Commendation, Navy & Marine Corps  
17 Overseas Service Ribbon, Navy & Marine Corps Achievement Medal, Kosovo Campaign  
18 Medal, Global War on Terrorism Service Medal, Global War on Terrorism Expeditionary  
19 Medal, Navy Good Conduct Medal, Armed Forces Expeditionary Medal, Navy 'E' Ribbon,  
20 Navy Unit Commendation, Sea Service Deployment Ribbon, Humanitarian Service Medal,  
21 Military Outstanding Volunteer Service Medal, Korean Defense Service Medal, Non-Article 5  
22 ISAF NATO Medal, Navy Presidential Unit Citation, Expert Rifleman Medal, Expert Pistol  
23 Shot Medal, Enlisted Air Warfare Breast Insignia, Surface Warfare Specialist Breast Insignia,  
24 Integrated Undersea Surveillance System Specialist.

25 **CURRENTLY**

26 Pursuing Bachelor's Degree in Organizational Management at the University of La Verne.  
27 Single father raising a special needs son.

28 **VET COURT GRADUATION**



1 prisoner is punished only by a fine or imprisonment in county jail.” (*People v. Williams*, 27 Cal.  
2 2d 220, 229 (1945)). Here, the court used its discretion and sentenced Mr. LASTNAME to  
3 probation and imprisonment in county jail, not pursuant to 1170(h) and not to state prison.  
4 Therefore, under §17(b)(1), the Court may declare his offense a misdemeanor.

5 Penal Code 17(b)(3) states that when a crime is a “wobbler” offense, punishable by either  
6 imprisonment in state prison/county jail under Penal Code §1170(h), or alternatively by  
7 imprisonment in the county jail for not more than one year, it is a “misdemeanor for all purposes”  
8 when “on application of the defendant,” after probation has been granted, “the court declares the  
9 offense to be a misdemeanor.” Mr. LASTNAME’s crime of Title of Crime is a wobbler and he  
10 was granted probation. Therefore, according to §17(b)(3), the court may declare his offense a  
11 misdemeanor.

### 12 **3. Expungement.**

13 Under Penal Code section 1170.9(h)(3)(C), when the court finds that the defendant has  
14 met the requirements of subsection (h)(1), the court can deem all conditions of probation satisfied,  
15 including fines, fees, assessments, and programs, and then dismiss the charges pursuant to Penal  
16 Code § 1203.4.

17 Penal Code §1203.4(a)(1) reads, in part, “. . .in any case in which a court, in its  
18 discretion and the interests of justice, determines that a defendant should be granted the relief  
19 available under the section, the defendant shall, at any time after the termination of the period  
20 of probation, if he or she is not then serving a sentence for any commission of any offense, on  
21 probation for any offense, or charged with the commission of any offense, be permitted by the  
22 court to withdraw his plea of guilty or plea of nolo contendere and enter a plea of not guilty . . .  
23 the court shall set aside the verdict of guilty . . . the court shall thereupon dismiss the  
24 accusations or information against the defendant,” and the defendant “shall thereafter be  
25 released from all penalties and disabilities resulting from the offense of which he or she has  
26 been convicted.”

27 This relief is mandatory in the event the court terminates the defendant’s probation early  
28 because of his early fulfillment of the conditions of probation.



1 Mr. LASTNAME requests that the court expunge the convictions in this case pursuant  
2 to Penal Code § 1203.4.

3 Mr. LASTNAME is not presently serving a sentence for any offense, on probation for  
4 any offense, or charged with any offense. Mr. LASTNAME has not violated the terms of his  
5 probation. He has been living an honest and upright life and has conformed to, and obeyed the  
6 laws of the land. He is therefore legally entitled to an expungement of his convictions in this  
7 case.

8 As a result of his dismissal and pursuant to Penal Code § 1170.9(h)(4)(A), the court  
9 should release Mr. LASTNAME from any obligation to pay fines or fees associated with the  
10 dismissed charges.

