

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE**

**BANNING** 311 E. Ramsey St., Banning, CA 92220  
 **BLYTHE** 265 N. Broadway, Blythe, CA 92225  
 **INDIO** 46-200 Oasis St., Indio, CA 92201

**MURRIETA** 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563  
 **RIVERSIDE** 4100 Main St., Riverside, CA 92501

**RI-CR052**

PEOPLE OF THE STATE OF CALIFORNIA		<i>FOR COURT USE ONLY</i>
vs.		
DEFENDANT:		CASE NUMBER:
Hearing Date:	Time:	Department:
<b>REQUEST FOR MILITARY DIVERSION; ADVISAL AND WAIVER OF RIGHTS</b>		

Defendant: Initial each statement below.

1. \_\_\_\_\_ I am the defendant in the above-captioned case, which charges the following misdemeanor violation(s) for which I am requesting Military Diversion (Pen. Code § 1001.80): \_\_\_\_\_
2. \_\_\_\_\_ I have been advised of, understand, and waive my right to a speedy trial in this case.
3. \_\_\_\_\_ I understand that to be granted Military Diversion, I am required to provide an assessment or other evidence confirming I am a current or former member of the military and may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problem, as a result of my military service. I understand I am also required to provide a recommended treatment plan for my sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problem.
4. \_\_\_\_\_ I understand that the Military Diversion program, if granted, will be no longer than two years and will include a court-ordered treatment program.
5. \_\_\_\_\_ I understand that if accepted into the Military Diversion program, failure to comply with the terms of the diversion program may result in reinstatement of criminal proceedings.
6. \_\_\_\_\_ I understand that if I am arrested or charged with a new criminal offense while participating in the Military Diversion program, criminal proceedings in this case may be reinstated and I may be found no longer eligible for Military Diversion.
7. \_\_\_\_\_ I understand that if I perform satisfactorily during the period of Military Diversion, the court will dismiss the criminal charges. I understand that, upon successful completion of the Military Diversion program, the arrest upon which the diversion was based shall be deemed to have never occurred, except as stated in statement 8, below.
8. \_\_\_\_\_ I have been advised and understand that, regardless of my successful completion of Military Diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request, and that I am still obligated to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in Pen. Code § 830.

DEFENDANT:	CASE NUMBER:
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I declare under penalty of perjury the laws of the State of California that I have read and understand each of the foregoing eight statements, and by initiating each statement I agree to their contents.

\_\_\_\_\_ (DATE)

\_\_\_\_\_ (TYPE OR PRINT NAME) (SIGNATURE OF DEFENDANT)

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE**  
**STANDARD 11 – MILITARY DIVERSION**

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**STANDARD 1101. DEFINED**

Military Diversion was established by California Penal Code Section 1001.80. This Section authorizes the Court, with consent of the participant and a waiver of his or her right to a speedy trial, to postpone criminal proceedings and place the veteran in a pretrial diversion program for the purpose of providing treatment. This Standard outlines best practices for the implementation of Military Diversion and does not represent strict rules or guidance.

**STANDARD 1102. IDENTIFICATION AND SCREENING**

Pursuant to California Penal Code Section 1001.80(a), potential candidates for Military Diversion must be charged with a misdemeanor offense and must meet the following requirements, as determined by the Court:

1. Be a current or former member of the United States Military.
2. May be suffering from Military Sexual Trauma (MST), Traumatic Brain Injury (TBI), Post-Traumatic Stress Disorder (PTSD), Substance Abuse or Mental Health problems as a result of his or her military services.

The Defendant initiates the process by completing Form RI-CR052, *Request for Military Diversion*. Once completed, the Court will schedule a hearing within two weeks for determination of whether the Defendant shall be placed on Diversion. The burden shall be on the veteran to prove he or she meets the criteria of Penal Code Section 1001.80. The Defendant may submit matters documenting the existence of a service connected disability, military service or any other materials in support of a grant of Military Diversion. The Court may request an assessment by the Riverside County Department of Mental Health to aid in the determination of whether a defendant suffers from a MST, TBI, PTSD, Substance Abuse or Mental Health problems as a result of his or her military services. The Defendant is required to provide proof to the Court of current or former military service.

**STANDARD 1103. EXCLUSIONARY CRITERIA**

Individuals with a prior conviction for the same or similar conduct are better served by a post-conviction referral to Veteran's Treatment Court as opposed to a grant of military diversion and generally should not be placed on Military Diversion.

Military Diversion should only be granted on a one time basis. If the Defendant has previously been admitted to any Military Diversion or Veterans Court treatment program in California, he or she should not be placed on military diversion.

**STANDARD 1104. ACCEPTANCE AND PROGRAM LENGTH**

If the Court admits the Defendant into Military Diversion, he or she shall waive the right to a speedy trial for two years for the purpose of completing a pretrial diversion program. The veteran shall participate and complete a Military Diversion Program of at least one year. Pursuant to California Penal Code Section 1001.80(h), said diversion program shall be no longer than 2 years.

**STANDARD 1105. TREATMENT**

Upon granting Military Diversion, the Court shall refer the veteran to treatment using established community and federal resources. Pursuant to California Penal Code Section 1001.8(e), preference shall be given to programs with a demonstrated history of specializing in treatment of TBI, MST, PTSD, Substance Abuse and other related Mental Health Issues.

**STANDARD 1106. MONITORING AND PROGRESS REPORTS**

For those Veterans eligible to receive services from the Veterans Health Administration, monitoring of the veteran's participation in treatment shall be the responsibility of the assigned Veterans Justice Outreach (VJO). Written Progress Reports shall be submitted to the Court every three months.

