

COURT FACILITIES

Senior Resident Superior Court Judges
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Michael Crowell
UNC School of Government

1. **Constitutional and statutory provisions on the division of responsibility for the courts**
 - With the adoption of constitutional amendments in 1962 North Carolina moved to a uniform, centrally-governed court system. Since that time the state has been responsible for the operating costs of the courts and the counties have continued to be responsible for court facilities.
 - a. North Carolina Constitution
 - i. Article IV, Section 15: “The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.”
 - ii. Article IV, Section 20: “The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.”
 - iii. Article VII, Section 1: “The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.”
 - b. General Statutes — General funding scheme
 - i. GS 7A-300 provides: “The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General Assembly, or from funds provided by local governments pursuant to GS 153A-212.1 and GS 160A-289.1.” The section then goes on to list items to be included in such operating expenses, such as salaries, travel expenses, jurors and witnesses fees, compensation for court reporters, and costs of transcripts and printing of briefs and related expenses for indigents.
 - ii. GS 7A-302 provides that the county shall be responsible for providing “courtrooms, office space for juvenile court counselors and support staff . . . and related judicial facilities (including furniture), as defined in this Subchapter” With approval of the Administrative Office of the Courts (AOC), after consulting with local authorities, courtrooms and related facilities may be provided by a municipality. The court facility

fee collected by the AOC is to be provided to the county or municipality providing the facility.

c. General Statutes – Administrative Office of the Courts (AOC) responsibilities

- i. GS 7A-343 makes the director of the AOC responsible for preparing and submitting the judicial budget to the General Assembly and for administering the enacted budget. The AOC director is appointed by and serves at the pleasure of the chief justice (GS 7A-341).
- ii. GS 7A-343(5) includes in the duties of the director of the AOC: “Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of Justice.”

d. General Statutes – Facilities fees

- i. GS 7A-304(a)(2) includes in court costs in criminal cases a \$12 facilities fee for district court and a \$30 facilities fee for superior court, to be collected upon conviction or plea of guilty or nolo contendere and to be remitted to the county or city providing the facility. These funds are to be used exclusively for purposes listed in the statute, which are:
 - (1) Courtrooms
 - (2) Space and furniture for judges
 - (3) Space and furniture for district attorneys
 - (4) Space and furniture for Indigent Defense Services
 - (5) Space and furniture for magistrates
 - (6) Space and furniture for juries
 - (7) Space and furniture for “other court related personnel”
 - (8) Office space, furniture and vaults for clerk of court
 - (9) Jail and juvenile detention facilities
 - (10) Free parking for jurors
 - (11) Law library
 - (12) If the funds exceed the needs for the above, they may be spent, with the approval of the AOC, to retire indebtedness for court facility construction, or to reimburse the local government for construction or “to supplement the operations of the General Court of Justice in the county.”
- ii. GS 7A-305(a)(1) includes in court costs for civil actions a \$12 facilities fee for cases heard by a magistrate and a \$16 facilities fee for cases heard by a district or superior court judge, to be remitted to the county or city providing the facility and subject to the same restrictions as the fee collected in criminal cases
- iii. The 2008 General Assembly added a one dollar fee on all cases to go to the Court Information Technology Fund to be used to pay for a new telephone system. In enacting this fee the legislature repealed the 2007 act which was to make counties responsible for telephone systems beginning July 1, 2008.

e. General Statutes — Additional local support

- i. GS 153A-212.1 allows county to appropriate funds under state contract to provide services for speedy disposition of cases involving drug offenses, domestic violence or other offenses involving threats to public safety. The authority is subject to provisions in Chapter 7A (see below).
- ii. GS 160A-289.1 is an identical statute for cities.
- iii. GS 7A-44.1 allows the use of county or city funds for secretaries for superior court judges for the purposes provided in GS 153A-212.1 and 160A-289.1 (*i.e.*, only as related to the speedy disposition of cases involving drug offenses, domestic violence or other offenses involving threats to public safety). The assistance is to be provided by contract between the local government and the AOC. The AOC may approve the assistance only upon a showing by the senior resident superior court judge that the “overwhelming public interest” warrants the use of the additional judicial secretaries for the purposes specified in the statute.
- iv. GS 7A-64 allows the use of county or city funds for temporary assistant district attorneys for the purposes provided in GS 153A-212.1 and 160A-289.1. The assistance is to be provided by contract between the local government and the AOC. The AOC may approve the assistance only upon a showing by the district attorney that the present staff cannot handle the current criminal docket and that the overwhelming public interest warrants the use of the additional assistant district attorneys.
- v. GS 7A-102(e) allows the use of county or city funds for additional assistant and deputy clerks and other employees of the clerk of court’s office, for the purposes provided in GS 153A-212.1 and 160A-289.1. The assistance is to be provided by contract between the local government and the AOC. The AOC may approve the assistance only upon a showing by the senior resident superior court judge that the overwhelming public interest warrants the use of the additional personnel.
- vi. GS 7A-498.7 (i) allows the use of county or city funds for temporary assistant public defenders for the purposes provided in GS 153A-212.1 and 160A-289.1. The assistance is to be provided by contract between the local government and the AOC. The AOC may approve the assistance only upon a showing by the public defender that the overwhelming public interest warrants the use of the additional assistant public defenders.

