

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT
DIRECTIVE

No.:	1511
Issued:	05/03/2024
Post Until:	06/03/2024

SUBJECT: JUVENILE – MOTION TO TRANSFER TO ADULT COURT INVESTIGATIONS
(Formerly Fitness Process)

(This Directive supersedes Directive #1151, issued 11/02/07 and Juvenile Section 1400, 7/17/08)

The purpose of this Directive is to provide guidelines for completing the Motion for Transfer to Adult Court Investigation and Report, formerly the Fitness Report. The passage of Senate Bill (SB) 382 (effective January 1, 2016), Proposition 57 (effective November 9, 2016), Senate Bill (SB) 1391 (effective January 1, 2019), Assembly Bill (AB) 2361 (September 15, 2022) and SB 545 (effective January 1, 2024) enacted changes to Welfare and Institutions Code (WIC) Section 707 relative to the age criteria and factors the Juvenile Court can consider when evaluating the five (5) criteria to determine whether to transfer a minor to a Court of Criminal Jurisdiction (Adult). SB 135 (effective January 1, 2024) enacted changes to WIC Section 607 relative to jurisdictional age. The new areas of consideration are as follows:

- Minor's age, maturity, and intellectual capacity.
- Minor's physical, mental, and emotional health at the time of the alleged offense.
- Minor's impetuosity or failure to appreciate risks and consequences of criminal behavior.
- The effect of familial, adult, or peer pressure on the minor's actions.
- The effect of the minor's family and community environment.
- The existence of childhood trauma.
- Minor's involvement in the child welfare or foster care system.
- Minor's status as a victim of human trafficking, sexual abuse or sexual battery on minor's criminal sophistication.
- The minor's potential to grow and mature.
- The seriousness of the minor's previous delinquent history.
- The effect of the minor's family and community environment.
- The effect of childhood trauma on the minor's previous delinquent behavior.
- Adequacy of the services previously provided to address the minor's needs.

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- The person's actual behavior and degree of involvement in the crime
- The mental state of the person.
- Level of harm actually caused by the person.
- Person's mental and emotional development.
- Person against whom the minor is accused of committing an offense, trafficked, sexually abused, or sexually battered the minor.

WIC Section 707 mandates that a hearing be conducted by the Juvenile Court to determine whether to transfer the minor to a Court of Criminal Jurisdiction (Adult). The process identifies minors who, by virtue of factors including but not limited to their developmental history, delinquency, criminal sophistication, level of maturity, and the threat they represent to the safety of the public, are not amenable to the care, treatment, and training programs available through the Juvenile Court. The probation report is a jurisdictional prerequisite in making the determination.

Only the District Attorney (D.A.) or other appropriate prosecuting officer can make the motion for transfer, and the Court is required to grant it. The motion must be made prior to the attachment of jeopardy.

PROBATION REPORT REQUIREMENTS

Whenever ordered by the Juvenile Court, the Probation Officer submits a report on the behavioral patterns and social history of the minor. The report must include information to help the Court determine whether the minor should be transferred to a Court of Criminal Jurisdiction.

The probation report stands as the sole mandatory report. However, the Court has the flexibility to consider any other relevant evidence, such as private psychiatric or psychological reports from sources other than the probation investigation.

LEGAL BASIS

707(a)(1) WIC

- 16 or older, any felony offense
- 14 or 15, any 707(b) offense. (If not apprehended for the offense prior to the end of juvenile court jurisdiction) (See Appendix 1)

FORMS

Deputy Probation Officers (DPOs) shall utilize the following forms when completing the Motion to Transfer to the Adult Court Report:

- Court Report (Motion to Transfer to Adult Court – Prob 1264-F, Rev 07/23)
- Worksheet (Prob. 1571, Rev 10/11)

THE COURT REPORT

The format is the same as a Dispositional or Pre-Plea report up until the Analysis and Plan section. The “Behavioral Evaluation” replaces the Analysis and Plan, followed by a discussion of the five (5) criteria, “Place of Detention” and “Recommendation.” In addition to the customary interview process, the DPO should emphasize the collection of pertinent information in the following sections to address the new criteria considerations:

Dependency History: Provide a summary of all Department of Children and Family Services (DCFS) information obtained through the review of the automated systems (including but not limited to, Problite, Juvenile Court systems, etc.). Include all circumstances and actions taken by DCFS (e.g., removals from custody, family reunification, etc.). For active cases, request a written overview of all pertinent case information or include a statement from the Children’s Social Worker (CSW).

