

North Carolina Judicial District 30B Pretrial Justice Pilot Project  
Final Report  
Part I: Background, Process & Implemented Reforms  
March 2020<sup>1</sup>

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**Executive Summary**

In 2015, former Chief Justice Mark Martin convened the North Carolina Commission on the Administration of Law & Justice and tasked it with making recommendations to strengthen the state’s court system. In 2017, that Commission released its reports, including a recommendation that North Carolina embark on pilot projects supporting evidence-based pretrial justice reform.<sup>2</sup> With the support of the Director of the NC Administrative Office of the Courts,<sup>3</sup> North Carolina Judicial District 30B (JD 30B) became the state’s first such pilot project.

The JD 30B pretrial justice pilot project sought to improve the district’s pretrial system, promoting public safety, efficient use of taxpayer resources, and fairness of the judicial process. The project had two core components: (1) developing and implementing consensus pretrial system reforms; and (2) an empirical evaluation to assess the impact of those reforms.

In the project’s first effort, JD 30B stakeholders unanimously agreed to reforms including:

- Implement a new decision-making framework for determining conditions of pretrial release.
- Provide first appearance proceedings for all in-custody defendants.
- Provide for the early involvement of counsel at pretrial proceedings.

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<sup>1</sup> Prepared by Jessica Smith, UNC School of Government, W.R. Kenan Jr. Distinguished Professor and Director, Criminal Justice Innovation Lab.

<sup>2</sup> NORTH CAROLINA COMMISSION ON THE ADMINISTRATION OF LAW & JUSTICE, FINAL REPORT MARCH 2017: RECOMMENDATIONS FOR STRENGTHENING THE UNIFIED COURT SYSTEM OF NORTH CAROLINA, Appendix C: Pretrial Justice, at 1 (2017), <https://www.nccourts.gov/documents/publications/north-carolina-commission-on-the-administration-of-law-and-justice-nccalj-final-report>.

<sup>3</sup> Letter from Marion R. Warren, Director, NC AOC to Advisory Committee for the Pretrial Justice and the State Courts Initiative (Feb. 2, 2018) (on file with author).

- Promote the increased use of summons in lieu of arrest in appropriate cases.
- Promote the increased use of citation in lieu of arrest in appropriate cases.

Reforms took effect January 1, 2019.

Part II of this report details the findings from an empirical evaluation of the project.

### NC Judicial District 30B

JD 30B consists of two counties in Western North Carolina: Haywood and Jackson. Several features of the counties are displayed in Table 1 below; their geographic location in the state is shown in Figure 1 below.

**Table 1. Haywood & Jackson Counties**

County	Pop. Total <sup>1</sup>	Racial Composition % White / Black / Am. Indian / Hispanic <sup>2</sup>	2016 General Election % Trump / Clinton <sup>3</sup>	Violent Crime Rate 2017 / Property Crime Rate 2017 (State Rate: 384 / 2,678) <sup>4</sup>	Median Household Income <sup>5</sup>	Poverty Rate <sup>6</sup>	2015 Jail Pop. Per 100k <sup>7</sup>
Haywood	61,971	92.53% / 1.23% / 0.50% / 4.06%	62% / 34%	302 / 2,848	\$47,872	14.5%	314
Jackson	43,327	81.06% / 2.11% / 8.03% / 5.87%	53% / 41%	251 / 2,848	\$46,113	17.0%	198

#### Notes

<sup>1</sup> US Census Bureau, Population Division, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2018 (June 2019) (UNC Carolina Population Center provided this U.S. Census Bureau data in spreadsheet format).

<sup>2</sup> *Id.* (People of any race may be of Hispanic ethnicity. This chart does not include Hispanics in the percentages displayed in the White/Black/Am. Indian categories, instead displaying the total percentage of Hispanics regardless of race in the Hispanic category).

<sup>3</sup> North Carolina State Board of Elections, *Election Results*, <https://www.ncsbe.gov/Election-Results> (last visited Sept. 9, 2019) (percentages have been rounded to nearest whole number).

