

Veterans Treatment Review Court (VTRC) Pilot Program Cumulative Report: First Two Years of Operation

Operations February 4, 2011-February 1, 2013

The following is a report of the first twenty-four months of operation of San Diego's Veterans Treatment Review Calendar (VTRC) Pilot Program, a probation monitoring program with a 7.3% recidivism rate among its 41 participants while on active probation (three participants suffering new cases, all misdemeanors); and a 0% recidivism rate among its 10 graduates.

A. LEGISLATURE'S MANDATE TO THE COURTS CONCERNING SENTENCING MILITARY VETERANS.

Penal Code 1170.9 mandates that courts consider treatment rather than incarceration when sentencing a defendant who has served in the military and:

- Who suffers from a diagnosed mental disorder (Post Traumatic Stress, Traumatic Brain Injury, Military Sexual Trauma, Substance Abuse, depression, or other condition);
- The mental disorder stems from service in the military; and
- The defendant's criminal conduct was the result of the mental disorder.

B. PROFILE OF POPULATION THAT MUST BE ADDRESSED. San Diego County has 387,000 military veterans residing within its boundariesⁱ.

- About 38,000 have "recent combat service," the greatest concentration of any county in the United States and almost double the number residing in Los Angeles.
- Of that 38,000, research by the Department of Veterans Affairs (VA) indicates that approximately 13,300 will suffer a diagnosable mental disorder within Penal Code 1170.9, and almost 6,700 of those will be incarcerated for criminal activity with 1500 being charged with felony crimes.ⁱⁱ
- On average, 100 self-identified, military veterans are booked into San Diego County Jail each week. Based on age, it is estimated that about 25% of these veterans served during the Iraq and Afghanistan wars.ⁱⁱⁱ
- Statistically, most veterans that become involved in the criminal justice system are not being evaluated for purposes of Penal Code 1170.9.

C. VTRC PILOT PROGRAM'S PRE-ADMISSION, MULTI-STEP EVALUATION: In the first twenty-four months of VTRC's operation (February 4, 2011 to February 1, 2013) 200 defendants requested to be considered for admission into VTRC. In the initial screening of these 200 defendants, 90 were found to be eligible to submit an application for VTRC admission and then to enter the assessment process. 41 of these 90 defendants completed the application and assessment and were admitted as "participants" in the VTRC Pilot Program.

- **INITIAL SCREENING.** 200 defendants were evaluated in the VTRC initial screening. Initial screening is conducted by the VTRC team's public defender and the VTRC coordinator to determine whether there were indications that the defendant qualified under Penal Code 1170.9. If such indications were found, the defendant was deemed eligible to submit an application for admission into VTRC and to progress through assessment.
 - 110 of the 200 defendants that were initially screened did not progress to assessment, in that:
 - For 49 defendants, the actual charge(s) was determined to be inappropriate for VTRC monitoring, either too severe or too minimal; or otherwise ineligible.
 - For 20 defendants, the assigned or retained defense counsel did not follow up after initial screening.

- For 13 defendants, defense counsel and prosecutor were unable to reach a plea agreement that included VTRC. Defendant pleaded guilty as part of a plea agreement that did not include treatment.
- For 10 defendants, defense counsel and prosecutor were unable to reach a plea agreement that included VTRC. The defendant pleaded guilty and was ordered to treatment in accordance with Penal Code 1170.9 and monitored by the sentencing judge.
- For 11 defendants, no appropriate underlying service-connected condition needing treatment was identified.
- For 3 defendants, the veteran declined to participate.
- For 2 defendants, the sentencing judge determined not to refer to VTRC.
- For 1 defendant, the sentencing judge denied a continuance to allow for VTRC processing.
- For 1 defendant, he would not be able to begin a treatment program within 30 days of VTRC admission.
- 90 of the 200 initially screened defendants were deemed eligible to submit an application to participate and to enter the two-part assessment process.
- NOTE: Of the 200 initially screened defendants, 6 female veterans applied in 2012 and 1 was admitted into the VTRC Pilot Program.
- **APPLICATION SUBMITTED/ASSESSMENT COMPLETED. 90 defendants submitted complete applications to participate in VTRC and cooperated in the completion of an assessment. The assessment has two parts:**
 - (1) The VA Hospital conducts an assessment of the individual to determine the presence of a treatable, service connected, mental disorder; and
 - (2) The VTRC team conducts an assessment of the facts and circumstances of the case to determine the suitability of the case for admission into the VTRC Pilot Program.