Personal History (Minor)

Gang Activity: If the present offense was gang-related or gang-involved, describe significant events preceding the offense and all other information relating to the minor’s gang membership, associations, activities (e.g., is minor known to frequent gang areas, etc.) and level of sophistication. Also, include any statements made by family members or interested parties regarding the minor’s association with or participation in gang activities.

Alcohol/Substance Abuse: Document both current and previous substance abuse usage. Additionally, address any indication of usage at the time of the offense.

Health Information: Summarize any medical conditions and treatment information. Include health concerns present at the time of the offense.

Mental Health/Psychological Evaluation: Summarize any mental health assessments, diagnoses, and treatment information. Additionally, describe any significant developmental

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history and traumatic experiences (e.g., murder of parent(s), sibling(s), other, etc.). Include any mental/emotional health concerns at the time of the offense.

Behavior in School: Include current and prior grades, attendance record, and conduct information. List and summarize any special services or interventions (Individualized Education Program, School Attendance Review Board, special educational needs, etc.) that have been part of the minor's educational history. Additionally, address any developmental disabilities, if applicable.

Family Information – Residence: Include positive and negative neighborhood and community dynamics.

Family/Household Criminal History Summary: Include the criminal history (if any) of parents, sibling(s), and close family members.

Minor's Statement: Minor's decision to remain silent has no bearing on the preparation of the report or the DPO's evaluation of suitability to remain in Juvenile Court.

The DPO shall interview the minor only with the permission of the minor's attorney. The attorney's permission is generally reflected on the minute order, box copy, or petition or is secured by contacting the attorney.

The first paragraph in the minor's statement shall include the following:

- Minor's attorney, (identified by name), declined permission for the minor to be interviewed or Minor's attorney (was contacted) (was present during the interview) and gave permission for the minor to be interviewed regarding (all matters, including the present offense) (all matters, except the present offense).

NOTE: The attorney's denial of permission to interview or limiting the scope of the interview should have no bearing on the DPO's evaluation or recommendation.

Should the minor admit to the offense and the minor's version is not markedly different from the arrest report information, simply state:

- Minor's version of the present offense essentially agrees with the concluding facts of the arrest report investigation.

Whenever a minor's version of the offense is significantly different from the arrest report information, point out those differences.

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Based on limitations (if any) set by the attorney, the DPO shall inquire about the minor's view of himself, helpfulness of services/programs, evaluation of support, etc.

Parent's Statement: DPO focuses their inquiry on the present offense, particularly major areas of conflict that relate to the offense, but also obtains all relevant information regarding the minor's overall developmental history, family dynamics, such as parental discipline style, etc. Also, where applicable, include the minor's relationship with the caregiver/guardian and other substantial supports. If an active case, the DPO obtains the parent's view of the minor's progress under supervision, including their view of services provided. Additionally, include their statement regarding the choice of court (Juvenile or Adult) for adjudication and their reasons.

Interested Parties: Include statements from persons with additional information about the minor or the offense not included elsewhere in the report. Also, address positive family and community connections. For cases active in another jurisdiction or with another agency, obtain statements of the minor's response to their program from the responsible officer, agent, or worker.

NOTE: DPOs must include a description of the minor's behavior in detention in this section.

Conduct Under Supervision (active probation cases): A concise and complete statement regarding the minor's compliance with terms and conditions must be provided. Identify all services and summarize the minor's participation and progress in current and prior services. If there were violations, describe the action taken and the minor's response. Include any positive activities and changes in the minor's behavior.

Behavioral Evaluation: This section is the **analysis** of the minor's behavior and how it manifested itself in the commission of the offense. It is not a summary or repetition of facts presented in the preceding sections of the report; no new facts are introduced at this point, and it does not include a plan.

