

# **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.

# Langlade County

Submitted by: Jessica Schuster

## The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
  - Initially, first charges – DPA/Consent decree. Sees it when they come back for violating the DPA. Juvenile Court workers- Craig Hotchkiss, Kim Schwartz (county workers, housed in the court house), Craig – general supervision and intake. Kim does intensive supervision (for higher risk kids). They have the absolute say in these cases. Craig helps with negotiation.
  - Monday morning – Juvenile cases (review hearings)
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
  - Juvenile Court worker (by name Craig or Kim)
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
  - Craig and Kim
- ❖ 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.?
  - The DA goes along with the juvenile court workers. They let the defense attorneys and the workers figure it out.
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
  - Consent decree basically the same. Pretty liberal in giving consent decree.
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
  - Usually, they are not involved, but sometimes cases will resolve with a DPA after the petition is filed.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
  - Yes.

## Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
  - Usually in person, unless there is an issue with transport.
  - Detention is 35 minutes away (Marathon county - \$160)
- ❖ Are your custody hearings before a court commissioner or a judge?
  - Judge almost always.
- ❖ Is a petition normally filed by the time of/at the hearing?
  - Yes, almost always.
- ❖ Is there ever sworn testimony taken at custody hearings?
  - They would take it if wanted, usually no.
- ❖ 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?
  - No.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
  - TPC review at Monday hearings, no one has to ask for this.
  - They came up with this rule that every 10 days they have to have a review for kids in secure and 30 days they have to review for kids in nonsecure.
- ❖ What is the average length of stay in detention?
  - Over the weekend
- ❖ Where is the detention facility for your county?
  - Marathon County Detention

- Secure and nonsecure custody (shelter care) are in the same facility all in Marathon.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
  - Nonsecure (Shelter care) – 1 or 2 week stay (good about moving kids out of places that cost the county money)
  - 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?
  - Nothing, just happens, rule about 10 days.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
  - Home Detention - work, school and church are the only places you can go without a parent.
  - Electronic Monitoring (used more for formal intensive supervision or for informal sanctions)

### **Competency to Stand Trial**

- ❖ How is the question of competency raised in your jurisdiction?
  - The county doesn't waste their time with this. They will just start with a JIPS and not even go through the process. Competency evaluations don't even happen.
- ❖ Is it common for someone other than defense counsel to raise competency?
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- ❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?
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- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
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❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?

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❖ What competency training is provided in your county?

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### **Waiver to Adult Court**

❖ Do the District Attorneys in your county file waiver frequently?

- Never had one
- Reverse waivers out of Lincoln Hills

❖ Do the judges in your county often waive kids into adult court?

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❖ 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?

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❖ How often are waivers contested?

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❖ If a waiver is contested, how does the State typically prove prosecutive merit?

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❖ What sort of witnesses does the State typically call in support of waiver?

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❖ What sort of witnesses does the defense usually call?

- Client Service Specialist (she is really good and has good credentials)
- Lots of subpoenas – lots of kids from the institution as well as staff.

❖ Is it at all common for a juvenile to initiate waiver proceedings?

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- ❖ Are you aware of any instances in your jurisdiction of the Court initiating proceedings?

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## **Disposition**

- ❖ How closely are the social worker's recommendations followed?
  - Social worker's recommendations are always followed.
  - 1 year supervision
  - change of placement if the kid is being placed somewhere
- ❖ 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?
  - Craig fills out the consent decrees.
  - No plea.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
  - Yes – she'll send copy.
- ❖ Does the State typically agree with the Department's recommendations?
  - State pretty much always goes along with the social worker.
  - Pre-trial evaluations can help with negotiations and get work done ahead of time.
- ❖ Does your jurisdiction have an intensive supervision program?
  - Different worker – more involved, sees the kids more, this is for kids that have had a lot of offenses.
  - Change of supervision hearing – order for intensive supervision, instead of the usual, and this is used instead of sanctions.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
  - No.
- ❖ Does your jurisdiction have a community service/restitution program?
  - Kim and Craig just help them.

- ❖ Which Residential Treatment Centers are used by your county?
  - Northwest Passage, Homme Home
- ❖ Does your county allow for a dispositional 365 day placement in detention?
  - No
- ❖ 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 do keep them in the homes when 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?
  - Rare to send kids to 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?
  - 1<sup>ST</sup> Goal – no registry, 2<sup>nd</sup> – no felony
  - Usually, just an agreement to not register.

### **Services in your county**

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
  - North central healthcare – tri-county department
  - Libertas in Green Bay (rarely)
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
  - Marathon may have some.
- ❖ 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?
  - Tim Koller (Elmergreen Associates in Wausau) – client service specialist recommendation. He does evaluations and follow up.

- Homme Home (sent there for department)
- ❖ What programs do you have in your county that are gender-specific?

### **Sanctions**

- ❖ How often is there a stipulation as to the basis for sanctions?
  - Rare, sometimes will just ramp up supervision to intensive rather than use sanctions.
  - But the sanctions are usually 5 days in detention and usually for using drugs.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
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- ❖ What sanctions are most often imposed in your county?
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- ❖ Does your county utilize stayed days in detention as a sanction?
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- ❖ Has a particular sanction worked well for your clients in your opinion?
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### **Miscellaneous**

- ❖ What are common acronyms and their meanings in your county?
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- ❖ Who are experts you have used in juvenile cases and would you recommend them?
  - Tim Koller