

TWO KINDS OF DISMISSALS

More than 20 percent of DWI cases statewide are dismissed in these two ways

WITHOUT LEAVE

■ N.C. prosecutors usually dismiss cases "without leave" when they lack key evidence needed to obtain a conviction. When charges are dismissed without leave, the cases are closed and prosecutors can't simply reinstate them. The Observer refers to these as "permanent dismissals." Sunday's articles focused primarily on this type of dismissals.

■ The Observer studied more than 340 of these dismissals in Mecklenburg, and found that at least two-thirds of them happened because officers weren't in court to testify.

■ Statewide, prosecutors permanently dismiss about 10 percent of DWI charges involving defendants who test over the alcohol limit or refuse alcohol tests. In Mecklenburg County, it's about 13 percent.

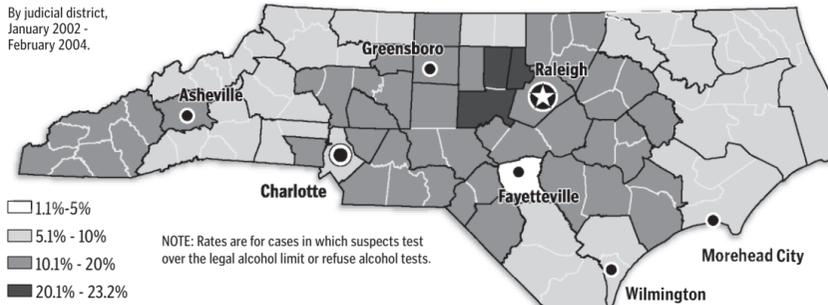
Sunday's stories focused mainly on this type of dismissal.

When Suspects Don't Appear

Statewide, N.C. prosecutors dismiss about 11 percent of DWI cases — at least temporarily — because suspects don't show up in court.

Percentage of DWI Cases Dismissed When Suspects Don't Show

By judicial district,
January 2002 -
February 2004.



SOURCE: Observer analysis of state courts data

STAFF GRAPHIC

WITH LEAVE

■ Prosecutors dismiss cases "with leave" when suspects don't show up for court. Stories in today's Observer focus on this type of dismissals.

■ These cases remain open for prosecution if authorities ever find the suspects. But that rarely happens. Nearly 9,300 defendants across the state failed to appear in court to face DWI charges in 1999, according to the state Division of Motor Vehicles. Since then, only about 31 percent of them have been convicted, DMV says.

■ Statewide, about 11 percent of DWI charges involving suspects who test over the alcohol limit or refuse alcohol tests are dismissed after the defendants don't appear in court. In Mecklenburg, it's about 7 percent.

Stories in today's Observer focus on dismissals with leave.

DWI evidence is there, but suspect is missing

No-shows from 1A

N.C. law says that drivers commit the offense of driving while impaired if they have an alcohol level of 0.08 or more.

Statewide, about 11 percent of DWI suspects who test over the alcohol limit or refuse tests get their cases dismissed by failing to appear in court. In Mecklenburg County, that happens to about 7 percent of such DWI suspects, or more than 280 defendants a year.

The problem is prevalent nationwide. A 2001 study conducted for the National Highway Traffic Safety Administration estimated that several million DWI warrants are waiting to be served nationwide. Ralph Jones, one of the study's authors, called it a "dirty little secret."

"Failure to appear is a big problem," said Jones, chair of the Mid-America Research Institute, a Massachusetts-based company that often studies highway safety. "And it just keeps getting ignored."

N.C. magistrates too often contribute to the problem by setting low bail, some police say. Wilkes County Sheriff Dane Mastin, who has reviewed DWI bond amounts in his county, estimates about three-quarters of suspects get out of jail without putting down any money. When bond is set, he said, it's often "insufficient to entice them to return."

When DWI defendants don't appear in court, judges usually instruct police to arrest them. Swamped law enforcement officers may look for the suspects once or twice but rarely have time to do much more.

Some N.C. prosecutors say law enforcement agencies could be more aggressive about tracking down suspects wanted on DWI charges.

But with violent criminals and other felons on the loose, hunting for DWI absconders is rarely a top priority among law enforcement agencies.

On a typical day in Mecklenburg, sheriff's deputies juggle many responsibilities, serving civil papers, escorting funerals, helping at traffic wrecks and trying to arrest suspects wanted on various charges.

The workload is so heavy that deputies rarely have time to knock on a suspect's door more than once or twice. And many of their knocks go unanswered.

One day in October, Sheriff's Deputy William Hobbs visited the addresses listed for five DWI suspects who failed to show in court. He didn't find any of them.

Three suspects no longer lived at the addresses listed.

Hobbs also knocked on the door of a modest one-story home in east Charlotte — the address listed for a man who had a prior impaired driving conviction and failed to appear in court earlier this year to face a new DWI charge. No one answered.

In several cases, Hobbs had an address for a suspect's apartment complex, but no apartment number. A manager at one of those sprawling complexes told Hobbs her computer was down so she couldn't check which, if any, of



Mecklenburg County Sheriff's Deputy William Hobbs peers into the back yard of a home in east Charlotte, looking for a resident who failed to appear in court to face a DWI charge. He didn't find anyone home. "Sometimes we get them. Sometimes we don't," he said.

