

# **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.

# **Manitowoc County**

**Submitted by: Ann Larson**

## **The Intake Process**

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
  - They seem to follow the statute.
- ❖ 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?
  - One Specific worker
- ❖ 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.?
  - Usually
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
  - No. We use consent decrees with admissions.
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
  - No.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
  - No.

## **Temporary Physical Custody Hearings**

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

- ❖ Are your custody hearings before a court commissioner or a judge?
  - Court Commissioner
- ❖ Is a petition normally filed by the time of/at the hearing?
  - No.
- ❖ Is there every 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?
  - We do not have one in place
- ❖ 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?
- ❖ Where is the detention facility for your county?
  - Ours closed 1/1/13. I believe Sheboygan will house our juveniles.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
  - Shelter, electronic monitoring, 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?
  - Typically an appearance before the judge or review w/ the commissioner

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

### **Competency to Stand Trial**

- ❖ How is the question of competency raised in your jurisdiction?
  - The defense attorney raises the issue to the judge.
- ❖ 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, just the request by defense counsel
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
  - It is typically stipulated to though sometimes challenged by the defense
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
  - Generally not an issue
- ❖ What competency training is provided in your county?
  - None that I 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?
  - In the few instances it is requested, yes.

- ❖ 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?
  - They are truly seeking waiver
- ❖ How often are waivers contested?
  - Almost always
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
  - I have only done waivers in Milwaukee County
- ❖ What sort of witnesses does the State typically call in support of waiver?
  - See above
- ❖ What sort of witnesses does the defense usually call?
  - From observation, generally the social worker or a doctor
- ❖ 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?
  - The social worker drafts the consent decree & they are not uncommon. An admission is always required.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
  - Yes.

- ❖ Does the State typically agree with the Department's recommendations?
  - Typically
- ❖ Does your jurisdiction have an intensive supervision program?
  - Yes.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
  - Yes.
- ❖ Does your jurisdiction have a community service/restitution program?
  - Yes.
- ❖ Which Residential Treatment Centers are used by your county?
  - None.
- ❖ Does your county allow for a dispositional 365 day placement in detention?
  - I've never seen them do it.
- ❖ 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?
  - They tend to keep them in the home
- ❖ 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?
  - Very rarely do they go to corrections. Financial considerations are seen as a motivation from the DA's perspective but the workers say that is not considered in the determination.
- ❖ 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?
  - Yes, and they defer the decision

### **Services in your county**

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
  - Children’s Long Term Support waiver, Mental health or AODA Sex offender treatment, ISP
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
  - Yes. Youth Wellness Center
- ❖ 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?
  - One specific therapist, group & individual treatment
- ❖ 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?
  - Frequently
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
  - Testimony by social worker
- ❖ What sanctions are most often imposed in your county?
  - Home detention, electronic monitoring
- ❖ Does your county utilize stayed days in detention as a sanction?
  - Very infrequently
- ❖ Has a particular sanction worked well for your clients in your opinion?
  - No

## **Miscellaneous**

- ❖ What are common acronyms and their meanings in your county?
  - YWC – Youth Wellness Center, ART, JSAI
  
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
  - Skip Cole, yes
  
  - We are one of 3 pilot counties involved in the Juvenile Alternative to Detention Initiative (JDAI) with the Annie Casey Foundation so that affects some of the answers. The amount of juvenile detention used here has dwindled to very rarely.