

Franklin Evaluations and Youthful Offender Parole Hearings: Overview of the Legal Guidelines and Requirements

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There have been prominent changes in legislation over the past several years regarding youthful offenders that have been brought on by landmark court cases in state and federal court. These cases have impacted how mitigating factors are considered by the courts in cases that involve youthful offenders. The purpose of this article is to provide an overview of the relevant cases and legislation and to explain how a psychological evaluation (e.g. Franklin Evaluations) can inform the court about an individual's youthful factors.

What Are The Relevant Court Cases for Franklin and Youthful Offender Parole Hearings?

The U.S. Supreme Court ruled in *Miller v. Alabama* (2012) and *Graham v. Florida* (2010) that lengthy sentences given to youthful offenders violate the 8th Amendment. The rationale was that the length of time was cruel and unusual punishment without an evaluation of an individual's upbringing, juvenile record, maturity, capacity to learn and understand, and the facts of the case.

Miller v. Alabama (2012) impacted the criminal justice system by recognizing the unique characteristics of juvenile offenders and requiring sentencing practices that consider these differences. The court recognized that juveniles differ from adults in terms of their culpability and capacity for change. They also emphasized that juveniles have a greater potential for rehabilitation and are more susceptible to outside influences, such as peer pressure and family dynamics.

The general reasoning behind these rulings is a recognition that youthful offenders, particularly those under the age of 26, have less than fully developed mental capacities for maturity and sound decision-making. The Brief Amicus Curiae by the American Psychological Association (APA) filed with the U.S. Supreme Court in Miller v. Alabama and Jackson v. Hobbs (2012), provides a detailed review of the implications of incomplete brain development in juveniles.

In summary, incomplete brain development, especially in the frontal lobes, has significant implications for crime-related factors including judgment, values, empathy, impulse control, and the ability to consider long-term consequences. These mitigating factors must be considered before imposing such a lengthy sentence. They also present with an increased

vulnerability to negative influence, including peer pressure, a finding consistent with the tendency of youthful offenders, as opposed to older adults, to commit crimes in groups. Based on these factors, the court ruled that sentencing practices that do not allow for consideration of an individual's youth and individual circumstances are unconstitutional.

In *People v. Franklin* (2016) the California Supreme Court held that before a sentence of life without parole or its functional equivalent, a defendant whose crime was committed under the age of 23 must have the opportunity to present during trial the types of mitigating factors that would be relevant at a future youthful offender parole hearing. According to PC 3051, if mitigating evidence was not presented during the trial, a remand to the sentencing court is necessary to develop a record of youth-related mitigation factors to be submitted at future parole hearings.

The California legislature passed legislation in 2013 that required parole hearings for people convicted as juveniles by their 25th year of incarceration. In 2017, the laws were expanded to include everyone convicted of an offense committed when they were 25 or younger. In both cases, the legislation left the exception for people in prison for life without parole.

In 2021, Tony Hardin appealed his conviction for first-degree murder that was committed during a robbery, which had resulted in a sentence of Life Without Parole (LWOP) arguing that barring offenders like him from parole violates the equal protection clause of the 14th Amendment. In 2022, a three-judge panel of the State Court of Appeals Second Appellate District ruled that he should be eligible for an evidentiary hearing (a Franklin Hearing) in which he could introduce mitigating evidence related to his age at the time of the crime.

In *People v. Hardin* (2023), the Supreme Court reversed the appeals court ruling and found that the legislation's intent should be followed. The court wrote in its ruling, "When it was considering whether to expand the youth offender parole system to include not only juvenile offenders but also certain young adults, the Legislature could rationally balance the seriousness of the offender's crimes against the capacity of all young adults for growth, and determine that young adults who have committed certain very serious crimes should remain ineligible for release from prison."

What is PC 3051 and How Does it Apply to Youthful Offenders?

California Penal Code 3051 mandates that offenders who were under 26 years of age at the time they committed their controlling offense and who were sentenced to state prison or sentenced under the jurisdiction of the Department of Corrections and Rehabilitation (CDCR) for crimes committed when they were juveniles are entitled to a parole suitability hearing during their 25th year of incarceration. The law allows for the Board of Parole Hearings (BPH) to consider the release of these individuals on parole if they meet certain criteria.

Eligibility Criteria: Offenders who meet the following criteria are eligible for a parole suitability hearing under PC 3051:

- They were under 26 years old at the time they committed the controlling offense.
- They were sentenced to state prison or under the jurisdiction of CDCR for crimes they committed as juveniles.

Parole Suitability Hearing: The law mandates that eligible offenders be granted a parole suitability hearing during their 25th year of incarceration. This means that after completing 25 years of their sentence, they have the right to have their case reviewed by the BPH.

