



# Criminal Justice Programming in Wake

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Board of Commissioners – Public Safety Committee  
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## County's Role for Court Facilities

§ 7A-302. Counties and municipalities responsible for physical facilities.

*In each county in which a district court has been established, **courtrooms, office space** for juvenile court counselors and support staff as assigned by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and related judicial facilities (**including furniture**), as defined in this Subchapter, shall be provided by the county, ...*



# Current Court Operations in Wake

6 Superior Courtrooms Running Daily

- 2 Civil & 4 Criminal

18 District Courtrooms Running Daily

- 9 Civil & 9 Criminal

4 Magistrates Courtrooms Running Daily

- 2 Civil & 2 Criminal



# Types of District Court Courtrooms

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- Administrative Traffic
  - Criminal & Traffic
  - DWI
  - Felony Pleas Probable Cause & First Appearances
  - Domestic Violence (Criminal)
  - People's Court (Non LEO Cases)
  - Criminal Mediations
  - Adult Recovery Court
  - Domestic
  - Domestic Overflow
  - Juvenile Delinquency
  - Juvenile Abuse, Neglect & Dependency
  - Domestic Violence (Civil)
  - General Civil
  - Child Support Enforcement
  - Involuntary Commitment Hearings



# Caseload Filings & Dispositions FY 2017-18

<u>Types of Cases</u>	<u>Cases Filed</u>	<u>Cases Disposed</u>
Superior Ct. Civil	2,250	1,997
District Ct. Civil	15,707	16,077
Magistrate Ct. Civil	19,250	18,993
Estates	4,504	4,103
Special Proceedings	3,212	3,250
Superior Ct. Criminal	5,454	6,381
<u>District Ct. Criminal</u>	<u>125,886</u>	<u>138,121</u>
<b>TOTAL</b>	<b>176,263</b>	<b>188,922</b>

# Court Personnel Comparison

Position	Wake	Mecklenburg
Superior Ct. Judges	6	7
District Ct. Judges	19	21
Magistrates	27	36
Clerks	184	218
District Attorneys	43	86
DA's Support Staff	40*	55
Public Defenders	31	60
PD's Support Staff	14	-

\*10 are grant funded & 1 position is County funded (Free the People)

## System Goals

- Protect the Public
- Accountability of violations of the law
- Rehabilitation and assistance



## System Programs

- Pretrial Release Programs
- Deferred Prosecution Programs
- Recovery Court
- Reentry Efforts
- Future Considerations



# Pretrial Best Practices Implemented

- Increased Use of Citations v. Arrests
- First Appearance for All Defendants (Misd. & Felonies)
- First Appearance Within 24 Hours
- Advanced Screening for Pretrial Release Eligibility
- Automated Court Date Reminder System
- Specialized Pretrial Release Program
- State of the Art Electronic Monitoring & CAM Program

# Pretrial Release Programs

# Pretrial Release Programs – County Funded

	Free the People	Pretrial Release	Pretrial Monitoring	Total/ Average
<b>Operated By</b>	DA's Office	Non-Profit (ReEntry)	Non-Profit (ReEntry)	
<b>Cost to Defendant</b>	No Cost	No Cost	No Cost - Indigent Defendants \$10/day - Self-Pay Program	
<b>FY19 County Cost</b>	\$54,365	\$524,854	\$316,235	<b>\$895,454</b>
<b>FY19 Cost/Day*</b>	\$3.81	\$2.18	\$9.68	<b>\$3.11</b>
<b>FY19 Average Daily Population Reduction</b>	39	661	90	<b>789</b>

\*Historically use average cost/day in jail of \$70

# Pretrial Release Programs – County Funded

## Pretrial Release

- Defendant released under supervision of Re-Entry.
- Must call case manager on a specific frequency.
- Given court date reminders.

## Pretrial Monitoring

- Defendant monitored by GPS or Continuous Alcohol Monitoring (CAM) device as ordered by Judicial Official as condition of release

# Pretrial Release Programs – County Funded

## Free the People

- Defendant usually has low level of charges (i.e. Class 3 misdemeanors such as trespass & drunk in public) and prior convictions.
- If defendant was held until the officer's next regularly scheduled court date it would many times result in their serving more time than the maximum sentence for the offense.
- Provides an opportunity to drastically shorten the time period for which they are held and avoid the potential subsequent incarceration for Failure to Appear.
- Allows DA to engage in case management and identify other pending matters that the defendant may have in order to do a global resolution to their cases when feasible.
- All are represented by the Public Defender's Office.

# Ongoing Pretrial Reform Efforts

## ➤ Pretrial Assessment Tool

- Working with key stakeholders to recommend a new assessment tool
- Tool must be evidence-based and validated
- More defendants may become eligible
- Tool will provide additional info for Judicial Officials
- Tool will not replace judicial discretion

## ➤ Current Project Status

- County contracting with NC State to evaluate Assessment tools
- Key stakeholders have selected the **Public Safety Assessment (PSA)** for further evaluation
- Currently undergoing retro-evaluation with arrest data from May 2018 to validate PSA with local data.

