

# **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.

# Marathon County

Submitted by: Suzanne O'Neill

## The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
  - The intake social worker schedules a meeting with the juvenile and family.
  - At the meeting, based upon the juvenile's history with law enforcement and attitude towards the alleged offense, the intake worker decides whether to recommend:
    - no services/no court referral,
    - informal services/no court referral, or
    - formal services/court referral.
  - If the juvenile does not meet with the intake worker, the case is referred to the district attorney's office and a delinquency petition is generally filed.
  - If the juvenile is detained in secure detention, the intake worker refers the matter to the district attorney's office.
  - If the juvenile is on supervision at the time of the alleged offense, the juvenile's assigned social worker makes the recommendation to the district attorney's office.
  - The district attorney's office generally files a petition upon the 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?
  - Yes.
  
- ❖ 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, but they are generally entered at the initial meeting with the intake social worker.
  
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?

- Yes, when juvenile's request counsel prior to their meeting with the intake social worker
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
  - No. Once a petition is filed, the prosecutor may agree to enter a consent decree, but, will not enter a DPA.

### **Temporary Physical Custody Hearings**

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
  - Personal Appearance
- ❖ Are your custody hearings before a court commissioner or a judge?
  - Judge, except in the rare case that the judges are unavailable and then a court commissioner may be called upon.
- ❖ Is a petition normally filed by the time of/at the hearing?
  - Yes.
- ❖ Is there ever sworn testimony taken at custody hearings?
  - Occasionally
- ❖ 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?
  - Electronic Monitoring is used.
- ❖ What is the process for “appealing” the initial custody determination?
  - Request for a review hearing with the appropriate court.
  - At the time of the initial custody hearing, the court schedules a hearing to review the decision no later than one week from the determination. If the juvenile would like a review earlier, a request is made to the assigned judge.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
  - Yes. The social worker may request a review if the worker believes alternative placement is appropriate.
- ❖ What is the average length of stay in detention?
  - 20 days

- ❖ Where is the detention facility for your county?
  - 7015 Packer Dr., Wausau, WI 54401
  - Near Sunnyvale Park/Marathon County Humane Society
  
- ❖ At a custody hearing, besides detention what placement options are available for kids?
  - Shelter Home
  
- ❖ 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?
  - The court schedules a review hearing to be held within one week of the initial custody decision.
  - Juveniles may request additional review hearings with the assigned judge.
  
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
  - Electronic Monitoring

### **Competency to Stand Trial**

- ❖ How is the question of competency raised in your jurisdiction?
  - Generally, by the juvenile's attorney, in court
  
- ❖ 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.
  
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
  - Yes.
  
- ❖ What competency training is provided in your county?
  - None.
  - Juvenile's are generally placed at Winnebago Mental Health Institution for services

## **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?
  - If a petition to waive is filed, judges usually order waiver.
- ❖ 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 are usually truly seeking waiver.
- ❖ How often are waivers contested?
  - Because waiver is rarely sought, when it is sought, the state's case is generally strong. Often, when a waiver petition is filed, the case is negotiated to earn the juvenile either a juvenile disposition, or a desirable adult court disposition with expungement.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
  - Upon review of the delinquency and waiver petitions
- ❖ What sort of witnesses does the State typically call in support of waiver?
  - social worker, other employees of the Department of Social Services knowledgeable of juvenile services and programs, employees of juvenile court services and programs, psychologist
- ❖ What sort of witnesses does the defense usually call?
  - psychologist, social worker, parent, treatment providers, teachers, coaches
- ❖ 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?

- Social worker's recommendations are always followed. The workers are open to negotiation, but, whatever the worker decides is what the prosecutor recommends and, by extension, what the judges adopt and order.
- ❖ 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, consent decrees are frequently considered and entered. The social workers draft the consent decree, based upon discussions with the parties at the pretrial conference. While the prosecutor does not require an admission to enter a consent decree, local judges do require an admission.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
  - Yes.
  - Additionally, there are standard sex offender rules that are incorporated into the general delinquency rules in sex offender cases.
- ❖ Does the State typically agree with the Department's recommendations?
  - Yes.
- ❖ Does your jurisdiction have an intensive supervision program?
  - Marathon County has "intensive supervision" for juveniles, but not an intensive supervision program as described in statutes. Local intensive supervision provides a juvenile with an additional social worker who meets with the juvenile at home on a regular basis and monitors compliance with curfew, school attendance, other rules, and provides additional services.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
  - No.
- ❖ Does your jurisdiction have a community service/restitution program?
  - restorative justice, but, that program is generally used for DPA's
  - there is no real program for those on court supervision
- ❖ Which Residential Treatment Centers are used by your county?
  - Homme Home, Northwest Passage, Rawhide, Eau Claire Academy
- ❖ Does your county allow for a dispositional 365 day placement in detention?
  - Yes.
- ❖ 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?

- The judges accept the recommendations of the social worker/ADA. The social workers do try their best to keep kids home, but, local resources and programming are limited.
- ❖ 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 is used as a last resort. Juveniles are not sent to corrections without justification. The motive to send kids to corrections does not appear to be financially based, but based upon a frustration that no other services have worked to rehabilitate the juvenile's behavior, or, the nature of the offense is such that there exists a community safety risk.
- ❖ 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. Sex offender registration is discussed at the pretrial conference. The parties generally agree that staying the requirement is appropriate, unless the juvenile has had a prior sex offense adjudication. The court will order and stay the requirement at the dispositional hearing, but, condition the stay upon the juvenile not having any sex related violations while on supervision. If the juvenile engages in sexual misconduct while on supervision, the state petitions the court to lift the stay.

### **Services in your county**

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
  - Northwest Journey AODA Day Treatment
  - Juvenile Cognitive Intervention Program (JCIP)
  - Intensive Supervision
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
  - Northwest Journey Day Treatment
- ❖ 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?
  - Homme Home, local sex offender residential treatment program
  - Tim Koller, M.S., Elmergreen and Associates, individual therapy

- Greg Turninetti, M.S., Center for Human Development, individual therapy
- ❖ What programs do you have in your county that are gender-specific?
  - Juvenile Cognitive Intervention Program (JCIP)

## Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
  - Usually, there is a stipulation that the juvenile has violated a term of the dispositional order. Arguments generally focus on what sanction should be imposed.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
  - testimony of social worker
- ❖ What sanctions are most often imposed in your county?
  - secure detention, electronic monitoring, community service, days at the report center
- ❖ Does your county utilize stayed days in detention as a sanction?
  - Yes.
  - Often, a court will sanction a juvenile to a number of weekends in secure detention, stay some or all of those weekends and allow the juvenile to purge one weekend of secure detention with one week of satisfactory school attendance and rule compliance.
- ❖ Has a particular sanction worked well for your clients in your opinion?
  - Imposition and stay of a sanction seems to motivate the juvenile to comply

## Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
  - NCHCC or HCC - North Central Health Care Center
  - JCIP - Juvenile Cognitive Intervention Program
  - MCSD - Marathon County Sheriff's Department
  - MC-180 - Marathon County 180 day secure detention program
  - PSG-Professional Services Group

- ❖ Who are experts you have used in juvenile cases and would you recommend them?
  - Tim Koller, would recommend
  - Dennis Elmergreen, would recommend
  - Katherine Wright, would not recommend