

PROBATION DEPARTMENT DIRECTIVE

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SUBJECT: "NO MORE VICTIMS" VIOLENCE PREVENTION AND SCHOOL SAFETY 2000 STRATEGY

Senate Bill 334 enacted the " 'No More Victims' Violence Prevention and School Safety 2000 Strategy" which became effective on January 1, 2000. This bill revises and adds various provisions of Juvenile Court Law with respect to direct prosecution of certain repeat juvenile offenders in criminal court, sentencing of juvenile offenders, convicted in criminal court, detention of juveniles armed during a felony or attempted felony, the conditions of release from secure detention, public attendance at juvenile court hearings, the rights of victims, confidentiality and release of juvenile records, court notification to schools regarding certain juvenile offenders, and mandatory school safety programs.

Following are some of the changes pertinent to Probation operations that will require an understanding of the codes or changes in procedures:

DIRECT FILLINGS AND FITNESS HEARINGS

Section 602(b) Welfare and Institutions Code

Under Section 602 (b) of the Welfare and Institutions Code, any person 16 years of age or older who is alleged and proven to have been declared a ward of the court on one or more occasions for the commission of one or more felonies, committed after attaining the age of 14, shall be prosecuted in adult court if it is alleged that the minor committed murder, attempted murder, any forcible sex offense, aggravated kidnapping or any felony in which the minor used a firearm as defined in Penal Code section 12022.

Any minor directly charged under this section has the right to a preliminary hearing to determine if there is probable cause to hold the defendant minor to answer. If held to answer for a crime listed above, the case proceeds in criminal court unless the defendant minor prevails in a motion to dismiss.

Movement of Minors to Adult Court

Before a case is filed directly in adult court, the District Attorney will have to verify the prior sustained felony that would make the minor subject to direct filing. The District Attorney will notify Intake and Detention Control when a case is filed directly in adult court. Arrangement shall be made for the Sheriff to transport the minor to adult court when notification is, received with sufficient time.

On some cases, records may not be readily available and the direct filing decision will not be made until the day of the scheduled detention hearing after the minor has been transported to juvenile court. In these instances, the DA shall notify the Probation Transportation office to have the minor moved to the designated adult court location. Transportation deputies will transport and turn the minor over to the Sheriff Court Services deputies. Sheriff Transportation is responsible for returning the minor to Juvenile Hall after the hearing Sheriff Transportation transports the minor for subsequent hearing in adult court with unfit minors.

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Section 1170.17 Penal Code

Section 1170.17 is added to the Penal Code outlining sentencing rules for convicted juvenile offenders with prosecution initiated in adult court. Subdivision (a) provides for adult sentencing when the prosecution and conviction is for an offense committed while under the age of 18 and the prosecution is lawfully initiated in adult court without a fitness hearing.

Subdivision (b) calls for an adult sentence if the conviction is for a lesser offense that does not meet the criteria of direct filing if the minor would have been presumed unfit under juvenile law on the lesser offense. However, the minor may petition the adult court for a post-conviction fitness hearing. The five fitness criteria are the same as those used in fitness hearings initiated in juvenile court.

If the minor is found unfit for juvenile court jurisdiction, then an adult sentence is imposed. A juvenile disposition is ordered if the court finds the person fit for juvenile court jurisdiction.

If the conviction is for an offense for which the minor would have been presumed fit in juvenile court, under subdivision (b) a juvenile disposition shall be imposed. However, the District Attorney may request a fitness hearing. If the presumption that the minor is fit for juvenile court is overcome and the minor is found unfit, the minor is sentenced as an adult.

The standard fitness format for fitness reports shall be use for post-conviction fitness reports ordered by the court in these cases.

Under subdivision (d), when the conviction is for an offense that combined with the person's age, does not make the person eligible for transfer to adult court the person is subject to a juvenile disposition. In lieu of a juvenile disposition, with consent of the DA and the offender, the court may impose an adult sentence if it serves the interest of justice and protection of the community.

