



Summary of Beaufort County DUI Prosecution Pilot Program

June 2022

Magistrates Court DUI Pilot Program

In 2019, Beaufort County Council requested that the 14th Circuit Solicitor's Office take over prosecution of magistrate-level driving under the influence charges whenever they arose from patrols in the county's unincorporated areas. The council and court administration were concerned about a high rate of DUI dismissals as law-enforcement officers attempted to prosecute cases against seasoned defense attorneys. As Beaufort County Magistrate Courts Administrator Stephanie Garst put it in 2018, "DUIs are extremely complicated, and most officers lack the legal expertise to argue motions, which is where most cases are lost. Very few cases get to trial, and when they do, officers have difficulty presenting their cases clearly and effectively to the judge or jury."

At that time, the statistics from Magistrate Courts indicated that more than 67% of all drunken driving cases ended in dismissals, while less than 33% ended in either guilty pleas or bench-trial verdicts. Most of the bench trials were held without the defendant being present. There were no jury-trial convictions.

Since the inception of the DUI prosecution pilot program, dismissals have been cut in half. The conviction rate has more than doubled. There have been 15 jury trials ending in a guilty verdict, and no one was tried in absentia. Of the 166 defendants who pleaded guilty, 80 pled as originally charged. In 68 instances, a defendant originally charged with a DUI pleaded instead to a charge of driving with an unlawful alcohol concentration, even though there is no appreciable difference in penalties between the two offenses.

Approach

Beaufort County Council agreed to a two-year pilot program in which our office would receive an additional \$187,050 per fiscal year to handle lower-court DUI prosecutions. This amount was roughly equivalent to the salary for two full-time attorneys and an administrative person. In return, our office pledged professional, expedient prosecution of these cases.

Our office addressed the troubling conviction rate by quickly assessing all new cases and assigning them to multiple attorneys, who prepared them for court. One attorney, Daniel Gourley, oversaw the project by reviewing and analyzing all DUI cases as they came in, ensuring the arresting and investigating officers had complied with the DUI statute. In some cases,

failure to comply with the DUI statute mandated dismissals. These assessments were made thoroughly but quickly, in fairness to all involved and to expedite cases with admissible evidence sufficient for conviction. When cases were dismissed, our attorneys consulted with law enforcement, particularly when dismissals were prompted by procedural or evidentiary problems that could be avoided in the future.

After intake and analysis, the remaining cases were distributed to as many as four prosecutors. This ensured that no single attorney would be overwhelmed by the caseload, nor double-booked for hearings that sometimes took place nearly simultaneously in magistrate courts in both northern and southern Beaufort County. (Unlike some other counties in the state, Beaufort County does not have a centralized Magistrate Court.)

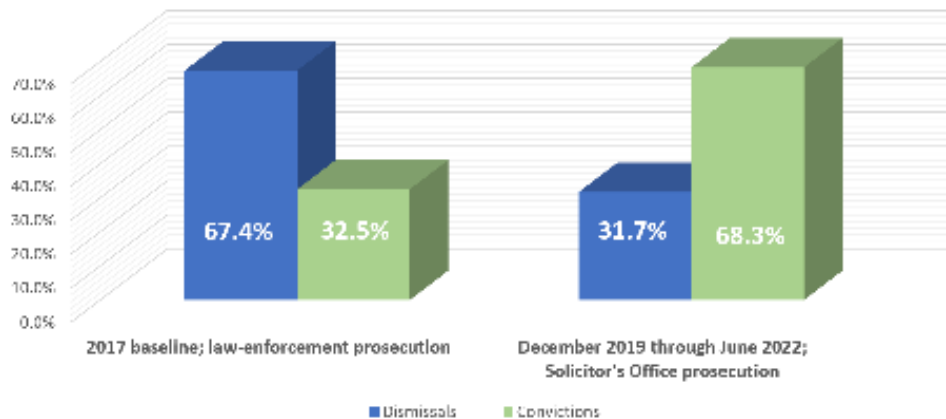
COVID challenge

In April 2020, just months after the launch of the pilot program, jury trials were shut down throughout South Carolina because of the COVID-19 pandemic. This included Magistrate Courts. As a result, most DUI guilty pleas and all jury trials were delayed. Cases did not move as normal because defendants knew they could not be tried. Our intake and analysis process, however, remained intact. Although the total number of convictions declined, the dismissal rate was cut nearly in half, despite the fact that, for many months, all our attorneys could do was dismiss bad cases while waiting to try evidence-supported cases.

Statistics

The charts and table below summarize the outcomes of our DUI prosecution pilot program through June 15, 2022. Just prior to the launch of the pilot program in December 2019, we established CY 2017 as a statistical baseline, since at that time, this was the last full year for which statistics were available from the magistrates' clerk. To measure our performance, we maintained our own accounting of dispositions from December 2019 through June 2022. This included the creation of sub-categories for dismissals and guilty pleas. Similar sub-category information was not tracked by the Magistrate Courts, and those instances are marked as "N/A" in the table. In addition to the baseline year, we have included statistics that cover the entire span of the program, plus a breakout of 2021, to provide at least one complete calendar year as a basis of comparison.

Convictions and dismissals comparisons



DISPOSITION TYPE	2017*	Dec. 2019- June 15, 2022 Totals	2021
TOTAL NOT GUILTY/NOLLE PROSSED/DISMISSED	321 (67.4%)	84 (31.7%)	38 (35.5%)
DM by court	N/A	15	3
<i>Other</i>	N/A	13	3
<i>Law enforcement failure to provide discovery (SCHP)</i>	N/A	2	0
DM by prosecutor/state	N/A	68	34
<i>Sole witness uncooperative (arresting officer was fired before disposition)</i>	N/A	1	1
<i>Essential evidence lost</i>	N/A	5	1
<i>LE statutory non-compliance</i>	N/A	57	31
<i>Defendant died before disposition</i>	N/A	2	1
<i>Unable to prove beyond reasonable doubt; no reckless driving observed, invalid Breathalyzer or below .06</i>	N/A	3	0
NG at trial	N/A	1	1
TOTAL CONVICTIONS	155 (32.5%)	181 (68.3%)	69 (54.5%)
Pled guilty	121 (25.4%)	166 (55.7%)	57 (53.3%)
Pled to DUI/DUAC	N/A	129	46
Pled to lesser charge	N/A	37	11
Guilty at trial	34 (7.1%)	15 (5%)	12 (11.2%)
<i>Tired in absentia</i>	29 (6.1%)	0	0
TOTAL DISPOSITIONS	476	265	107
ADDITIONAL CASES HANDLED (non-dispositions)			
Failure to appear	N/A	11	0
<i>FTA-defendant deported</i>	N/A	7	
Remanded to proper court	N/A	22	0
TOTAL	476	298	107

* statistics provided by magistrate court's clerk to council

Conclusion

The Magistrates Court DUI pilot program demonstrated the benefit of professional prosecutors handling these court cases instead of law-enforcement officers. The goal was to eliminate the pattern of dismissals due to inadequate responses to the legal arguments of defense attorneys. This approach did just that. Additionally, the use of multiple attorneys to prevent any one person from being overwhelmed by the court schedule proved highly effective.

Special thanks go to the lawyers whose efforts made this program successful: Daniel Gourley who oversaw the program and operated the intake analysis system; Mary Jordan Lempesis, Sami Molina, Jared Shedd, J.D. Williams, Makiea Jonese and Brian Kiel, who prepared and prosecuted the cases.