#### 11 **4. Sealing Of Arrest And Court Records**

12 Mr. LASTNAME requests that the court order to be sealed the police arrest record of  
13 the misdemeanor and the court records of the dismissed action pursuant to Penal Code  
14 §1170.9(h)(4)(D). Under this statute, the legislature has granted the court full discretion to seal  
15 the arrest records and court records in this case. That is, unlike a motion to seal pursuant to  
16 Penal Code § 851.8, sealing records of persons sentenced under section 1170.9 does not require  
17 a finding of factual innocence. A similar statute, section 851.90 is less restrictive than section  
18 851.8 and allows the court to seal the records of persons who have completed drug diversion  
19 programs if it be in the interests of justice.  
20

21 In contrast, section 1170.9(h)(4)(D), which is the basis for this motion has no  
22 restrictions or guidelines on how courts should exercise their discretion in sealing records of  
23 veterans sentenced under § 1170.9(h)(4)(D), but the legislatures intent is clearly established in  
24 § 1170.9(h)(1), which declares “It is in the interests of justice to restore a defendant who  
25 acquired a criminal record due to a mental health disorder stemming from service in the United  
26 States military to the community of law abiding citizens.”

27 Mr. LASTNAME seeks to be restored to the community of law abiding citizens, but he  
28 fears that any record of his unfortunate brush with the legal system is already barring his path

1 to restoration. If his conviction is merely expunged, background checks for such jobs could  
2 reveal his arrest and subsequent expungement and deny him an opportunity to explain himself  
3 to anyone who might have interviewed him. Sealing his arrest and court records are vital if the  
4 court is to take the intent and language of restoration and make it reality for Mr. LASTNAME.

5           It is within the authority and discretion of the court to fully restore him to civilian  
6 society by sealing his record.

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**PRAYER**

1 Mr. LASTNAME has substantially complied with the terms of Veterans Court, has  
2 demonstrated significant benefit from his treatment, and no longer represents a danger to the  
3 health and safety of others. He therefore asks that this court grant him restorative relief in the  
4 form of:

- 5 1) Deem all conditions of probation to be satisfied
- 6 2) Reduce eligible felony counts to misdemeanors
- 7 3) Terminate probation
- 8 4) Waive all fines and fees imposed in this case
- 9 5) Refund any fines or fees already paid
- 10 6) Dismiss the conviction in this case
- 11 7) Seal the defendant's arrest record and Seal the court's record in this case (order is  
12 attached)

13  
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16  
17 Dated: October 17, 2014

18  
19 Respectfully Submitted,

STEPHEN LIPSON, Public Defender

20  
21 By \_\_\_\_\_  
22 Martin Kreman, Certified Law Student  
23 for Defendant, FIRSTNAME LASTNAME

\_\_\_\_\_  
Rod Kodman  
Chief Deputy Public Defender  
Supervising Attorney

## **Exemplar 11**

### **Motion to Seal Records**

1 STEPHEN P. LIPSON, Public Defender  
2 Rod Kodman, Chief Public Defender SBN 210695  
3 Martin Kreman, Certified Law Student  
4 COUNTY OF VENTURA  
5 800 South Victoria Avenue  
6 Ventura, California 93009  
7 (805) 654-3033  
8 rod.kodman@ventura.org  
9 Attorney for Defendant

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF VENTURA**

12 PEOPLE OF THE STATE OF CALIFORNIA,  
13 Plaintiff,  
14 vs.  
15 FIRSTNAME LASTNAME,  
16 Defendant,

Case No.: ??????????

