

Environmental Scan of Substance Use-related Pre- and Post-Arrest Diversion Programs in North Carolina, 2022

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INTRODUCTION

The rate of opioid overdose deaths in North Carolina (NC) increased by a staggering 450% between 2000 and 2021, from 6.5 to 35.8 deaths per 100,000 residents.¹ Of the 3,759 overdose deaths in NC in 2021 (provisional 2021 data), more than three-fourths involved illicit opioids.¹ Communities across NC have explored innovative ways to address the accompanying increase in substance use-related arrests and the increased need for substance use disorder treatment through a variety of strategies, including initiating pre- and post-arrest diversion programs aimed at commuting criminal sentencing in exchange for treatment and resources. Arrest and incarceration are associated with an increased risk of drug overdose death, illustrating the critical need for law enforcement collaboration to address the worsening overdose crisis.¹ Pre-arrest programs achieve this goal by offering resources, such as substance use disorder treatment, in lieu of arrest. Post-arrest programs intervene after a person has been charged, as a way to have charges dismissed or as an alternative to incarceration.

In order to connect North Carolinians to care, reduce harm, and attain other tenets of the NC Opioid and Substance Use Action Plan (OSUAP),² it is critical for NC to continue exploration of such programs for individuals with substance use disorders. Furthermore, as \$26 billion in opioid settlement funds become available to local entities, a catalogue of existing pre- and post-arrest diversion programs and their needs can help us to understand how the funds can potentially be used to support these programs. Overall, by understanding the successes and challenges of these programs, we can better assist local entities in using evidence-informed practices to reduce the burden on their criminal-legal systems and provide paths for long-term recovery for their citizens. Therefore, the purpose of this environmental scan was to examine the current state of substance use-related pre- and post-arrest diversion programs in NC, synthesizing key information on program availability, eligibility criteria, funding structures, processes, outcomes, needs, and challenges, among other factors.

METHODS

Programs of Focus in this Scan

This scan aimed to examine substance use-related pre- and post-arrest diversion programs in all 100 counties in NC.³ We defined these diversion programs as interventions that aimed to reduce the number of people sent to jail and prison for substance use-related charges.

Pre-arrest diversion programs are often collaborations between law enforcement agencies and treatment providers, in which eligible participants are offered resources or treatment instead of being arrested. Post-arrest diversion programs are often housed in the judicial system, sometimes in collaboration with law enforcement. In these programs, eligible participants complete a treatment program instead of incarceration. After successful completion, they may avoid serving time in jail or prison and may have their charges dropped or expunged. We only included programs whose population of focus included individuals with substance use disorders.

There are a variety of diversion programs across NC that aim to redirect individuals with criminal offenses from serving time in jail or prison to receipt of treatment and/or resources. To capture diversion programs specifically focused on substance use, and due to capacity constraints, we excluded programs where the programmatic populations of focus were not those with substance use disorders. Thus, throughout this report, unless otherwise stated, the terms “pre-arrest diversion” and “post-arrest diversion” refer to substance use-focused programs. We recognize that mental health and substance use are often inextricably intertwined, and many diversion programs aim to serve individuals with dual diagnoses. However, for the purposes of this project, we did not include programs whose primary population of focus was individuals with mental health disorders, even if they also served those with substance use disorders. Some examples of programs that may serve individuals with substance use disorders but were not included in this report, per our definition, include Mental Health Treatment Courts (also called Wellness Courts in some counties), Community Policing and Crisis Response Teams, Misdemeanor Diversion Programs, and Street Outreach Programs. Although we did not include these programs in our report, we recognize the importance of these programs in diverting and serving those with mental health and substance use disorders and their overall contributions to community wellness.

Another category of intervention that we did not include, but that is relevant, included programs that aim to provide medication for opioid use disorder (MOUD) to individuals who are incarcerated in jails or prisons. Through interviews, we learned that these programs may identify as “diversion” programs due to their role in diverting individuals from substance use-related recidivism upon release. In counties where there are no programs that divert individuals from being arrested or receiving criminal charges, these programs may serve as the sole intersection of the criminal-legal system and treatment for substance use disorders. While our report did not aim to capture such programs operating within jails and prisons, these programs and their staff are tremendously valuable to their communities.

Finally, we chose to include Family Treatment Courts (FTC), which operate in Family Court as opposed to Criminal Court, due their focal population of individuals with substance use disorders.