Assignment of Fitness Investigations

All fitness reports shall be completed by the assigned juvenile Deputy Probation Officer (DPO). New unassigned cases referred from adult court shall be assigned to a juvenile investigator at the office that receives the minute order from adult court. The residence of the minor is not considered in making the assignment.

Orders received by the Central Adult Investigation Office for fitness reports shall be assigned at the Northeast Juvenile Justice Center. Orders received by the East San Fernando Valley Office shall be assigned to the North Hollywood Area Office.

The Farm-in/Farm-out Coordinator will use the standard rules when a case must be assigned to another office.

Section 1170.19 Penal Code

A person sentenced in adult court pursuant to 1170.19 (a) Penal Code may be committed to California Youth Authority if eligibility criteria are met. Housing in Department of Corrections facilities is prohibited for any person under the age of 16 years.

The person's criminal court records are accorded the same degree of public access as records pertaining to an adult for the identical offense.

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With the knowing and intelligent consent of the prosecution and the person being sentenced pursuant to this section, the court may order a juvenile disposition in lieu of a sentence under this code, upon a finding that this

would serve the best interest of justice, protection of the community and the person sentenced. Prior to ordering a juvenile disposition, the court shall read and consider the social study by the Probation Officer.

Under subdivision (b), notwithstanding other provisions, a person eligible for juvenile disposition pursuant to Section 1170.17 is entitled to a hearing conducted in accordance with provisions of Section 706 WIC. The Court in which the conviction occurred shall order the Probation Officer to prepare a report and recommendation for proper disposition of the case, prior to conducting the hearing or remand the matter to the juvenile court for the social study and disposition hearing pursuant to 706 WIC.

The person shall have the conviction deemed a finding of delinquency wardship under 602 WIC and the person's criminal court record is accorded the same degree of confidentiality as if the matter had been initially prosecuted in juvenile court.

With the knowing and intelligent consent of the prosecution and the person being sentenced, the court may impose an adult sentence in lieu of a juvenile disposition upon finding that this would serve the best interest of justice, protection of the community, and the person being sentenced. The court shall read and consider the report and recommendation of the Probation Officer.

Section 606 Welfare and Institutions Code

When a petition is filed in Juvenile Court, the minor who is the subject of the petition shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition unless the Juvenile Court finds the minor not fit and orders criminal proceedings be resumed or instituted, or the petition is transferred to adult court pursuant to Section 707.01(b).

JUVENILE FIREARMS OFFENSES

Section 602.5 Welfare and Institutions Code

Notwithstanding other law provisions, added Section 602.5 (a) WIC mandates the court to commit any minor adjudicated to be a ward of the court for the personal use of a firearm in the commission of a violent felony, as defined in 667.5 (c) Penal Code, to Juvenile Hall, Camp, or California Youth Authority. However, under subdivision (b) a treatment-based alternative placement order may be imposed if the court finds that minor has a mental disorder requiring intensive treatment.

Section 625.3 Welfare and Institutions Code

A minor who is 14 or older and taken into custody by a peace officer for the personal use or possession of a firearm during the commission or attempted commission of a felony shall not be released until the minor is brought before a judicial officer. The judicial officer shall assess the minor's mental health status and shall order continued detention and a mental health evaluation if the judicial officer concludes that the minor poses a danger to the safety of self or public.

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DETENTION AND HOME DETENTION PROGRAM

Section 628.1 Welfare and Institutions Code

If a minor meets one or more criteria for detention under Section 628 but the Probation Officer believes that 24-hour secure detention is not necessary to protect the minor, person or property of others, or to ensure minor's appearance in court, the Probation Officer proceeds according to this section.

Unless one of the conditions described in paragraph (1), (2), or (3) of Section 628(a), the Probation Officer shall release the minor to the parent, guardian, or responsible relative on home supervision. This is done through the Community Detention Program. The minor shall be required by the Probation Officer to sign a promise that the conditions of Community Detention are understood that the minor will obey them.

