

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.

Shawano County

Submitted by: Steve Weerts

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - They cover Shawano County and Menominee County. Tribal court for natives, federal for felonies, but non-natives are in Menominee County (in the Shawano courthouse, because Menominee doesn't have one) and separate social services for Shawano and Menominee
 - Shawano County – intake worker, meets with the parents and juvenile, from that information, they make a recommendation about DPA versus asking for formal petition versus counsel and close. The DA mostly follows the intake workers recommendation, but sometimes they will choose to file a petition even when the intake worker feels a DPA is appropriate. Usually, they do not have time limit issues.
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - Social workers
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - One person does all the intakes. She also does all the court reports.
- ❖ 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, they agree, but sometimes they choose to file over the social worker's recommendation.
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Not common, but they are used.
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - Use plea negotiation, sometimes DPA, more often consent decrees are used.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?

- Sometimes in cases where the family missed the meeting with the social worker, but were found to be appropriate for a DPA once they appeared after the petition was filed.

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - They appear in person. Oconto County Detention center is used, but it is just for boys. Girls are held in Brown County usually or wherever they can find space. They are brought in to the hearing.
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - Petition is not usually filed by the custody hearing.
- ❖ Is there every sworn testimony taken at custody hearings?
 - Social workers are usually called to testify, sometime police officers
- ❖ 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?
 - Home detention – can’t go anywhere without parents besides school, electronic monitors, standard rules
- ❖ What is the process for “appealing” the initial custody determination?
 - No real opportunity, because the judge decides.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Sometimes the social worker will want kids to have a chance to get home.
- ❖ What is the average length of stay in detention?
 - Usually, short stays – a week or so. More serious offenses like sexual assault or armed robbery, it will be longer.

- ❖ Where is the detention facility for your county?
 - Oconto for boys, and Brown for girls.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - One Foster family will sometimes take kids in as a sort of shelter. The foster family was recently killed in a car accident. Not sure of most current resources.
- ❖ 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?
 - They can just bring it up. The DAs haven't objected.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Electronic monitoring, but no program or person involved.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - The attorney raises it as soon as possible.
- ❖ Is it common for someone other than defense counsel to raise competency?
 - Maybe the attorneys will ask the social worker about their thoughts, but the social worker wouldn't bring it up to the attorney
- ❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?
 - Some info needs to be given to justify cost.
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
 - DAs usually agree with the findings. They don't usually try to make the kid become competent, just do the JIPS.

- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - See above
- ❖ What competency training is provided in your county?
 - See above

Waiver to Adult Court

- ❖ Do the District Attorneys in your county file waiver frequently?
 - Not that frequent, much less frequent since the age was changed to 17.
- ❖ Do the judges in your county often waive kids into adult court?
 - Since waiver petitions less frequent, when waivers are filed, the kids are usually waived.
- ❖ 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?
 - When the DA files, they are serious about it and feel adult court is appropriate.
- ❖ How often are waivers contested?
 - Depends on the case, if a really bad case, sometimes waiving the hearing is a way of negotiating a better deal in adult court.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Petition and sometimes social worker testifying about police reports.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Social worker and sometimes law enforcement or school liaison.
- ❖ What sort of witnesses does the defense usually call?
 - Family members, parents or guardian, aunts uncles, someone who cares about the child, sometimes teachers or somebody who knows the child, and sometimes counselors/therapists to talk about the deficits and immaturity or reasons not appropriate for adult system.
- ❖ 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 seen that.

Disposition

- ❖ How closely are the social worker's recommendations followed?
 - In most cases, they are followed quite closely. There is a long list of standard rules – counseling, community service, go to school, stay out of trouble, treat your parents, social worker, teachers with respect. If not followed, usually minor changes to the order can be argued, shorter period of supervision.
- ❖ 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?
 - Consent decrees are common and drafted by the social worker. The social workers don't push for a plea, but sometimes the DA insists. Only 25% of the time do they require a plea.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
 - There are general rules that are included separately for every case where a kid is placed on supervision.
- ❖ Does the State typically agree with the Department's recommendations?
 - Small additions, but usually in agreement.
- ❖ Does your jurisdiction have an intensive supervision program?
 - No specific program, but the social workers will provide intensive supervision on a case by case basis.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - Nothing specific.
- ❖ Does your jurisdiction have a community service/restitution program?

- Social worker gives them a list of things that count. Even doing extra curricular activities can count – get a note, get points for playing baseball. Parents can help figure out activities.
- ❖ Which Residential Treatment Centers are used by your county?
 - Too expensive so they are not used. Super serious go to Lincoln Hills. Otherwise, it is home with supervision. Shawano doesn't even really use group homes very often. Menominee does sometimes utilize group homes. Menominee may have access to federal funds that may help pay for those. Menominee is very poor, because no tax base, but they have more money for some social services because of the tribe. They really just don't use out of home placements much. In home team works are sometimes utilized.
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Shawano doesn't have this and it Shawano does not use this option at Brown County's detention either.
- ❖ 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?
 - Kids stay at home if can't make it at home, they look at relatives, and otherwise its Lincoln Hills if serious enough.
- ❖ 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?
 - Multiple sexual assaults – Lincoln Hills, but generally not overly used. One kid went for Arson, but generally, it is used as a last resort. Even for some serious felonies, the judges do not use Lincoln Hills.
- ❖ 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 judges sometimes require sex offender registration and sometimes they don't. Case by case basis, no clear pattern.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?

- The Department of Community Programs provides treatment for kids. There are also some private treatment providers (parents need money or insurance). Tribes also have programs that are available to Native American kids. Three different tribes - Stockbridge Munsee (Mohicans), Hochunk, Menominee. The social workers are flexible about where the kids get the counseling.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - No day treatment program, but there is a day treatment program in Green Bay that the kids can be placed in. It is often imposed and stayed for kids.
- ❖ 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 specific program. Sometime for more serious sex offenses, they use Elmer Green and Associates in Wausau.
- ❖ What programs do you have in your county that are gender-specific?
 - None that I am aware of.

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - At least half the time, contested hearings happen. The kids are stubborn and want a hearing.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Usually, the actual the social worker on the case (rather than the intake worker) will come to testify.
- ❖ What sanctions are most often imposed in your county?
 - Time in detention, or house arrest is sometimes negotiated, and usually for the full 30 days. The time in detention is usually 10 days. They do weird imposed and stayed 30 days as part of disposition, but they have to come back to actually serve the days.
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Not very common, but can happen.

❖ Has a particular sanction worked well for your clients in your opinion?

- Home detention works as well as the secure detention.

Miscellaneous

❖ What are common acronyms and their meanings in your county?

- None

❖ Who are experts you have used in juvenile cases and would you recommend them?

- Elmer Green, sexual assault cases
- Dr. Michael Golley – more adult, but likeable, reasonable, will talk to us about his view point. (Forensic unit – he is respected)