

INTER-AGENCY OPERATIONAL AGREEMENT
PENAL CODE §17(B)(4) REFERRALS

SCHEDULE I

DIRECT REFERRAL CRITERIA FOR PENAL CODE §17(b)(4) OFFENSES

Alternative felony/misdemeanor offenses meeting the following criteria are eligible for direct filing with the local prosecutor.

Grand Theft (Penal Code §487(a))

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No more than three prior felony or misdemeanor theft, receiving stolen property or other fraud-related offenses within the last five years
- The theft did not involve the use of credit cards or constitute a form of identity theft
- Aggregated value of attempted or actual theft is \$2,500 or less

Auto Burglary (Penal Code §459)

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No more than three prior felony or misdemeanor theft, receiving stolen property or other fraud-related offenses within the last five years
- Burglary of a single vehicle
- Aggregated damage is \$2,500 or less

Forgery Charges Punishable under Penal Code section 473(a)

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions for theft or fraud related offenses within the last five years
- No incident of identity theft (e.g., phony license, possession of multiple credit cards with different names)
- Forgery of a single document
- Aggregate value of attempted or actual theft is **\$2,400** or less

Passing a Non-Sufficient Funds Check exceeding \$950 (Penal Code §476a(a))

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No more than three prior felony or misdemeanor theft, receiving stolen property or other fraud-related offenses within the last five years
- No incident of identity theft (e.g., phony license, possession of multiple credit cards with different names)
- Forgery of a single document
- Aggregate value of attempted or actual theft is \$2,500 or less

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Hit and Run Driving Causing Injury to Another Person (Penal Code §20001)

- No significant injury

Examples of non-significant injuries, include, but are not limited to:

- Complaint of pain only
- Minor bruising
- Swelling
- Abrasions

Examples of significant injuries include, but are not limited to:

- Loss of consciousness
- Injuries requiring admission to the hospital
- Bone fractures
- Injuries requiring sutures

If at the scene there is only a complaint of pain, the investigating officer should interview the injured party, family member of the injured party or medical personnel in order to assess whether the injury is non-significant or significant prior to presenting the case for filing. This interview should be incorporated in a supplemental report. If the injury is non-significant the case may be directly referred to a city attorney or city prosecutor for misdemeanor filing consideration.

Driving Under the Influence Causing Bodily Injury (Vehicle Code §23153) (Excluding offenses punishable under Vehicle Code §§ 23560, 23566(a) & 23566(b))

- No significant injury

Examples of non-significant injuries include, but are not limited to:

- Complaint of pain only
- Minor bruising
- Swelling
- Abrasions

Examples of significant injuries include, but are not limited to:

- Loss of consciousness
- Injuries requiring admission to the hospital
- Bone fractures
- Injuries requiring sutures

If at the scene there is only a complaint of pain, the investigating officer should interview the injured party, family member of the injured party or medical personnel in order to assess whether the injury is non-significant or significant prior to presenting the case for filing. This interview should be incorporated in a

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supplemental report. If the injury is non-significant the case may be directly referred to a city attorney or city prosecutor for misdemeanor filing consideration.

Vandalism (Penal Code §594)

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions for vandalism.
- No indication that the crime was motivated by gang involvement or that the crime is hate related
- Property damage is \$2,500 or less

Weapons Possession¹

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior convictions for weapons or assault crimes
- Weapon was not used in the commission of a crime
- Defendant is not a gang member or associate gang member
- The weapon is not a firearm

Commercial Burglary (Penal Code §459 (Not during business hours or amount exceeding \$950))

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No more than three prior felony or misdemeanor theft, receiving stolen property or other fraud-related offenses within the last five years
- No tools were used in the entry
- No electrical devices were used to defeat alarms

¹ Penal Code §§ 20310, 21110, 20410, 22210, 30210(b), 24310, 24410, 20510, 30210(a), 20610, 21810, 22010, 20710, 22410, 20910, 21310.

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Possession of a Controlled Substance (Health and Safety Code §§11375/11382)

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions for drug related offenses within the last five years
- No evidence of sales activity connected with the current offense
- Quantity possessed clearly demonstrates possession for personal use

Unlawful Driving or Taking of a Vehicle (Vehicle Code §10851; Penal Code §487(d)(1))

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No more than three prior felony or misdemeanor theft, receiving stolen property or other fraud-related offenses within the last five years
- No prior felony or misdemeanor convictions for auto theft; including vehicle tampering within last five years
- The theft was not related to a criminal enterprise or chop-shop operation
- No pursuit involved in apprehension or arrest
- No significant damage to victim’s vehicle

Counterfeit of Registered Mark (Penal Code §350(a))

- Street value of the goods is \$2,500 or less
- Defendant has no prior felony convictions
- Defendant has no prior counterfeit or piracy convictions within the last five years

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Assault with Force Likely to Produce GBI (Penal Code §245(a)(4))²

- No serious or violent felony prior convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions involving violence, threats of violence or weapons
- No weapon was used, brandished or mentioned in the commission of the offense
- No significant injuries³

Examples of non-significant injuries include, but are not limited to:

- Minor redness
- Swelling
- Scratches, or
- Moderate bruising

Examples of significant injury include, but are not limited to:

- Extensive bruising
 - Open wounds that required stitches or other medical care
 - Broken bones, and
 - Petechiae⁴
 - Loss of consciousness
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- No child present as a witness
 - No strangulation or suffocation of victim

² For cases involving family members or intimate partners, please refer to the standards for violations of §273.5 PC below.

