

The Importance of Adolescent Brain Development in Relation to the Franklin Hearing Evaluations: Research to Practice (Part 2)

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Agenda

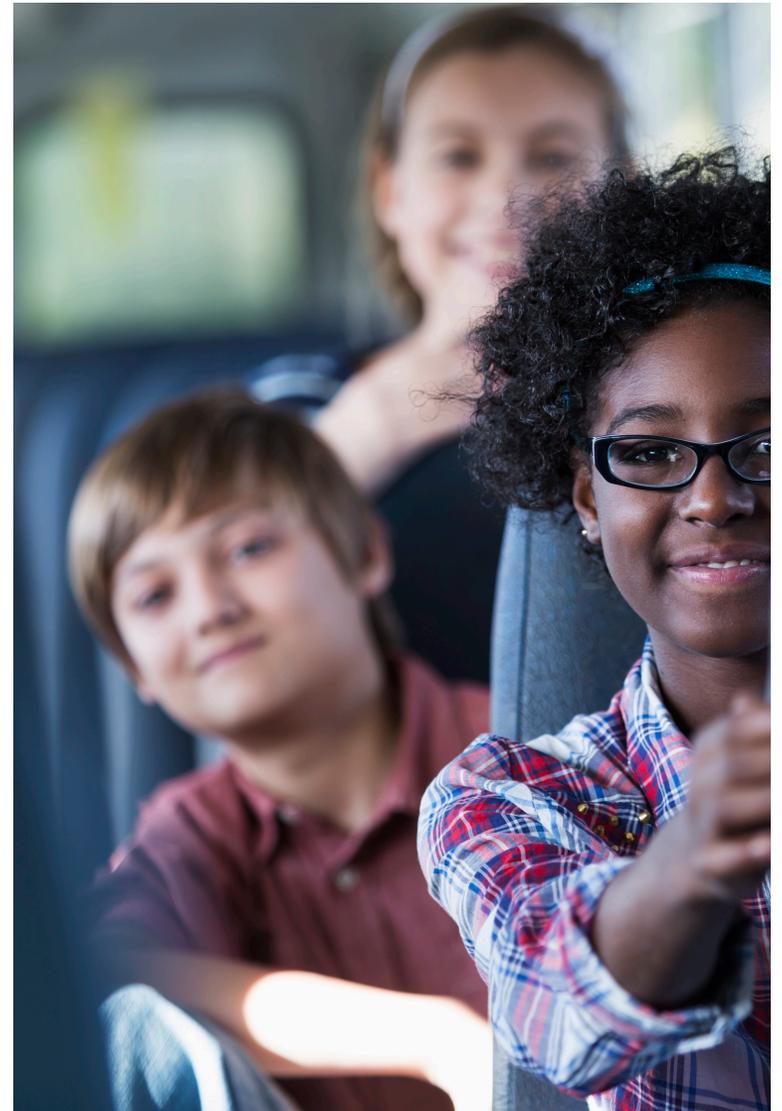
- Purpose of the Franklin Type of Evaluation
- How my practice completes the Franklin
- Redacted Case Study

Overview

- Franklin Hearing type of evaluations are becoming more popular due to the passage of Prop 57 and other re-sentencing statutes.
- It can be challenging for lawyers to figure out how to utilize a psychological evaluation in these types of hearings.
- The most important thing is to have the evaluation overview the transient immaturity of the person.
- Next, clarify with the attorney whether they want you to overview all of the Miller factors or conduct a more focused report.
- A consultation between the attorney and the psychologist can help flush out the details of the approach so that the attorney can decide how to best represent their client.

Overview- How I explain the evaluation to the attorney

- Youth are fundamentally different from adults by the fact that brain development is not complete until the mid to late 20's. In some research, it has been found that brain development completes around age 30.
- Therefore, we must address these factors and potential for youth rehabilitation in report to the court as life or unreasonably lengthy sentences are cruel and unusual punishment for youth.

