

SPECIAL DIRECTIVE 18-06

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: JOHN K. SPILLANE   
Chief Deputy District Attorney

SUBJECT: REVISED PENAL CODE 17(B)(4) OPERATIONAL AGREEMENT

DATE: AUGUST 2, 2018

This Special Directive updates Special Directive 17-05 and modifies Legal Policies Manual (LPM) sections 4.02.02 Presumptive Felony Filings, 4.02.04 Presumptive Misdemeanor Filings, and 4.10 Auto Theft. It also updates the internal hyperlinks within the LPM to the latest revision of the Penal Code § 17(b)(4) Operational Agreement Schedule I (Schedule I).

In March 2011, the Los Angeles County Prosecutors Association (CPA), Los Angeles City Attorney's Office and the Office entered into an Inter-Agency Operational Agreement (Operational Agreement) regarding Penal Code section 17(b)(4) referrals. The Operational Agreement implemented "policies and procedures ... in order to accomplish consistent, predictable, and equitable investigation of cases in order to ensure and enhance the fundamental right of the people we represent to a safe and just society." The Operational Agreement is intended to streamline the filing process for all parties by authorizing individual police agencies to directly seek a misdemeanor filing for all cases meeting the delineated criteria without first seeking review from the Office.

The Operational Agreement permits the city prosecutor to refer a case back to the Office if, after an initial review, the case appears to be more appropriately handled as a felony. The Office shall make the final determination as to whether the matter shall be charged as a felony or referred back to the city prosecutor.

The Operational Agreement identifies specific guidelines included in Schedule I regarding the direct filing of alternative felony/misdemeanor charges (wobblers). Schedule I was revised on December 1, 2016. On June 7, 2018, CPA approved the most recent revised version of Schedule I. The most recent versions of the Operational Agreement and Schedule I is located in the LADAnet Library tab under Office Manuals>Filing Resources folder.

It is expected that Schedule I will continue to be refined and modified in the future. **Deputies are responsible for ensuring the use of the most recent version of Schedule I when evaluating criminal charges.** The latest version of Schedule I will be formally distributed to all law enforcement and local prosecutorial agencies. Please continue to communicate with your local criminal justice partners to make sure they are using the latest version of Schedule I.

While the Operational Agreement is not necessarily binding on other prosecutorial agencies, it is the policy of this Office to follow the guidelines of the Operational Agreement.

Consistent with the revisions to Schedule 1, the LPM is modified as follows:

- 1) The last three bullet points of **LPM Section 4.02.02 Presumptive Felony Filings** are deleted and replaced with the following two bullet points:
  - Has a prior serious or violent felony conviction (“Strikes”) within the last 10 years, or 290 registration requirement;
  - Has a prior felony or misdemeanor conviction involving violence, threats of violence or weapons within the last 10 years.
- 2) The first sentence of **LPM Section 4.02.04 Presumptive Misdemeanor Filings** is deleted.
- 3) The last paragraph of **LPM, Section 4.10, Auto Theft**, is deleted.

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