

**Procedures for the Observation of Prisoners
Charged with Implied Consent Offenses
Pursuant to N.C.G.S. 20-38.5**

1. Any person seeking to observe jailed or incarcerated impaired drivers shall first check in with the Staff Duty Officer or Detention staff on duty at the Guilford County Sheriff's Office. Observations are limited to the first twenty-four hours following the defendant's admission into the jail.
2. The Staff Duty or Detention Officer shall immediately notify the arresting officer and Booking officer that a witness is present to observe the defendant. The time of this notification shall be documented by Booking in the Booking log book and by the dispatcher on the attached witness observation form.
3. Booking shall inform the jail supervisor on-duty of the witness's presence in the facility. The supervisor shall send a detention officer to escort the witness to the jail or appropriate viewing area. The escorting officer shall obtain the form and complete the information concerning the name of the witness, the person to be observed, the time and date the witness was escorted to the jail and the time and date of the completion of the observation.
4. A witness seeking to observe the defendant shall be admitted to observe the defendant in an area designated by the Sheriff for observation of the defendant. Jail staff shall note the time the witness is admitted to the jail and the time the observation begins.
5. All witnesses shall be required to submit to a search of their person and belongings prior to entry into the jail. Witnesses must comply with all jail or facility regulations prior to being admitted into any secured area.
6. Guilford County Sheriff's Office staff shall not hold or retain any personal property items for the witness.
7. No person under the age of 16 will be admitted to the jail as a witness to observe impaired defendants.
8. The jail supervisor shall determine the number of persons that may be admitted at one time to observe defendants in jail.
9. Observations of defendants will be limited to five (5) minutes and will include the ability for the witness to observe the person by sight, sound, and smell.
10. No physical contact will be allowed between the witness and the person charged.
11. All witnesses will be searched initially and supervised by jail detention officers during the entire observation period.

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

Name Of Defendant

DETENTION OF IMPAIRED DRIVER

Date Of Birth

G.S. 15A-534.2, 20-38.4

FINDINGS

The undersigned judicial official conducting an initial appearance for the defendant named above finds the following by clear and convincing evidence:

1. The defendant has been charged with an offense involving impaired driving as defined in G.S. 20-4.01(24a).
2. At the time of the defendant's initial appearance, the impairment of the defendant's physical or mental faculties presents a danger, if the defendant is released, of physical injury to the defendant or others or damage to property in that (*specify reasons*):

DETENTION ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff until an appropriate judicial official determines that

1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released or
2. a sober, responsible adult is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

RELEASE FROM DETENTION ORDER

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

- 1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released.
- 2. _____ (*name*), a sober, responsible adult, has indicated by signing below that he/she is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.
- 3. the period of detention has reached twenty-four (24) hours.

By signing immediately below, I certify that I am a sober, responsible person, age 18 or older, who is willing and able to assume responsibility for the defendant until the defendant's physical or mental faculties are no longer impaired.

Date	Signature Of Sober Responsible Adult
------	--------------------------------------

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

NOTE: "If there is a finding of probable cause, the magistrate shall consider whether the person is impaired to the extent that the provisions of G.S. 15A-534.2 should be imposed." G.S. 20-38.4(a)(3).

NOTE: If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. Use form AOC-CR-271 for this purpose. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

Date Of Birth

DETENTION FOR COMMUNICABLE DISEASE TESTING

G.S. 15A-534.3

FINDINGS

The undersigned judicial official conducting an initial appearance or first appearance for the defendant named above finds probable cause that an individual had a nonsexual exposure to the defendant in a manner that poses a significant risk of transmission of the AIDS virus or Hepatitis B by the defendant to the individual in that (specify reasons):

[NOTE: Do not include any information indicating that the defendant has or may have a communicable disease. Describe only the nature of the exposure that would pose a significant risk of transmission of the AIDS or Hepatitis B virus if the defendant were infected. Note that mere contact of the defendant's bodily fluids with a subject's clothing or unbroken skin does not pose a significant risk of transmission of either virus. A significant risk of transmission occurs when the defendant's bodily fluids come into contact with the subject's broken skin or mucous membranes. For example, a bite by the defendant that does not break the subject's skin does not pose a significant risk of transmission. Contact that may pose a significant risk includes things like a needlestick or a bite that actually breaks the subject's skin.]

