
Juveniles Prosecuted as Adults and DJJ Commitment Guide

357.1 PURPOSE AND SCOPE

The following Chapter outlines the circumstances under which a juvenile may be prosecuted as an adult, and the guidelines for detention of such an offender, both before and after conviction.

357.2 APPLICABILITY

This policy shall be applicable to all Department Employees.

357.3 JUVENILES PROSECUTED AS ADULTS

The following section outlines the limited ways for a juvenile to be prosecuted as an adult, incarceration of those juveniles and some sentencing limitations.

357.3.1 OPTIONS FOR JUVENILE PROSECUTION

There are three ways in which a juvenile may be prosecuted as an adult:

- (a) Pursuant to Welfare and Institutions Code (W & I) Section 707(a)(1)-(2), a case is initially filed in Juvenile Court, a Fitness Hearing is held, and the case is subsequently transferred to Adult Court. Depending on the youth's age and charge, there is a presumption of fitness or unfitness for treatment in Juvenile Court. Upon conviction, the youth is sentenced as an adult.
- (b) Effective March 8, 2000, pursuant to W & I Section 602(b), a juvenile aged 14 or older must be filed on directly in Adult Court if alleged to have committed: first degree murder with one or more special circumstances enumerated in PC190.2(a), in which it is alleged that the juvenile personally killed the victim; or, one of the sex offenses listed in PC602(b)(2)(A) – (G) when it is alleged one of the special circumstances enumerated in the One Strike law applies [pursuant to PC667.61(d) or (e)], and in which it is alleged the youth personally committed the offense.
- (c) Effective March 8, 2000, pursuant to W & I Section 707(d)(1)-(3), any youth age 16 or older who commits any crime listed in Welfare and Institutions Code 707(b); or any youth age 14 or older who commits a 707(b) offense when any of the special circumstances listed in W&I Section 707(d)(2)(A) – (C) applies; or, any youth age 16 or older who commits an offense listed in Section 707(d)(3) (A) – (C) when the youth was previously found to be a person described in Section 602 for violation of a felony offense when he or she was 14 years of age or older; may be directly filed against in adult court at the prosecutor's discretion.

357.3.2 INCARCERATION OF JUVENILES CHARGED AS AN ADULT

Pre-disposition juveniles charged in Adult Court are housed at both Kearny Mesa Juvenile Detention Facility (KMJDF) and East Mesa Juvenile Detention Facility (EMJDF). However, they are entitled to a release on bail, or on their own recognizance (OR) on the same circumstances, terms and conditions as an adult alleged to have committed the same offense. If ordered by the Adult Court to remain in custody they will remain in KMJDF or EMJDF until they attain the age of

San Diego County Probation Department

Policy Manual

Juveniles Prosecuted as Adults and DJJ Commitment Guide

18, at which time they are delivered to the custody of the Sheriff, or sentenced by the Adult Court. Although youth are housed at KMJDF or EMJDF they are under the control of the Sheriff for all other purposes such as transportation (post-arraignment), court hearings, etc.

357.3.3 SENTENCING OPTIONS FOR JUVENILES CONVICTED AS AN ADULT

Juveniles convicted as adults may be placed on probation, sentenced to State Prison (if 16 years old or older per W & I 1732.6(c) and PC1170.19); State Prison with housing at DJJ; or, in some limited cases, committed to California Division of Juvenile Justice. On stipulation of the prosecution and the youth, and in the interest of justice, the court may also enter a Juvenile Court disposition (PC1170.19(a)(4)).

357.3.4 IF GRANTED PROBATION

Should an offender, under the age of 18, be convicted as an adult and granted probation the case will be classified, transferred to supervision, and assigned as any other case. Incarceration as a condition of probation cannot be served in any adult facility. If the youth is ordered to serve custody it must be served in KMJDF/EMJDF or Camp Barrett (males only), at the discretion of the DCPO of Institutional Services, in consultation with the Sheriff and subject to the orders of the Court, until the age of 18

357.3.5 TRANSFER LIMITATIONS

No youth under the jurisdiction of Adult Court can be transferred from KMJDF or EMJDF to another local facility until the Sheriff, who maintains control over the offender's housing, classifies him or her and the Sheriff approves of the move. The sheriff is also responsible for the transportation of the youth.

357.3.6 SENTENCED AFTER AGE 18

When a person is convicted as an adult for a crime (s)he committed prior to the age of 18, but attains the age of 18 prior to sentencing, the person is sentenced as an adult.

357.4 DJJ COMMITMENT GUIDE

The following Section outlines the various rules regarding commitment, or temporary placement, in the California Division of Juvenile Justice (DJJ).

357.4.1 WHO IS ELIGIBLE FOR COMMITMENT TO DJJ

Any offender who is under 18 when convicted in adult criminal proceedings may be committed to DJJ, rather than state prison, except as prohibited by W & I Code 1732.6.

357.4.2 WHO IS NOT ELIGIBLE FOR COMMITMENT TO DJJ

- (a) Any offender who commits his/her offense when (s)he is 18 or older.
- (b) Any offender who is under 18 years of age when he/she commits his/her offense; if the offense is "violent" or "serious" and the youth is sentenced to life or an indeterminate term to life; or in which the determinate term plus the youth's age would exceed 25 years (W & I 1732.6(a)). But, such offender could be committed to CDC with housing at DJJ (W & I 1731.5(c)) if (s)he is under 18 on the day of sentencing.

San Diego County Probation Department

Policy Manual

Juveniles Prosecuted as Adults and DJJ Commitment Guide

- (c) Any offender under 18 years of age convicted of any W & I Code 602(b) offense; any W & I Code 707(d)(1), (2), (3) offense provided the circumstances alleged are found true; or any W & I Code 707(b) offense if the youth was age 16 or older at the commission of the offense. See W & I 1732.6(b) W & I. But, such offender could be committed to CDC with housing at DJJ (W & I 1731.5(c)) if (s)he is under 18 on the day of sentencing.

357.4.3 IF UNDER AGE 16

Notwithstanding any other provision of law, no person under the age of 16 years shall be housed in any facility under the jurisdiction of the Department of Corrections. (W & I 1732.6(c) and W & I 211(b)).

357.4.4 DJJ DIAGNOSTIC EVALUATIONS

Prior to sentencing and after considering the recommendations made by the Probation Department in an investigation court report, the Court may remand a youth to the custody of DJJ for a period not to exceed 90 days for the purpose of evaluation and report concerning his or her amenability to training and treatment.

357.4.5 DJJ PACKETS

If an offender is committed to DJJ on a regular commitment or for a diagnostic evaluation, or if (s)he is committed to prison with housing at DJJ, following the sentencing hearing the Probation Officer must attach the Court Summary Sheet to the case file before delivering the file promptly to the Activating Supervisor. Failure to do so will result in the inability of the Activating Supervisor to prepare the DJJ referral packet, which must be received by DJJ prior to the arrangement of transportation. The offender cannot leave local custody until the packet is received at DJJ.