

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.

Pierce County
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The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - The majority of cases are handled at the intake process. Very few cases are referred to court and when they are it is for a very specific reason such as having a particular sanction that the worker feels they need to use.

- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - Juvenile justice worker

- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - Yes, it is a senior worker who is extremely well versed in evidence based practice with many, many years of experience.

- ❖ 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.?
 - They tend to follow the recommendations of the workers, which for us is good as the Department avoids bringing juveniles into court based on past experiences with a district attorney who was not so charitable. The workers are good about using the least restrictive practice whenever possible.

- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Yes, to the best of my knowledge. I see kids coming through who start with a DPA, then go to a Consent Decree then move on to a delinquency. I think they start as slow as possible.

- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - No, that is handled through intake. Once they get to a petition, those options have usually been tried and there is a specific reason the petition was filed.

- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - No, for the above reason.

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - They appear personally.
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Court commissioner usually.
- ❖ Is a petition normally filed by the time of/at the hearing?
 - Yes.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes, sometimes the juvenile justice or other social worker and occasionally law enforcement.
- ❖ 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. They don’t ask for secure unless they know they need to use it. They bend over backwards to avoid using it.
- ❖ What is the process for “appealing” the initial custody determination?
 - Not sure.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Not that I have seen but we very rarely have someone go to secure. There are less than 25 petitions a year, probably less than 10 temporary physical custody hearings per year and of those maybe 1 or 2 actually contemplate secure custody. We just don’t ever use it.
- ❖ What is the average length of stay in detention?
 - Don’t know.

- ❖ Where is the detention facility for your county?
 - Northwest Detention in Eau Claire
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Positive Alternatives (or other group home type placement), Northwest Assessment and Northwest Passage, foster care, treatment foster care, family placements.
- ❖ 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?
 - Petition the court.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Electronic monitoring can be used if they are on a delinquency that allows it.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - At any time during proceedings, usually by defense counsel.
- ❖ 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?
 - Not always.
- ❖ 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 that I know of.

Waiver to Adult Court

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

- No, almost never. I've been there exclusively for twelve years and can't recall one.

❖ 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?

- They would almost always be contested unless the client would prefer to be dealt with in the adult system.

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

- They are filed so rarely, I do not know.

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

- They are filed so rarely, I do not know.

❖ What sort of witnesses does the defense usually call?

- They are filed so rarely, I do not know.

❖ 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?
 - Pretty closely. They usually just request the standard basics with maybe a little community service thrown in (15 hours or something) and restitution where appropriate. There is rarely anything in their recommendations that causes concern.
- ❖ 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, they are used frequently. The DA's office drafts and they usually require a plea up front but they are negotiated.
- ❖ 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?
 - I'm not sure, not one that I have heard of.
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - Yes
- ❖ Does your jurisdiction have a community service/restitution program?
 - The juvenile justice department does
- ❖ Which Residential Treatment Centers are used by your county?
 - Northwest Passage, Frederic, WI
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Not sure, I don't think anyone has ever asked for conditional detention time.
- ❖ 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 think that the juvenile justice workers try very hard to keep kids in the home. Usually by the time they request removal there are very good reasons to do so. The judge is open to good arguments but the court commissioner tends to follow department recommendations.
- ❖ 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?
 - No. It is extremely rare for a kid to go 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?
 - They usually defer the decision at disposition to see how the kid does on supervision.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - The department uses the Carey Guides. They provide AODA services and therapy as needed. They are very set on only using evidence based practice so there is nothing like anger management or other programs that are not shown to work.
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - There are, Ellsworth Day Treatment is the only one I can think of off the top of my head.
- ❖ 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 for juveniles.
- ❖ What programs do you have in your county that are gender-specific?
 - Probably none for juveniles but I can't say for sure. It is a small county so it is very hard to develop programs that are gender specific.

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - I have rarely ever seen a request for sanctions come back to court.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - n/a
- ❖ What sanctions are most often imposed in your county?
 - Not sure
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Not that I'm aware of
- ❖ 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?