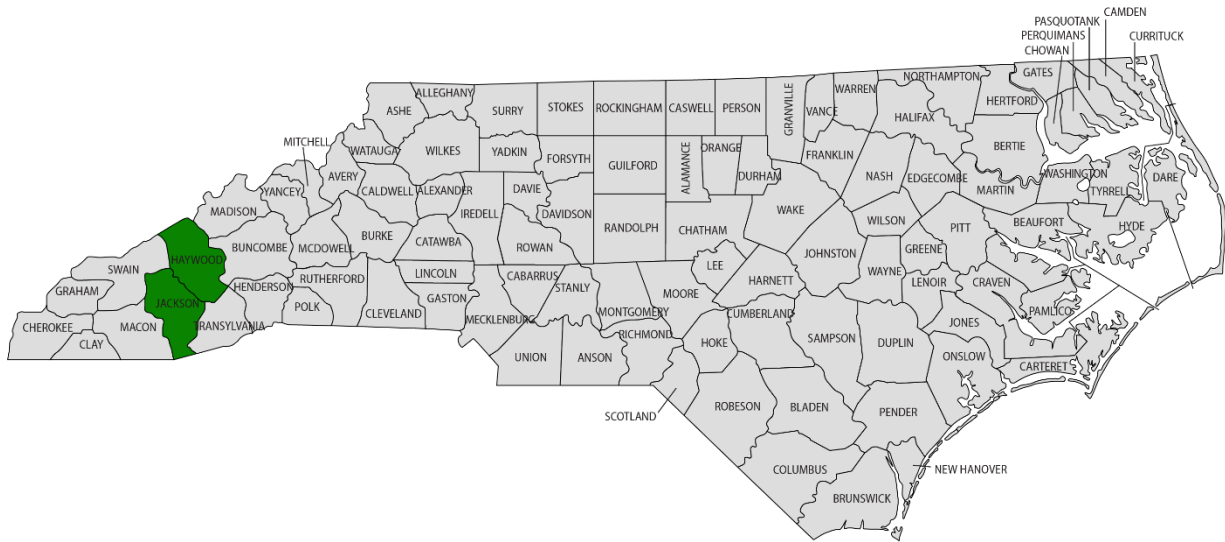
<sup>4</sup> NORTH CAROLINA STATE BUREAU OF INVESTIGATION, CRIME IN NORTH CAROLINA – 2017 (2018) (rates have been rounded to nearest whole number), *available at* <http://crimereporting.ncsbi.gov/public/2017/ASR/2017%20Annual%20Summary.pdf>.

<sup>5</sup> North Carolina Department of Commerce, *Economic Development Reports*, <https://www.nccommerce.com/data-tools-reports/economic-development-reports> (last visited Sept. 9, 2019) (this chart relies on information in the Department’s dynamic “Area Demographic Profiles,” which are available for download at the link in this citation).

<sup>6</sup> *Id.*

<sup>7</sup> Vera Institute of Justice, *Incarceration Trends – Jail Incarceration Rate*, <http://trends.vera.org/incarceration-rates?year=2015> (last visited Sept. 9, 2019) (Vera notes that some data may merit further inquiry for accuracy.).

**Figure 1. State Map Showing Haywood & Jackson Counties**



### Project Participants

The pilot project was initiated and led by Senior Resident Superior Court Judge Bradley B. Letts. Other judicial system participants included District Court Judges; Magistrates; Clerks of Court; the District Attorney and Assistant District Attorneys in that office; defense lawyers; and members of the law enforcement community, broadly defined to include sheriff and police departments, campus police, and jail administrators.

The project was supported by:

- Jessica Smith, W.R. Kenan, Jr. Distinguished Professor, School of Government and Director, Criminal Justice Innovation Lab, The University of North Carolina at Chapel Hill. Smith supported the project by helping to secure project funding; facilitating stakeholder meetings; providing legal advice and analysis; developing and writing Implementation Plans for each implemented reform; coordinating data collection from the NC AOC; and writing this and other reports. Funding from Smith's endowed professorship covered her travel to and from JD 30B, meals for meeting participants, printing of the Cite or Arrest pocket card for officers and the new pretrial release decision-making rubric, and graduate student research support for the empirical evaluation.
- Professor Jamie Vaske, Associate Professor, Western Carolina University. Vaske led the project's evaluation component including designing evaluation plans; securing funding for evaluations; obtaining Institutional Review Board approval; supervising student support; working with stakeholders to develop systems to collect key data points; data collection and analysis; and preparing the final evaluation and other reports.
- Tom Maher, Executive Director, NC Indigent Defense Services (NC IDS) and NC IDS. Maher played a key role in implementation of the early involvement of counsel reform; NC IDS supported the project by paying contract lawyers' fees and administering the early involvement of counsel program.
- NC AOC Research and Planning. Staff in the NC AOC office of Research and Planning provided assistance with respect to collecting and understanding NC AOC data.