Data Collection

To collect information on substance use-related pre- and post-arrest diversion programs across NC, we developed a survey that asked about pre- and post-arrest diversion program existence and key programmatic characteristics. We created a database of contacts in each county with potential knowledge of these programs. We started from a publicly available list of known diversion program contacts across NC counties, supplied by the NC Division of Public Health and collected through their Opioid and Substance Use Action Plan Data Dashboard data collection efforts. We supplemented this list with web searches on potential contacts from District Attorneys’ offices, Sheriffs’ offices, local health departments, and/or other organizations that tend to coordinate these programs.

Using the contact database, we attempted to reach each contact through both email and phone calls using standardized templates for emails, phone calls, and voicemails. For all 100 counties, we reached out to a minimum of three contacts three to four times per county. If, through initial contact with the county, we identified a county as having a diversion program, we conducted an interview with the relevant contact via phone or Zoom using a structured interview guide. Interviews lasted 45 minutes to one hour. If the participant consented, the interviews were recorded. For a small number of counties, we gathered information by sending the structured interview guide via email. We conducted all interviews between June and August 2022.

We asked programs to report outcome data, if they collected any. For most programs, this was the percentage of participants who completed the program. Some programs collected additional information such as participant age, race, socioeconomic status, and risk factors. Others tracked programmatic information such as the amount of time between an initial referral to a participant entering into program services, in an attempt to quantify the bureaucratic barriers to program entry. Given the wide-ranging capacities, definitions, and methods of data collection among the pre- and post-arrest programs, we did not aggregate or analyze these data across programs.

Data Synthesis

Interviewers took notes during the interview and transferred cleaned notes into an Excel database, using recorded interview audio as needed to refine notes. After all interviews were completed and notes were transferred, key program characteristics were synthesized in a consistent manner across all counties (Table 1).

This environmental scan was reviewed by the University of North Carolina's Institutional Review Board, and they determined it was not human subjects research and did not require additional approvals.

RESULTS

We received responses from representatives of 97 counties about the status of pre- or post-arrest programs available to residents of their counties. Information gleaned from the interviews demonstrates the wide range of programs available across NC and the diverse nature of the interventions, as well as the barriers and facilitators facing the communities and coordinators of these programs.

Overall, we collected information on 36 pre-arrest diversion programs serving 30 counties and 75 post-arrest programs serving 43 counties (see Table 1 for summaries by county). To summarize results, we divided substance use-related pre-arrest diversion programs into categories or types of programs.

We grouped pre-arrest diversion programs into three categories or types of programs: Law Enforcement Assisted Diversion (LEAD) programs, LEAD adjacent programs, and Co-responder and co-responder adjacent programs. The most common pre-arrest program was LEAD, but the specifics of LEAD programs varied greatly depending on the county. In contrast

to the post-arrest programs, the types, specific characteristics, and processes of pre-arrest programs tended to vary more between counties.

We grouped post-arrest diversion programs into six categories or types of programs: Drug Treatment/Recovery Courts, DWI/ Sobriety Courts, Veterans Treatment Courts, the Stepping Up Initiative, Other initiatives, and the Prime for Life program. The most common post-arrest diversion programs were Drug Treatment Courts and Veterans Treatment Courts.

In addition, we synthesized information on Family Treatment Courts. We included Family Treatment Courts as a separate type of substance use-focused diversion program as this type of program did not fit neatly into either the pre-arrest or post-arrest diversion categories. We also summarized overarching statewide efforts through 90-96 and Conditional Discharge or Deferred Prosecution pathways, given the high proportion of counties referencing and using these diversion paths.

Below we detail primary program characteristics, data on where the programs exist, and an overview of outcome data if available. We end this section with a synthesis of needs across diversion programs in the state.

Substance Use-Related Pre-Arrest Diversion Programs

1. Law Enforcement Assisted Diversion (LEAD)

LEAD is a national pre-arrest diversion program model that launched in Seattle, Washington in 2011. The program aims for police officers to “exercise discretionary authority at the point of contact to divert individuals to a community-based, harm-reduction intervention for law violations driven by unmet behavioral health needs.”⁴ Of the 30 counties with substance use-related pre-arrest diversion programs in NC, 10 have LEAD programs: Beaufort, Pasquotank, Perquimans, Gates, Hertford, Robeson, Watauga, Burke, Catawba, and Graham. Some programs cover more than one county.

