

## **Juvenile Justice Vision 20/20 June 2016 Training Event**

### **Legal Update**

**June 10, 2016**

**Presented by: Tracey Brame, JD and Tonya Krause-Phelan, JD**

This session provided an update of juvenile justice legal changes from 2015 and 2016, including expungement policies, recent changes to the sex offender registry, and the Supreme Court decision regarding mandatory life sentences for juvenile offenders. The presentation also illustrated the desire for the reform of interrogation techniques used on juveniles based on recent discoveries about their cognitive development.

### **Expungement Policies**

Tracey Brame provided an overview of a Cooley Law School clinic which aids in expungements of adult convictions. She focused this session on expungements of juvenile adjudications. Expungements are available to juvenile adjudications under certain circumstances. Juvenile adjudications are accessible to the public and expungements may be beneficial for job prospects, military service, etc. Ms. Brame also facilitated a discussion with attendees about how to improve the protection of juvenile records in Michigan.

- Expungement eligibility:
  - No more than one adjudication that would be considered a felony if committed as an adult
  - No more than three adjudications total
    - in sum, one can have one “would be” felony and two “would be” misdemeanors, or three misdemeanors
  - Multiple adjudications arising out of a series of acts that were in a continuous time sequence can qualify as one adjudication
  - Life offenses (those that carry maximum of life as an adult) are not eligible
  - Criminal traffic offenses are not eligible
  - Not eligible if tried as an adult
- Timing
  - Must be at least 18 and wait one year after adjudication to apply for expungement
- Circumstances
  - If the adjudication was assaultive, the victim(s) will be notified of the application
  - The court will decide if circumstances and behavior warrant the expungement considering the public welfare
  - Expungement is a privilege, not a right
  - Expungement is not an appeal of adjudication, rather a petition asking the court to remove the adjudication from public record
- Upon Expungement
  - Applicant still has to pay fines/costs
  - Does not affect any possible civil action for damages
  - Does not create a right to commence action for damages for detention
  - Clerk removes adjudication from public view
  - Only the applicant will have access to the file

## **Recent Supreme Court Decisions regarding Juvenile Offenses**

- *Roper v. Simmons* (USC 2005) – Found that the death penalty is prohibited for offenders under age 18.
- *Graham v. Florida* (USC 2010) – Established that no life sentences can be given for juveniles under 18 for non-homicide crimes.
- *Miller v. Alabama* (USC 2012) – Eliminated the mandatory life sentence without possibility of parole for offenders under 18.

## **Sex Offender Registry**

Tracey Brame did not provide an update. She did advise that the Cooley Law School clinic does provide assistance to juveniles and adults to remove or reduce their time on the registry. She did not speak of the eligibility for removal from the registry.

## **Reform of Interrogation Techniques Used on Juveniles**

Tonya Krause-Phelan provided an overview of the evolution of police interrogations, and history of Miranda warnings in the United States. She provided an overview of the PEACE method of interviewing juvenile suspects. The PEACE method is utilized in many other countries and is more of an interviewing style than an interrogation style. There is a proposal that the Miranda warning is updated for juveniles so that more common language is used and the warnings can be easily understood by young suspects (3<sup>rd</sup> grade comprehension level). She warned that the proposed language could be seen as legal advice, rather than simply the advisement of rights.