

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.

Waupaca County

Submitted by: Troy Nielsen

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - An intake worker with the Department receives the law enforcement referral. She then reviews the information and meets with the juvenile and juvenile's family. Ultimately, she makes a recommendation to the DA's office. Usually, the DA's office follows the intake worker's recommendation.
- ❖ 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?
 - There are a couple of social workers who cover the intake process.
- ❖ 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.?
 - Yes
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Yes
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - Only when the family hires private counsel
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - I have negotiated this resolution a couple of times

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - Personal appearances
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - Yes
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Sometimes
- ❖ 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?
 - On occasion
- ❖ What is the process for “appealing” the initial custody determination?
 - I’ve never needed to pursue an “appeal
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Yes, the Department makes this request sometimes
- ❖ What is the average length of stay in detention?
 - Our Judge rarely uses secure detention, so I would say a couple of days in the rare situation it is ordered
- ❖ Where is the detention facility for your county?
 - We do not have one. We use Portage County or Outagamie County Secure Detention
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Parents, family members, foster care and shelter care

- ❖ 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 request by the DA and/or Defense Counsel
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Electronic Monitoring and Tracking Program

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - The same as adult court. If counsel has any reason to question his/her client's competency we simply request an evaluation. The Court allows orders it without any request for details on why competency is being raised.
- ❖ Is it common for someone other than defense counsel to raise competency?
 - I've never seen it.
- ❖ 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?
 - Yes to both questions
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - In my county, the DA always dismisses the delinquency action and files a JIPS action. We never review competency. I know this is not consistent with the statutory requirements, but it is definitely in my clients' best interests to proceed this way.
- ❖ 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?
 - It's probably 50/50.
- ❖ How often are waivers contested?
 - Always
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - By relying on the delinquency petition's probable cause section
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Investigating officer, social worker who did intake and school personnel
- ❖ What sort of witnesses does the defense usually call?
 - Social workers (if the Department supports juvenile court jurisdiction), treatment providers (if the client has been obtaining services prior to the waiver) and family members
- ❖ Is it at all common for a juvenile to initiate waiver proceedings?
 - Never seen it
- ❖ 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?
 - Consent decrees are offered regularly. The Department usually drafts the consent decree rules with some input from the DA and Defense Counsel. Sometimes, the DA requires 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?
 - Yes
- ❖ Does your jurisdiction have an intensive supervision program?
 - No
- ❖ 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?
 - Homme Home and Family Services in Green Bay are the two most commonly used
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Not sure, the issue has never come up
- ❖ 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?
 - In the home whenever 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?
 - Corrections are **rarely** used. Definitely an option of last resort. All the kids I know who went to corrections were appropriate candidates.
- ❖ 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?
 - Usually stayed at the Dispositional Hearing

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Our county utilizes treatment programs in neighboring counties (i.e., Options in Appleton for AODA)
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - No. Our county uses the Day Treatment program in Stevens Point.
- ❖ 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?
 - None. Again, juveniles in need of SOT must go outside the county (for example, to Oshkosh)
- ❖ 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?
 - Never
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?

- Testimony from social worker
- ❖ What sanctions are most often imposed in your county?
 - Short stays in 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?
 - Secure detention

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - None that I can think of at this time
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - I cannot recall any expert utilized on a juvenile case in my county