LEAD programs typically aim to serve individuals arrested for low-level drug offenses, like possession of an illegal substance, or a substance use-related crime, like stealing to support the purchase of a substance. These programs occasionally also deal with other low-level crimes, like sex work, that may or may not be connected to substance use. Generally, counties reported that individuals are referred to the program when they encounter law enforcement officers, with referrals made at the discretion of the arresting officer. After a referral has been made, the individual completes a needs assessment and is recommended for substance use and/or mental health treatment, if needed and as appropriate. Once treatment is complete, generally no charges are brought. If the individual does not complete treatment, the officer can choose to request that the District Attorney bring charges. However, this does not always occur even if treatment is not completed. LEAD programs can also act as a diversion program prior to an individual encountering law enforcement, as exemplified in Robeson County and other counties. For example, if a community member is concerned about a loved one encountering law enforcement as a result of their substance use, they can choose to call the sheriff’s office and connect the individual to services through LEAD.

Similar to Robeson County, Watauga’s LEAD program operates through both enforcement and community member referrals. The Watauga LEAD program, established in 2020, has relied on strong partnerships between local community organizations and law enforcement. Notably, with support from these entities, it operates seamlessly in both a pre- and post-arrest support capacity to provide a range of services. In the post-arrest stage, LEAD personnel work closely with a sister program, Recovery on the Inside (est. 2018), to provide a range of post-arrest substance use disorder-related services within the Watauga County Detention Center.

All LEAD programs we were able to contact operate out of local police departments, except for the program in Pasquotank, Perquimans, Gates, and Herford counties which is based out of the local health department. The programs offer a variety of resources ranging from connecting participants to mental health and/or substance use disorder treatment to transportation assistance to treatment facilities to educational resources and housing assistance.

Many of the LEAD programs are new or still in the early stages of implementation. Only one program (Robeson county’s LEAD) was able to provide outcome data and shared that 115 individuals have been diverted since its inception in October of 2020. Four participants have completed the program and 80 are still receiving services.

It is important to note that it was outside the scope of this report to determine if these LEAD programs matched national LEAD definitions or practices. We used the counties' self-report of operating a LEAD program but did not verify if they were adhering to national LEAD standards.

2. Law Enforcement-Related/ “LEAD Adjacent” Programs

Eight substance use-related pre-arrest diversion programs operate programs described as not formal LEAD programs, but rather “LEAD adjacent” programs that directly involved law enforcement. These LEAD-like programs are often named something else and often operate with slightly different programming than traditional LEAD programs. Two of these programs are in Wake County, three in Orange County, one in Brunswick County, one in Warren County, and one in-development program in Lee County. Names of the programs include 90-96 pre-arrest/pre-filing diversion, Wake County Pilot Program, the Lantern Project, Project Lazarus, Orange County Pre-Arrest Diversion (OC PAD), the Youth Deflection Program (YDP), the Involuntary Commitment Committee, and the Anchor Initiative. Two of the programs (in Wake and Orange Counties) are specifically youth-focused (age 18 years or younger). Each program is unique to the county it served; however, operation tends to be LEAD-like.

Program participation is generally initiated when an individual encountered law enforcement for low-level substance use-related crimes and program participation was offered as an alternative to arrest. The Involuntary Commitment Committee in Warren County operates in a particularly unique manner. The committee is made up of individuals from law enforcement, the Managed Care Organization (MCO), and the Department of Social Services who identify individuals with frequent law enforcement contact and offer them with comprehensive support to prevent further criminal-legal system engagement.

Focal populations for these programs include individuals with substance use concerns or substance use disorders, with three programs specifically aiming to serve individuals with opioid use disorders. All programs involve a direct referral from law enforcement, and three of the programs (the Anchor Initiative, the Lantern Project, and Project Lazarus) have several different tracks, including a track directly connecting individuals to community referral and a track for incarcerated individuals awaiting trial. All of these programs help individuals access substance use disorder treatment, and several include substance use education, mental health treatment, and support with other needs like housing, employment, and transportation. For more information on the specifics of each program, please see Table 1. Only one program reported outcome data (OC PAD), sharing that between February 4, 2019 and July 29, 2021, there were 355 program referrals and a 97% program completion rate resulting in diversion from charges. The 6-month post-completion recidivism rate was 2.42% of participants.

