

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.

Taylor County

Submitted by: Alec Nocco

As a disclaimer, I have only been in Taylor County since April (previously was in Lincoln) so I haven't had a ton of juvenile cases over there yet (probably 4-5) and I'm not sure how representative of the county they are.

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - The social worker assigned to intake for that week will investigate and make a referral to DA for charging if they believe it's appropriate. Sometimes they choose to offer the family services without charging.

- ❖ 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?
 - Intake is rotated.

- ❖ 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.?
 - I haven't been in Taylor County very long but the DA has always agreed so far.

- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Consent Decrees are used regularly. I don't know about DPA's because we aren't generally involved in that process. Most of the time for first time offenders, depending on the charge, if the family is cooperative they will not file a formal petition (DPA sort of) but if the family is non-responsive then it ends up as a consent decree after charging.

- ❖ 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?
 - Consent Decrees

Temporary Physical Custody Hearings

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

- Personally
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Usually a judge. Occasionally a commissioner.
- ❖ Is a petition normally filed by the time of/at the hearing?
 - Occasionally. Usually the petition comes through the next day.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Sometimes, but it's unusual because Taylor County tends to send kids home with rules regardless of the severity of the charge.
- ❖ 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?
 - I've never seen this happen in Taylor County.
- ❖ What is the process for "appealing" the initial custody determination?
 - If it's in front of the commissioner you can request de novo review.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Sometimes Social Services.
- ❖ What is the average length of stay in detention?
 - I've been in Taylor County since March and I haven't had any kids stay in detention including serious felony charges (1st degree sexual assault). They don't use it often.
- ❖ Where is the detention facility for your county?
 - Lincoln Hills is used even for short term stays.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Most of the time it is just a return home with conditions. If home isn't a possibility then a family member is usually identified for a temporary placement. If no family member is available then they are placed in a foster home or group home but that is rare. Beyond that there are a few program based placement options that aren't often utilized.
- ❖ 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 review hearing is usually scheduled right away (about 10 days out) but can also be brought by defense counsel or social services.

- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Social services works with the family.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - By defense motion.
- ❖ Is it common for someone other than defense counsel to raise competency?
 - No, but I've never had the State object.
- ❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?
 - No, a competency report is ordered.
- ❖ 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 to both.
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - I haven't had this situation in Taylor.
- ❖ What competency training is provided in your county?
 - None.

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?
 - Has never happened.
- ❖ How often are waivers contested?
 - N/A
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?

- N/A
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - N/A
- ❖ What sort of witnesses does the defense usually call?
 - N/A
- ❖ 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?
 - The State always adopts them as their recommendations. We usually use them as a starting point to negotiate.
- ❖ 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 DA “drafts” (they are usually all the same) the consent decrees. They do not require a plea.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
 - Yes.
- ❖ Does the State typically agree with the Department's recommendations?
 - Always
- ❖ 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?
 - Yes.
- ❖ Which Residential Treatment Centers are used by your county?
 - It varies based on need but they contract with Eau Claire county.
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - As previously stated, stays in detention are rare and never this long.

- ❖ 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?
 - Definitely tend to keep them at 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?
 - Last resort. I think there is financial motivation not to send 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?
 - A stay is ordered at disposition.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Social services has their own anger management, criminal thinking, and AODA.
- ❖ 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?
 - General sex offender treatment and rules through social services.
- ❖ 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?
 - Occasionally. Sometimes there is testimony.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Through testimony.
- ❖ What sanctions are most often imposed in your county?
 - Sanctions are rare (often informal) but they use community service, short term detention and essay writing.

- ❖ Does your county utilize stayed days in detention as a sanction?
 - Not usually.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - No.

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - Nothing unusual.
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - Dr. Stress in Eau Claire, WI. I would recommend him, he is known for very comprehensive reports.