

# Superior Court of California County of Santa Clara

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## MEMORANDUM

From: Lisa Herrick, General Counsel  
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Date: April 16, 2013

Subject: Juvenile Justice Court Proceedings

The purpose of this memo is to summarize some of the law related to proceedings in Juvenile Justice Court.

### Proceedings in Juvenile Justice Court

Generally, the public is not admitted to juvenile justice proceedings. (Welf. & Inst. Code, § 676; see also Cal. Rules of Court, Rule 5.530.) Some exceptions exist:

1. Members of the public may be admitted upon request of the minor and any parent or guardian who is present;
2. Up to two family members of a prosecution witness may attend to support the witness;
3. The victim of an alleged offense and up to two support persons may attend, unless exclusion is ordered by the Court;
4. The Juvenile Justice Judge or Referee may admit those persons whom he or she deems to have a direct and legitimate interest in the particular case or the work of the court; and
5. Members of the public must be admitted to hearings concerning a petition which alleges a violation of, among other things, the following crimes, except during the victim's testimony, if, at the time of the offense the victim was under 16 years of age or if the district attorney files a motion for a closed hearing:
  - a. Murder, manslaughter, torture or aggravated mayhem;
  - b. Arson of an inhabited building;
  - c. Robbery while armed with a dangerous or deadly weapon;
  - d. Certain sex offenses;

- e. Certain kidnapping offenses;
- f. Certain assault offenses;
- g. Discharge of a firearm into an inhabited dwelling or occupied building;
- h. Burglary of an inhabited dwelling house or trailer coach;
- i. Drive-by shooting or discharge of a weapon from or at a motor vehicle; or
- j. Carjacking, while armed with a dangerous or deadly weapon.

(Welf. & Inst. Code, §§ 676, subd. (a), 676.5; see also Cal. Rules of Court, Rule 5.530(e).)

#### Charging a Minor: Juvenile Justice Court v. Adult Criminal Court

Generally, any person under the age of 18 years of age who is alleged to have violated the law is within the jurisdiction of the Juvenile Court. (Welf. & Inst. Code, §602, subd. (a).) Under certain circumstances, however, a juvenile who is alleged to have committed murder or certain sex offenses when he or she was 14 years of age or older shall be prosecuted in Criminal Court. (Welf. & Inst. Code, §602, subd. (b).)

Depending on the nature of the crime alleged, the District Attorney's Office may either file a complaint in Juvenile Court to initiate a "fitness hearing" or file a complaint directly in Criminal Court.

#### *Fitness Hearing*

If the District Attorney's Office has requested a fitness hearing, the Juvenile Court may find that a minor is not a fit and proper subject to be dealt with under the Juvenile Court law if it concludes the minor would not be amenable to the care, treatment, and training program available through the facilities of the Juvenile Court based upon an evaluation of the following criteria:

1. The degree of criminal sophistication exhibited by the minor;
2. Whether the minor can be rehabilitated prior to the expiration of the Juvenile Court's jurisdiction;
3. The minor's previous delinquent history;
4. Success of previous attempts by the Juvenile Court to rehabilitate the minor; and
5. The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

*Direct Filing in Criminal Court*

The District Attorney's Office may file a complaint against a 16-year old minor directly in Criminal Court for the following crimes, among others:

1. Murder, attempted murder, manslaughter, torture or aggravated mayhem;
2. Arson;
3. Robbery;
4. Certain sex offenses;
5. Certain kidnapping offenses;
6. Certain assault offenses;
7. Discharge of a firearm into an inhabited or occupied building;
8. Manufacturing, compounding, or selling one-half ounce or more of a controlled substance;
9. Escape, by the use of force or violence with great bodily injury, from a county juvenile hall, home, ranch, camp, or forestry camp;
10. Carjacking, while armed with a dangerous or deadly weapon.

Under certain additional circumstances, the District Attorney's Office may file a complaint against a 14-year old minor directly in Criminal Court.

(See Welf. & Inst. Code, §§ 707, subds. (a), (c), 707.01, 707.1; see also Cal. Rules of Court, rule 5.766, et seq.)

Charging a Minor with a "Prior"

Under certain circumstances, a prior Juvenile Court adjudication may constitute a "strike" against a minor in a subsequent Criminal Court proceeding. (Pen. Code, § 667, subd. (d)(3).)

Media Access

Electronic recording of the juvenile court proceedings is at the sole discretion of the judge. All requests are processed through the Court's PIO as outlined in the Local Rule of Court.