3. Co-Responder and Co-Responder Adjacent Programs

Five substance use-related pre-arrest diversion programs are co-responder or co-responder adjacent programs, and all programs began within the last 10 years. Three of these programs are in Alamance County, one in Craven County, and one program covered Iredell, Surry, David, and Yadkin counties. The names of these programs are: the Co-responder Program, the Crisis and Diversion center, the Quick Response Team, and the Mental Health Assistance Program (MHAP). All programs aim to serve individuals experiencing a mental health and/or substance use crisis, and all programs, apart from the Crisis and Diversion Center, require a direct referral from law enforcement.

The Co-Responder and Quick Response Team programs work in the following manner: law enforcement encounters an individual experiencing a substance use and/or mental health crisis and calls the co-responder/support team; the team goes to the scene and works with the officer and the individual to de-escalate the situation. If the situation is not able to be de-escalated, the individual may be taken to the hospital (usually in cases where an involuntary commitment is deemed appropriate). In either case, the co-responder team follows up with the person soon after the encounter and assists them in accessing mental health and/or substance use disorder treatment. The Crisis and Diversion center and MHAP operate similarly, with a few exceptions. The Crisis and Diversion Center is a space where officers can bring individuals in crisis, as an alternative to arrest. Individuals can also walk into the center themselves or be brought in by a community member. The MHAP team meets with the person in crisis within 24 hours of encounter with law enforcement. For all of the programs, once the individual is deemed to be eligible for program participation, they will not be charged by law enforcement.

All five programs shared outcome data. Outcome data varied, but the co-responder programs and MHAP served between 74-151 individuals each year, with successful diversion from hospitals and/or prisons ranging from 76% to 100%. Many of these individuals were also connected with further support services post-encounter. The Crisis and Diversion Center in Alamance County served 1,091 individuals from July 2020-December of 2021, and 80% were successfully diverted.

Substance Use-Related Post-Arrest Diversion Programs

1. Drug Treatment/Recovery Courts

Of the 42 counties that have substance use-related post-arrest diversion programs, 30 have Drug Treatment Courts (also referred to as Recovery Court, Adult Treatment Court, and Adult Accountability and Recovery Court). These courts are located in the following counties: Avery, Beaufort, Brunswick, Burke, Catawba, Cumberland, Dare, Durham, Forsyth, Gaston, Greene, Guilford, Hyde, Jackson, Lenoir, Madison, Martin, Mecklenburg, Mitchell, New Hanover, Orange, Pitt, Robeson, Swain, Tyrrell, Wake, Washington, Watauga, Wayne, and Yancey. Of these courts, one is specific to women and two serve youth only. We will hereafter refer to these courts as Drug Treatment Courts (DTC).

DTCs generally aim to serve individuals with substance use disorders, most of whom had prior involvement with the criminal-legal system. Program participation is usually offered post-arrest and post-conviction as a probationary condition. While the offense does not have to directly involve substances, a substance use disorder has to underly the charge. Most of the courts require the charge to be no higher than a class H or I felony and exclude individuals accused of violent felonies, sex offenses, and/or drug dealing or trafficking. Many courts also exclude individuals with severe and persistent mental illness, such as schizophrenia.

DTCs operate in three to five phases, require a commitment of between 1 and 2 years, and most follow the National Association of Drug Court Professionals' (NADCP) best practices, including allowing MOUD. The courts use a team-based model, often composed of the judge, District Attorney, treatment provider, defense attorney, probation officer, court coordinator, and occasionally a peer support specialist. The phases of the court often begin with the most restrictive and highest level of supervision and become less restrictive as the individual progresses through the phases. Program participation requires frequent drug testing (several times a week), monthly or biweekly court attendance, participation in substance use and/or mental health treatment, continuous contact with the court coordinator and/or probation officer, obtaining a sponsor, involvement in community-based recovery/ pro-social support activities (like AA or NA meetings), working on education and/or vocational goals, and obtaining substance free housing. In order to move through the phases, in addition to completing the goals outlined in each phase, participants must accrue a certain number of substance free days. DTC participants are connected with an array of social services and receive a high level of case management. Youth focused DTCs operate in much the same manner as Adult DTCs, with the exception of higher levels of familial involvement.