CRITERIA

Dictate the following statements after the Behavioral Evaluation section and preceding the five criteria:

"Section 707(a)(1) WIC mandates a consideration of the following criteria:"

DPO must address and briefly discuss each criterion in the following order:

1. The degree of criminal sophistication exhibited by the minor.

When evaluating this criterion, the Juvenile Court shall give weight to any relevant factor, including but not limited to:

- Minor's age, maturity, and intellectual capacity.
- Minor's physical, mental, and emotional health at the time of the alleged offense.
- Minor's impetuosity or failure to appreciate risks and consequences of criminal behavior.
- The effect of familial, adult, or peer pressure on the minor's actions.
- The effect of the minor's family and community environment.
- The existence of childhood trauma on the minor's criminal sophistication.
- The involvement in child welfare or foster care system.
- The status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication.

CONSIDERATIONS:

How much planning was involved in the offense? Was the planning over a period of time? Did it involve others, and what was the minor's specific role? Were sophisticated tools required and used? Did the offense require an unusual degree or type of knowledge, such as computer fraud? What degree of sophistication is evidenced by the minor's associations and lifestyle? Is minor assuming an adult role? Did minor display impulsivity? Did the minor's behavior suggest he failed to appreciate the risks and dangers associated with this offense? Does the minor appear susceptible to negative familial and peer influence? Have there been any traumatic events in the minor's history which have impacted his/her development?

2. Whether the minor can be rehabilitated prior to the expiration of the Juvenile Court's jurisdiction.

When evaluating this criterion, the Juvenile Court shall give weight to any relevant factor, including but not limited to,

- The minor's potential to grow and mature.

CONSIDERATIONS:

Are there indicators that minor's criminal attitudes and behavior can be significantly reduced or eliminated within the jurisdictional time remaining at the juvenile level? Is there an expectation that the minor will cooperate with the program? Are there any successes or failures of previous program efforts or any special problems that would hinder treatment efforts? Does it appear minor would be responsive to services at the juvenile level? Are there any assessments, mental health or educational, which reveal a diminished capacity?

NOTE: Pursuant to WIC Section 875 (and referenced in WIC Section 607), jurisdiction may extend until age 21 for any person declared a ward of the court. The court may retain jurisdiction over a person who is 25 years of age or older for a period not to exceed two years from the date of disposition if the person is found to be a person described in WIC Section 602 by reason of the commission of an offense listed in Subdivision (b) of WIC Section 707.

Additionally, a ward committed to a Secure Youth Treatment Facility under WIC Section 875 shall not be held in secure confinement beyond 23 years of age or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a Secure Youth Treatment Facility based on the adjudication for an offense or offenses for which the ward if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the ward shall not be held in secure confinement beyond 25 years of age, or two years from the date of commitment, whichever occurs later.

3. The minor's previous delinquent history.

When evaluating this criterion, the Juvenile Court shall give weight to any relevant factor, including but not limited to:

- The seriousness of the minor's previous delinquent history.
- The effect of the minor's family and community environment.
- The effect of childhood trauma on the minor's previous delinquent behavior.

CONSIDERATIONS:

Are there any discernible patterns, such as the use of weapons, assaultive behavior, property offenses, or drug trafficking? Does the minor act alone or in concert with others? Has there been misconduct at school that may be delinquent/criminal? Was the most recent criminal conduct an isolated incident, part of a recent crime spree, or does it suggest a trajectory toward escalating delinquency? Have there been any prior findings that minor be transferred to a court of criminal jurisdiction? Have there been any traumatic events in the minor's history which have impacted his/her development? Does the minor appear susceptible to negative familial and peer influence?

4. Success of previous attempts by the juvenile court to rehabilitate the minor.

In evaluating this criterion, the Juvenile Court shall give weight to any relevant factor, including but not limited to,

- Adequacy of the services previously provided to address the minor's needs.

CONSIDERATIONS:

What previous Juvenile Court programs such as home on probation, suitable placement, camp, or DJJ have been tried, and what effect have they had on minors? Was the minor referred to services that matched his needs? Was the minor responsive to the services provided?

5. Circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

In evaluating this criterion, the Juvenile Court shall give weight to any relevant factor, including but not limited to:

- The person's actual behavior and degree of involvement in the crime.
- The mental state of the person.
- Level of harm actually caused by the person.
- Person's mental and emotional development.
- Evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor.

CONSIDERATIONS:

Was anyone killed, seriously injured, or subjected to a high probability of injury or death as a result of the minor's actions? Was the offense gang-related? Was there significant property loss? Is there any assessment, mental health or educational, which reveals a diminished capacity?

