

Juvenile Practice County By County (Delinquency)

In an effort to provide both a “cheat” sheet of sorts for lawyers who are new to juvenile practice in your county and with the hope that we might all get new ideas for ways to improve juvenile practice throughout the state, I came up with these questions regarding juvenile proceedings. My plan is to gather answers from each of the counties and include this information on the Juvenile Practice website for staff attorneys to use as a resource, and have handouts of the information at trainings. This information should provide a good overview of juvenile practice for staff attorneys and private bar attorneys new to juvenile law.

FOREST COUNTY

Submitted by: Mary Burns

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - Usually 15-20 days for intake to occur. Within one day of completion, if it is not dismissed, it will be sent to the DA.
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - Social Worker
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - Yes – Barb Dawson and Amber Koplín do intake.
- ❖ Do the District Attorneys in your county tend to agree with the social worker/probation officer's decision regarding whether or not to charge, whether or not to offer a Deferred Prosecution Agreement, etc.?
 - Yes, they tend to agree with the social worker.
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Rarely
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - Almost never, unless kid has current case and new charges come in.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - Occasionally, depends on kid's history, naturally.
 - Temporary Physical Custody Hearings
- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - Personally

- ❖ Are your custody hearings before a court commissioner or a judge?
 - Usually judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - No
- ❖ Is there ever sworn testimony taken at custody hearings?
 - No
- ❖ Does your jurisdiction have a “temporary release from secure custody”, furlough, or something whereby secure custody findings are made but the client is allowed to be outside of secure detention?
 - No
- ❖ What is the process for “appealing” the initial custody determination?
 - Unknown
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - No
- ❖ What is the average length of stay in detention?
 - Hard to say, usually 1-3 days, as statutes allow.
- ❖ Where is the detention facility for your county?
 - Oconto County
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Relatives, parents.
- ❖ If your client is in secure custody or in a county facility group home, what needs to happen for the custody status to be reviewed?
 - There is no county group home.

❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?

- Electronic Monitoring is used on occasion.

Competency to Stand Trial

❖ How is the question of competency raised in your jurisdiction?

- 2 ways – attorney files motion or an in-court oral motion is made.

❖ Is it common for someone other than defense counsel to raise competency?

- No

❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?

- No, takes the attorney's word.

❖ Do parties generally stipulate to the evaluator's finding on present competency?

- **YES** How about on the likelihood of attaining competency within the statutory period? **SOMETIMES**

❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?

- Yes

❖ What competency training is provided in your county?

- Organized by social services.

Waiver to Adult Court

❖ Do the District Attorneys in your county file waiver frequently?

- No.

❖ Do the judges in your county often waive kids into adult court?

- Sometimes.

- ❖ When the State files the waiver request, are they truly seeking waiver, or is it used as a bargaining chip for some sort of juvenile disposition?
 - Truly seeking waiver.
- ❖ How often are waivers contested?
 - Almost always.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Delinquency petition
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Officers
- ❖ What sort of witnesses does the defense usually call?
 - Shelly Hagen of the DOC's SJOP, therapist(s), any other expert I can think of, client (sometimes).
- ❖ Is it at all common for a juvenile to initiate waiver proceedings?
 - No
- ❖ Are you aware of any instances in your jurisdiction of the Court initiating proceedings?
 - No

Disposition

- ❖ How closely are the social worker's recommendations followed?
 - Pretty closely.
- ❖ Are cases in your county frequently resolved by consent decrees? Who drafts the consent decrees? Do the district attorneys require a plea for consent decrees?
 - Cases are not often resolved by consent decrees. The DA drafts the consent decree and a plea is required.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?

- Yes
- ❖ Does the State typically agree with the Department's recommendations?
 - Yes
- ❖ Does your jurisdiction have an intensive supervision program?
 - Yes
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - No
- ❖ Does your jurisdiction have a community service/restitution program?
 - No
- ❖ Which Residential Treatment Centers are used by your county?
 - Homme Home for some sex offenders
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - No
- ❖ Do you feel your judges tend to keep kids in their homes whenever possible or are they quick to remove them to foster homes, group homes, RCCs, etc?
 - Judge Stenz is much better at trying to keep kids with their families.
- ❖ Are kids often sent to corrections? Is it used as a last resort? Do you think your county sends kids to corrections that should not be sent? Why do you think that happens and what is the motivation? Is it financially driven?
 - Kids are not often sent to corrections. It is somewhat used as a last resort. Occasionally I think kids are sent to corrections that should not have been sent. The motivation is the judge and DA are afraid kid will re-offend and they will catch hell.
- ❖ Do your judges generally stay sex offender registration for juveniles? When do they make the decision to stay registration? Immediately or do they defer the decision?
 - Sometimes. Usually deferred.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Not much. Mostly through tribal health and wellness centers, if client is a tribal member.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - No
- ❖ What treatment is available in your county for sex offenders? Is there a specific program or a specific therapist that is often/usually used for treatment of sex offenders in your county?
 - None
- ❖ What programs do you have in your county that are gender-specific?
 - None

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - On occasion, depends on behavior.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Testimony from social worker, parent or cop.
- ❖ What sanctions are most often imposed in your county?
 - Some time in secure detention.
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Now and then.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - Depends on the kid.

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 -
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - Shelly Hagen from SJOP is awesome.