There are incentives and sanctions throughout the phases of DTCs. Incentives are given when an individual complies with their case plan and requirements of the phases and range from verbal praise and applause from the court to gift cards to local restaurants. Sanctions are given when an individual does not comply with the requirements of the phases or, in some counties, when an individual submits a positive drug screen. Sanctions range from having to write an essay to "quick dips" (i.e., brief periods, usually 24-48 hours) in jail and electronic monitoring. Upon

DTC graduation, participants' probation is usually ended or moved to unsupervised probation, meaning they do not have a probation officer overseeing them. Programs shared that they are very hesitant to remove people from the program, but removal from a DTC generally occurs if an individual is consistently testing positive for substances and/or not appearing to put in effort to move through the phases. Failure to graduate from a DTC usually results in a revocation of probation and an activation of the rest of the sentence (meaning the individual spent the remainder of their sentence in jail or prison), or a revision of their probationary sentence. Successful graduation means that the individual avoided incarceration, had their probation ended, and/or had their charges dismissed, depending on the county. Program participation ranged from 8-50 participants at one time, and program completion ranged from 20-60%.

Of note, completion rates for DTCs, as well as other post-arrest programs (e.g., Driving While Intoxicated (DWI), and Veterans Treatment courts) may appear quite low. However, program staff emphasized that the population these courts serve is complex, as many participants have had a myriad of charges, long-standing substance use issues, and other trauma and contextual factors prior to entering the courts. Further, program staff consistently shared that they take a wrap-around team approach with participants in treatment courts, and they are hesitant to remove someone from the court unless all other options have been exhausted.

2. DWI/Sobriety Courts

Six counties operate DWI courts (also called Sobriety Courts: New Hanover, Robeson, Brunswick, Mecklenburg, Union, and Cumberland. These courts serve individuals who have substance use disorders and have committed a DWI offense. These courts operate in an almost identical manner to DTCs regarding the team-based approach and phases of the program, following NADCP best practices. Two of the courts (in Mecklenburg and Cumberland counties) have a pre-trial track and a post-trial track. For the other counties, participation is part of an individual's probationary condition. Two counties (Mecklenburg and Cumberland) require wearing an electronic alcohol monitoring bracelet in the beginning phases. Reasons for removal from the program generally occurred if a participant receives new charges, absconds, tampers with substance use monitoring, and/or fails to move through the phases in a reasonable amount of time. Upon termination, an individual's probation can be revoked, and they can be required to serve the remainder of their sentence incarcerated. The following are potential outcomes post DWI court graduation: probation termination, reduction of probation, credit for pretrial jail confinement, and waiving of fees and costs related to the DWI charge. We were only able to obtain completion rates for Brunswick County's court, which were estimated at about 50%. Cumberland County shared that they have graduated over 100 participants since 2010, and Brunswick County shared that their caseload is usually around 25 participants at any given time.

3. Veterans Treatment Courts

Four counties have Veterans Treatment Courts (VTC) in operation: Harnett, Cumberland, Forsyth, and Catawba. These courts serve criminal-legal system involved veterans with substance use disorders and/or a co-occurring mental health diagnosis. The Harnett County VTC specifically serves veterans with service-connected disabilities. VTCs operated very similarly to

DTCs and DWI Courts regarding the phases and reasons for termination. Two of the courts (Forsyth and Harnett) have varying tracks depending on the risk and need of the veteran. The defining feature of these courts is the peer mentorship component. Every veteran who participates in the court is paired with a retired service member, acting as an integral part of the participant's case management team. Upon successful completion of the VTC, the following can occur: probation is ended, the person is placed on unsupervised probation, court or probation costs are forgiven, charges are dismissed, charges are reduced, or the veteran receives a lesser charge. Of note, completion rates tend to be higher for VTCs than DTCs and DWI Courts. Cumberland County shared that the court has served over 200 veterans since 2014 and has an 85-90% completion rate. Forsyth County's VTC has graduated 23 total participants since 2016, has a 74% success rate, and a 13% recidivism rate. Harnett County has served about 200 veterans in the past 8 years, with a 90-95% completion rate, and a recidivism rate of 5%. Three of the court coordinators were veterans themselves.