Describe the degree of the minor's personal involvement: Was the minor an instigator, leader, or follower? Was the minor willing or under duress or peer pressure? Was there any effort to withdraw from or to intervene or help victims? Did the minor use or carry a weapon? Did the minor share in any stolen property?

PLACE OF DETENTION

This section (dictated narrative) is included in the report only when recommending that a minor, 14 to 17 years, be transferred to a Court of Criminal Jurisdiction and is dictated after the five (5) criteria are addressed.

DPOs preparing Motion to Transfer reports shall recommend:

- County Jail for minors 18 years of age whenever there is a high level of criminal sophistication and/or there has been serious assaultive behavior, either in the instant matter or past offenses.

Procedures for Clearing the “Place of Detention”

The Motion to Transfer Coordinator (formerly Fitness Coordinator) monitors the use of bed space in County Jail for minors ordered transferred to a court of criminal jurisdiction and clears the “place of detention” for DPOs submitting a transfer to a Court of Criminal Jurisdiction recommendation to the court.

After clearing a recommendation for “**transfer to a court of criminal jurisdiction**” with the Supervising Deputy Probation Officer (SDPO), the DPO shall contact the Motion to Transfer Coordinator located at Los Padrinos Juvenile Hall (LPJH) to clear the place of detention:

Motion to Transfer Coordinator
Los Padrinos Juvenile Hall (LPJH)
(562) 940-8639

Clearance shall be made within **24 judicial hours** of contact. (Clearance is not available between 11:00 a.m. and 12:00 p.m., Monday through Friday). The Motion to Transfer Coordinator will contact the DPO and identify the “Place of Detention” to be included in the Motion to Transfer to the Adult Court report.

The three categories are:

1. **Transfer to a Court of Criminal Jurisdiction Recommendation – Minor is not dangerous, detained in Juvenile Hall.** Minor is not viewed as an immediate danger to the public, other detained minors, or staff. DPO dictates the following under the “Place of Detention”:

“Minor’s presence in Juvenile Hall is not viewed as an immediate danger to the public, other detained minors or staff. Continued detention in Juvenile Hall is recommended.”

2. **Transfer to a Court of Criminal Jurisdiction Recommendation – Minor is dangerous and detained in Juvenile Hall.** Minor is considered dangerous based on the circumstances of the offense, but a minor’s behavior in detention does not pose a threat to the public, other detained minors, or staff.

The Detention Observation Report reveals that the minor's behavior is acceptable, and the minor can remain detained in the Juvenile Hall with enhanced security provisions. DPO dictates the following under "Place of Detention":

"Minor is considered dangerous based on the circumstances of the offense; however, minor's presence in the juvenile hall is not viewed as an immediate danger to the public, other detained minors, or staff. Continued detention in Juvenile Hall is recommended."

3. **Transfer to a Court of Criminal Jurisdiction Recommendation – Minor is dangerous and detained in County Jail.** Minor is 18 years of age and the most serious type of violent offender. Minor's offense is so serious by community standards, delinquently sophisticated, or gang involved that minor's presence in Juvenile Hall represents a danger to the public, other detained minors, or staff. DPO dictates the following under "Place of Detention":

"Minor represents a present danger to the public and other detained minors. Detention in County Jail is recommended."

Recommendations (Remain in Juvenile Court and Transfer to a Court of Criminal Jurisdiction)

Under 707(a) (1) WIC, there is no presumption. The DPO shall consider all information included under each criterion when making a recommendation.

Recommendations cover several options before the court. Dictate the recommendation verbatim and choose the appropriate parenthetical statement.

Recommendation –Remain in Juvenile Court (New or Active case)

"It is recommended that minor remain in Juvenile Court; that minor (be detained in) or (remain detained in) juvenile hall, or (be released to name, address, and relationship); that case be continued for further proceedings in juvenile court."

When recommending Transfer to a Court of Criminal Jurisdiction, DPO shall:

- Identify the place of detention (juvenile hall or county jail) for minors 14 years to 18 years old.
- Recommend that the case be dismissed on new cases.

- Recommend that only the petition pending motion for transfer be dismissed without prejudice on active cases.
- Recommend that the case be continued three (3) months to the non-appearance calendar for further report on active cases.