Of the 90 defendants for whom an assessment was completed:

 - 41 defendants were admitted into the VTRC as “participants.”
 - 6 defendants are currently pending sentencing with possible VTRC referral as of the end of this reporting period.
 - 43 defendants were not admitted into VTRC. The most often stated reasons for a defendant to reject VTRC were that: (1) the intense monitoring made VTRC more demanding than doing regular probation without treatment; and (2) there was no plea agreement with sufficient incentives for the defendant to take on the intense VTRC program. (On January 1, 2013, Penal Code §1170.9 was amended to address the issue of incentives. See below.)

As for the defendants that withdrew their request to participate in VTRC :

 - For 8 defendants, defense counsel abandoned the request after the assessment.
 - For 7 defendants, the defendant expressly refused a treatment option because he/she did not want the stigma associated with psychological treatment.
 - For 4 defendants, defense counsel in a sentenced case was unable to obtain a probation modification that permitted probation monitoring by VTRC. No treatment was ordered.
 - For 4 defendants, the defendant declined VTRC and reasons could not be further determined.
 - For 3 defendants, the trial judge determined referral to VTRC was not appropriate.
 - For 1 defendant, defense counsel was unable to reach a plea agreement with DDA who considered the case too severe to offer VTRC incentives.

As for the defendants rejected by the VTRC :

- For 13 defendants, the treatment needed was for a mental condition that was beyond the scope of VTRC treatment (i.e. severe psychosis, chronic conditions, or long term criminal history where research has indicated that significant treatment progress is not likely to be accomplished with VTRC's available resources or within program time frames.)
- For 1 defendant, the veteran was inadmissible as he would not be able to begin a treatment program within 30 days of VTRC admission.
- For 1 defendant, there was an inappropriate current charge.
- For 1 defendant, the VTRC team recommended that the veteran be monitored under PC§1170.9 by the sentencing judge, not the VTRC.
- Of the 43 defendants who were not admitted into VTRC:
 - 23 reached a plea agreement that did not include treatment consideration.
 - 7 were sentenced by the sentencing judge to treatment under Penal Code §1170.9, but with no referral to VTRC.
 - 2 were sentenced by the sentencing judge to probation without any treatment required even though treatment was requested.
 - 11 were not tracked because the defendant did not provide authority to release information.
- **GRADUATION FROM VTRC PROGRAM TO DATE.** Of the 41 participants that were admitted into VTRC:
 - 2 participants withdrew voluntarily before completion of the program.
 - 2 participants were involuntarily removed before completion of the program and received traditional sentences after termination.
 - 10 participants have graduated
 - Range of time in VTRC is from 399 – 595 days, or about 13 – 20 months
 - Average length of time from admission to graduation is about 17 months
 - The graduates had a total of 26 cases prior to admission with a range from 1 – 8 cases
 - The length of time that has passed since graduating VTRC is from 14 – 259 days with the first VTRC participant graduating on May 18, 2012
 - 27 remain as participants in VTRC.

D. BACKGROUND PROFILE OF A VTRC PARTICIPANT. The participant was a law abiding teenager and young adult; and honorably served as a member of the military. The 41 participants collectively served in 98 military deployments. Each participant had from 0 to 6 combat tours. The participant now suffers a mental disorder that stems from a traumatic event experienced during service in the military. The defendant's criminal conduct is the result of that mental disorder.^{iv}

E. CRIMINAL HISTORY PROFILE OF VTRC PARTICIPANTS. The participant suffered his or her first criminal conviction after returning from a tour of duty with the military. Some participants suffer more than one such post-deployment conviction before they have a case in which they are identified as a military veteran and admitted into the VTRC program. Through public education presentations (see below), the VTRC team is intending to increase early identification.

- **CRIMINAL OFFENSES PRIOR TO CURRENT CASE BEING ADMITTED INTO VTRC PROGRAM.**

For the 41 participants admitted into the VTRC program:

- For 17 participants, their first criminal offense was the current offense referred to VTRC.
 - For participants admitted between Feb. 2011 and Feb. 2012, 38% of participants had no criminal history prior to their current case.
 - For participants admitted between Feb. 2012 and Feb. 2013, 45% of participants had no criminal history prior to their current case.
- 24 of the participants had accumulated a combined total of 70 prior cases. Each case occurred after the military deployment and before their current case was admitted into VTRC.