4. Stepping Up Initiative

The Stepping up Initiative is a nationwide program that aims to reduce the number of individuals with co-occurring mental health and substance use disorders in jails and prisons. It is meant to serve as a pre- or post-arrest program, but in practice, it is usually a post-arrest program. While 46 counties have adopted resolutions to support the Stepping Up Initiative,⁷ only six counties shared with us that they used Stepping Up as a concrete diversion program (the 5-county Stepping Up Initiative: Franklin, Granville, Halifax, Vance, Warren, which started in 2016, and Cabarrus, which began in 2018). In the Stepping Up program, an individual is referred after being booked into jail and determined to be a good candidate for the program (i.e., having a mental health and/or substance use disorder) by the jail's medical team. It is a voluntary program, and if a defendant chooses to participate, a team (usually comprised of the District Attorney, Stepping Up case manager, defense council, and probation officer) works to develop a treatment plan for the individual. The treatment plan involves releasing the individual from jail in order to attend substance use disorder treatment, and the treatment may be inpatient or outpatient, depending on the person's needs. If the defendant successfully completes treatment and the agreed upon case plan, they may have their probation ended and/or avoid going to prison. The case plan and outcomes for each person are highly individualized. Only Cabarrus County was able to share outcome data, citing that since its inception in 2018, 639 inmate residents have received case management, 25% had attended at least the first treatment appointment, and the recidivism rate was 6.9%. The timeframe for recidivism was not shared.

5. Other Post-Arrest Diversion Programs

Ten counties have post-arrest diversion programs that are unique to their counties and do not fit under the umbrella of treatment courts or a nationwide program like Stepping Up. These counties include: Carteret, Chatham, Craven, Forsyth, Harnett, Lee, New Hanover, Orange, Pamlico, and Wake. The names of these programs are: 90-96 (not to be confused with the 90-96 statute), Substance Use Diversion, Pre-Trial Program, the Lantern Project, Drug Diversion Program, Pre-trial Release Program, Chatham 360, Chatham 360 Juvenile Diversion, the Sheriff's District

Attorney Drug Treatment Program, the District Attorney's Treatment Alternative (DATA), and Underage Drinking Ticket and Fake IDs Deferred Prosecution.

All of the programs, except for two (the Sheriff's District Attorney Drug Treatment Program in Carteret, Craven, and Pamlico counties and the Pre-trial release program in Chatham), offer individuals the possibility of having their charges dismissed. For four programs, substance use disorder or harm reduction educational programming is a key component (Lantern Project in Orange, Drug Diversion in Harnett, Chatham 360 Juvenile Diversion, and the Underage Drinking Ticket and Fake IDs Deferred Prosecution in New Hanover). For two programs, electronic monitoring is often required for program participation (DATA in Forsyth and the Sheriff's District Attorney Drug Treatment Program in Carteret, Craven, and Pamlico), and for DATA, MOUD (most often in the form of Vivitrol) is also required.

Similar to the other post-arrest diversion programs, program removal most often occurs if the participant does not follow through with their case plan or fails to complete programming steps. Participants in these programs are frequently offered assistance with other social service needs as well. Outcome data was available for all programs except for the Underage Drinking Ticket and Fake IDs Deferred Prosecution Program in New Hanover County, and completion rates were generally higher than for treatment courts. Completion rates ranged from 20%- 94%. For more detailed outcome data on each county's program, please see Table 1.

Finally, a novel Pre-trial Services program is run by Becky Cameron. Ms. Cameron works primarily in Moore County, but her services are available to anyone in the state of NC with a public defender. Ms. Cameron's Pre-Trial Services program has been active since 2003. (From 2003-2011, it was called the Sentencing Services Model.) She serves low-income incarcerated individuals with substance use and/or mental health concerns. If the defendants are determined to be "indigent" by the state of NC, the state pays for services. Otherwise, the defendant or their family pays for services. She works with the individual, their family, the defense attorney, the District Attorney's office, and the arresting officer to get the defendant's bond unsecured and to help move the individual into a treatment facility within the first 30 days of pending charges, after meeting with the individual and completing an assessment. Upon completion of treatment, Ms. Cameron shared that the defendant is usually put on probation and avoids going to prison. Ms. Cameron serves about 200 individuals per year and reported an approximately 90% completion rate.

6. Prime for Life Program

Prime for Life is an evidence-based early intervention program primarily aimed at first-time or under-age low-level offenders deemed to benefit from guidance and education around substance use disorders.⁸ The program consists of a 12-hour prevention-focused curriculum taught by local organizations (including Mountain Project, Inc. and Appalachian Community Services) that focuses on both drug and alcohol use. The programs are primarily held in Haywood, Macon, Clay, Swain, Graham, and Cherokee counties. Since the onset of the COVID-19 pandemic, the class has been held virtually for referred participants. Eligible participants are referred to the program at the District Attorney's discretion. Upon program completion, charges may be

dismissed. Whether a participant is offered the opportunity to complete the program in lieu of their charges is within the discretion of the prosecutor assigned to the court, and it is not intended for individuals in need of substance use-related treatment or intensive therapies.

