

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.

Wood County

Submitted by: Emily Nolan-Plutchak

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - If a child is taken into custody then there is normally a hearing the day of or the next day that we call a tpc. During the tpc the next court date is determined and it is set for a dispositional hearing. At the dispo hearing we ask for a fact-finding hearing if we are not in agreement on something. If the child is out of custody we are sent paperwork in the mail about a court date which will always be a dispo date and happens within 2 weeks to a month of our receipt of mail.
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - We use the term social worker. Our clients often refer to themselves as being on probation.
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - Yes, normally the social worker who does an intake and appears at a tpc will not end up as the assigned social worker.
- ❖ 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, but they can be influenced by the defense bar.
- ❖ 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?
 - Rarely.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - Yes, this is not an unusual occurrence in Wood County.

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - Personally.
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - Rarely.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes, 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?
 - No
- ❖ What is the process for “appealing” the initial custody determination?
 - File a motion for reconsideration. If the person is in custody then Wood County normally does the hearing after the tpc within a week.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Occasionally by the parents.
- ❖ What is the average length of stay in detention?
 - 5 days
- ❖ Where is the detention facility for your county?
 - In the neighboring county of Portage. Wood County does not have a detention facility.

- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Respite homes, foster care, group home, specialized group home, or with a relative.
- ❖ 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?
 - Somebody needs to file a motion for reconsideration of placement or a change of placement
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - We do. The program utilizes home checks, electronic monitoring and UAs.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - Normally the child's attorney would raise it if they think there is an issue.
- ❖ 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?
 - Yes, we normally do offer of proofs on the record or do competency motions with affidavits.
- ❖ 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, as to both.
- ❖ 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, children are normally sent to Mendota.

Waiver to Adult Court

- ❖ Do the District Attorneys in your county file waiver frequently?
 - No. I have only seen this happen one time in the 5 years I have worked in Wood Co.
- ❖ Do the judges in your county often waive kids into adult court?
 - No, I have never seen this happen. (knock on wood)
- ❖ 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?
 - As I have said the normal practice is not to waive kids in Wood County.
- ❖ How often are waivers contested?
 - The one time a child was waived it was contested.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Through law enforcement and social worker
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - They called the child's social worker.
- ❖ What sort of witnesses does the defense usually call?
 - Mental health professionals.
- ❖ Is it at all common for a juvenile to initiate waiver proceedings?
 - Not that I am aware of.
- ❖ 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?
 - They are followed pretty 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?
 - Yes, we use consent decrees frequently. They are drafted by the social worker on the case. And district attorneys sometimes require a plea and sometimes do not require a plea.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
 - Yes.
- ❖ Does the State typically agree with the Department's recommendations?
 - Most of the time.
- ❖ 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?
 - They do not regularly use residential treatment facilities and the ones they use vary a lot from one month to another.
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - I have never seen this done.
- ❖ 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 usually try and keep them in the home.

- ❖ 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?
 - Kids are not sent to corrections regularly. Wood County does use corrections as a last resort. Because corrections is so rarely used I don't see children being sent who are clearly inappropriate.
- ❖ 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?
 - For the most part, sex offender registration is stayed. Sometimes, the district attorney asks for sex offender registration while the child is under a dispositional order. The judges seem to go along with that. Attorneys need to be asking for hearings towards the end of a kid's dispositional order to ask for a stay when registration is initially ordered.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Anger management, AODA, mental health counseling, sex offender counseling (sparingly), errors in thinking. The county uses Unified Social services as their treatment provider in many cases. If the child is covered by parent's insurance (and is something different than badgercare) they may seek treatment at Marshfield Clinics or some of the private providers in the community. Unified Services has a juvenile diversion group that provides AODA treatment.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - Wood County in Wisconsin Rapids has a day treatment center that they utilize
- ❖ 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?
 - Yes, a specific therapist
- ❖ What programs do you have in your county that are gender-specific?
 - I don't believe there are any for juveniles.

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - Regularly.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - They call the social worker to testify.
- ❖ What sanctions are most often imposed in your county?
 - Community service or days in detention
- ❖ Does your county utilize stayed days in detention as a sanction?
 - A judge who just retired regularly did this. The other two judges are less likely to do this.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - I always thought staying the days in detention worked well. Otherwise, community service has seemed to be helpful.

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - We use the standard acronyms.
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - We normally look at the binder our ROA has with expert requests and attorney's feedback about experts when determining who to use. Experts are not regularly used in Wood County.