

# **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.

# Oneida County Answers:

Submitted by: Maggie Hogan

## The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
  - Law enforcement will refer delinquency to social services. Intake worker will contact the juvenile and family to complete an intake conference. They are advised of their right to remain silent and right to counsel. If it is determined that a formal petition for delinquency will be filed rather than an informal out of court DPA, the public defender's office will then be notified of the petition and appoint counsel.
- ❖ 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?
  - Generally in Oneida County there are two...Rachel McDonald and Kim Haugen.
- ❖ 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, the District Attorneys almost always defer to the experience, input of the social worker.
- ❖ 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?
  - I have never heard of this happening in Oneida County. It would need to be a very specific and unusual circumstance.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
  - Consent decrees would be offered at this point. Those are used frequently.

## Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
  - Unfortunately, in Oneida County if secure detention is required, the Juvenile is almost always taken to Lincoln Hills. I have been contesting the telephone appearance of those juveniles, but so far have been unsuccessful in personal appearances.
- ❖ Are your custody hearings before a court commissioner or a judge?
  - Almost always the Judge, rarely a court commissioner in the event of the unavailability.
- ❖ Is a petition normally filed by the time of/at the hearing?
  - Yes.
- ❖ Is there ever sworn testimony taken at custody hearings?
  - If the placement is contested or basis for the TPC, testimony may be requested or taken.
- ❖ 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?
  - I have not seen this.
- ❖ What is the process for “appealing” the initial custody determination?
  - I would simply make a motion for change of placement following the determination.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
  - Rarely Social Services may request it.
- ❖ What is the average length of stay in detention?
  - 10 days.

- ❖ Where is the detention facility for your county?
  - Lincoln Hills
- ❖ At a custody hearing, besides detention what placement options are available for kids?
  - I have asked for Lincoln Hills but never received it. Options treatment Group Home in Eagle River has been a resource.
- ❖ 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?
  - Not sure
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
  - No.

### **Competency to Stand Trial**

- ❖ How is the question of competency raised in your jurisdiction?
  - I would say rarely in juvenile cases, but if the client is of a young age, yes.
- ❖ Is it common for someone other than defense counsel to raise competency?
  - In my experience social services has raised the issue to defense counsel and relied upon counsel to raise the issue.
- ❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?
  - Reliance upon the statement of counsel has been enough.
- ❖ 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. And Statutory guidelines are followed.
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?

- Have not had this issue.
- ❖ What competency training is provided in your county?
  - None that I know of.

### **Waiver to Adult Court**

- ❖ Do the District Attorneys in your county file waiver frequently?
  - No, but there have been a few instances of original jurisdiction.
- ❖ 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?
  - N/A.
- ❖ How often are waivers contested?
  - I would presume always.
- ❖ 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?
  - Would request expert testimony in this event.
- ❖ 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?
  - Almost exactly.
- ❖ 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 frequently offered, and the D.A.'s office drafts them. It is negotiated as to whether a plea would be required, but frequently not.
- ❖ 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?
  - Really none exists in our County aside from Options in Eagle River, WI.
- ❖ 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?

- I feel that the Judges are good about this, and keep children within the home when appropriate, and when the child wants this result.
- ❖ 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 often used as a last resort. Don't think it is financially driven.
- ❖ 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 have always seen the Judge's stay registration.

### **Services in your county**

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
  - Outpatient through Options is the go-to program.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
  - None available.
- ❖ 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?
  - Not familiar with anything specific in this area aside from outpatient counseling.
- ❖ What programs do you have in your county that are gender-specific?
  - None.

### **Sanctions**

- ❖ How often is there a stipulation as to the basis for sanctions?
  - Sometimes, though frequently there is also an agreement to stay the sanction.

- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
  - Testimony of the social worker.
- ❖ What sanctions are most often imposed in your county?
  - Community Service, then 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?
  - A Short period of time in secure detention, while staying the remainder can be very effective.

### **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?
  - I would NOT recommend Diane Lytton of Appleton, WI.
  - Dr. Caldwell of Madison is phenomenal.