f. General Statutes – Sheriff’s responsibilities

- i. GS 17E-1 declares that the sheriff “is the only officer who is also responsible for the courts of the State, and acting as their bailiff and marshal.” By common law and this provision the sheriff is responsible for court security. The sheriff’s office is funded by the county.

- ii. The sheriff also is responsible for executing process (GS 162-14) and for the care and custody of the county jail (GS 162-22).
- g. General Statutes – Responsibilities of senior resident superior court judge and chief district judge
- i. GS 7A-41.1 provides that the senior resident superior court judge in the judicial district is responsible for all duties “which are not related to a case, controversy or judicial proceeding and which do not involve the exercise of judicial power. . . .”
 - ii. GS 7A-146 lists the powers and duties of the chief district judge and states that the chief district judge “has administrative supervision and authority over the operation of the district courts and magistrates” in the district.
2. **Inherent authority of courts to address inadequate facilities** – The North Carolina Supreme Court addressed the issue of the court’s inherent authority to deal with the adequacy of facilities in *In re Alamance County Court Facilities*, 329 NC 84 (1991).
- a. The sequence of events and trial court order:
 - i. In 1989 a superior court judge ordered the grand jury to inspect the jail and court facilities. The grand jury reported numerous courthouse and jail defects and recommends that the 1924 courthouse be remodeled and converted to other uses and that a new courthouse be built.
 - ii. The judge scheduled a hearing, appointed an attorney to represent the court, and ordered notice sent to the county commissioners, then later subpoenaed the commissioners.
 - iii. The commissioners were present at the hearing but did not participate.
 - iv. The judge entered an order finding that the courtrooms and related judicial offices were “grossly inadequate, being in the large either obsolete, poorly designed, or nonexistent.” He found that the inadequacies denied access to the disabled, thwarted the effective assistance of counsel, jeopardized the right to trial by jury, caused delay in processing cases, and that a clear and present danger existed from lack of detention rooms.
 - v. The judge directed that the county provide adequate facilities, specifying the number of courtrooms, grand jury room, attorney-client rooms, detention rooms; the square footage; the number of restrooms, etc. He ordered the county commissioners to respond in writing within 30 days as to how they intended to comply.
 - b. Supreme Court decision:
 - i. The court recognized the inherent authority of the judiciary to assure that it has adequate facilities to carry out its mission as a coequal, independent branch of government:

“We hold that when inaction by those exercising legislative authority threatens fiscally to undermine the integrity of the judiciary, a court may invoke its inherent power to do what is reasonably necessary for the ‘orderly and efficient exercise of the administration of justice.’ *Beard v. N.C. State Bar*, 320 N.C. at 129, 357 S.E.2d at 696. Article V prohibits the judiciary from taking public monies without statutory authorization. But our statutes obligate counties and cities to provide physical facilities for the judicial system within their boundaries. N.C.G.S. § 7A-300(a)(1) (1989); N.C.G.S. § 7A-302 (1989). These facilities must be adequate to serve the functioning of the judiciary within the borders of those political subdivisions. Such adequacy necessarily includes safeguarding the constitutional rights of parties and ascertaining that parties’ statutory rights – such as handicap access – are similarly protected. Although the statutes do not expressly pass the duty of providing adequate judicial facilities to the court in case of default of local authorities, the court has the inherent authority to direct local authorities to perform that duty.” 329 NC at 99.

- ii. The court also decided, however, that in addressing facility needs, the court should avoid *ex parte* orders and specific directions as to the improvements to be made, and instead should offer the responsible officials an opportunity to correct the problem on their own.

“Just as the inherent power of the judiciary is plenary within its branch, it is curtailed by the constitutional definition of the judicial branch and the other branches of government.” 329 NC at 94.

