IN IMPLIED CONSENT CASES Shea R. Denning, School of Government Conditions of pretrial release must be determined in accordance with GS 15A-534. Use AOC-CR-200 Magistrate must consider: 1. nature of offense 2. weight of evidence 3. the defendant's family ties, employment, financial resources, character, mental condition, time of residence in the community, record of convictions, history of flight or FTAs, whether defendant is intoxicated to such a degree that he/she would be endangered by being released without supervision, and any other evidence relevant of the issue of pretrial release Magistrate must impose one of the following conditions: (may also restrict travel, associations, conduct or place of abode) 2. Release upon execution 3. Place defendant in custody of designated person or 1. Release on written 4. Require execution of a organization: If condition 3 is imposed, defendant may of unsecured appearance promise to appear secured bond elect to execute a secured bond under 4. bond Magistrate must impose conditions (1), (2), or (3) unless he/she determines that: 1. such release will not reasonably assure the appearance of the defendant at trial; Reasons for imposing condition 4 must be 2. will pose a danger of injury to any person; or recorded in writing if required by the 3. is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. district's bond policy. (Special conditions must be imposed upon the defendant's arrest for FTA) Magistrate must issue order stating conditions imposed, inform defendant in writing of penalties for violating conditions and advise the defendant that his/her arrest will be immediately ordered upon violation. Order must be filed with clerk and a copy given to the defendant. Inform defendant of right to communicate with counsel and Is the defendant charged with an offense friends and circumstances under NO involving impaired driving? which he/she may be released. Proceed to 4. Magistrate Do you find clear and convincing evidence Procedures for Providing Implied that the impairment of the defendant's **Consent Notice.** Defendant may be held in physical or mental faculties present a danger YES custody until: 1. The if he/she is released of physical injury to the defendant or others or damage to property? magistrate determines that the defendant's mental and physical faculties are no longer impaired to the extent he/she presents a danger; or 2. A sober, YES NO responsible adult is willing and able to assume responsibility for the defendant until he/she is no longer impaired Complete AOC-CR-270. Specify reasons for detention in "Findings" section of form. Note: When Defendant is released, complete release portion of AOC-CR-270. If release is to sober, responsible adult, enter that person's name on form. Sober, responsible adult must sign.

SETTING CONDITIONS FOR PRETRIAL RELEASE AND ORDERING DETENTION