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor not dangerous, NEW CASE, detain in Juvenile Hall)

“It is recommended that minor be transferred to a court of criminal jurisdiction; that the court direct the prosecuting attorney to file an accusatory pleading against the minor in a court of criminal jurisdiction; that minor (be detained in) or (remain detained in) juvenile hall; that the order for detention reflect that minor is to be released to the custody of law enforcement personnel for transportation to and from adult proceedings; that case be dismissed.”

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor not dangerous, ACTIVE CASE, detain in Juvenile Hall)

“It is recommended that minor be transferred to a court of criminal jurisdiction; that the court direct the prosecuting attorney to file an accusatory pleading against the minor in a court of criminal jurisdiction; that minor (be detained in) or (remain detained in) juvenile hall; that the order for detention reflect that minor is to be released to the custody of law enforcement personnel for transportation to and from adult proceedings; that the petition be dismissed without prejudice; that case be continued three months to the non-appearance calendar for further report.”

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor is dangerous, NEW CASE, detain in Juvenile Hall)

“It is recommended that the minor be transferred to a court of criminal jurisdiction that the court directs the prosecuting attorney to file an accusatory pleading against the minor in a court of criminal jurisdiction; that minor (be detained in) or (remain detained in) juvenile hall with enhanced security provisions; that the order for detention reflects that minor is to be released to the custody of law enforcement personnel for transportation to and from adult proceedings; that case be dismissed.”

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor is dangerous, ACTIVE CASE, detain in Juvenile Hall)

“It is recommended that the minor be transferred to a court of criminal jurisdiction; that the court direct the prosecuting attorney to file an accusatory pleading against the minor in a court of

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criminal jurisdiction; that minor (be detained in) or (remain detained in) juvenile hall with enhanced security provisions; that the order for detention reflect that minor is to be released to the custody of law enforcement personnel for transportation to and from adult proceedings; that the petition be dismissed without prejudice; that the case be continued three months to the non-appearance calendar for further report.”

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor is 18 years of age and dangerous, NEW CASE, detain in County Jail)

“It is recommended that the minor be transferred to a court of criminal jurisdiction; that the court directs the prosecuting attorney to file an accusatory pleading against the minor in a court of criminal jurisdiction; that the presence of minor in the juvenile hall would endanger the safety of the public and would be detrimental to other minors detained in the juvenile hall; that minor be delivered to the custody of the Sheriff; that case be dismissed.”

Recommendation – Transfer to a Court of Criminal Jurisdiction (Minor is 18 years of age and dangerous, ACTIVE CASE, detain in County Jail)

“It is recommended that minor be transferred to a court of criminal jurisdiction; that the court direct the prosecuting attorney to file an accusatory pleading against the minor in a court of criminal jurisdiction; that the presence of minor in juvenile hall would endanger the safety of the public and would be detrimental to other minors detained in juvenile hall; that minor be delivered to the custody of the Sheriff; that the petition be dismissed without prejudice; that case be continued three (3) months to the non-appearance calendar for further report.”

The court will continue cases that are transferred to a Court of Criminal Jurisdiction for three (3) to five (5) days for a report by the D.A. to see if a case was filed in Adult Court.

Juvenile Field Administration/Motion to Transfer to Adult Court Expediter

Upon completing the Motion to Transfer to Adult Court report, DPO shall submit the Motion to Transfer to Adult Court packet to the designated area office clerical support staff, who will send it to the Juvenile Field Administration/Motion to Transfer Expediter

Motion to Transfer Packet:

1. Motion to Transfer to Adult Court Report 1 copy
2. Arrest Report 1 copy

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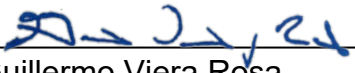
Juvenile Field Administration/Motion to Transfer Expediter address:

Downey Headquarters
9150 E. Imperial Hwy.
Downey, CA 90242
Room – C29

Attn: Juvenile Field Administration/Motion to Transfer Expediter

NOTE: Do not send PDJ File to Closed Files unless jurisdiction was terminated, or case dismissed/closed. Check automated systems to ensure there are no pending matters or court dates.

The policies will be located on Prob-Net (Probation Manuals- [POLICIES, PROCEDURES AND MANUALS \(sharepoint.com\)](#) –Motion to Transfer to Adult Court. Questions or concerns regarding this Directive shall be directed to the Juvenile Consultant at (562) 940-2533.



Guillermo Viera Rosa
Chief Probation Officer

5/3/24

Date