**Richmond Commonwealth’s Attorney’s Office**

**Policy on Transfer and Certification of Juveniles to Circuit Court**

* Guiding principles:
	1. The primary duty of the Commonwealth’s Attorney is to make decisions that protect the safety of the public and consider the rights of the victim and the defendant. It is in the best interest of community safety that we make recommendations that i) recognize the root causes of criminal behavior, ii) address that behavior in a therapeutic manner and iii) attempt to reduce recidivism.
	2. Current research indicates that there are risks to the community in sending juveniles to adult court. Over-supervising low-risk youth can do more harm than good. Therefore, it is the aim of this office to utilize the least restrictive means necessary to provide meaningful intervention for juvenile defendants. Minimizing youth contacts with courts and detention to the extent possible while maintaining community safety avoids negative collateral consequences such as barriers to educational and employment opportunities.
* With these principles in mind, the following procedure will be used when determining which juveniles should be transferred to adult court.
	1. This office will not seek to transfer juvenile defendants charged with non-violent felonies, such as property and drug crimes, to adult court. Only the elected Commonwealth Attorney can make a decision to deviate from this policy upon a determination that it is in the best interest of public safety.
	2. For 16 and 17 year olds charged with the following crimes, the Duty Attorney will make a request at arraignment for the Court Service Unit to complete a report pursuant to 16.1-269.1 in order to assist this office in making a certification decision:
		+ felony murder in violation of § [18.2-33](https://law.lis.virginia.gov/vacode/18.2-33/);
		+ felonious injury by mob in violation of § [18.2-41](https://law.lis.virginia.gov/vacode/18.2-41/);
		+ abduction in violation of § [18.2-48](https://law.lis.virginia.gov/vacode/18.2-48/);
		+ malicious wounding in violation of § [18.2-51](https://law.lis.virginia.gov/vacode/18.2-51/);
		+ malicious wounding of a law-enforcement officer in violation of § [18.2-51.1](https://law.lis.virginia.gov/vacode/18.2-51.1/);
		+ felonious poisoning in violation of § [18.2-54.1](https://law.lis.virginia.gov/vacode/18.2-54.1/);
		+ adulteration of products in violation of § [18.2-54.2](https://law.lis.virginia.gov/vacode/18.2-54.2/);
		+ robbery in violation of § [18.2-58](https://law.lis.virginia.gov/vacode/18.2-58/);
		+ carjacking in violation of § [18.2-58.1](https://law.lis.virginia.gov/vacode/18.2-58.1/);
		+ rape in violation of § [18.2-61](https://law.lis.virginia.gov/vacode/18.2-61/);
		+ forcible sodomy in violation of § [18.2-67.1](https://law.lis.virginia.gov/vacode/18.2-67.1/);
		+ object sexual penetration in violation of § [18.2-67.2](https://law.lis.virginia.gov/vacode/18.2-67.2/).

Once the report is completed, the assigned Assistant will review the report and discuss it in detail with the Deputy Commonwealth Attorney for the JDR team. The Deputy must approve the decision to certify the juvenile to adult court after careful consideration of the following factors:

* + - The seriousness and number of the alleged offenses: including but not limited to whether such offenses were committed in an aggressive, premeditated or willful manner; the severity of any injury to the victim(s); the use of a firearm or other weapon; and, the nature of the juvenile’s participation if others were involved.
		- Prior interventions of the juvenile court and the likelihood of rehabilitation if the juvenile is retained under its jurisdiction.
		- The number and nature of the juvenile’s prior offenses and whether those prior offenses show a pattern of violent behavior that presents a significant danger to the community.
		- Intellectual disability, mental illness and any other factor affecting the juvenile’s mental and emotional maturity.

If the Deputy approves the transfer, the assigned Assistant will then file a notice of intent to certify the juvenile to adult court with the JDR Court at least 7 days before the scheduled court hearing.

* 1. There is a presumption that juveniles aged 14 and 15 charged with violent felonies, other than murder and aggravated malicious wounding, should remain within the jurisdiction of the juvenile court. If the assigned Assistant makes a determination based on the nature of the alleged offenses and the prior history of the defendant that such juvenile should be considered for transfer to adult court, the Assistant will first consult with the Deputy. If the Deputy agrees that transfer may be appropriate, the Assistant will then file a written motion prior to the scheduled court date so that the judge can make a final decision about whether the juvenile should be transferred.