The Probation Officer shall also require the minor's parent, guardian, or responsible relative to sign a promise translated into a language the parent understands, if necessary, that the conditions of home supervision are understood.

A minor who violates a specific condition of home supervision release may be taken into custody and placed in secure detention, subject to review at a detention hearing.

Section 629 Welfare and Institutions Code

As a condition of release pursuant to 628.1 and subject to Sections 631 and 632, the Probation Officer shall require the minor to sign, and may also require the parent or guardian to sign, a promise to appear before the Probation Officer at a designated place and time.

VICTIM RIGHTS

Section 656.2 Welfare and Institutions Code

Victim rights and responsibilities for ensuring these rights are delineated in this section.

- A victim has the right to present a victim impact statement in all juvenile court hearings concerning 602 WIC petitions alleging any criminal offense. The Probation Officer shall inform the victim of the rights of victims to submit a victim impact statement. If the victim submits a victim impact statement to the Probation Officer, the Probation Officer shall include the statement in the court report submitted for any pre-plea, disposition, or fitness hearing. The Probation Officer shall also inform the victim of the time and place of the disposition hearing, any fitness hearing, and any other judicial proceedings regarding the case.

The Probation Officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and parents and the opportunity to be compensated from the restitution fund.

In compliance with this section, if the DPO is unable to contact the victim by telephone, the DPO shall notify the victim by letter regarding the right to submit a victim impact statement, and the time and place of the disposition or fitness hearing using a Victim Notification Letter. Supplies have been ordered for all work location. Until they are delivered, the attached form shall be duplicated and used.

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Referral procedures to the Centralized Restitution Unit remain unchanged. The Centralized Restitution Unit sends mandatory information prepared by the Judicial Council to the victim.

- The victim has the right to attend the disposition hearing and to make a statement regarding the offense and disposition; to attend any fitness hearing; and to be present during juvenile proceedings as provided in Section 676.5.
- The victim has the right to be informed of all court dates and continuances and to obtain copies of the charging petition, the minutes of the proceedings, and orders of adjudications and disposition of the court contained in the file. In offenses subject to fitness hearings under 707 WIC, the arresting agency is responsible for notifying the victim of the address and telephone number of the branch of that District Attorney's office handling the case. The District Attorney is responsible for informing the victim of the right to attend hearings and to obtain documents. Upon request, the District Attorney shall also inform the victim of dates for the fitness hearing, disposition, and any continuances, and shall inform the Court if the victim requests documents.

The dissemination of documents obtained by the victim is limited to the victim's immediate family. Intentional dissemination of documents by the victim or family is a misdemeanor punishable by a fine of up to \$500.

- The Court upon application of the District Attorney may redact (edit) information in documents released to the victim
- "Victim" means the actual victim, the parent or guardian if the victim is a minor, *or the next of kin of a deceased victim.*

Section 676 Welfare and Institutions Code

Under this section, a victim and up to two support persons of the victim's choosing shall be admitted to juvenile court hearings on the same basis as the victim may be admitted to trials in adult court. The Probation Officer shall notify the victim of this and all other rights and services available to the victim. This notification must be by direct telephone contact with the victim. If the victim cannot be reached by telephone the victim shall be notified by mail, return receipt requested.

Required notification shall be done as follows:

- Victims shall be notified by IDC on all detained cases at intake.
- A designated clerk at the area office shall, complete a Victim Notification Letter *which* notes the cited court date, enclose a victim information pamphlet, and mail it to the victim, return receipt requested on all new unassigned 653.5 WIC cases within two days of receipt of the arrest report by the area office.
- For cases active to an investigation or supervision DPO, the assigned DPO shall notify the victim on all 653.5 WIC cases within two days of receiving the arrest report and on 652 WIC cases within two days of referring to the District Attorney for filing.