Consideration for Release: During the parole suitability hearing, the BPH considers various factors to determine whether the offender is suitable for release on parole. Factors include the offender's behavior while incarcerated, participation in rehabilitation programs, efforts toward personal development, and the potential risk posed to the community if released.

Youthful Offender Rehabilitation: PC 3051 reflects recognition of the unique circumstances surrounding crimes committed by juveniles. It acknowledges that young offenders have a greater capacity for rehabilitation and change compared to adult offenders. It provides an opportunity for these individuals to demonstrate their rehabilitation and readiness for reintegration into society through the parole process.

What is a Franklin Hearing and How Can a Psychological Evaluation Help?

The purpose of a Franklin Hearing is to present evidence of mitigating factors into the offender's record that was not introduced to the trial court at the time of sentencing. This information can then be evaluated at a future parole hearing.

This includes evidence of a person's state of mind when they committed a crime, the instability of their environment growing up, and their ability to understand their actions at the time of the crime. This will supplement the evidence from the sentencing hearing.

To gather this information, a psychological evaluation is completed and a report is generated documenting the following information:

1. Hallmark Features of Youth (chronological age, immaturity, failure to appreciate risks, etc.)
2. Family and Home Environment (e.g. exposure to trauma or instability in their home life)
3. Circumstances of Crime/Peer Pressure
4. Incapacities of Youth (e.g. challenges dealing with police or participation in court)
5. Evidence of Rehabilitation/Suitability for Parole (where a violence risk assessment can be completed and considered by the court)

In addition to interviewing the offender, interviews can be completed with any family members who can help provide more details about the offender's upbringing. These collateral interviews can be completed by the psychologist, social worker, or investigator assigned to the case. There are also helpful records that can be reviewed to provide more details about the offender's history and can include the following:

- Academic Records (e.g. special education records or an Individualized Education Plan)
- Mental Health Treatment Records (e.g. outpatient treatment, substance abuse treatment, psychiatric hospitalizations)
- Developmental/Pediatric Records (e.g. foster care, birth, medical, juvenile arrest, or regional center records)
- CDCR C-File (This will include probation and parole reports, prison disciplinary records, prosocial conduct, evidence of rehabilitation in prison, criminal history report, as well as the police reports from the commitment offense).

The evaluation and review of the records will help gather information about the following relevant areas:

- **Psychological Trauma History:** This will include information related to trauma at home as well as being exposed to community violence. This is relevant since trauma can disrupt healthy psychological development and will result in conditions such as PTSD, depression, and substance use.
- **Substance Use and Abuse History:** This is relevant since youthful offenders will often start to use drugs or alcohol when associating with negative influences as well as to cope with the emotional impact of trauma. Substance use can impact decision-making as well as impulsivity and the ability to consider long-term consequences.
- **Family History:** This will help gather information about the environment the offender grew up. Family dynamics and their home environment (e.g. patterns of abuse, trauma, substance use, incarceration, or mental health issues of family members) can impact their development due to lack of adequate supervision, structure, or discipline, as well as negative influences.
- **Cognitive or Neuropsychological Testing:** This can be helpful to determine if there are underlying learning disabilities, intellectual disabilities, or neurocognitive impairment. Neurocognitive impairment as well as exposure to drugs and alcohol in utero can also impact decision-making and impulsivity later in life.
- **Assessment of Future Violence Risk:** A violence risk assessment is important in these cases since there is research to support that a majority of juvenile offenders stop engaging in criminal activity as they enter adulthood. A violence risk assessment can help identify historical and current clinical risk factors (e.g. conduct and behavior in prison) to determine what factors can elevate or mitigate future violence risk.

In addition to discussing the offender's history as it relates to the Miller Factors, the purpose of the evaluation and report is also to present information to the court regarding the research related to adolescent brain development and the impact of adverse childhood experiences on cognitive development.

Conclusion

There have been changes in the legislation in California that have impacted how mitigating factors are considered by the courts in cases that involve youthful offenders. The courts have accepted that youthful offenders have unique characteristics that differentiate them from adults. Due to the changes in the law, courts now have to take into account these factors when sentencing youthful offenders. In addition, parole boards must also take into consideration these same factors for youthful offenders in their parole hearings.

A psychological evaluation will help gather the relevant information through a combination of interviews, psychological testing, and record review to provide the court or parole board with the information they need to make important decisions regarding sentencing or suitability for parole.

We're hoping that this article helped explain the relevant case law and process for completing these evaluations for youthful offender hearings. Our practice specializes in completing evaluations for Franklin and other resentencing hearings.