DETENTION ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff to allow for investigation by public health officials and for testing for AIDS virus infection and Hepatitis B infection if required by public health officials pursuant to G.S. 130A-144 and G.S. 130A-148.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

RELEASE FROM DETENTION ORDER

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

- 1. public health officials have completed their investigation and testing, if any, under G.S. 130A-144 and G.S. 130A-148.
2. the period of detention has reached twenty-four (24) hours.

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division**STATE VERSUS**

Name Of Defendant

DETENTION OF IMPAIRED DRIVER

Date Of Birth

G.S. 15A-534.2, 20-38.4

FINDINGS

The undersigned judicial official conducting an initial appearance for the defendant named above finds the following by clear and convincing evidence:

1. The defendant has been charged with an offense involving impaired driving as defined in G.S. 20-4.01(24a).
2. At the time of the defendant's initial appearance, the impairment of the defendant's physical or mental faculties presents a danger, if the defendant is released, of physical injury to the defendant or others or damage to property in that (*specify reasons*):

DETENTION ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff until an appropriate judicial official determines that

1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released or
2. a sober, responsible adult is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

RELEASE FROM DETENTION ORDER

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released.
2. _____ (*name*), a sober, responsible adult, has indicated by signing below that he/she is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.
3. the period of detention has reached twenty-four (24) hours.

By signing immediately below, I certify that I am a sober, responsible person, age 18 or older, who is willing and able to assume responsibility for the defendant until the defendant's physical or mental faculties are no longer impaired.

Date	Signature Of Sober Responsible Adult
------	--------------------------------------

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

NOTE: "If there is a finding of probable cause, the magistrate shall consider whether the person is impaired to the extent that the provisions of G.S. 15A-534.2 should be imposed." G.S. 20-38.4(a)(3).

NOTE: If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. Use form AOC-CR-271 for this purpose. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

Date Of Birth

DETENTION FOR COMMUNICABLE DISEASE TESTING

G.S. 15A-534.3

FINDINGS

The undersigned judicial official conducting an initial appearance or first appearance for the defendant named above finds probable cause that an individual had a nonsexual exposure to the defendant in a manner that poses a significant risk of transmission of the AIDS virus or Hepatitis B by the defendant to the individual in that (specify reasons):

[NOTE: Do not include any information indicating that the defendant has or may have a communicable disease. Describe only the nature of the exposure that would pose a significant risk of transmission of the AIDS or Hepatitis B virus if the defendant were infected. Note that mere contact of the defendant's bodily fluids with a subject's clothing or unbroken skin does not pose a significant risk of transmission of either virus. A significant risk of transmission occurs when the defendant's bodily fluids come into contact with the subject's broken skin or mucous membranes. For example, a bite by the defendant that does not break the subject's skin does not pose a significant risk of transmission. Contact that may pose a significant risk includes things like a needlestick or a bite that actually breaks the subject's skin.]

DETENTION ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff to allow for investigation by public health officials and for testing for AIDS virus infection and Hepatitis B infection if required by public health officials pursuant to G.S. 130A-144 and G.S. 130A-148.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

RELEASE FROM DETENTION ORDER

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

- 1. public health officials have completed their investigation and testing, if any, under G.S. 130A-144 and G.S. 130A-148.
2. the period of detention has reached twenty-four (24) hours.

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
Before The Magistrate**STATE VERSUS****IMPLIED CONSENT OFFENSE NOTICE**

Name Of Defendant

G.S. 20-38.4

OBSERVATION PROCEDURE**TO THE DEFENDANT:**

The established local procedure to contact other persons and have other persons appear at the jail to observe your condition or administer an additional chemical analysis to you is provided in writing with this form and incorporated into this form by reference. You are hereby notified of this procedure.