- **CURRENT OFFENSES OF THE 41 PARTICIPANTS ADMITTED TO VTRC:**

- For 34% (14) of the participants, the current offense involved domestic violence (8 felony cases and 6 misdemeanor cases.) The DV victims were generally family members including spouses/intimate partners (8 cases), parents (3 cases) and children (3 cases). Police reports in most of these cases indicated that the victim/reporting party wanted the participant to get treatment for behavior that arose since returning from military deployment(s). None of these participants had any history of domestic violence prior to military deployments.
- For 27% (11) of the participants, the current offense involved as the main charge: driving under the influence; six felony cases and five misdemeanor cases. Generally, the participant had one or more prior DUI convictions that occurred 3-6 months before the current offense. In the prior case, the participant received a sentence with conditions that did not recognize that this offender had recently returned from combat deployment. The participant was on probation for the prior DUI offense(s) when he committed the current DUI offense.^v
- For 39% (16) of the participants, alcohol abuse was noted in the commission of several of their current crimes:
 - 3 assault cases;
 - 3 drug sales cases;
 - 2 battery cases;
 - 2 threat cases;
 - 1 vandalism case;
 - 1 theft case;
 - 1 vehicle theft case;
 - 1 burglary;
 - 1 illegal use of a firearm case; and
 - 1 case of cruelty to animals.

- **COMMISSION OF OFFENSES AFTER ADMISSION INTO VTRC.**

- While on VTRC probation, the 41 participants had a 7.3% recidivism rate; three participants suffering new cases, all misdemeanors.
- The ten graduates of VTRC have had a 0.0% recidivism rate.

F. VTRC PROGRAM IMPACT ON SAN DIEGO COUNTY: Participants have demonstrated a restored ability to live as law abiding, productive citizens of our community, posing no danger to the safety of the public. The cost of bringing about this restoration is being borne primarily by the Federal Government.

- **RESTORED ABILITY TO LIVE LAWFULLY IN OUR COMMUNITY.**
 - 10 participants completed one or more semesters of college level courses. Two others were able to obtain vocational training.
 - 2 participants have earned a college degree
 - 5 participants have secured full time work.
 - Several other participants have been determined to be disabled by the VA and are receiving VA benefits that include compensation for service-connected disabilities.
 - Of the 27 participants in the program on February 1, 2013, 6 were employed at least part time
 - One active duty Marine participant was promoted to Staff Sargent during his VTRC participation.
 - 422 toxicology tests were administered to participants, with 23 positive results. One participant accounted for eight of the positive tests. The Probation Department conducted breath tests that were all negative for the presence of alcohol.
 - VTRC participants have volunteered over a thousand hours in service to the San Diego community through “Give Back” Projects completed during their second phase of the VTRC program. Examples of their projects include: speaking to other veterans and active duty service members about their mental health conditions and treatment; rehabilitating thrift store facility for a non-profit; providing outreach to homeless veterans through service at Operation Stand Down; teaching fellow veterans to care for horses at Pegasus Rising; cooking food for little league fundraisers; baking goods for the Winter Shelter residents; being interviewed for college studies on treatment of PTSD; Navy Relief volunteering; Semper Fi volunteering; volunteering at ACVOW; organizing running groups for recovering veterans; telling their stories of recovery to Wounded Warriors at Navy Hospital C5 ward; volunteering with psychiatric emergency response teams from the VA; and creating logos for non-profit charities.

- **AVOIDANCE OF \$2,127,435 COSTS TO SAN DIEGO COUNTY AND STATE OF CALIFORNIA.**
 - With all 41 participants out of custody, San Diego County and the State of California have avoided \$1,415,435.00 in jail and prison costs (based on \$109.30 p/day).
 - With all 41 participants receiving treatment and housing paid for by the Department of Veterans Affairs, San Diego County has avoided costs in excess of \$712,000 including approximately 7,500 residential days (\$39-\$1185 p/day) and 2,300 hours of therapy (\$61.50 p/hr. LCSW rate/\$100 p/hr PhD rate)

G. 2013 LEGISLATIVE AMENDMENT TO PENAL CODE §1170.9. A recent amendment has greatly expanded the restorative relief available to defendants who successfully complete treatment as part of a §1170.9 probation. Increased motions for granting §1170.9 probation are expected.