**NOTICE OF MOTION AND  
MOTION TO SEAL POLICE AND  
COURT RECORDS PURSUANT TO  
§1170.9(h)(4)(D)**  
  
Date: November 6, 2014  
Time: 2:00 p.m.  
Place: 37

19  
20 TO: GREGORY TOTTEN, DISTRICT ATTORNEY, VENTURA COUNTY AND TO  
21 THE CLERK OF THE SUPERIOR COURT, COUNTY OF VENTURA:

22 NOTICE IS HEREBY GIVEN that on Thursday, November 6, 2014, at 2:00 p.m., or as  
23 soon thereafter as the matter can be heard in Courtroom 37 of the Superior Court, or such other  
24 courtroom to which said motion is assigned, the defendant, FIRSTNAME LASTNAME, by  
25 and through his attorney, the Public Defender for the County of Ventura, will move, and does  
26 hereby move the court pursuant to Penal Code § 1170.9(h)(4)(D) to seal the police arrest  
27 record in the dismissed action and seal the court records of the dismissed action.

28 **VET COURT MOTION TO SEAL RECORDS**

1 Said motion will be based on this notice, the pleadings, records and files in this matter,  
2 and any and all evidence, oral or documentary, which may be presented at the hearing of said  
3 motion.

4  
5 Dated: October 17, 2014

6  
7 Respectfully Submitted,

STEPHEN LIPSON, Public Defender

8  
9  
10 By Martin Kreman, Certified Law Student  
for Defendant, FIRSTNAME LASTNAME

\_\_\_\_\_  
Rod Kodman  
Chief Deputy Public Defender  
Supervising Attorney

1 **FIRSTNAME LASTNAME**

2 **BRANCH OF SERVICE**

3 United States Navy

4 **LENGTH OF SERVICE**

5 14 years, from 1998 to 2012.

6 **RANK AT SEPARATION**

7 E6 – Petty Officer First Class

8 **MILITARY SPECIALTIES**

9 Limited Communications Security (COMSEC) Technician, Naval Modular Automated  
10 Communications Systems II (NAVMACS II) Maintenance Technician, Anti-Terrorism  
11 Training Supervisor Instructor

12 **DUTY ASSIGNMENT LOCATIONS/DEPLOYMENTS**

13 Kosovo, Kuwait, Iraq, Korea, Tunisia, Liberia, Port Hueneme.

14 **DECORATIONS/MEDALS/AWARDS**

15 National Defense Service Medal, Meritorious Unit Commendation, Navy & Marine Corps  
16 Overseas Service Ribbon, Navy & Marine Corps Achievement Medal, Kosovo Campaign  
17 Medal, Global War on Terrorism Service Medal, Global War on Terrorism Expeditionary  
18 Medal, Navy Good Conduct Medal, Armed Forces Expeditionary Medal, Navy ‘E’ Ribbon,  
19 Navy Unit Commendation, Sea Service Deployment Ribbon, Humanitarian Service Medal,  
20 Military Outstanding Volunteer Service Medal, Korean Defense Service Medal, Non-Article 5  
21 ISAF NATO Medal, Navy Presidential Unit Citation, Expert Rifleman Medal, Expert Pistol  
22 Shot Medal, Enlisted Air Warfare Breast Insignia, Surface Warfare Specialist Breast Insignia,  
23 Integrated Undersea Surveillance System Specialist.

24 **CURRENTLY**

25 Pursuing Bachelor’s Degree in Organizational Management at the University of La Verne.  
26 Single father raising a special needs son.

27  
28 **CASE # ?????????? SUMMARY**

**VET COURT MOTION TO SEAL RECORDS**

1 On September 30, 2012, FIRSTNAME LASTNAME was arrested and charged with one  
2 count of violation of Vehicle Code §23152(b), Driving Under the Influence of Alcohol, a  
3 misdemeanor.

4 On August 22, 2013, Mr. LASTNAME pled guilty to the above charge and further  
5 admitted to the fact of driving with a blood alcohol level in excess of 0.15%, a violation of  
6 Vehicle Code § 23578.

7 On August 22, 2013, Mr. LASTNAME was ordered to serve 60 days in the Ventura  
8 County Jail, sentence stayed, 36 months probation, and admitted into Veterans Court.