CONTACT PERSONS**TO THE DEFENDANT:**

Pursuant to G.S. 20-38.4(a)(4), you are required to list all persons you wish to contact and their telephone numbers: *(attach additional sheets if necessary)*

Name

Telephone Number

1. _____
2. _____
3. _____

I do not wish to contact anyone for the purposes of observing me at the jail or administering an additional chemical analysis.

NOTE TO DEFENDANT: *You still may contact other persons for other purposes, like an attorney, a bail bondsman, family members, or friends, according to the jail's regular procedures for those contacts.*

SIGNATURE

By signing below, the defendant indicates that he/she has received notice of the contact and observation procedure and has listed all persons that he/she wishes to contact for the purposes of observing him/her at the jail or administering an additional chemical analysis.

Date

Signature Of Defendant

MAGISTRATE'S CERTIFICATION

The undersigned magistrate certifies that pursuant to Article 24 of Chap. 15A and G.S. 20-38.4 that

1. An initial appearance was held and the undersigned found probable cause to believe the defendant committed an implied consent offense.
2. The undersigned reviewed all alcohol screening tests, chemical analyses and testimony from law enforcement officers concerning impairment and the circumstances of the arrest, and observed the defendant.
3. The undersigned considered whether the defendant was impaired to the extent that the provisions of G.S. 15A-534.2 should have been imposed.
4. The undersigned informed the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or to administer an additional chemical analysis.
5. The undersigned required the defendant to list all persons the defendant wishes to contact and telephone numbers on a copy of this form.
 The defendant returned this form to the undersigned at the initial appearance.
 The defendant failed to return this form at the initial appearance.

Date

Time

 AM
 PM

Signature Of Magistrate

The defendant returned this form to the undersigned after the initial appearance.

Date

Time

 AM
 PM

Signature

 Magistrate Assistant CSC
 Deputy CSC Clerk Of Superior Court

NOTE: *If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).*

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
Before The Magistrate**STATE VERSUS****IMPLIED CONSENT OFFENSE NOTICE**

Name Of Defendant

G.S. 20-38.4

OBSERVATION PROCEDURE**TO THE DEFENDANT:**

The established local procedure to contact other persons and have other persons appear at the jail to observe your condition or administer an additional chemical analysis to you is provided in writing with this form and incorporated into this form by reference. You are hereby notified of this procedure.

CONTACT PERSONS**TO THE DEFENDANT:**

Pursuant to G.S. 20-38.4(a)(4), you are required to list all persons you wish to contact and their telephone numbers: *(attach additional sheets if necessary)*

Name

Telephone Number

1. _____
2. _____
3. _____

I do not wish to contact anyone for the purposes of observing me at the jail or administering an additional chemical analysis.

NOTE TO DEFENDANT: *You still may contact other persons for other purposes, like an attorney, a bail bondsman, family members, or friends, according to the jail's regular procedures for those contacts.*

SIGNATURE

By signing below, the defendant indicates that he/she has received notice of the contact and observation procedure and has listed all persons that he/she wishes to contact for the purposes of observing him/her at the jail or administering an additional chemical analysis.

Date

Signature Of Defendant

MAGISTRATE'S CERTIFICATION

The undersigned magistrate certifies that pursuant to Article 24 of Chap. 15A and G.S. 20-38.4 that

1. An initial appearance was held and the undersigned found probable cause to believe the defendant committed an implied consent offense.
2. The undersigned reviewed all alcohol screening tests, chemical analyses and testimony from law enforcement officers concerning impairment and the circumstances of the arrest, and observed the defendant.
3. The undersigned considered whether the defendant was impaired to the extent that the provisions of G.S. 15A-534.2 should have been imposed.
4. The undersigned informed the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or to administer an additional chemical analysis.
5. The undersigned required the defendant to list all persons the defendant wishes to contact and telephone numbers on a copy of this form.
 The defendant returned this form to the undersigned at the initial appearance.
 The defendant failed to return this form at the initial appearance.

Date

Time

 AM
 PM

Signature Of Magistrate

The defendant returned this form to the undersigned after the initial appearance.

Date

Time

 AM
 PM

Signature

 Magistrate Assistant CSC
 Deputy CSC Clerk Of Superior Court

NOTE: *If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).*