The Prime for Life program offered through Mountain Projects, Inc. has been ongoing for more than 10 years. Mountain Projects has collected data on the number of participants completing the program, key characteristics of participants, and the impact of the course on participants' knowledge. Between 2013 and 2021, the program saw 660 people completing the course, with 87% of participants completing the program once beginning it. Within these years, an average of 75% of Prime for Life participants had one or more risk factors for developing a substance use disorder, and 40% had a positive Global Appraisal of Individual Needs (GAIN) screen, suggesting they were at risk for behavioral health issues. Pre-program test scores as compared to post-program test scores indicated that participants saw, on average, a 14% increase in knowledge related to risk factors for substance use disorders, the impact of alcohol and drugs on health, and strategies and motivation for making good choices.

Within the last two years, Appalachian Community Services has also begun offering the program to participants from the same counties.

COVID-19 has had a tangible impact on the Prime for Life Program. It is now offered remotely, via teleconference. While this increases access to the program for some, many participants do not have access to reliable wireless internet, prohibiting them from completing the class. While Mountain Projects, Inc. guided 107 participants through the course in 2019, only 40 completed the course in 2020 and 21 in 2021, with similar numbers projected for 2022.

Family Drug Treatment Courts

Nine counties operate Family Drug Treatment Courts (FDTC) (also called Families in Recovery Court, Family Treatment Court, Family Accountability and Recovery Court, and Families in Recovery Court). The counties that operate these courts are Chatham, Cumberland, Greene, Halifax, Lenoir, Mecklenburg, Orange, Robeson, and Wayne. FDTCs do not operate in the criminal court system, but rather in Abuse, Neglect, and Dependency Court (also called Family Court). They serve Department of Social Services (DSS)-involved parents or guardians with severe substance use concerns, and involvement with the FDTC generally takes between 12-18 months. While some parents remain in the court for up to two years, there is pressure to graduate sooner than in the other courts, as DSS has stringent guidelines they must follow regarding acquiring permanent homes for children. Parents are usually referred to FDTC from Family Court or DSS. FDTC operates very similarly to DTCs, DWI Courts, and VTCs. Court coordinators described FDTC as a motivational court and, like VTC, peer support is an important component of the program. Attending supervised visitation (if it is an out of home child protective services case) and parenting classes are additional requirements unique to FDTCs. Upon graduating, most participants are reunified with their children. While FDTC cannot make the decision to reunify a parent with their children, the court operates in close contact with Abuse, Neglect, and Dependency Courts and thus reunification is most often the result. Parental

participation in FDTCs may be terminated under similar circumstances as for other DTCs discussed above. In addition, if parent-child reunification is no longer a goal (e.g., parental rights are terminated and/or the child is adopted), a parent may be removed from FDTC. Four counties (Orange, Wayne, Greene, and Lenoir) shared outcome data. Graduation proportions ranged from 60-67%, and participation ranged from 17-25 participants per year.

90-96 and Conditional Discharge/ Deferred Prosecution

Many counties that do not have substance use-related pre- or post-arrest diversion programs cited NC General Statute 90-96 as a policy used to divert individuals following arrest. Under this statute, first-time offenders accused of minor drug and alcohol offenses must be given the option to have their charges deferred. If the offender completes drug education and/or treatment, depending on the conditions agreed upon, they will have their charge dismissed. Because this is a statewide policy, we did not consider this to be a county-specific substance use-related pre- or post-arrest diversion program when surveying counties.

Another policy that counties without diversion programs cited was a conditional discharge and deferred prosecution program for low-level drug and alcohol charges. Generally, this means that the District Attorney offered to defer charges under the agreement that the defendant admits guilt to the charges and agrees to attend substance use disorder treatment. If the defendant completes treatment and provides the court with proof of completion, the charge is dismissed. Counties generally cited this policy as a way to avoid “using up” a formal 90-96. While we did not comprehensively survey counties for such policies, the following counties reported using this policy: Bladen, Brunswick, Columbus, Duplin, Franklin, Granville, Onslow, Person, Vance, and Warren. One county (Mecklenburg) shared that they are no longer prosecuting low-level drug offenses at all.