- State Justice Institute (SJI). The project’s first effort was supported by a grant from the SJI, administered by the National Center for State Courts and the Pretrial Justice Institute (PJI). Grant funding supported technical assistance by PJI. Specifically, PJI’s Will Cash and John Clark led the project’s kick-off meetings. Clark served as a project consultant and led training for stakeholders on new pretrial procedures.

## Process

The project began with two public “kick off” meetings in June 2018—one in Haywood County; one in Jackson County. At those meetings Cash and Clark presented on, among other things, problems with the current pretrial release systems; the negative consequences of unnecessary pretrial detention—both for defendants and communities; legal and evidence-based pretrial practices; pretrial reform efforts implemented and underway around the country; the results of such reforms and support for them from a wide variety of groups, including the Conference of Chief Justices, the National Sheriffs Association, the Association of Prosecuting Attorneys, and a broad range of advocacy groups; and growing pressure for reform caused by successful legal challenges to existing bail systems. PJI staff also facilitated a discussion in which stakeholders prioritized reforms they wished to implement in JD 30B.

After the June meeting, Professor Smith prepared draft Implementation Plans for the reforms prioritized by stakeholders. In August 2018, Smith facilitated a public meeting with stakeholders to refine those plans. She then incorporated stakeholder feedback and produced revised Implementation Plans. She facilitated a public meeting in September 2018 for stakeholders to review the revised plans; this included testing the new pretrial decision-making framework through a series of case scenarios. Between meetings, Smith communicated with stakeholders, getting additional feedback on plan details, addressing areas of concern, and preparing revised Implementation Plans incorporating this feedback. On a parallel track, Professor Vaske attended meetings and designed and developed evaluation plans for all identified reforms, including obtaining approvals and permissions from NC AOC, IRB, and others. A final meeting was held in December 2018, primarily to provide training on all of the adopted reforms, but also for final refinement of Implementation Plans and tools. After that meeting Smith finalized and arranged for printing and delivery of necessary materials, worked with Clark to develop a training guide on the new Cite or Arrest pocket card for officers, and Judge Letts issued a revised Local Bail Policy and necessary Standing Orders.

## Implemented Reforms

### *New decision-making framework for determining conditions of pretrial release*

Prior to implementation of project reforms, JD 30B’s Local Bail Policy included a table setting suggested bond amounts based on the punishment class of the charged offense. Best practices recommend against the use of such tables.<sup>4</sup> Additionally, stakeholders determined that although the current charge’s offense class is relevant to the bail decision, other individualized factors regarding the defendant and the circumstances of the offense should be considered in assessing appropriate conditions of pretrial release and that consideration of additional factors is required by state law.<sup>5</sup> Moreover there was some concern that the use of a bond table may push decision-makers towards a presumption of secured bond

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<sup>4</sup> AMERICAN BAR ASSOCIATION, ABA STANDARDS FOR CRIMINAL JUSTICE: PRETRIAL RELEASE, Standard 10-5.3(e) (3d ed. 2007) (“Financial conditions should be the result of an individualized decision taking into account the special circumstances of each defendant, the defendant’s ability to meet the financial conditions and the defendant’s flight risk, and should never be set by reference to a predetermined schedule of amounts fixed according to the nature of the charge.”), [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/pretrial\\_release.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/pretrial_release.pdf).

<sup>5</sup> G.S. 15A-534(c).

in contravention of state law, which requires release on a written promise, custody release, or unsecured bond unless the decision-maker finds that those conditions will not reasonably assure appearance; will pose a danger of injury to any person; or are likely to result in the destruction of evidence, subornation of perjury, or intimidation of witnesses.<sup>6</sup> And finally, stakeholders wanted to develop an easily implemented tool to help judicial officials quickly identify those defendants who can be released on nonfinancial conditions, to reduce the occurrence of wealth-based incarceration of individuals who pose little risk to public safety or of non-appearance in court. Although they considered empirical risk assessment tools (sometimes referred to as “algorithms”) for that purpose, they did not opt for such a tool. Instead, they adopted a new structured decision-making tool to better inform judicial officials’ pretrial decisions and conform with constitutional and statutory requirements.