“A more reasonable, less intrusive procedure would have been for the court, in the exercise of its inherent power, to summon the commissioners under an order to show cause why a writ of mandamus should not issue, which order would call attention to their statutory duty and their apparent failure to perform that duty. If after hearing it was determined that the commissioners had indeed failed to perform their duty, as the court determined in the case before us, the court could order the commissioners to respond with a plan – perhaps in consultation with such judicial personnel as the senior resident superior court judge, the chief district judge, the district attorney, the clerk, or other judicial officials with administrative authority – to submit to the court within a reasonable time. Such a directive would be a judicious use of the court’s inherent power without either seizing the unexercised discretion of a political subdivision of the legislative branch or obtruding into the constitutional hegemony of that branch.” 329 NC at 106-107.

c. Lessons from the Alamance County case:

- i. Counties are obligated by law to provide adequate facilities.
- ii. Adequate facilities are necessary for the court to be able to carry out its functions as a coequal branch of government.
- iii. A court has inherent authority to require the county to meet its obligation.

- iv. The court should not attempt to determine and specify the exact nature of the facilities to be provided; doing so interferes with the legislative branch's authority as a coequal branch of government.
 - v. The court cannot order that money be appropriated or expended.
 - vi. County commissioners should be given notice and an opportunity to be heard before any order is entered.
 - vii. The court may order the county to present a plan for providing adequate facilities.
 - viii. A court may issue mandamus to county commissioners to perform their duty to provide adequate facilities; failure to comply with mandamus would be subject to the sanctions that normally apply to such an order, including contempt.
- d. The related *Ragan* case – A second lawsuit had been brought in Alamance County by various individuals seeking mandamus to order the county commissioners to make specified improvements to the courthouse. The Court of Appeals dismissed the action in *Ragan v. County of Alamance*, 98 NC App 636 (1990), holding that mandamus was not available for such purpose because it may be used only to force a public official to perform a plain duty, it may not be used to instruct an official how to exercise a discretionary duty. After deciding *In re Alamance County Court Facilities*, the Supreme Court reversed the Court of Appeals in *Ragan v. County of Alamance*, 330 NC 110 (1991), noting that it had decided in the earlier case “that a superior court has the inherent power to issue a writ of mandamus to the County Commissioners requiring them to provide adequate court facilities.” The court also held that sovereign immunity did not bar the citizens’ lawsuit.
3. **Facilities fees** – The facilities fees collected by the courts and paid to local governments amounted to \$20,598,555 in fiscal year 2006-07.
- a. The counties receiving the largest amounts were:
 - i. Mecklenburg \$2,096,289
 - ii. Wake \$1,893,798
 - iii. Guilford \$1,248,225
 - iv. Forsyth \$930,335
 - v. Durham \$529,597
 - b. The counties receiving the smallest amounts were:
 - i. Hyde \$14,653
 - ii. Graham \$17,266
 - iii. Alleghany \$17,423
 - iv. Pamlico \$20,779
 - v. Yancey \$21,831

- c. Counties are supposed to submit annual reports to the AOC on the expenditures made on court facilities, but many counties do not and the reports are not uniform.

4. Standards for facilities –

- a. Neither the AOC nor any other agency has set standards for the design and construction of court facilities. Counties interested in such standards are referred to *The Courthouse: A Planning and Design Guide for Court Facilities* published by the National Center for State Courts in Williamsburg, Virginia. The first edition was published in 1991 and the second in 1998. The first edition is available online at the National Center's website, ncsconline.org.
- b. The most recent comprehensive survey of court facilities in North Carolina is *100 Courthouses, A Report on North Carolina Judicial Facilities*, a report by the NC State University School of Design for the AOC, published in 1978. The report consists of two volumes. The first volume is an overview of the court system in the state and the historical role of courthouses, and it includes detailed recommendations for design. The second volume is a detailed, county-by-county assessment of the current condition of the courthouse in each county, with an itemized list of recommended actions.
- c. In September 1998 the AOC published *North Carolina Court Security Guidelines*, discussed below. The guidelines include various items related to building design and construction. The guidelines are discussed further below.

5. Court security –

- a. Responsibility for courthouse security:
 - i. As discussed above, the county sheriff has primary responsibility for court security. The sheriff provides bailiffs and other personnel. Through the budget process the board of county commissioners largely determines the number of personnel the sheriff may devote to these services and the equipment they have available. The sheriff also is responsible for the jail and transporting prisoners to and from the courts.
 - ii. Whether security equipment is part of county's responsibility to provide adequate facilities depends on factors such as whether the equipment is permanently installed (e.g. , a metal detector) and whether it is for general building security (e.g., cameras monitoring the parking lot) rather than just for the courts. Even if equipment is not the county's responsibility, though, it may be the sheriff's responsibility as part of the sheriff's duty to provide security.
 - iii. For single, high-profile trials requiring additional security, the responsibility may be negotiated between the AOC, county and sheriff.
 - iv. Building design and layout are important considerations in security.
- b. AOC Guidelines
 - i. The 1998 report, *North Carolina Court Security Guidelines*, published by the AOC, was prepared by the Court Security Advisory Committee which included court

