

Planning a Veteran Defense – Checklist

1. Investigate:

a. Intake questionnaire: “Please describe your military service.” Screen for nature of service, extent, combat services, and disabilities.

b. Obtain official documentation to substantiate military service:

(1) Copy of current orders (for active duty service members);

(2) DD-214 for US military and Title 10 National Guard;

(3) NGB Form 22 for National Guard not Title 10; and/or,

(4) Complete file (201 file), Official Military Personnel File, Awards, evaluations, or other.

c. Screen for undiagnosed service-related disabilities:

(1) PTSD Screening Checklist (PCL) from federal Dept. of Veteran Affairs;
and

(2) Screening Questionnaire: Readjustment Counseling Service; Pacific Western Region Traumatic Brain Injury.

d. Obtain medical records/evaluations for potential service-related or other disabilities:

(1) VA, and/or

(2) Independent expert consultation (may require non-routine expense request)

e. Total Military Institution and Moral Injury: Consult with military culture and total institution experts for sociological/ anthropological information regarding military culture and experience to understand and be able to explain the possible connection between service and the alleged criminal behavior.

2. If client is currently in military:

a. Contact the client’s military supervisors and peers concerning potential good military character testimony.

b. Investigate possible consequences of conviction to the client’s military service

3. Possibility of District Attorney Diversion:

a. Is crime eligible for DA diversion. See ORS 135.881 and 135.886.

b. DA may be convinced to offer diversion if, in addition to the factors the DA may consider in deciding to offer diversion, you have solid information on:

(1) Service-related defenses - including moral injury and total military institution;

(2) Medical defenses or service related injuries;

(3) Client's (good) service record;

(4) Client's importance/necessity to his unit/the mission/impending deployment (third parties); and

(5) Impact on client's family, dependents after conviction.

4. DUI Diversion, otherwise eligible if:

a. Active military service does not disqualify your client;

b. Deployment outside Oregon is not a violation; and

c. Treatment may be completed outside state under certain conditions.

5. Sentencing:

a. Military Service enumerated and eligibility for downward departures. See ORS 137.090(2). Applies to both misdemeanors and felonies.

b. Other enumerated factors:

(1) Acted under duress or compulsion (combined with service related injury for example PTSD);

(2) Mental capacity was diminished (service related TBI);

(3) Is amenable to treatment and an appropriate treatment program is available (i.e. veterans court or VA services)

c. Non-enumerated factors (not exhaustive):

(1) Good Soldier Defense

(2) Active military: Critical role or having client available to deploy/serve

(3) Military service/injury

(4) Destructive impact on client's family