## **STANDARD 1107. TERMINATION FOR NON-SATISFACTORY PERFORMANCE**

Pursuant to California Penal Code Section 1001.80(c), should the veteran's performance be deemed unsatisfactory or evident that he or she is not benefiting from treatment, the Court shall, with proper notification to the participant, hold a hearing to determine if criminal proceedings should be reinstated. The hearing's outcome may result in the reinstatement of Military Diversion, returning the matter back to its original department for continued criminal proceedings or a referral for acceptance into the Veterans Court Treatment Program.

## **STANDARD 1108. SUCCESSFUL COMPLETION**

Pursuant to California Penal Code Section 1001.80(c), if the veteran has successfully completed Military Diversion, the Court shall dismiss the participant's charges.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE**  
**MILITARY DIVERSION INFORMATION SHEET**

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The court, in collaboration with the Offices of the District Attorney, City Attorney, and Public Defender, has compiled the following information regarding Military Diversion pursuant to Pen. Code § 1001.80 (hereafter Military Diversion). This information is for guidance as to best practices only, and does not represent strict rules or guidelines.

**A. ELIGIBILITY CRITERIA**

1. Defendant is charged with a misdemeanor or misdemeanors only.
2. Defendant is a current or former member of the United States military.
3. Defendant may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her military service.
4. Defendant consents to being placed on Military Diversion and waives his or her rights to a speedy trial.
5. Defendant has not been granted Military Diversion for any other case.

**B. EXCLUSIONARY CONSIDERATIONS**

1. Defendants with a prior conviction for the same or similar offense are better served by a post-conviction referral to Veteran's Treatment Court (Department 31) as opposed to a grant Military Diversion. Veteran's Treatment Court provides a higher level of structure and supervision for participants, while potentially earning a dismissal of the criminal conviction pursuant to Pen. Code § 1170.9.
2. Multiple grants of Military Diversion for the same defendant prevent that person from seeking the higher level of treatment available in Veteran's Treatment Court, and as a result, Military Diversion should only be granted on a one-time basis.

**C. PROCESS OF ADMISSION**

1. Defendant files a Request for Military Diversion; Advisal and Waiver of Rights (RI-CR052) (hereafter "Request for Military Diversion") at the earliest possible time prior to adjudication of the case.
2. Upon receipt of the Request for Military Diversion, the court will vacate any future hearing dates previously set and will set the matter for hearing on the Military Diversion calendar. A copy of the Request for Military Diversion will be sent by the court to the prosecuting agency with notice of the hearing date.
3. At least 15 calendar days prior to the hearing date, the defense must file and serve on the prosecution a Motion for Military Diversion that includes the alleged factual basis for eligibility for Military Diversion, including any supporting documentation (e.g., proof of military service and an assessment of the defendant's condition by a mental health or other appropriate professional), as well as a proposed treatment plan from an appropriate mental health provider (e.g., from the program providers recommended in the assessment). Any opposition or response from the prosecution must be filed and served on the defense at least five calendar days before the hearing date.
  - If the defendant has already compiled the motion, assessment, treatment plan, and/or other necessary evidence at the time he or she files the Request for Military Diversion, defendant should request a hearing date approximately three weeks out. Otherwise, the hearing date will be set approximately 60 to 90 days out.
  - If the defendant is a military veteran, the assessment may be done by a regional Veterans Center (Riverside, Hemet, or Indio), the VA Mental Health Access Clinic, or the VA Substance Abuse Recovery and Rehabilitation Treatment Program.
4. If at the hearing the court finds the defendant is ineligible for Military Diversion and that a grant of Military Diversion is inappropriate, the request for Military Diversion will be denied, any previously vacated dates will be reset, and the case will continue in due course.
5. If at the hearing the court finds the defendant is eligible for Military Diversion and that a grant of Military Diversion is appropriate, the court will grant Military Diversion for a period not to exceed two years, postponing the criminal proceedings for that time period. The court will impose conditions of the diversion program (e.g., treatment programs). Review hearings will be set to show proof of enrollment/compliance. The court will also set the date upon which the case will be dismissed if the defendant successfully completes the diversion program.

**D. EXAMPLES OF CONDITIONS OF MILITARY DIVERSION**

1. Twelve to 24 months of treatment.
2. Protective Order (JC Form #CR-160) for the duration of the diversion program (DV cases).
3. Fifty-two week Family Recovery Program at a regional Veterans Center or a probation-certified Domestic Violence Recovery Program (DVRP). (DV cases).
4. Random drug and alcohol testing by the treatment provider.
5. Substance abuse or other counseling, therapy or treatment as recommended in the assessment and/or treatment plan.
6. Written progress reports from care/treatment providers due every 90 days.

**E. SUCCESSFUL COMPLETION**

1. At the end of the period of Military Diversion, if the defendant had performed satisfactorily, the court will dismiss the criminal charges.
2. The arrest will be deemed to have never occurred, except that (1) the Department of Justice will be notified of the disposition of the case; (2) the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request; and (3) the defendant is still obligated to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in Pen. Code § 830. Defendant must be advised of (2) and (3).

**F. UNSUCCESSFUL COMPLETION**

If it appears to the court that the defendant is performing unsatisfactorily in the Military Diversion program, or is not benefiting from the treatment and services provided, the court will set a hearing to determine whether the defendant shall be terminated from the Military Diversion program and the criminal proceedings reinstated.