Effective January 2013, California Penal Code 1170.9 was amended by AB2371 to add subdivision (h) which provides restorative relief, significantly greater than PC 1203.4 expungement, for veteran offenders who successfully undergo treatment as part of their 1170.9 probation. It is predicted that there will be a noticeable increase in motions to sentencing courts to grant PC 1170.9 probation. For the VTRC Pilot Program which operates under PC 1170.9, there will likely be a noticeable increase in referrals of first time offenders to VTRC for probation monitoring. In the first two months of the new law’s operation, three VTRC graduates have applied for and been granted restorative relief pursuant to subdivision (h.)

H. VTRC’s INNOVATIVE FAMILY RESILIENCY PROGRAM AT THE SAN DIEGO VET CENTER: New treatment program is available for addressing domestic violence that results for a mental disorder stemming from service in the military. There is no evidence that the 52 week batterer’s

programs (DVRP) available in San Diego County for violators of the domestic violence address domestic violence that is the result of a mental disorder that stems from service in the military. Therefore, under the provisions of subpart (a)(6) of PC 1203.097, the VTRC has, after hearing, approved a counseling program (Family Resiliency Program, FRP) as a lawful, though more demanding, alternative to DVRP.

This one-of-a-kind program combines treatment for domestic violence and for Post Traumatic Stress. FRP has been developed by VTRC team member and treatment provider Karen Schoenfeld-Smith, PhD in conjunction with David Wexler, PhD., a recognized DV treatment trainer. This combat-directed counseling program complies with Penal Code 1203.097 requirements to include weekly, two hour sessions for 52 weeks. VTRC coordinates with other VA-provided treatment to enable VTRC to provide effective treatment for participants who committed domestic violence crimes, but had no pre-deployment history of domestic violence.

- 11 participants have attended FRP; for a total of 642 hours of treatment.
- 6 participants have completed the FRP program.
- 5 participants have not complete FRP.
 - 1 participant has graduated from the VTRC program but continues to attend FRP.
 - 1 participant is concurrently active in the VTRC and FRP.
 - 1 participant reached maximum benefit of the VTRC program, was withdrawn from the VTRC, and continues to attend FRP.
 - 1 participant was ordered to another domestic violence recovery program after re-offending.
 - 1 participant was removed from the VTRC Program and is no longer involved in treatment.

I. VTRC TEAM INNOVATIONS AND PROGRESS IN IMPROVING THE VTRC PILOT PROGRAM: The VTRC team collaborating agencies have made significant contributions to the VTRC program during the past year, including:

- The Court staff has established point-to-point internet connections to enable participants unable to physically appear in court biweekly to appear by Skype, enabling connection with defense counsel and court. This enables the use of distant treatment facilities which are better suited to treat particular participants and which are available when local treatment facilities experience long waiting lists.
- The Office of the San Diego District Attorney has developed an effective protocol for requesting sentence modifications intended to encourage applications for VTRC admission and to provide incentives for participants to comply with the program.
- The San Diego County Probation Department has consolidated all VTRC participants into the caseload of a single probation officer, and unifying in that single probation officer the various component functions of the Probation Department. This initiative has greatly improved coordination among the Probation Department, the court, and VTRC team, ensuring better accountability over the participant concerning compliance with probation terms and conditions.
- The Office of the Primary Public Defender has been able to provide transportation services for participants to move from jail to treatment facilities allowing earlier starts for treatment and reducing jail population challenged by realignment.
- The San Diego Sheriff's Office has continued to facilitate quick access to inmates by VA Veterans Justice Outreach Specialists, facilitating the assessment and intake of veterans into the treatment programs funded by the VA. Jail Inmate Services staff and jail counselors have been instrumental in improving this access, thus enabling

prompt responses to sentencing judges and counsel in moving defendant's from custody to the VTRC program.

- The VA Veterans Justice Outreach specialist, VVSD, and CVLTF have collaborated with the San Diego Sheriff's Office to provide monthly jail briefings and as-needed visitations to veteran inmates to connect them to VA services, VTRC or PC1170.9 options, treatment after release, and housing and other community based services. In addition, they are exploring a special veterans housing unit at a local jail where medical assessments, VA enrollment, peer mentoring, and motivational interviewing can be conducted to assist in-custody veterans in obtaining transition services.

