

# **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.

# **LaCrosse County**

**Submitted by: Thomas Huh**

## **The Intake Process**

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
  - Cops or Social Worker refer to the D.A.
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
  - Social Worker (SW).
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
  - No.
- ❖ 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.?
  - About 80% they agree
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
  - If advised by the Social Worker
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
  - Sometimes
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
  - Rare, must shoe special circumstances. This DA always prefers formal supervision.

## **Temporary Physical Custody Hearings**

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?

- Personal appearance is mandated.
- ❖ Are your custody hearings before a court commissioner or a judge?
  - Judge.
- ❖ Is a petition normally filed by the time of/at the hearing?
  - Most of the time.
- ❖ Is there ever sworn testimony taken at custody hearings?
  - Rarely. One judge requests if it is secure/asked for.
- ❖ 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?
  - Not usually.
- ❖ What is the process for “appealing” the initial custody determination?
  - It can be re-addressed at the next hearing.
- ❖ 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?
  - 7 days of the plea.
- ❖ Where is the detention facility for your county?
  - In the county, across from the courthouse.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
  - Non-secure detention, Home Detention.
- ❖ 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?
  - Counsel is free to address at next hearing.

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

- Electronic Ankle Bracelet, Trackers

### **Competency to Stand Trial**

❖ How is the question of competency raised in your jurisdiction

- At any time, counsel can voice the issue.

❖ 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.

❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?

- Not always.

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

- No.

❖ What competency training is provided in your county?

- None that we know of.

### **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?

- Not always.

- ❖ 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?
  - At times this is what being sought.
- ❖ How often are waivers contested?
  - Always, unless court desires it not to.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
  - Social Worker testimony, Police Reports
- ❖ What sort of witnesses does the State typically call in support of waiver?
  - Social Worker
- ❖ What sort of witnesses does the defense usually call?
  - Parents, alternative assessment
- ❖ 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?
  - Almost always.
- ❖ 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?
  - Not frequently. D.A. drafts C.D. Sometimes but not always.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?

- Yes.
- ❖ Does the State typically agree with the Department's recommendations?
  - Most of the times.
- ❖ 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?
  - CORE program, Lincoln Hills, Southern Oaks
- ❖ Does your county allow for a dispositional 365 day placement in detention?
  - Allows but rarely done.
- ❖ 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?
  - I believe they try.
- ❖ 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?
  - Only if extensive record, generally understandable when sent, out of options, dangerousness, not financial
- ❖ 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?
  - Not always, they stay if it affects would be drastic, defer.

**Services in your county**

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
  - Anger, AODA, Psych evals.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
  - Outpatient
- ❖ 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?
  - There are a few therapists/assessors . Sandy Murnane often used.
- ❖ 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?
  - Not usually stipulated; It is argued.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
  - Arguments and Social Worker testimony.
- ❖ What sanctions are most often imposed in your county?
  - Secure Detention
- ❖ Does your county utilize stayed days in detention as a sanction?
  - Yes.
- ❖ Has a particular sanction worked well for your clients in your opinion?
  - Not particularly

### **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?
  - Sandy Murnane