- officials, county commissioners and sheriffs. The report reviews responsibilities for court security and makes a number of specific recommendations on security screening, weapons, duress alarms, building access control and the like.
- ii. The guidelines include security screening at all courthouse entrances, a ban on anyone other than an on-duty officer having a weapon, duress alarms for all courtrooms and judges' chambers, and control of building access through video surveillance and intrusion detection systems.
 - iii. The guidelines do not include specific items of building construction and design but note the importance of security considerations in any renovation or new building construction. The guidelines recommend that the county obtain expert assistance.
 - iv. The guidelines are voluntary.
- c. Court authority to deal with security concerns
- i. GS 15A-1034 authorizes a presiding judge to impose reasonable restrictions on courtroom access to ensure the orderliness of proceedings and the safety of participants. The same statute says the judge may order searches of persons and possessions for weapons and other devices that could be used to disrupt or impede proceedings. For example, the judge might order the posting of a sign saying: "Do not enter courtroom unless you have business in here. All persons entering or opening courtroom doors will be searched for weapons." *State v. Lemons*, 348 NC 335 (1998), *judgment vacated on other grounds*, 527 US 1018 (1998).
 - ii. GS 15A-1031, -1032 and -1033 also authorize a trial judge to order the restraint of disruptive witnesses and defendants, removal of a disruptive defendants, and removal of disruptive witnesses and spectators. In appropriate circumstances, for example, a defendant may be shackled without violating the defendant's right to a fair trial; factors to be considered by the court include the size of the courtroom, nature of the offense, number of security personnel available and the mood of the audience. *State v. Billups*, 301 NC 607 (1981); *State v. Tolley*, 290 NC 349 (1976).
 - iii. GS 15A-1035 also acknowledges the trial judge's inherent authority over the control of the trial and the courtroom. "[T]rial judges have board power to take whatever legitimate steps are necessary to maintain proper decorum and appropriate atmosphere in the courtroom during a trial." *State v. Dickerson*, 9 NC App 387, 391 (1970). It was not considered unduly prejudicial to defendants in a high-profile murder case for the judge to allow armed prison guards to accompany inmate witnesses and to allow armed officers to be in and around the courthouse and in the presence of the jury. *State v. Spaulding*, 288 NC 397 (1975), *vacated on other grounds*, 428 US 904 (1976).
 - iv. *In re Alamance County Court Facilities* supports the authority of a courtroom to order improvements in facilities when necessary for adequate security.
- d. County protection from liability – In *Wood v. Guilford County*, 355 NC 161 (2002), the Supreme Court held that the public duty doctrine insulated Guilford County from liability for injuries sustained by an AOC employee working at the courthouse when the private

security company hired by the county failed to protect her from assault. The court's holdings included:

- i. The county was not required by law to provide security for the courthouse; the law only requires the county to provide the facility.
 - ii. Because the county was not required to provide security, it was not conducting the state's business and not acting as an agent of the state in doing so. Therefore, the injured AOC employee's claim was not required to go to the Industrial Commission under the Workers' Compensation Act.
 - iii. The public duty doctrine applies to a county providing security at the courthouse. The protective services provided at the courthouse were intended to benefit the public at large, including those who work at the courthouse, just as municipal police services are intended to benefit the public at large.
 - iv. Under the public duty doctrine, a governmental unit cannot be held liable for the failure of police to protect a member of the general public.
 - v. One exception to the public duty doctrine, allowing governmental liability, is when a special duty exists to protect a particular individual. The county owed no greater duty to AOC employees working at the courthouse than to anyone else, however.
- e. Sheriffs' Association Courthouse Security Project
- i. The North Carolina Sheriffs' Association has initiated a three-year Courthouse Security Project, to run from 2008 through 2010, and has employed consultants to assist individual sheriffs' offices by assessing their courthouse security and recommending and assisting with implementing improvements.
 - ii. Part of the project will be evaluating whether additional bailiff training is needed and, if so, identifying personnel and a method for delivering the training.
 - iii. The project also anticipates designing and publishing model security procedures.

ATTACHMENTS:

Facility Fees Paid to Each County July 1, 2006 – June 30, 2007

Excerpt from Chapter 3, Specific Courthouse Design Components, from *The Courthouse: A Planning and Design Guide*, National Center for State Courts (1991)

Excerpt, "Transylvania County," from *100 Courthouses, A Report on North Carolina Judicial Facilities*, NC State School of Design and NC Administrative Office of the Courts (1978)

Excerpt, "Recommendations of the North Carolina Rural Courts Commission for Transylvania County," 2007 Annual Report of the North Carolina Rural Courts Commission