

**Request for Publication**

**Letterhead**

[Date]

[CLERK'S NAME]  
Clerk of the Court  
Court of Appeal, [DISTRICT]  
[ADDRESS]

Re: People v. [CLIENT'S NAME], Court of Appeal No. [###]  
[COUNTY] County No. [###]

Dear Mr./Ms. [CLERK'S NAME]:

As appellate counsel for appellant, I am writing to request publication of the [opinion/part X of the opinion] filed [date of opinion] in the instant case. This request for publication is submitted pursuant to California Rules of Court, rule 8.1120. A copy of the opinion is attached hereto as Exhibit A.

Rule 8.1105, subdivision (c) states in relevant part that:

No opinion of the Court of Appeal...may be certified for publication in the Official Reports unless the opinion: (1) Establishes a new rule or law, applies an existing rule to a set of facts significantly different from those stated in published opinions, or modifies, or criticizes with reasons given, an existing rule; (2) Resolves...an apparent conflict in the law; (3) Involves a legal issue of continuing public interest; or (4) Makes a significant contribution to legal literature by reviewing either the development of a common law rule or the legislative or judicial history of a provision of a constitution, statute, or other written law.

This matter meets these standards for certification.

[STATE HOW OPINION SATISFIES CRITERION – e.g.:

In the instant case, the court's holding that children are entitled to credit for time served in a secure facility post disposition but prior to their commitment to a group home is unprecedented. Moreover, the court's observation that to hold otherwise would deprive children from receiving any credit for this interim time they serve in physical confinement will end the long standing practice of not giving children similarly situated credit for this period of confinement. (See Exhibit A, at pp. xx-xx.) Publishing this opinion would "resolve an apparent conflict in the law", "involves legal issues of continuing public

interest”, and significantly contributes to the scant legal literature in the area of juvenile custody credits while awaiting delivery to group homes from juvenile hall, in this jurisdiction and many more juvenile delinquency jurisdictions throughout the state.

There are a remarkable amount of children in juvenile delinquency proceedings that are ordered to out of home placements at the jurisdictional level. Many of those children will sit in custody in juvenile hall awaiting delivery to out of home placements, appearing at 15-day review hearings pursuant to Welfare and Institutions Code section 737, subdivision (b), and not be awarded precommitment custody credit because their disposition will already have passed.

It is not uncommon to have a hard-to-place child detained in juvenile hall for weeks awaiting delivery to a group home placement. While the status of these children is being monitored by the juvenile court pursuant to Welfare and Institutions Code section 737, subdivision (b) to ensure a prompt and timely delivery of the child to appropriate service, many of these children are faced with having to remain in custody in juvenile hall pending delivery to a group home are not receiving precommitment custody credit for the additional time they spend in juvenile hall. The reason these children are deprived of the additional precommitment custody credit is because many juvenile courts, prosecutors, the Attorney General, and children’s counsel believe the time spent in custody awaiting delivery to out of home placements is just “dead time.” As the Attorney General argued:

[A]ppellant is not entitled to an additional 16 days of credit for the time spent in juvenile hall following the disposition hearing but prior to his placement in the group home. At the disposition hearing, on January 22, 2007, the court deemed appellant a ward of the court for a total term of four years. (9RT 358.) Regardless of his placement, appellant’s term began to run from that date. Accordingly, it is unnecessary to award appellant custody credits for the days that he spent in juvenile hall between January 22, 2007, and February 7, 2007. Therefore, appellant’s claim that he should be awarded an additional 16 days of credit must fail. (Respondent’s Brief 13.)

Prior to this court’s holding in *J.M.*, the above sentiment was the prevailing view among juvenile courts, prosecutors and children’s counsel. Although this case may not appear to be of any significant legal import, the fact that there is no case on this very important custody issue, allows countless juvenile delinquency courts to misinterpret the law regarding juvenile delinquency precommitment custody credits while awaiting delivery to group homes from juvenile hall.

I respectfully urge this Court to consider certifying Part III, the custody credits section of the opinion for publication, pursuant to rule 8.1105, so other courts and counsel will have a clearer understanding in the area of precommitment custody credits in juvenile delinquency cases. Moreover, I believe a published opinion in this case will educate

courts and counsel and decrease unnecessary litigation in this area in that it clearly explains issues routinely raised in these type cases. With your guidance, those of us who practice in the juvenile justice system can approach this area of juvenile delinquency practice with clarity and assurance that a child's due process rights and liberty interests will be observed, and the cause of juvenile justice will be served.]

Sincerely yours,

[COUNSEL]  
Counsel for Appellant

**Exhibit A**