

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.

Price County

Submitted by: Jim Lex

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - No diversion programs. Social service will refer to 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?
 - Kim Kiring, Kayla Bogen – two social workers
- ❖ 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 go along with the social workers almost always.
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Yes, don't see them until there's a problem.
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - You might be able to convince the DA to go back to the DPA once they are brought back, extension or something.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - If a kid refuses to meet, and do after, then the DA may consider a DPA.

Temporary Physical Custody Hearings

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

- 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?
 - No, ask for 48 hours.
- ❖ Is there every sworn testimony taken at custody hearings?
 - Yes, they usually do take testimony. Social worker testifies or sometimes cop.
- ❖ 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, regularly scheduled review hearing.
- ❖ What is the process for “appealing” the initial custody determination?
 - Judge, review hearings are best bet
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Not usual
- ❖ What is the average length of stay in detention?
 - 10 days
- ❖ Where is the detention facility for your county?
 - Lincoln Hills or Marathon County or Eau Claire (depends on the availability of a bed).
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Home, relative placements (background checks), non-secure (shelter care in Marathon county, attached to detention there)

- ❖ 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?
 - Periodic reviews – usually every 10 days.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - No electronic monitoring
 - Nothing really.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - Defense counsel has to raise it.
- ❖ 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?
 - Probable cause determination
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
 - Yes
- ❖ 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?
 - None

Waiver to Adult Court

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

- 25 years, only a handful
- ❖ Do the judges in your county often waive kids into adult court?
 - Don't see them
- ❖ 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?
 - Don't see them
- ❖ How often are waivers contested?
 - Too few to really know.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Too few to really know.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Too few to really know.
- ❖ What sort of witnesses does the defense usually call?
 - Too few to really know.
- ❖ 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?
 - Never had the court do it.

Disposition

- ❖ How closely are the social worker's recommendations followed?
 - Almost completely

- ❖ 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?
 - DA will draft consent decree
 - DEJ – Deferred entry of judgment

- ❖ 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?
 - No

- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - No

- ❖ Does your jurisdiction have a community service/restitution program?
 - Social services monitors it. Kid has to find it, but it is monitored through social services.

- ❖ Which Residential Treatment Centers are used by your county?
 - Northwest Passage (most common), Lad Lake, Homme Home, Eau Claire

- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Sometimes, at the dispositional hearing, it will come up. Sometimes, they will order 60 or 90 days.

- ❖ 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?
 - Yes, the judges try to keep kids at home. They are cost driven in these decisions.

- ❖ 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?

- No
- ❖ 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?
 - The judge will often stay it upfront, and sometimes will want to have a hearing later to see how the kid has done. Sometimes stayed pending psycho sexual.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Counseling and Development Center, anger management and sex offender treatment (no part of social services)
- ❖ 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?
 - Counseling and Development Center – Judge likes them. (715) 339-1148
- ❖ What programs do you have in your county that are gender-specific?
 - None (mostly males that come through)

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - Stipulation is common
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Call social worker.
- ❖ What sanctions are most often imposed in your county?

- 5 to 10 days in detention
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Disposition – 10 days from the 365 day order, social worker has discretion.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - Secure custody can be helpful.

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - NWP – Northwest Passage
 - LHS – Lincoln Hills School
 - SDF – Secure Detention Facility
 - TPC – Temporary Physical Custody
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - Patty Coffey – competency
 - Elmer Green – Tim Koller (sex offender expert)