If a victim is unable to attend hearings, two persons designated by the victim or however many the court allows may attend. If the victim is deceased, two members of the victim's family, or however many the court may allow, may attend. The court in some instances might restrict the attendance of the victim during some proceedings.

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RESTITUTION

Section 730.7 Welfare and Institutions Code

This added section requires any minor ordered to pay restitution pursuant to 730.6 WIC, or to perform community service, to report to the court on compliance with the court order no less than annually until the order is fulfilled.

Minors committed to California Youth Authority are monitored for compliance with restitution orders. Upon discharge, the department shall notify the court regarding compliance with any restitution order.

RECORDS, CONFIDENTIALITY AND RELEASE OF INFORMATION

Section 723.1 Welfare and Institutions Code

Juvenile Court is mandated to report to the Department of Justice the complete criminal history of any minor declared a 602 WIC ward of the court for any felony listed in Section 667.5 or 1192.7 of the Penal Code. The Department of Justice retains this information and makes it available pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code.

Section 827 Welfare and Institutions Code

Except as provided in Section 828WIC, amended Section 827 WIC limits inspection of court records and probation files to court personnel, the District Attorney, the minor who is subject of the proceedings, the minor's parent or guardian, attorneys for the parties, bench officers, probation officers, and law enforcement officers actively participating in juvenile proceedings involving the minor.

Records may also be inspected by the superintendent or designee of the school district where the minor is enrolled or attending school, members of child protective agencies as defined in 11165.9 Penal Code, and to the State Department of Social Services for specified duties.

Also, members of multidisciplinary teams and persons or agencies providing treatment or supervision of the minor may inspect records. Upon filing a petition, records may be inspected any other person who is designated by court order of the Presiding judge.

Any records released by the Court, Probation Officer, or Department of Children and Family Services shall not be disseminated by the receiving agency to anyone other than persons authorized pursuant to this code section. Furthermore, records, any portion, or information related to contents of these records shall not be made attachments to any other documents without prior approval of the Presiding Judge of Juvenile Court unless they are used in a criminal investigation or proceedings in dependency or delinquency court.

It is the intent of the Legislature to provide for limited exception to juvenile court confidentiality to promote more effective communication among juvenile justice agencies and schools to ensure rehabilitation of juvenile offenders and to lessen potential for drug use, violence, and other delinquency.

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The court is mandated to notify the superintendent of the school district of attendance within seven days when a minor is found to have committed any felony or any misdemeanor involving curfew, gambling, alcohol or drugs, tobacco products, carrying of weapons, a sex offense listed in 290 PC, assault or battery, larceny, vandalism, or graffiti. The superintendent shall expeditiously transmit the notice to the school principal at the school of attendance. The principal shall expeditiously disseminate the information to counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate

the information to any teachers and administrators working with the pupil as appropriate to avoid needless vulnerability.

Any information received by school staff is confidential. An intentional violation of confidentiality is a misdemeanor punishable by a fine not to exceed \$500.

DPO School Notification

Section 827.1 Welfare and Institutions Code

This amended and renumbered section requires the court to provide written notice within seven days to the Sheriff of the county where the offense was committed and to the Sheriff of the county of residence when a minor is found to have committed any felony. The notice is to contain only information regarding the felony offense found to have been committed by the minor and the disposition of the case. Upon request, the information may be disseminated to other law enforcement personnel if it is believed that the release of the information is relevant to the prevention or control of juvenile crime.

Information provided pursuant to this section is confidential. Intentional violation of confidentiality is a misdemeanor punishable by a fine not to exceed \$500.

The court may authorize the Sheriff to disclose information received under this section where the release of the information is imperative for the protection of the public and the offense is a violent felony.

Section 827.5 Welfare and Institutions Code

Law enforcement agencies under this section may disclose the name of any minor 14 years of age or older taken into custody for any serious felony, as defined in 1192.7 PC, and the offense allegedly committed, upon the request of interested persons, as soon as a petition to declare the minor a 602 WIC ward has been filed or a criminal complaint has been filed against the minor.