J. RESOURCE AGENCIES IN SAN DIEGO COORDINATED TO SUPPORT THE VTRC PILOT PROJECT.

Establishing and operating the VTRC Pilot Project has involved the bringing together of numerous agencies.

- Court staff and the VTRC Team agencies added VTRC related work to their current workloads and financial budgets. The VTRC Team includes:
 - Department of Veterans Affairs,
 - Office of the Primary Public Defender,
 - Alternate Public Defender,
 - San Diego City Attorney,
 - San Diego District Attorney,
 - San Diego County Probation Department,
 - San Diego Sheriff's Office,
 - San Diego Vet Center,
 - U.C.S.D. Criminal Justice Programs, and
 - Veterans Village of San Diego.
- Supporting agencies include:
 - San Diego Veterans Coalition;
 - United Veterans Council;
 - San Diego County Veterans Service Office;
 - Veterans Legal Assistance Clinic at Thomas Jefferson School of Law;
 - San Diego HHSA;
 - Mental Health Systems, Inc.'s Courage to Call Program;
 - Alliant University;
 - American Combat Veterans of War (ACVOW); and
 - several other veterans serving organizations and employers who allowed their employees to be volunteers in service to VTRC.
- California Veterans Legal Task Force (CVLTF), a public charity established by private initiative under Internal Revenue Code §501(c)3 continues to coordinate and sustain the community effort by providing administrative structure and evaluation components to assist justice-involved veterans.
- Navy Region Southwest and a number of commanders at local Marine bases who paved the way for active duty participants to be retained in the military while their VTRC cases progressed. These military commanders coordinated DoD-provided healthcare for their service members' mental health conditions to enable monitoring by the VTRC.
- Treatment Providers Added in Second Year, 2012.
 - New Directions (residential treatment co-located with the West L.A. VA hospital.)
 - VA Vet Centers at San Marcos and Chula Vista provided treatment for VTRC participants.

- Navy Regional Medical Center San Diego (Balboa Hospital) and Camp Pendleton Hospital provided direct treatment and case management services for active duty participants.
- USD Veterans Legal Clinic joined to provide consultation directly to veteran consumers engaged in college to assist them in evaluating contracts and schools so that their G.I. Bill funds are not used up in pursuit of non-transferrable credits.
- 2-1-1 San Diego partnered with CVLTF and VTRC to help refer their callers who were experiencing mental health issues and criminal cases as well as tracking the data on the number of legal oriented calls coming to their system. Their specialized veteran outreach operators report that in 2012, about 30% of the calls they receive from veterans and family members are seeking some sort of legal assistance.
- Interfaith Community Services (ICS) joined to provide supportive, community-based sober housing to participants who would have otherwise been homeless.
- The San Diego Sheriff's Office has provided direct assistance in identifying the approximately 100 veterans that are booked per week into our local jails. Most are booked and released so strategies to identify them as veterans have been primarily directed at the education of defense counsel and prosecutors. There is an ongoing jail outreach that has been successful at identifying veterans who are incarcerated who may be eligible for VTRC or PC§1170.9 alternatives.
- County Health and Human Services Agency (HHSA) provided a pay-for- performance contract to CVLTF to assist with developing identification of veterans with mental health conditions; designing an evaluation system; data collection and analysis; conducting San Diego County jail information briefings for incarcerated veterans; developing veteran culture strategies for treatment programs; community education presentations; and consultations to veteran outreach coordinators who can assist homeless and justice-involved veterans in seeking treatment. This contract partly funded CVLTF personnel who serve as VTRC Coordinator and Administrative/Evaluation components, enabling their participation in court hearings and staffing sessions and providing smooth interagency coordination. This grant consisted of Mental Health Act funds in a contract with Mental Health Services, Inc. through its Courage to Call Program.
- California Western School of Law, Stanford Law School, and Thomas Jefferson Law School law school students provided accredited volunteer legal assistance to our VTRC program during 2012.
- Operation Homefront provided furniture to help one VTRC participant establish a household when the Family Court awarded him custody of his 6 year old daughter;
- Semper Fi Fund provided funding for two VTRC participants experiencing family emergencies.
- Volunteer Hours: In the past two years, VTRC has been supported with an estimated 16,908 volunteer hours by mentors, law students and legal interns, AmeriCorps legal fellows, and community volunteers. These hours were distributed as follows:
 - Mentor team (26 veterans) – average 4 hours with mentee participant p/week – 7,508 hrs.
 - Mentor coordinators – average 10 hours p/week – 1,520 hrs.
 - Law students/interns (11+) – 3,200 hrs.
 - AmeriCorps Legal Fellows – 3000 hrs.
 - VTRC Coordinator – 1,680 hrs.

