


GENERAL OFFICE MEMORANDUM 19-076

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: PREVENTION OF TRANSFERS OF 14- AND 15-YEAR-OLD
OFFENDERS TO ADULT COURT UPHELD; WRITS

DATE: JULY 11, 2019

This General Office Memorandum (GOM) updates and, in part, supersedes GOM 18-176 and GOM 19-052 regarding the constitutionality of Senate Bill (SB) 1391. SB 1391 prevents 14- and 15-year-old offenders from being transferred to adult court. In several pending proceedings in the Second District Court of Appeal, the Office contends that the law was an unconstitutional amendment to Proposition 57, “The Public Safety and Rehabilitation Act of 2016.” However, two other appellate districts have now published opinions adverse to this position.

In April, 2019, as described in GOM 19-052, the First District Court of Appeal ruled against the Office’s position in *People v. Superior Court (Alexander C.)* (2019) 34 Cal.App.5th 994. On June 26, 2019, the California Supreme Court denied the prosecutor’s petition for review of that opinion.

On June 19, 2019, the Third District Court of Appeal ruled against the Office’s position in *People v. Superior Court (K.L.)*, appellate court case number C088735. That opinion may be found here:

<https://www.courts.ca.gov/opinions/documents/C088735.PDF>

Both cases are precedent that must be followed by the superior court unless and until a contrary opinion is published. In light of these opinions, deputies shall no longer argue the constitutionality of SB 1391 as set forth in GOM 18-176. The Writs and Appeals Division shall not file any new writ petitions on this issue, except in any case where such a filing was previously approved by the Head Deputy of the Writs and Appeals Division, or where litigation is pending proceedings in the Second District Court of Appeals.

jfp