1. MAGISTRATE PROCEDURES FOR INITIAL APPEARANCES & CVRS IN IMPLIED CONSENT CASES Shea R. Denning, School of Government **START HERE:** LEO brings Is the defendant so unruly that he/she disrupts the proceedings, becomes defendant before unconscious, is grossly intoxicated, or is otherwise unable to understand procedural you for initial rights afforded to him by the initial appearance? appearance Place LEO under oath and Enter order confining listen to and observe defendant and providing testimony. YES for an initial appearance Accept and examine affidavit NO within a reasonable time and license revocation report (AOC-CVR-1A) from charging officer/chemical analyst. Is there probable cause to believe that the defendant NO Is there probable cause to committed a crime other than believe that the defendant an implied consent offense? committed an implied consent offense subject to NO G.S. 20-16.2? Create magistrate's order (AOC-CR-116) or sign citation to create order. Inform Proceed under defendant of charges. Chapter 15A; YES Implied Consent Procedures do not apply. YES Is the defendant before you? STOP. Only clerk Inform LEO YES may order who must **CVR** release defendant. Did LEO comply with GS 20-16.2 and GS 20-139.1 in requiring person's submission to or in procuring chemical analysis? Do you find probable cause that the defendant: (1) willfully refused; (2) had BAC of .08 (or .04 if a commercial mv); or (3) had any alcohol concentration if under 21? NO YES NO CVR YES NO Give defendant copy of magistrate's order and revocation Tell defendant that license is revoked for at least 30 days (and indefinitely until a final judgment is entered for the current offense and all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5 if Prepare Revocation Order (AOC-CVR-2). paragraph 3 is checked on Order on AOC-CVR-2). Complete supplemental findings on back if Tell defendant that he/she has the right to a hearing to defendant surrenders license or demonstrates contest the revocation. that he/she has no license. Inform the defendant that his/her license remains revoked Enter finding 5 in the probable cause section pending the hearing. and check paragraph 3 in the order section if State that procedures for getting license back or appealing the defendant has one or more pending are printed on AOC-CVR-2. offenses for which his/her driver's license had been or is revoked under G.S. 20-16.5.

If LEO presents affidavit for seizure and impoundment, proceed to: 2. Magistrate Procedures for Vehicle Seizures in Implied Consent Cases
Otherwise, proceed to: 3. Setting Conditions for Pretrial Release and Ordering Detention in Implied Consent Cases.