



NORTH CAROLINA JUDICIAL DISTRICT 26
SUPERIOR COURT DIVISION
POLICIES AND PROCEDURES

ORDER FOR ARREST AFTER DISMISSAL TO THE GRAND JURY

POLICY

N.C.G.S. § 15A-305(b)(1) states that an order for arrest (OFA) may be issued when a grand jury has returned a true bill of indictment against a defendant who is out of custody and who has not been released on bail to answer to the charges in the bill of indictment.


It is the goal of Judicial District 26 to:

- Comply with the North Carolina General Statutes;
- Promote equity and efficiency in the management of criminal cases; and
- Avoid the redundancy and expense of re-arrest.

Therefore, when a defendant is arrested on a charge that is voluntarily dismissed and a grand jury subsequently returns a true bill of indictment for the same charge, the Court will not automatically issue an OFA. Instead, the Court will send the defendant notice of the indictment and order the defendant to appear in superior court to answer the charges in the indictment.

PROCEDURE

1. Upon submission of indictments to the grand jury, the District Attorney's Office will notify the Clerk's Office and the Public Defender's Office of which charges were previously dismissed to the grand jury (VDGJ) in district court.
2. Upon return of true bills of indictment for VDGJ charges, the Clerk's Office will send a Notice of Return of Bill of Indictment ([AOC-CR-215](#)) and a copy of the indictments by certified mail, return receipt requested, to the defendants' last known address of record.
3. Address changes should be submitted to the Clerk's Office by postal mail, hand-delivery, or email to Clerk26.AddressChange@nccourts.org using the Notice of Address Change form available on NCcourts.gov.
4. The Notice of Return of Bill of Indictment will order a defendant to appear 5-6 weeks later, on the Monday of probation violation week in superior courtroom 5350 (First Setting).

Approved by: Carla Archie, 
Senior Resident Superior Court Judge

Effective: July 10, 2023

Page 1 of 2

5. If a defendant does not have an address on file with the Clerk's Office, or if the Notice is returned as undeliverable, or if a defendant fails to appear at the First Setting, the Clerk's Office will issue an OFA.
6. The Clerk's Office will create a separate docket of cases scheduled for First Setting in courtroom 5350.
7. At the First Setting, the Court will advise the defendant of the right to counsel and provide the defendant with a scheduling conference date approximately sixty (60) days in the future.
8. If a defendant is appointed an attorney, the Clerk's Office will send an Order of Assignment ([AOC-CR-224](#)) to the Public Defender's Office, and the Public Defender's Office will update the court record to reflect the specific attorney to whom the case is assigned.
9. A defendant who waives the right to appointed counsel will be responsible for retaining private counsel within thirty (30) days of the First Setting so that counsel will be prepared to proceed on the scheduling conference date.
 - a. Retained counsel should promptly complete a Notice of Appearance ([AOC-G-312](#)) and file it with the Clerk's Office and serve the District Attorney's Office so that discovery can be sent in preparation for the scheduling conference.
 - b. If a defendant does not retain counsel, then the defendant must appear at the scheduling conference.
10. A defendant who waives the right to all counsel must appear at the scheduling conference.