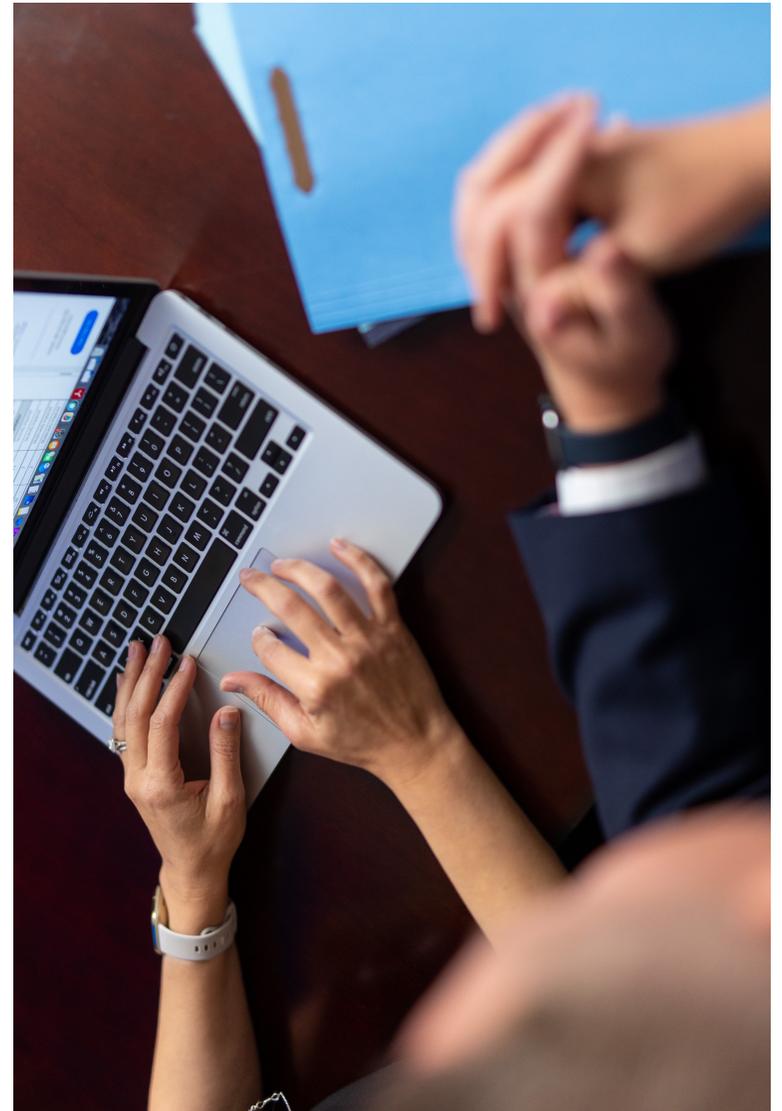


Purpose of a Psychological Evaluation for a Franklin Hearing

- The purpose of having a psychological evaluation at a Franklin Hearing is to provide a **clinical picture of the offender** and **youthful mitigating factors** (if any) to be heard at a **future parole hearing** or upcoming parole hearing for those convicted prior to 2012.

How My Practice Completes a Franklin Hearing Type of Evaluation

- ✓ Consultation
- ✓ Clarify the referral question
- ✓ Review the considerations



Considerations for Franklin Hearing Evaluations I ask Attorneys

- *Do you want the evaluation and report to address all 5 Miller factors?*
- Hallmark Features of Youth (chronological age, immaturity, failure to appreciate risks, etc.)
- Home and Family (environmental, dysfunction, etc.)
- Circumstances of Crime/Peer Pressure
- Incompetencies of Youth
- Evidence of Rehabilitation (and the possibility of needing a risk assessment)

Do you want a
limited
purpose
evaluation
focusing on:

- Discussing adolescent brain development
- Trauma and Adverse Childhood Experiences
- Cognitive deficits and how they pertain to the Miller criteria
- Risk and Treatment (how prior treatments failed and why – perhaps they were not evidenced-based or dose-dependent).
- Address PTSD, TBI, or Substance Abuse and how these relate to the offense charged.

Referral Q Clarification & Focus

- Help them select which **referral question** will assist them in their case. No matter what the exact referral question, focus will be on examining the concept of transient immaturity.
- **Transient immaturity** means we are assessing:
 - Adolescent Brain Development
 - Social Environment Factors
 - Trauma and its effects on the brain
 - The Crime Itself (psychosocial immaturity)
 - Ability to deal with counsel & police (psychosocial immaturity)
 - Evidence of Rehabilitation

Important!! For Attorneys

- it is important to discuss or inform the psychologist about whether you want the **facts of the case discussed or not**. It is not necessary. However, it is most helpful in that we get a little more insight into the offender's maturity/immaturity levels at that time.



Records that will be helpful in the evaluation

- School records, including special education and IEP.
- Psychiatric/Treatment Records- outpatient therapy, inpatient (psychiatric hospitalization), crisis contacts, and medication.
- Developmental/Pediatric Records- particularly if there is a history of neurodevelopmental impairments.
- Medical Records- particularly if there is an indication of any injuries or medical problems.



Bonus!

- As a bonus, it will be most helpful to send a list of **collateral contacts** (family, therapist, treatment providers we can interview for additional information).
- Alternatively, if you can retain an investigator or **forensic social worker** who will conduct these interviews, you are more than welcome to send the investigation reports our way once completed.

Possible
screening
instruments &
assessment
tools.

Can help us
gather objective
data to support
the forensic
opinions.

- Risk Assessment (SAVRY, HCR-20)
- Test of Cognitive Abilities (WAIS/WISC, TONI, RIAS, WASI)
- Neuropsychological Assessment
- Personality (MMPI-2-RF, PAI)
- Effort/Motivation (TOMM, SIRS, MFAST)
- Psychopathy (PCL-R)

Redacted Case Study – Hard Copy Passed Out

- Family background
- ACES/Trauma History
- Educational History
- Psychiatric History
- Legal History
- Collateral Interviews
- Psychological Testing
- Risk Assessment
- Addressing the Miller Factors
- Conclusion
- Questions

Putting It Together: The Report

- Findings Based
- Referral Question
 - Pursuant to the court order dated XX/XX/XX, I reviewed [FIRSTNAME] records and obtained information from collateral interviews to contribute relevant information to his [eventual] youthful offender parole hearing, in accordance with *Franklin. People v. Franklin (2016) 63 Cal.4th 261, 269* recognized that a youthful offender who is eligible for a parole hearing will be evaluated in light of youth-related factors at the time of the offense.

Questions



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