JD 30B’s new structured decision-making tool is included in Appendix A. It applies in all circumstances except where the statutes or local policy require other considerations or outcomes. Key features include:

- Expressly incorporating the statutory requirement that a judicial official “must” impose a written promise, custody release or unsecured bond (“nonfinancial conditions”) unless the official “determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.”<sup>7</sup>
- Providing an easily implemented checklist to quickly identify low-risk defendants who can be released on nonfinancial conditions.
- Providing that for individuals charged with the most serious offenses, no presumption or screening applies; decision-makers proceed directly to the required statutory determination.
- Requiring documentation of reasons for imposing a secured bond.
- Requiring that ability to pay be considered when setting a secured appearance bond.
- Requiring detention bond hearings when a secured detention bond is imposed.
- Providing a maximum bond table.
- Preserving necessary discretion by allowing for deviations from *all* tool recommendations.

*First appearance for all in-custody defendants.*

Stakeholders resolved to provide first appearances for in-custody defendants charged with misdemeanors and Class H and I felonies (highest charge) or arrested on a probation violation within 72 hours of arrest or at the first regular session of the district court in the county, whichever occurs first.

State law requires a first appearance for in-custody *felony* defendants within 96 hours of being taken into custody or at the first regular session of the district court in the county, whichever occurs first.<sup>8</sup> Because the law does not require first appearances for in-custody misdemeanor defendants, these defendants may sit in jail for weeks or more until their first court date. This can lead to scenarios where misdemeanor defendants are incarcerated pretrial when the charged offense cannot result in a custodial sentence upon conviction or where they are incarcerated pretrial for a longer period than they could receive in a custodial sentence if convicted. Additionally, stakeholders learned of research suggesting that pretrial detention of low-level defendants has negative public safety consequences and negative case outcomes for defendants. They concluded that these reasons counsel in favor of first

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<sup>6</sup> G.S. 15A-534(b).

<sup>7</sup> *Id.*

<sup>8</sup> G.S. 15A-601(c).

appearances for in-custody misdemeanor defendants, to ensure prompt judicial review of the magistrate's bond determination and a determination that detention is warranted because of pretrial risk as opposed to inability to pay financial conditions. Additionally, a separate reform (discussed below) provides for NC IDS contract counsel for in-custody defendants charged with misdemeanors and Class H and I felonies as well as those arrested on probation violations; the new first appearances are necessary to effectuate that reform.

To promote judicial efficiency, stakeholders decided to hold the new first appearances at 2 pm in district court. Holding these proceedings in the afternoon affords new contract counsel (see below) time to meet with clients at the jail and to obtain and review defendants' criminal history record.

#### *Early involvement of counsel at pretrial proceedings*

Early involvement of counsel at pretrial proceedings will better inform judges' pretrial decisions and protect defendants' rights in light of the significant consequences associated with pretrial detention.<sup>9</sup> Early involvement of counsel is recommended by national standards<sup>10</sup> and has been specifically recommended for North Carolina.<sup>11</sup>

To implement this reform Judge Letts issued a Standing Order providing for the appointment of NC IDS retained "contract counsel" to represent defendants at the first appearance and the first detention bond hearing (if any). Covered defendants included those whose highest charge is a misdemeanor or Class H or I felony and those arrested for a probation violation. Contract counsel were required to meet with defendants at the jail and review defendants' criminal history records prior to the first appearance. Contract counsel were retained and paid pursuant to contracts with NC IDS and served only for these purposes; assigned counsel was appointed to represent defendants after the first appearance and first detention bond hearing (if any).

To implement this reform, NC IDS agreed to:

- Hire, contract, and supervise contract counsel.
- Set payment rates for contract counsel and approve all payments to contract counsel.
- Establish procedures for handling defendants who are arrested on an Order for Arrest for a Failure to Appear and already have assigned counsel.
- Develop contracts specifying performance expectations, including: meeting with the client at the jail before the first appearance; reviewing the client's criminal history; preparing an intake form for each defendant; and advocating for the client at the first appearance and the first detention bond hearing (if any).

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<sup>9</sup> See, e.g., Paul Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 STAN. L. REV. 711 (2017), <https://www.stanfordlawreview.org/print/article/the-downstream-consequences-of-misdemeanor-pretrial-detention/>.

<sup>10</sup> ABA STANDARDS FOR CRIMINAL JUSTICE: PROSECUTION AND DEFENSE FUNCTION, Defense Function Standard 4-2.3 (4th ed. 2017) ("A defense counsel should be made available in person to a criminally-accused person for consultation at or before any appearance before a judicial officer, including the first appearance."), [https://www.americanbar.org/groups/criminal\\_justice/standards/DefenseFunctionFourthEdition/](https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/).