9 Mr. LASTNAME has never violated any term or condition of his probation.

10 Mr. LASTNAME owes no balance on this case.

11 On

12  
13 **POINTS AND AUTHORITIES**

14 California Penal Code § 1170.9 is a sentencing statute that requires courts to consider  
15 whether a nexus exists between a convicted person's military service, his mental health, and the  
16 criminal offense for which he has been convicted. Where the court has determined that the  
17 defendant's case fits these parameters, the court can, with the defendant's agreement, commit him  
18 to a program intended to treat his mental health issues. Subsection (h)(1) of this statute declares,  
19 "It is in the interests of justice to restore a defendant who acquired a criminal record due to a  
20 mental health disorder stemming from service in the United States military to the community of  
21 law abiding citizens."

22 Under Subsections (h)(3)(A) and (h)(3)(C), when the court finds that the defendant has  
23 met the requirements of subsection (h)(1), the court can deem all conditions of probation satisfied,  
24 including fines, fees, assessments, and programs, and then dismiss the charges pursuant to Penal  
25 Code § 1203.4.

26 Under Section 1170.9(h)(4)(A), a dismissal of the action releases the defendant from all  
27 penalties and disabilities resulting from the offense of which the defendant has been convicted in  
28 the dismissed action.

1 Under Section 1170.9(h)(4)(D), the court has discretion to not only dismiss the case, but  
2 to order the sealing of police records of the arrest and court records of the dismissed action,  
3 thereafter viewable by the public only in accordance with a court order.  
4

### 5 ARGUMENTS

6 Mr. LASTNAME requests that the court order to be sealed the police arrest record of  
7 the misdemeanor and the court records of the dismissed action pursuant to Penal Code  
8 §1170.9(h)(4)(D). Under this statute, the legislature has granted the court full discretion to seal  
9 the arrest records and court records in this case. That is, unlike a motion to seal pursuant to  
10 Penal Code § 851.8, sealing records of persons sentenced under section 1170.9 does not require  
11 a finding of factual innocence. A similar statute, section 851.90 is less restrictive than section  
12 851.8 and allows the court to seal the records of persons who have completed drug diversion  
13 programs if it be in the interests of justice.

14 In contrast, section 1170.9(h)(4)(D), which is the basis for this motion has no  
15 restrictions or guidelines on how courts should exercise their discretion in sealing records of  
16 veterans sentenced under § 1170.9(h)(4)(D), but the legislatures intent is clearly established in  
17 § 1170.9(h)(1), which declares “It is in the interests of justice to restore a defendant who  
18 acquired a criminal record due to a mental health disorder stemming from service in the United  
19 States military to the community of law abiding citizens.”

20 Mr. LASTNAME seeks to be restored to the community of law abiding citizens, but he  
21 fears that any record of his unfortunate brush with the legal system is already barring his path  
22 to restoration. If his conviction is merely expunged, background checks for such jobs could  
23 reveal his arrest and subsequent expungement and deny him an opportunity to explain himself  
24 to anyone who might have interviewed him. Sealing his arrest and court records are vital if the  
25 court is to take the intent and language of restoration and make it reality for Mr. LASTNAME.

26 It is within the authority and discretion of the court to fully restore him to civilian  
27 society by sealing his record.  
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Dated: October 17, 2014

Respectfully Submitted,

STEPHEN LIPSON, Public Defender

By \_\_\_\_\_  
Martin Kreman, Certified Law Student  
for Defendant, FIRSTNAME LASTNAME

\_\_\_\_\_  
Rod Kodman  
Chief Deputy Public Defender  
Supervising Attorney

## **Exemplar 12**

### **Certificate of Graduation**

# Ventura County Veterans Treatment Court

THIS CERTIFIES THAT

FIRSTNAME LASTNAME

has successfully completed a program of treatment and fulfilled all obligations to the Court. In recognition of this achievement and service to the United States of America this Veteran is awarded this

*Certificate of Graduation*

Dated this 12th day of November, 2015



---

**Honorable Colleen "Toy" White**  
Judge of the Superior Court