



## THE CASE FOR POST-ARREST DIVERSION

Diversion programs work to address the core circumstances that underpin criminal activity. By doing so, they promote alternatives to arrest and involvement in the criminal justice system and make our communities safer.

North Carolina [G.S. 90-96](#) allows dismissal or alternatives to incarceration for certain minor first-time drug offenses. The alternatives include some combination of probation and participation in drug education or treatment programs.

Well-designed diversion programs conserve resources, reduce recidivism, and minimize the collateral consequences of justice system involvement. When diversion precedes a possible conviction, participants avoid the stigma and collateral consequences of a criminal record. Equitable access to and adequate long-term funding of organizations addressing substance use disorder and mental health treatment is critical.

North Carolina has seen success with post-arrest diversion programs. The diversion programs outlined in this information sheet offer local communities and court system stakeholders proven methods to improve outcomes for people who have been arrested and increase public safety by reducing recidivism. Public health professionals, current and retired police chiefs and sheriffs, policy experts, researchers, and related organizations helped draft this document, resulting in an information sheet informed by years of expertise in the field.

### STEPS TO GET STARTED

1. Assess current post-arrest diversion efforts for effectiveness and identify areas of improvement such as program management, resourcing, treatment capacity, etc.
2. Learn from other jurisdictions and identify model programs that work for your community and stakeholders.
3. Identify community and local government partners and potential challenges to success.
4. Address any deficiencies such as lack of treatment, recovery, or mental health services.
5. Determine program management and program capacity.
6. Make a plan to track data (demographics on referrals and participants, costs, program outcomes).
7. Establish a written policy/governing documents, MOUs. Administrative Office of the Court's Office of General Counsel can assist with this process.
8. Train law enforcement, prosecutors, defense lawyers, and other system stakeholders.



## **NORTH CAROLINA MODEL PROGRAMS**

### **MENTAL HEALTH COURT (BRUNSWICK, DURHAM, FORSYTH, GUILFORD, MECKLENBURG, ORANGE, AND PITT COUNTIES)**

*Overview:* Mental health court (MHC) facilitates cooperation between the state mental health system, mental health service providers, and the court. This allows the state mental health system to provide those who are repeatedly in the criminal justice system with mental health services aimed at improving their ability to function in the community, thereby reducing recidivism and easing the workload of the court.

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### **RECOVERY OR DRUG TREATMENT COURT (DTC)**

*Overview:* Drug Courts exist around the country to address individuals who have committed a crime and are dependent on a substance. North Carolina's DTCs are geared towards chemically dependent individuals who are eligible for an intermediate punishment for all pending offenses. Adult DTCs in North Carolina also serve nonviolent, repeat offenders facing jail or prison time. There are active DTC in 25 counties in North Carolina.

*Success:* Participants in recovery courts are significantly less likely to relapse in substance use disorder and less likely to commit future crimes.

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### **VETERANS TREATMENT COURT (VTC)**

*Overview:* Veterans Treatment Court exists around the country, including in four North Carolina counties: Buncombe, Cumberland, Forsyth, Catawba, and Harnett. VTC’s purpose is to support and provide treatment to, rather than incarcerate, veterans who have committed certain offenses. VTCs focus on veterans experiencing mental illness and substance use disorder.

*Success:* As of 2018, 92 percent of veterans entering the Harnett County VTC program had co-occurring issues and 86 percent had substance use issues. By phase 4 of the 5-phase program, that figure dropped to 3 percent.

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### **DURHAM POST ARREST DIVERSION PROGRAM (PDP)**

*Overview:* The Durham PDP is a collaboration between the Durham District Attorney’s Office and the Criminal Justice Resource Center (CJRC). The program accepts individuals ages 18-26 and older adults at law enforcement discretion who are accused of committing lower-level felonies. Participation is voluntary, and referrals come directly from the Durham DA’s Office following an agreement with the defense attorney and client involved in the case. CJRC creates a tailored plan that holds perpetrators accountable while helping them avoid future justice involvement.

*Success:* The PDP program launched in 2020. As of January 2021, 11 cases have been open and three concluded successfully. No participants have been removed from the program.

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### **CHARLOTTE YOUTH DIVERSION PROGRAM**

*Overview:* This program is a Charlotte-Mecklenburg Police Department-funded program that serves youth who commit first-time misdemeanor offenses. Children ages 6 to 17 can be referred by a CMPD officer, after which they are evaluated by a diversion specialist. After completing an 8-hour life skills course or Teen Court, participants will not be charged with the offense committed.

#### **SUCCESS STORY**

*“I am grateful and thankful to have been giving another chance. I could have a felony on my record right now for a careless mistake, but I do not... People need to take advantage of these programs. **I am living proof they work.**”*

-- Successful former participant in the [Durham PDP](#)



*Success:* About 700 children are diverted through the program each year, and more than 70% of participants successfully complete the program.

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### **BUNCOMBE COUNTY JAIL DIVERSION**

*Overview:* Jail diversion options are available to individuals in the Buncombe County Detention Facility who have primary substance use issues or severe mental illnesses. Buncombe County has two main jail diversion programs: Justice United in Support of Treatment (JUST) and Substance Use Diversion (SUD). JUST is a post-booking jail diversion program that primarily serves individuals with serious and persistent mental health disorders. The goal of the SUD program is to divert individuals with a primary substance use disorder from the Buncombe County Detention Facility to appropriate treatment in the community.

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### **FUNDING AND COLLABORATION OPPORTUNITIES**

Stakeholders often identify an absence of places to divert to as a barrier to the creation of diversion programs, especially in rural areas. Developing partnerships and funding, even for pilot programs, can help a program get started. The [NC DHHS Jail Diversion](#) program offers technical assistance to communities starting and operating post-arrest diversion programs: [contactdmh@dhhs.nc.gov](mailto:contactdmh@dhhs.nc.gov), 1-800-662-7030.

1. Government and foundation grants
2. Funding from city or county budget for individual community programs (e.g., [American Rescue Plan](#) and opioid settlement funds)
3. Community partners/sponsors

### **JUVENILE JUSTICE DIRECTORY**

Law enforcement may access local programming for juveniles through [CJLEADS](#) or at <https://www.ncdps.gov/juvenile-justice/service-directory>, and can contact their [local juvenile court counselor office](#) for guidance.

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**ABOUT THE TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE**

The North Carolina Task Force for Racial Equity in Criminal Justice, which is co-chaired by Supreme Court Associate Justice Anita Earls and Attorney General Josh Stein, was established in June 2020 and made a recommendation to establish and expand access to diversion programs. For more information about the Task Force, please visit <http://ncdoj.gov/trec> or email [criminaljustice@ncdoj.gov](mailto:criminaljustice@ncdoj.gov).