

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.

Calumet County

Submitted by: Erik Loy

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - I think they follow the statute.
- ❖ 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?
 - A group.
- ❖ 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, although not all the time.
- ❖ 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?
 - No.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - Yes, fairly often on sexual assault cases.

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?
 - Usually but not always
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes, if contested.
- ❖ 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?
 - Address it again at next court appearance.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Sometimes the social worker
- ❖ What is the average length of stay in detention?
 - 2 – 3 weeks.
- ❖ Where is the detention facility for your county?
 - Calumet doesn’t have its own facility. Our kids usually go to the Outagamie or Sheboygan County detention centers.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Shelter facility, relatives
- ❖ 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?

- Ask for it
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Use electronic monitoring, home detention is used often

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?
 - I don't think so but it has been quite awhile since I raised this.
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
 - Usually but not always.
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - I'm not sure.
- ❖ What competency training is provided in your county?
 - I don't know.

Waiver to Adult Court

- ❖ Do the District Attorneys in your county file waiver frequently?
 - No, occasionally (2-3 times per year)
- ❖ Do the judges in your county often waive kids into adult court?

- No, see above.
- ❖ 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 truly are seeking waiver.
- ❖ How often are waivers contested?
 - We usually reach an agreement
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Testimony of an officer.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Social worker.
- ❖ What sort of witnesses does the defense usually call?
 - The child, parents, social worker, treatment providers.
- ❖ Is it at all common for a juvenile to initiate waiver proceedings?
 - Never.
- ❖ 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?
 - Quite 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 sometimes used to resolve a case. The social workers draft the consent decrees. 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?
 - No
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - No
- ❖ Does your jurisdiction have a community service/restitution program?
 - No
- ❖ Which Residential Treatment Centers are used by your county?
 - Ethan House
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Most I've seen is 30 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?
 - Keeps them in their homes.
- ❖ 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. Yes. No. N/A. N/A.
- ❖ 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?
 - Yes at the Dispositional Hearing

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - There are AODA and anger management programs available, also individual and group therapy.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - There are day treatment programs at Thedacare and Options for AODA.
- ❖ 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?
 - Tri-county sex offenders group.
- ❖ 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?
 - Fairly often though sanctions are rarely sought.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Testimony of officers, social workers and other witnesses
- ❖ What sanctions are most often imposed in your county?
 - Secure detention
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Yes
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - With some clients secure is a wake-up call.

Miscellaneous

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

n/a

- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - I haven't used one in a long time. I think the last was Dr. Welleus from Green Bay.