# Deferred Prosecution Programs



## Deferred Prosecution Programs

- The Wake County District Attorney's Office is committed to diverting offenders, when appropriate, understanding that not every criminal charge requires a conviction.
- **Our office has more diversion programs available than any other District in North Carolina.**
- We primarily focus on first-time offenders and youthful offenders but there are diversion programs available, in limited circumstances to defendants with criminal history.
- Our philosophy is grounded in the understanding that leaving individuals stable, contributing members of our community is in the interest of public safety.

## Available Diversion Programs

1. Young Adult Criminal Deferral
2. Teen Court
3. Pre-Filing Diversion
4. First Offenders Programs
5. Domestic Violence Diversion
6. Mediation
7. Worthless Checks Program
8. Drug and Alcohol Diversion
9. Mental Health Diversion

## Young Adult Criminal Deferral

- Defendant must be 16 or 17 at the time of the offense and must be charged with misdemeanors only.
- The defendant may have no prior convictions (other than traffic offenses).
- This diversion was created in response to the "Raise the Age" legislation that rolls out in 2020.
- From July 1, 2017 to June 30, 2018, 52 youth were eligible and chose to participate in the program. **A total of 48 (92%) participants successfully completed the program** and were diverted from the adult criminal justice system.

## Teen Court

- Capital Area Teen Court is a sentencing/diversion option administered by ReEntry
- Teen's case is presented in a trial to a jury made of up volunteers and other defendants in the teen court program
- Volunteers serve as the prosecutor, defense attorney, and jurors
- The Jury hears the case and depending on the type and crime committed, the jury is given a "menu" of possible sanctions or consequences
- Consequences include community service, restitution, service on future juries, etc.
- **FY19: 384 clients; 93% Successful Completion Rate**

## Pre-Filing Diversion

- Newest youthful offender diversion.
- Offered for young people that commit crimes in the school setting.
- Referred for screening by Alliance Behavioral Healthcare.
- Placed in programs that are appropriate depending on the root cause of the crime.
- Some options are mental health treatment, substance abuse treatment, community service, etc.
- If they fail to complete the treatment/sanctions then the charge is filed and the defendant is not eligible for additional diversion.

## First Offenders Programs

- Available to First-Time Offenders non-violent misdemeanor charges and low-level felonies.
- There is no age requirement for participation.
- The program is supervised in-house by Community Corrections.



## Misdemeanor Diversion

- Non-Violent, Non Domestic Violence Cases
- 75 Hours of Community Service
- Six Month Duration
- Defendant Pays Community Service Fee (\$200.00) and Court Costs



## Felony Diversion

- Low Level (H & I) Felonies including Larceny by Employee, Embezzlement
- 12 Month Diversion Period with a 6 month court date to see if they are on track
- 225 Hours of Community Service (Community Service Fee \$200.00 + Court Costs)
- There are some requirements relating to the amount of restitution (upper limit is \$3,000)

## Domestic Violence Diversion

- First Time offenders on misdemeanor charges
- Must Complete a State Recognized Batterers Intervention Program
- 12 Month Deferral Period
- Victim is consulted in whether or not a diversion is offered
- Allowing this diversion ensures that defenders get batterers treatment.

## Mediation

- Mediation is done each Friday morning in courtroom 304.
- Trained mediators from Carolina Dispute Settlement Services mediate the issues between the parties.
- Traditionally, only cases that originated as People's Warrants were referred to mediation.
- In 2017, the Wake County District Attorney's Office expanded the mediation program to include any misdemeanor case that is appropriate, even when charges were generated by law enforcement.

## Mediation (Con't)

- ▶ People's generated cases are automatically referred to mediation.
- ▶ Other cases may only be referred with the consent of both parties.
- ▶ Typical cases for mediation include: Neighbor disputes, Non-domestic family disputes, workplace disputes.
- ▶ The mediation process is completely private, neither the District Attorney nor the Judge know what has been decided by the parties.

## Worthless Check Program

- ▶ Our office teams with business owners, vendors, and others to help recover monies owed from worthless checks.
- ▶ Checks written for amounts less than \$1,000 are eligible for the program.
- ▶ The person that writes the bad check is given the “opportunity” to make the check good before we commence criminal prosecution.
- ▶ Also total restitution collected for participating agencies: \$79,676 (2019 YTD)

## Drug and Alcohol Diversion (90-96)

- We call these types of diversions “90-96” because that is the relevant statute that allows for this type of diversion.
- In Wake County, we rely on Southlight to provide treatment for defendants placed in this program.
- Multiple treatment plans are available.
- Defendants can be placed in out-of-county or out of State placements if necessary.