³ If medical intervention is warranted, even if the victim declines, the case should be first seen by the District Attorney’s Office.

⁴ Petechiae are defined as minute discolored spots on the surface of the skin or mucous membrane, caused by an underlying ruptured blood vessel. The presence of petechiae is often indicative of significant internal injury.

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Criminal Threats (Penal Code §422)

- No serious or violent felony prior convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions involving violence, threats of violence or weapons
- No weapon was used, brandished or mentioned in the commission of the offense
- No child present as a witness

All domestic violence related⁵ criminal threats must be initially reviewed by the District Attorney’s Office.

Unlawful Sexual Intercourse (Penal Code §261.5)

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior investigation or arrest for committing a sexual offense
- Suspect is 20 years of age or younger
- Victim is 16 years of age or older
- Sex is non-forcible
- No alcohol or drugs involved
- No traumatic condition (including pregnancy) in the instant case

⁵ See Penal Code § 13700 [victim is a spouse or former spouse, cohabitant or former cohabitant, person with whom suspect has or had a child, person with whom suspect is having or has had a dating or engagement relationship] and Family Code § 6211 [abuse is perpetrated against current or former intimate partners, a child of a party, or any other person related by consanguinity or affinity within the second degree (parents, grandparents or siblings-by blood or marriage)].

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Intimate Partner Battering (Penal Code §273.5)⁶

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions involving violence, threats of violence or weapons
- No weapon was used, brandished or mentioned in the commission of the offense
- No significant injury (see footnote 3)

Examples of non-significant injuries include, but are not limited to:

- Minor redness
- Swelling
- Scratches, or
- Moderate bruising

Examples of significant injury include, but are not limited to:

- Extensive bruising
 - Open wounds that required stitches or other medical care
 - Broken bones, and
 - Petechiae (see footnote 4)
 - Loss of consciousness
- No child present as a witness
 - No strangulation or suffocation of victim
 - No direct referral in cases where:
 - The victim is pregnant and where the suspect directed physical force at the victim’s abdomen or where there are verbal threats against the pregnancy
 - The victim was particularly vulnerable (asleep, developmentally disabled, physically impaired)
 - The suspect has a history of making suicide threats
 - The suspect previously engaged or is currently engaging in stalking behavior
 - The suspect has threatened to abduct and/or injure children or other family members
 - The suspect caused an injury to a pet(s)

⁶See Penal Code § 13700 and Family Code § 6211.

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Child Abuse/Endangerment (Penal Code §273a (a)/273d⁷)

The victim is **over** the age of 8 and the following criteria apply:

- No prior serious or violent felony convictions (“Strikes”) or 290 registration requirement
- No prior felony or misdemeanor convictions involving violence, threats of violence, or weapons
- No prior DCFS contact (the results of a check of both ESCARS and the Family and Children’s Index (FCI) confirming that there is no record of prior DCFS contact must be included in the police report submitted for review)
- No deadly weapon was used, brandished or mentioned in the commission of the offense
- No significant injury (see footnote 3)

Examples of non-significant injuries, include, but not limited to:

- Minor redness
- Swelling
- Scratches, or
- Moderate bruising

Examples of significant injury include, but are not limited to:

- Extensive bruising
- Injuries requiring admission to the hospital
- Open wounds that required stitches or other medical care
- Broken bones, and
- Petechiae (see footnote 4)
- Loss of consciousness

⁷ Penal Code §273d specifically deals with the infliction of cruel and unusual corporal punishment or infliction of an injury resulting in a traumatic condition upon the child. Depending upon the circumstances of the offense, the case may be brought for review as either a violation of section 273a(a) or a 273d with a statement from the suspect that conduct was discipline related. A parent has a right to reasonably discipline by punishing a child and may administer reasonable punishment. However, discipline is unjustifiable when it is not warranted by the circumstances, not necessary, or when such punishment, although warranted, was excessive. The severity of physical injury suffered by the child is only one factor in determining whether the case should be prosecuted as a felony or a misdemeanor.

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LOS ANGELES DISTRICT ATTORNEY WILL REVIEW ALL CASES INVOLVING:

- Penal Code §646.9 – Stalking
- Penal Code §422.7 – Hate Crimes
- Penal Code §368 – Elder Abuse
- Penal Code §136.1 – Witness Intimidation
- Penal Code §243(c)(1), (2) – Crimes Against Peace Officers
- All allegations involving police misconduct or public official corruption