Diversion Program Needs Across NC

Programs consistently cited the need for state funding. Thirty-six programs operated on grant funding, 23 programs operated on county funding, and 22 programs operated on both grant and county funding. Programs noted that operating on grant funding can be challenging, as grants are rarely long-term, and programs frequently need to seek out multiple grant sources to fully support program operations. Treatment courts had received state funding until 2011 when NC halted all such funding. As a result, programs had to find funding elsewhere, usually through the county or grants. At the same time, the state stopped collecting centralized data on these programs, resulting in a lack of centralized data since 2011 and creating a barrier to program evaluation.

Many programs indicated a need for increased program buy-in from law enforcement and district attorneys and emphasized importance of educating these entities, as well as the public, about substance use disorders and the benefits of substance use-related diversion programs. For pre-arrest, particularly LEAD/LEAD adjacent programs, program coordinators spoke about

difficulties getting law enforcement to use the programs even after they were established. Programs noted that law enforcement was often hesitant to engage in programs that they viewed as not being “tough on crime.” Pre-arrest programs are used at the discretion of the arresting officer, thus creating an opportunity for officer bias to influence when these programs are used. This is especially important to note, as higher arrest rates for non-White and Hispanic individuals are well-documented.⁵ On the other hand, programs noted that an important facilitator to starting pre-arrest diversion programs was when law enforcement was eager to engage.

Another common need that programs voiced was for increased substance use disorder treatment options for individuals in their programs and the desire for the state to invest in local resources. Specifically, programs cited the need for high quality, non-faith-based inpatient treatment facilities that accept individuals with a history of violent offenses and individuals with dual mental health and substance use disorder diagnoses.

Programs also spoke about the difficulties of finding consistent transportation for participants to get to treatment appointments, court appointments, drug tests, etc. While we heard this request from counties all over the state, the need was highest in rural areas. One rural county shared that there was only one inpatient facility in the entire county and that they often had no choice but to send individuals out of county for treatment, to facilities hours away. On a similar note, many programs voiced a need for Medicaid expansion to help pay for treatment.

While not stated as a need by programs themselves, several programs required complete abstinence from substance use, including MOUD. This is problematic, as MOUD is evidence-based treatment, and not providing MOUD represents a misalignment with the substantial evidence base supporting the effectiveness of MOUD for individuals with opioid use disorder.⁶

Finally, counties indicated a desire for increased involvement and guidance from the state regarding implementation of substance use-related diversion programming. One participant suggested the state host a yearly conference for these programs where individuals could connect and share information on their own experiences and best practices.

CONCLUSIONS

The findings of our environmental scan suggest that substance use-related pre- and post-arrest diversion programs are active in a wide range of communities across NC. Many of these programs, especially LEAD and drug court-focused interventions, tend to follow national models. However, the programs varied widely in their funding, community buy-in, ability to collect data, and completion rates. These programs rely on a variety of funding mechanisms and community partnerships to make an impact in their communities, allowing them to meet the unique needs of their communities. However, the need for external funding and partnerships from a variety of community agencies also introduces potential barriers and challenges to initiating and sustaining these programs. Through interviews with program coordinators and partners, we learned about the critical need for strong partnerships with law enforcement and key agency leadership to grow a successful program. Given the unique role of the NC DPH and other

state agencies in providing guidance and coordinating action with a variety of partners across the state, we see a role for these agencies to support the relationships required for new diversion programs, including by disseminating success stories of these programs.

The programs indicated several important needs that deserve attention to facilitate program success. Many programs struggled to collect and track participant-level or aggregate data about program successes and outcomes. The data that was collected by programs varied and therefore may not serve as a reliable way to compare programs and track effectiveness. Additional work is needed to help establish best practice metrics for these programs and provide guidance on sustainable data collection and evaluation processes. Additionally, programs expressed a critical need for sustainable funding, as well as for increased access to inpatient treatment centers for their participants. Finally, there is a need to continue to discuss the integration of MOUD in pre- and post-arrest diversion programs in NC. While many programs supported and encouraged use of MOUD, this was not the case across all programs. Additional support in ensuring participants have access to MOUD is a critical step in helping to support program participants.

Moving forward, substance use-related pre- and post-arrest diversion programs in NC can draw on evidence-informed and evidence-based practices, the unique characteristics of their communities, and the expertise of local community partners, law enforcement, county officials, and substance use disorder treatment providers. Our interviews and synthesis of pre- and post-arrest diversion programs in NC suggest that there are several novel programs in operation with committed staff. Future research is needed to better understand the effectiveness of different models in reducing recidivism and supporting program participants in achieving positive health outcomes.

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