## How 90-96 Works

- Defendants come to court and are screened by employees of Southlight.
- Depending on the Defendant's record, the type of charge, and the age of the defendant, they are signed up for a diversion program that is appropriate.
- The case is continued to allow the defendant to complete treatment.
- On their compliance date, Southlight prepares the appropriate paperwork and the cases are either dismissed, continued (to allow the defendant to complete unfinished treatment, etc) or judgment is entered.



## 90-96 Success Rates

### ➤ Misdemeanor Drug and Alcohol Diversion

- CY 2018 79%
- CY 2019 (January - August) 86%

### ➤ Felony Drug Diversion

- CY 2018 85%
- CY 2019 (January - August) 79%

## Example: 90-96 Case Requirements (First Time Youthful Offender)

ELIGIBILITY: NO PRIOR DIVERSION OF ANY KIND, NO PRIOR CONVICTIONS (OTHER THAN TRAFFIC MATTERS), NO PENDING CHARGES

- Case is deferred for 6 months
- 15/hours of Drug/Alcohol education classes OR Assessment and treatment (15 hours minimum)
- Random Drug Screens
- \$250 Program Fee and Court Costs

## Drug and Alcohol Cases Not Eligible for Diversion

- We never do diversions on Chapter 20 cases.
- This includes: Provisional DWI (Driving After Consuming <21, DWI).
- Note: If a passenger is consuming alcohol underage, we will amend the charge to a Chapter 18 violation so we can enter them into diversion.

## Mental Health Diversion

- Offered to defendants with chronic mental health issues.
- Charges must (generally) arise as a result of the defendant's mental health issues.
- Diversion is often structured to incentivize treatment and mental health management.
- Defendant must agree to waive HIPAA issues and allow for regular communication with mental health providers.

	New Participants	Leaving Program	Successful Completion	% Successful
Prior to FY2018	15	8	6	75%
FY2018	18	12	7	58%
FY2019	30	28	23	82%
FY2020 YTD	6	7	5	71%
<b>Total</b>	<b>54</b>	<b>47</b>	<b>35</b>	<b>74%</b>

## Mental Health Diversion

### ➤ Two Defendant Stories:

- James: His mom noticed changes in his behavior and was worried by them. She sent him to get an assessment. However, with out more collateral information, she was finding it difficult for her concerns to be taken seriously. A few months later he was charged with misd. B&E and Injury to Real Property resulting from him experiencing a mental health crisis. Now that he had pending charges and cataloged behavior in the form of a police report, he was properly assessed and diagnosed. **He entered the mental health deferral program and was able to successfully remain in treatment and earn a dismissal of the charges.**
- Danielle: An accidental fire she set as a child lead to trauma that affected her mental health. She knew she had mental health issues but was unemployed and lacked direction and access to treatment. Her disorder manifested itself as uncontrollable compulsions to steal. It was putting her children's and her life in jeopardy. Facing larceny charges she was brought to court where she was put in touch with a social worker from Alliance and received a diagnosis and treatment plan that would allow her to control her compulsions as well as help her earn a dismissal of the charges through the MHD program. **She successfully completed her deferral and she now has maintained a steady job working in the cafeteria at her child's school and she still receives treatment from Alliance.**

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# Recovery Court



## Recovery Court

- Post-Conviction Treatment Program for Defendants with Addiction Issues
- Defendant is placed on Probation for 12+ Months.
- Defendants attend a court session twice monthly on Friday mornings.
- Defendants are required to be in appropriate treatment, randomly drug tested, etc.
- If there are relapses, new charges (non-drug), or other issues, the defendant can be sanctioned by the Judge.
- Sanctions include jail weekends, community service, additional treatment, etc.



## Recovery Court Data (FY2019)

- Total participants served: 116
- Graduation Rate: 39%
- Number of participants who received Medication Assisted Treatment (MAT): 18
- Number of drug-free babies born: 1
- Number of participants tested for Sexually Transmitted Infection (STI) since November 2018: 5

# ReEntry Efforts

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## Expunction Clinics

- In 2016 began meeting with Community Partners to assist with Expunction of past convictions that can be a barrier to work, housing, and professional licensure.
- Community members submitted their names for consideration and the Wake County Public Defender's office assisted in determining which defendants would be eligible for expunction or certificates of relief.
- Partners from the defense bar, the Clerk of Court, Judges, and the District Attorney's Office held the clinic at the Chavis Community Center.
- Dozens of community members were able to get relief from past convictions.

## License Restoration

- An off-shoot of the Expunction Clinic is a license restoration program.
- In 2017 began partnering with Community Partners and the Wake County Public Defenders office to initiate a Driver License Restoration Program.
- We have had several clinics where we work together to resolve old outstanding tickets, fees and fines, to get people driving (legally) again.
- We have helped dozens of members of our community get their licenses again.

# Future Considerations

## Future Considerations

- Public safety concerns
- Court resource needs as established by workload formulas
- Community resources availability