

GENERAL OFFICE MEMORANDUM 17-051

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: JOHN K. SPILLANE   
Chief Deputy District Attorney

SUBJECT: PROPOSITION 57: TRANSFER HEARINGS FOR JUVENILE  
DEFENDANTS RETURNED FROM ADULT COURT  
\* UPDATED 4/18/17

DATE: APRIL 18, 2017

This General Office Memorandum clarifies Special Directives 16-12 and 16-15 with respect to requests for transfer hearings under the following circumstances:

1. Juveniles who were previously found unfit in a juvenile court prior to the passage of Proposition 57 and are currently pending trial in adult court, or
2. Juveniles who were directly filed upon and convicted in adult court, but whose convictions have been reversed on appeal or affirmed but have been remanded for resentencing.

Requests for transfer hearings by juvenile defendants who were previously found unfit in juvenile court prior to the enactment of Proposition 57 will be considered on a case-by-case basis following an evaluation of the case, circumstances personal to the juvenile defendant, and applicable changes in the law. In such circumstances, the Head Deputy of the office responsible for the adult case must decide whether the juvenile defendant should be reconsidered for prosecution in juvenile court. The determination should be based on an application of the criteria described in Welfare and Institutions Code section 707, subdivisions (a)(2)(A)-(E), as well as the changes in the ways the court weighs the criteria, as part of an overall evaluation of the minor, his or her criminal history, and the circumstances and gravity of the offense charged.

Requests for transfer hearings by juvenile defendants who were directly filed upon and convicted in adult court prior to the passage of Proposition 57, and whose convictions have been reversed on appeal or affirmed but remanded for re-sentencing, will be provided an opportunity to have a transfer hearing prior to retrial or resentencing pursuant to the procedures set forth in SD 16-15. “[T]his right to a fitness hearing on remand – whether for retrial on the merits, or just for sentencing – applies only to defendants who . . . have not had a fitness hearing previously, and is a right that may be exercised only once . . . .” (See *People v. Cervantes* (2017) 9 Cal. App. 5<sup>th</sup> 569, \_\_\_, fn. 45.)

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