Section 827.6 Welfare and Institutions Code

The old 827.6 WIC is repealed and replaced with new rules on release of juvenile information by law enforcement agencies.

Law enforcement agencies may release the name, description, and alleged offense of any minor 14 years of age or older alleged to have committed a violent felony, as defined in 667.5 (c) PC, and against whom a warrant is outstanding. The release of information must be imperative for the apprehension of the minor, necessary to protect the public, and must be authorized by the court in the arrest warrant or separate order.

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Release of information pursuant to this section is solely for the limited purpose of enabling apprehension of the minor by law enforcement.

SCHOOL SAFETY PLANS

Each school District and county office of education is mandated to develop comprehensive school safety plans for schools operating any kindergarten and any of grades I to 12. Required components for these plans are outlined in Education Code. DPOs should be aware of any local school plans that might affect their probationer, including rules regarding "gang-related apparel."

The procedures noted in this Directive are subject to change with new interpretations or rulings as the law is implemented. Questions regarding SB 334 changes can be directed to the juvenile consultant at (562) 940-2523.

Virginia Snapp, Chief
Juvenile Field Services

Jitahadi Imara, Chief
Juvenile Special Services Bureau

Billy Burkert, Chief
Detention Services

Richard Saenz, Chief
Residential Treatment Bureau

MANUAL HOLDERS: CROSS-REFERENCE YOUR MANUALS TO THIS DIRECTIVE WHERE APPROPRIATE.



COUNTY OF LOS ANGELES PROBATION DEPARTMENT



RICHARD SHUMSKY
Chief Probation Officer

TO: _____

DATE: _____

RE: PDJ NO: _____

The attached information is being provided to you because you are a victim of a crime. The notification letter explains your rights. If you have questions, please call this area office _____, and you will be forwarded to someone who can answer your questions.

VICTIM IMPACT STATEMENT

The victim impact statement is your opportunity to tell the court how you feel about the crime and the person who committed the crime against you. There is no limit on the length of the Victim Impact Statement. You may express yourself in the following way(s):

- You may appear in court and give your statement before the Judge.
- You may give your written or verbal statement to the probation officer, and it will become put of the probation report, which will be read by the judge.
- You may also submit a written impact statement to the court. The court's address is on the back of this form. It is also important that you address your letter in the following manner:

TO: Judge of Department No: _____
Superior Court, County of Los Angeles
Address:
City:

VICTIM NOTIFICATION

This notification letter is being sent to you because of information the Probation

Department obtained from an arrest report dated _____, that
Arrest Report Date

identified you as a victim of a crime that was committed on _____ at
Date

Approximately _____ by _____, a minor, age _____.
Time of Day Minor's Name

JAIN: _____

PDJ NO: _____ COURT NO: _____
DOB: _____

NEXT COURT DATE: _____ DEPARTMENT: _____

COURT ADDRESS: _____

As a victim of a crime, Section 676.5(a) of the Welfare and Institutions Code (WIC) has given you the following rights: The right to submit a "Victim Impact Statement" at any court hearing/proceeding the above minor attends. That the probation officer must inform you of the right to submit a statement. That you may submit the impact statement at a Pre-Plea, Disposition, Fitness, and any other hearing or court proceeding. The probation officer is required to inform you of court hearings and proceedings. The probation officer will also inform you of your rights and actions for civil damages. WIC section 676 gives you additional rights: You may take up to two support persons of your choosing to court hearings; if you are unable to attend the court hearings, two or more persons or however many the court will *allow*, may attend the court hearings for you.

YOU ARE PERMITTED BY LAW TO DISSEMINATE COURT DOCUMENTS AND OTHER INFORMATION REGARDING THIS CASE TO YOUR IMMEDIATE FAMILY ONLY. ANY INTENTIONAL VIOLATION OF THIS LAW IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$500.