


SPECIAL DIRECTIVE 22-02

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: GEORGE GASCÓN 
District Attorney

SUBJECT: ALTERNATIVE CHARGING EVALUATION POLICIES AND PROCEDURES

DATE: FEBRUARY 18, 2022

Special Directive 20-11, issued on December 7, 2020, superseded Chapter 7 of the Legal Policies Manual and stated, in part, that this Office will not seek the death penalty in any case moving forward. This Office is committed to never seeking the death penalty, eliminating mass incarceration, and fostering rehabilitation for those charged with crimes. However, after listening to the community, victims, and colleagues, I understand there may be the rare occasion where the filing of special circumstance allegations may be necessary. Accordingly, I will enact a committee to review the appropriateness of filing such enhancements in an extremely limited number of cases where the underlying facts are extraordinary and/or the victims are uniquely vulnerable. Any deviation from the policy restricting the filing of special circumstance allegations must ultimately be approved by the Chief Deputy District Attorney.

The Alternative Charging Evaluation Committee (ACE) will review cases where the handling Deputy District Attorney (DDA), Head Deputy, and Bureau Director are all in agreement that an exception is warranted to file special circumstance allegation(s), pursuant to Penal Code section 190.2, as a deviation from Special Directive 20-08.2.

Head Deputies who determine a request to file such allegations is appropriate, shall cause a detailed Special Circumstances Filing Evaluation Memorandum at the earliest possible opportunity. The Memorandum shall contain a factual summary of the case, an evaluation of the case, the proposed charges and allegations, and the appropriateness of filing special circumstance allegations. DDAs should seek mitigation packets from the defense attorney to supplement the memorandum. Pending decisions on the appropriateness to file special circumstance allegations shall not affect the filing timeline. Additionally, requests can be made post-filing.

The Special Circumstances Filing Evaluation Memorandum will be forwarded to the respective Bureau Director who will review the Memorandum and will attach an addendum to the memorandum containing their evaluation and recommendation concerning the suitability of filing special circumstances. The full memorandum will be transmitted to the ACE. ACE shall forward the Memorandum along with their own evaluation and independent recommendation regarding the filing of special circumstances to the Chief Deputy.

DDAs and Head Deputies are reminded that approval to file special circumstance allegations will only be granted in extraordinary situations where it is abundantly clear the defendant is beyond any means of rehabilitation and the crime perpetrated is deserving of this extreme penalty. The committee will track the number and types of requests to further alter the process, as needed, in the future. The District Attorney is committed to a fair and ethical approach to criminal justice. In cases where it is deemed such filings are appropriate, the Office will seek a maximum sentence of life without the possibility of parole.

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