

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.

Columbia County

Submitted by: Leonie Dolch

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - In Columbia County, social workers work with the DA to determine whether a delinquency petition will be filed and what the allegations will be. In my experience, petitions are filed more often than not, the kids get the book thrown at them.

- ❖ 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?
 - It's a pretty small county, so we generally see the same 3 or 4 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.?
 - Yes, they are decidedly in cahoots.

- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Very rarely.

- ❖ 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?
 - Very rarely.

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?
 - Not necessarily.

- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes, when the client objects to TPC.
- ❖ 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?
 - File a motion for a new custody hearing.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Very occasionally. For example, a 10-year-old girl was held in secure custody because nobody could locate a facility to meet her extensive treatment needs, largely due to her age. The judge required the State to notify him if the client remained in secure custody more than 72 hours.
- ❖ What is the average length of stay in detention?
 - It varies. Generally not more than a week.
- ❖ Where is the detention facility for your county?
 - Generally La Crosse or Dane County.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Shelter, group homes, foster homes, 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?
 - File a motion.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Many get the bracelet.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - Generally I write a letter to the assigned judge.
- ❖ 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?
 - 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, generally.
- ❖ 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?
 - When a juvenile is found incompetent but likely to regain, they are generally referred to a program/organization in Milwaukee.

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?
 - I'm not sure.
- ❖ How often are waivers contested?
 - I'm not sure. I would contest every waiver.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - I'm not sure.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - I'm not sure.
- ❖ What sort of witnesses does the defense usually call?
 - I'm not sure.
- ❖ 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?
 - Very 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?
 - Infrequent. Drafted by social workers. Plea not required.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
 - Yes, generally follow rules at home and school, attend school, no new law violations, no alcohol/drugs/tobacco.
- ❖ Does the State typically agree with the Department's recommendations?
 - Yes.
- ❖ Does your jurisdiction have an intensive supervision program?
 - Not that I am aware of.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - Yes.
- ❖ Does your jurisdiction have a community service/restitution program?
 - Yes, community service is a very common condition of supervision.
- ❖ Which Residential Treatment Centers are used by your county?
 - Northwoods, Rawhide
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Yes, but it's not common.
- ❖ 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?
 - They generally prefer home but are easily persuaded otherwise.
- ❖ 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?
 - Not often, generally last resort. I don't think Columbia County is financially motivated to send kids to corrections.

- ❖ 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?
 - I'm not sure.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - AODA, a peer program called Thinking For Change, anger management, family and individual counseling
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - Only out of county.
- ❖ 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?
 - I'm not sure.
- ❖ What programs do you have in your county that are gender-specific?
 - None in the county.

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - Maybe half the time.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Social worker testimony.
- ❖ What sanctions are most often imposed in your county?
 - 5 or 10 days in secure detention.
- ❖ 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?

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - I actually really struggle to find folks to do competency evaluations for kids under age 12.