

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.

Portage County

Submitted by: Anne Renc

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - I'm not sure.

- ❖ 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?
 - No, it seems to go the social worker that will be assigned to the case.

- ❖ 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.?
 - They tend to agree with the social worker

- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - They are used. It is unclear how often. It is more likely a consent decree will be used.

- ❖ 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?
 - Yes, this happens rarely

Temporary Physical Custody Hearings

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

- They appear in person
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - It really depends on the situation. Usually not.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes.
- ❖ 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?
 - You can ask the judge for a rehearing but they are rarely granted.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Yes.
- ❖ What is the average length of stay in detention?
 - 30-60 days
- ❖ Where is the detention facility for your county?
 - In our county jail.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Foster care, electronic monitoring
- ❖ 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?
 - A plan for keeping watch over the kid if released.

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

- Yes, electronic monitor and the juvenile sanctions program

Competency to Stand Trial

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

- Usually by the defense attorney

❖ 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?

- The prosecutor will stipulate to a finding of incompetency if the report says the kid is incompetent.

❖ 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 directly in our county.

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?

- No.

- ❖ 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 rarely file waivers so they are seeking waiver when it is filed.
- ❖ How often are waivers contested?
 - Always
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - It has been so long since I've seen a waiver case come through that I am not sure,
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Not sure.
- ❖ What sort of witnesses does the defense usually call?
 - Not sure.
- ❖ 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 to the letter
- ❖ 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?
 - Yes, the social worker drafts the consent decrees. Yes, a plea is required for a consent decree.
- ❖ 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?
 - Yes.
- ❖ Which Residential Treatment Centers are used by your county?
 - Northwest Passage
- ❖ 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?
 - They try to keep them at home as long as possible.
- ❖ 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?
 - They are often sent to secure. I think the motivation is to warehouse them for a bit so they can come up with a permanent plan for them.
- ❖ 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?
 - Sexually based offense are rarely charged in my county such that I have no idea what generally happens.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 -
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - Gateway Report 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?
 - No.
- ❖ 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?
 - 50% of the time
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Testimony through the social worker
- ❖ What sanctions are most often imposed in your county?
 - Secure detention
- ❖ Does your county utilize stayed days in detention as a sanction?
 - No.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 -

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - No unusual acronyms. We do tend to talk about Gateway Report Center as Gateway.
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
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