

GENERAL OFFICE MEMORANDUM 18-037

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: JOHN K. SPILLANE   
Chief Deputy District Attorney

SUBJECT: ADDENDUM TO SPECIAL DIRECTIVE 16-15 TRANSFER  
HEARINGS FOR JUVENILES POST CONVICTION

DATE: MARCH 6, 2018

Special Directive 16-15 set forth this office's post-Proposition 57 policy for transfer hearings for juveniles directly charged in criminal court. This Special Directive serves as an addendum to clarify when a directly filed upon minor is entitled to a transfer hearing. A directly filed upon minor is entitled to a transfer hearing up until the point of post-conviction final judgment. Post-conviction final judgment occurs when the time for petitioning for a writ of certiorari in the U.S. Supreme Court has passed. (*People v. Vieira* (2005) 35 Cal.4th 264, 306, citing *In re Pedro T.* (1994) 8 Cal.4th 1041, 1046.)

On February 1, 2018, the California Supreme Court decided in *People v. Superior Court (Lara)* (Feb. 1, 2018, S241231) \_\_\_ Cal.5th \_\_\_ [2018 Cal. LEXIS 726] (*Lara*) and held that a minor, who was the subject of a direct filed case is entitled to have a juvenile judge determine whether his or her case should be tried in adult court or should remain in juvenile court. The Los Angeles County District Attorney's (LADA) policy is consistent with *Lara*.

Additionally, the Court cited the case of *People v. Vela* (2017) 11 Cal.App.5th 68 (*Vela*) with approval. *Vela* held that Proposition 57's provisions concerning transfer hearings apply equally to defendants who have been convicted and sentenced. Effective immediately, a post-conviction defendant whose case is not yet final, upon request, must be certified to the appropriate juvenile court for a transfer hearing. The handling procedures are set forth in SD 16-15.

If the juvenile court determines that the defendant should be transferred to criminal court, the conviction and sentence are reinstated. If the juvenile court determines that it will not transfer the case to adult court, the juvenile court treats the prior conviction as a completed juvenile adjudication and imposes an appropriate disposition.

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