K. AWARDS AND ACKNOWLEDGEMENTS.

- In July of 2012, for the innovative public-private partnership established in the VTRC Pilot Program, San Diego County received the National Association of Counties (NACO) Achievement Award for 2012
- The VTRC judge and coordinator were invited to join the Administrative Office of the Court's Collaborative Court Committee (Veterans Treatment Court subcommittee) to consult regarding: (1) the model utilized in San Diego, (2) coordinating inter-agency collaboration, and (3) establishing best practices for Veterans Treatment Courts in California.

- The AmeriCorps Legal Fellow program provided two Fellows, Ed Neusteter and Adriane Bracciale, to work with the VTRC Pilot Program. Due to the success of this placement with VTRC San Diego, AmeriCorps reports a desire to expand their legal fellows working with Veterans Treatment Courts throughout the country.

L. VTRC'S PUBLIC EDUCATION STRATEGY AND EFFORTS.

- To identify defendants as they enter the criminal justice system who are veterans of military service, and to screen them for eligibility for PC§1170.9 alternatives, the VTRC Coordinator and Team members have increased community awareness training. During the second 12 months of VTRC operation, informational presentations have been made to obtain the assistance and cooperation of other persons:
 - State Veterans Organization Leaders; California Department of Veterans Affairs officials; BHETA Veterans Series Professional Training; national jail inmate services professionals at Joyfields Professional Training Re-Entry Conference; Alliant University class; Office of the Primary Public Defender (also attended by private appointed counsel (OAC) and Alternate Public Defenders and broadcast to five branch sites); RADM Dixon Smith and Navy Region Southwest Fleet and Family Services Senior staff; San Diego County Mental Health Board and staff/audience; radio presentation with Rick Rogers, Military Front and Center KBEQ Radio; CAIRS (Communication and Information Referral Services) Conference (Los Angeles); CA County Veterans Service Officers' Statewide Conference (Fresno); Swords to Plowshares Statewide Domestic Violence Roundtable; ACIR (Assn Criminal Information Researchers) statewide conference; DoD Wounded Warriors Employment Conference; Testimony before California Assembly Public Safety Committee; Private Defense Attorneys of CA; CRASH Treatment Facility; Heartland House Treatment Facility; VA Alcohol Drug Treatment Program staff; Veterans Community Services (housing provider); VVSD Intake Staff; VA Members Services staff; San Diego Sheriff's Office staff; Amigos Sobrios Treatment Facility; Tradition One Treatment Facility; Correctional Alternatives, Inc. staff; DoD OASIS (PTSD residential) treatment program; CA Statewide VA Veterans Justice Outreach conference; VA Mental Health Staff; VA Indianapolis Domiciliary Staff; Indianapolis Prison Vet Unit staff; VA Homeless Program staff; Navy Warfighter Performance and SEAL Command staff; VA Social Work staff; Argosy University class; San Marcos Vet Center; VA Medical/Surgery Social Workers; VA Mental Health Social Workers; VA Healthcare for Homeless Veterans Social Workers; VA San Diego Director and Social Work Department Leadership; VVSD Leadership; VA Domiciliary Staff; and monthly jail presentations to SD County jail inmates re: PC§1170.9 sentencing and traumatic conditions treatment options (Vista, South Bay, George Bailey, Central, Las Colinas, and East Mesa Re-Entry Facility). Additionally, numerous media interviews were staffed and several inquiries from local, state, and federal legislative representatives were answered.
- Practising Law Institute Program. To address the expected increase in interest in PC 1170.9, the VTRC Judge and Coordinator presented a one-hour, web-based, audio training program which addressed the procedural aspects of PC 1170.9, including subdivision (h). This PLI training is now available on-line as a free MCLE opportunity for legal professionals and veterans advocates. This program was prepared in collaboration with the State Bar Pro Bono Programs to aid in the 1170.9 awareness effort.