AMES ALEXANDER - STAFF PHOTO

the apartments the suspect lived in.

The Sheriff's Office could use more deputies, Hobbs said.

"We do a good job with what we have," he said. "But we need more."

Mecklenburg County officials say they don't keep statistics on how often they catch drunken driving suspects who skip court appearances.

Those charged with DWI sometimes avoid prosecution simply by moving across state lines. When suspects charged with DWI or other misdemeanors are caught in other states, N.C. law prohibits the state from paying to bring the suspects back.

"If it ain't a felony, the cleanest

way to expunge your record is move," said Mecklenburg District Judge Hugh Lewis, a former magistrate.

The rate of no-shows among DWI defendants is higher in Durham County than anywhere else in the state. There, more than 20 percent of DWI charges are dismissed because defendants fail to show in court.

"It's been a source of incredible frustration for us for some time," said Durham District Attorney James Hardin.

Durham prosecutors, police and judges interviewed agreed it's a problem. As in many counties, though, they have different views about how to solve it.

Some N.C. prosecutors say they wish police did a better job

serving orders for arrest.

But law enforcement officers say they can only do so much because they're busy with other work. If magistrates set higher bonds for DWI defendants, they say, more of them would come to court.

Magistrates, meanwhile, say they must be fair in setting bond. And they're sometimes forced to make decisions with incomplete information. With the current computer system, they say, it can take 10 minutes or more to do a statewide criminal records check. Magistrates in busy counties may handle the cases of several dozen defendants each day, and don't have the time to do computer records checks on all of them.

The state Administrative Office of the Courts is working on a computer system that will give magistrates faster access to criminal background information. It will probably be about two years before a new system is in place, courts officials say.

"We are behind the times in our computer technology," said courts office spokesman Dick Ellis. "Our computer people are sort of scrambling to get into the 21st century." — STAFF WRITER TED MELLNIK CONTRIBUTED.

WHAT'S WORKING ELSEWHERE

Suspects get choice: Court or humiliation

Wash. county makes catching absconders priority, competition

BY AMES ALEXANDER
Staff Writer

In Pierce County, Wash., drunken driving suspects who fail to show up in court are sometimes given a choice: Turn yourselves in, or face the embarrassment of getting arrested at home or work.

Law enforcement officers there have made catching absconders a priority. Last year, they rounded up more than 1,100 drunken driving suspects who had failed to appear in court.

The Tacoma/Pierce County DUI task force, a group trying to fight drunken driving, brainstormed about the best ways to catch such offenders. Police made catching absconders part of their daily routine and turned it into a competition.

"We'd have a neighboring agency say we got three DUIs this month," said task force chairman Bryan Jeter, chief of the Bonney Lake police department. "Then someone else would go out and try to top that."

In past years, law enforcement agencies have teamed up for special sweeps to track down drunken driving suspects who never showed up for court. Law enforcement officers worked with the jails and courts to prepare for the additional offenders. The sweeps caught more than 100 DUI suspects in 2001 and 2002.

State troopers use information kept by other Washington state agencies, such as the reve-

Hunting Absconders

Every six weeks or so, deputies with the Chemung County, N.Y., Sheriff's Office conduct early morning sweeps to round up suspects who haven't showed up in court to face drunken driving charges or who have failed to pay fines associated with DWI convictions.

During one sweep, 14 people with outstanding DWI warrants were picked up and 110 offenders turned themselves in to avoid arrest. The county publicizes the names of those with outstanding warrants on its Web page.

nue department, to find out where many of the suspects live and work.

Troopers often call the suspects and tell them they can avoid the embarrassment of being arrested at home or work by turning themselves in. And many of the suspects do, according to Capt. Tim Braniff, who supervises troopers in Pierce and Thurston counties, south of Seattle. The patrol arrested more than 400 DUI absconders last year.

Many state patrol divisions have set up special warrant teams to find absconders. Troopers focus on the worst offenders — those who have repeatedly been charged or have repeatedly skipped court.

"You can't forget about the end result — making sure people are brought to justice," Braniff said.

THE SERIES

SUNDAY: N.C. prosecutors dismiss thousands of DWI cases per year — often because police officers fail to show up in court.

TODAY: DWI defendants frequently avoid court punishment and treatment by refusing to appear in court to face charges.

A Charlotte Observer investigation, "DWI: Sobering Acquittals," published in August, found judges in North Carolina let off more than a third of drunken driving suspects who test over the legal alcohol limit but fight the charges in court.

The Observer found the odds of escaping conviction depend largely on where a driver is arrested and who the judge is.

Since then, a series of changes have occurred:

■ North Carolina's chief Supreme Court justice has issued a memo to the state's chief District Court judges, instructing them not to make prosecutors' burden of proof on DWI cases unnecessarily high.

■ The Mecklenburg judge with the lowest DWI conviction rate has announced he won't return to the bench this year.

■ Mecklenburg's chief district judge has announced details of a plan to change which judges regularly hear DWI and most other criminal cases — a step aimed at resolving cases faster and discouraging "judge shopping" by attorneys.

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