

SUPERIOR COURT OF CALIFORNIA
SANTA CLARA COUNTY
JUVENILE COURT DIVISION

FILED
JUN 04 2018
Clerk of the Court
Superior Court of CA County of Santa Clara
DEPUTY
T. Pierce

**DEFENSE COUNSEL ACCESS TO JUVENILE JUSTICE CASE FILE FOR
YOUTHFUL OFFENDER PAROLE (“YOP”) HEARINGS**

**(RIGHT TO INSPECT, COPY, AND USE
WITHOUT SEPARATELY FILING AN §827 MOTION)**

Background:

Certain inmates serving lengthy state prison commitments are eligible for a Youthful Offender Parole (“YOP”) Hearing. Senate Bill 260 granted this right to inmates who committed their eligible offenses when they were under the age of 18. Effective 1/1/2016, Senate Bill 261 expanded these special hearings to prisoners who were under the age of 23 when they committed the offenses for which they currently are serving time. In October 2017, Assembly Bill 1308 extended the youthful offender parole eligibility to those under age 26. SB 394 amended Penal Code §3051, allowing people who were 16 or 17 years old at the time of a crime for which they were sentenced to life in prison without the possibility of parole (“LWOP”) to be eligible for a YOP hearing in their 25th year of incarceration. It is estimated that more than 10,000 prisoners are eligible for YOP hearings. The law governing Youthful Offender Parole eligibility is set forth in Penal Code §3051 and §3051.1.

At a YOP Hearing, the Parole Board must consider youthful factors because young people are considered less culpable than adults for their actions based on their lack of development, potential for rehabilitation and increased maturity over time.

In *People v. Franklin* (2016) 63 Cal. 4th 261, the court held that SB 260 ensures a meaningful opportunity for relief for youth offenders only if the information regarding the offender’s characteristics and circumstances at the time of the offense will be available at the parole hearing. Since 2014, reasonable professional standards require Defense Counsel representing clients in a criminal court of adult jurisdiction to utilize experts, compile relevant records, conduct necessary investigation and prepare mitigation packets as they relate to their client’s diminished capacity and factors of youth which can be considered at their future YOP Hearing.

Many inmates who are eligible for YOP consideration have a juvenile case file with the Juvenile Justice Court. This juvenile case file may contain documents and/or information about the client’s diminished capacity and other youth factors that can be used by defense counsel on his/her client’s behalf to prepare a mitigation packet or mitigation hearing.

Presently, Defense Counsel would have to file a petition pursuant to Welfare & Institutions Code §827 with the Presiding Judge of the Juvenile Justice Court and obtain

court approval prior to using such records on behalf of their client for mitigation purposes. The filing and processing of each petition for disclosure is time consuming and an undue encumbrance on the resources of the Court. Additionally, the filing and processing of each petition will likely result in lengthy delays thereby affecting defense counsels' ability to provide a thorough and timely mitigation hearing and/or packet.


Based upon these changes in the law, the Court makes the following order:

Therefore, Defense Counsel (or their representative) representing a youth or young adult in Santa Clara County who on the basis of their charges and their age will be eligible for Youthful Offender Parole have the right to inspect, copy, and use their client's records for the mitigation packets that will be needed when their client comes up for such a hearing, without separately filing a petition for disclosure under WIC §827.

Defense Counsel will redact the names, addresses, phone numbers, social security numbers, or any other identifying information of any victim(s) contained in the juvenile case file. Defense Counsel will also redact the names, addresses, phone numbers, social security numbers, or any other identifying information of any co-participants who were under the age of 18 at the time of the juvenile proceedings. This does not waive the confidentiality of any other participant to the events in question.

The juvenile justice records may be used for YOP consideration in a criminal court of adult jurisdiction and/or the YOP hearings before the Parole Board.

SO ORDERED:



Judge Katherine Lucero
Supervising Judge Juvenile Justice Court

Dated: 6/4/18