M. FUTURE OF THE VTRC PILOT PROJECT

Currently, a sentencing court: (1) determines, based upon a showing by the defense, that there is cause to believe that the defendant is within PC 1170.9(a); (2) grants probation; and then (3) refers the case to the VTRC to consider admission into the VTRC, a treatment program determination, and probation

monitoring. A few 1170.9 cases have been retained by the sentencing judge for PC 1170.9 probation monitoring.

1. To provide short and long term protection to the public, VTRC should continue admitting those PC 1170.9 defendants needing the most intense supervision of probation, usually involving offenses posing substantial danger to the public and potential prison commitments; and which present a mental disorder that is likely to be substantially improved within VTRC's twelve to eighteen month treatment program. VTRC uses multiple court appearances, substance testing, group and individual counseling, various types of treatment, and proactive, direct supervision.

2. The individual sentencing judge's ability to retain certain PC 1170.9 cases for probation monitoring, rather than referring the case to VTRC, should be encouraged and supported. The sentencing court could be used for certain cases, in light of:

- Appearances in court twice each month during the first year would not be required for the defendant to be successful in treatment;
- The current offense is a less serious, first offense;
- The defendant has family, community, and employment support in place; and
- The veteran suffers under a chronic Post-Traumatic Stress and co-morbid substance addiction. These conditions generally take longer to treat than the 12-18 month, PC 1170.9 VTRC program.

a. The sentencing court would place the defendant on probation and would retain jurisdiction to monitor probation with conditions that could involve:

- (1) treatment of the mental disorder by treatment providers that have been vetted by the VTRC;
- (2) short or long term residential rehabilitation;
- (3) periodic reporting to the court;
- (4) PC§12097(a)6 counseling for domestic violence recovery (now available at the Vet Center in San Diego for vets with co-morbid combat-related psychological conditions); and
- (5) Substance abuse testing and counseling by traditional court programs or the VA.

This approach would not involve placing participants in association with existing DV court or Drug/Prop 36 court programs.

b. The full VTRC Team would not be directly supporting the sentencing judge, but team members would be available to advise the sentencing judge and counsel in identifying Penal Code §1170.9 qualified defendants and suggesting treatment programs.

c. The VA would be available to assist the sentencing judge by providing mental condition assessment, treatment plan development and funded treatment to eligible veterans through the Veterans Justice Outreach program.

ROGER W. KRAUEL

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ASSIGNED JUDGE, VTRC

ⁱ There are approximately 137,000 active duty service members and 250,000 Reserve, retired, or discharged veterans residing in San Diego County. In March 2012, the Wall Street Journal reported the population of veterans with service after 9/11/2001 who are residing in San Diego County at 38,000.

ⁱⁱ Typical offenses from this research comport with the typical offenses observed in the VTRC Pilot Program (e.g. Domestic Violence, DUIs, assaults, weapons possession and adrenaline-seeking driving behaviors) Source: National Center for PTSD, Fact Sheet: Findings from the National Vietnam Veterans' Readjustment Study, 1988.

ⁱⁱⁱ With the help of the Sheriff's Department, as part of the in-processing of arrested suspects into San Diego County's jails, every person is now asked, "Have you ever served in the military?" Based on a review of the booking records from 2010 through February 2013, an average 100 persons per week are booked into County Jail and self-identify as a veteran by answering "yes" to that question. Since CVLTF jail outreach efforts continue to identify veterans who did not report their service upon booking, the number of veterans booked into San Diego County jails is likely exceeding 100 per week.

^{iv} As a teenager and young adult, prior to entering the military, the typical participant has no history of domestic violence, substance abuse, or significant criminal conduct; and there is a history of employment and good citizenship. After entering the military, the participant receives promotions and commendations; and has one or more deployments overseas, usually in a combat assignment wherein he/she experiences a traumatic event. Upon return to the United States from a deployment, the participant, for the first time in his or her life, acquires one or more criminal convictions.

^v DUI was the most common charge for active duty VTRC participants. Most of these participants were administratively separated from the military due to their pleas in the prior DUI cases and the current DUI conviction. It was noted, during the assessment, that all DUI charged VTRC participants lacked the insight to connect their drinking behavior to their military related, traumatic experiences. Instead they saw their drinking as an aid to dealing with anxiety or sleep problems even though many of them (and their military supervisors) had been given military training on recognizing symptoms of Post-Traumatic Stress.