<sup>11</sup> NORTH CAROLINA COMMISSION ON THE ADMINISTRATION OF LAW & JUSTICE, FINAL REPORT MARCH 2017: RECOMMENDATIONS FOR STRENGTHENING THE UNIFIED COURT SYSTEM OF NORTH CAROLINA, Appendix D: Improving Indigent Defense Services, at 30 (2017), <https://www.nccourts.gov/documents/publications/north-carolina-commission-on-the-administration-of-law-and-justice-nccalj-final-report>.

- Establish a plan to train contract counsel on pretrial advocacy, as feasible.
- Establish procedures for dealing with conflicts.
- Develop forms and other job tools for contract counsel, such as an intake form to be used during the client interview.

Local jail supervisors agreed to provide timely jail lists to contract counsel and to set aside a private meeting place for counsel to meet with jailed defendants prior to the first appearance.

In order to meaningfully represent a defendant at first appearances and to ensure procedural fairness, it was determined that contract counsel needs access to the defendant’s criminal history record, which is used by the ADA and judge at that proceeding. The District Attorney’s Office agreed to run these records for each defendant on the 72-Hour Jail Calendar before the noon lunch hour; contract counsel went to the District Attorney’s Office to review the records in advance of the new first appearances, which—as noted above—were held at 2 pm to afford sufficient time for these tasks.

Arrangements were made for interpreter services to be provided, as needed, to contract counsel through the NC AOC telephonic interpreter services. Jail administrators agreed to allow telephones in client meeting spaces for this purpose.

Although stakeholders intended to implement this reform in both counties, NC IDS was unable to contract with lawyers to perform this service in Jackson County. Thus, this reform was implemented only in Haywood County. It was effective in that county for all of 2019 but was suspended effective January 1, 2020 due to judicial caseload management issues.<sup>12</sup>

#### *Summons in lieu of arrest*

Related to the new decision-making framework for pretrial release decisions, this reform sought to promote the increased use of summons in lieu of arrest for cases where a defendant would be released on non-financial conditions and does not require pretrial restrictions.

This change was designed to implement best practices,<sup>13</sup> give effect to the statutory direction that a warrant for arrest should issue when a person needs to be taken into custody,<sup>14</sup> give effect to statutory rules regarding citizen’s warrants,<sup>15</sup> and reduce wealth-based pretrial detentions of low-risk defendants who cannot pay secured bonds imposed in their cases.

This reform was accomplished by incorporating into the Local Bail Policy a new decision-making framework for magistrates when deciding whether to issue a summons versus a warrant. The new decision-making framework is provided in Appendix B.

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<sup>12</sup> Letter from Hon. Bradley B. Letts, Senior Resident Superior Court Judge and Hon. Richard K. Walker, Chief District Court Judge to Thomas K. Maher, Executive Director NC Indigent Defense Services (Dec. 20, 2019) (on file with author).

<sup>13</sup> ABA STANDARDS FOR CRIMINAL JUSTICE: PRETRIAL RELEASE, Standard 10-1.3 (3d ed. 2007), [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/pretrial\\_release.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/pretrial_release.authcheckdam.pdf).

<sup>14</sup> G.S. 15A-304(b)(1).

<sup>15</sup> G.S. 15A-304(b)(3).

### *Citation in lieu of arrest*

This reform was intended to include implementation of a law enforcement developed tool for patrol officers to encourage the increased use of citations in lieu of arrest for certain misdemeanors, in the officer's discretion. Specifically, a Cite or Arrest Pocket Card, shown in Figure 2 below. Although the overall project was a collaborative, multi-stakeholder endeavor, only the law enforcement community participated in the creation of the Pocket Card.

### **Figure 2. Cite or Arrest Pocket Card**

#### **Cite or Arrest?**

Best practices call for "least harm" resolutions, including using citations instead of arrests, when appropriate. *Whether to cite or arrest is always in your discretion.* However, you are encouraged to issue citations for misdemeanors unless one of the following circumstances exists:

- Defendant poses a danger of continuing criminal activity if not arrested
- Defendant poses an immediate danger to himself and assistance without arrest is not an option
- Defendant poses a danger to others
- Pretrial restrictions are required (e.g., stay away from victim)
- Offense involved physical harm to a person (as opposed to property)
- Offense involved deadly weapon
- Domestic dispute
- Defendant has more than 2 prior FTAs within the past 2 years
- Defendant has prior violent crime convictions
- Defendant committed offense while on probation/pretrial release
- Cannot confirm Defendant's identity or physical address
- Defendant has no local address or connections and thus is a FTA risk
- Defendant also arrested for a felony
- Statute requires arrest

Promoting the increased use of citation in lieu of arrest is recommended by law enforcement and other groups.<sup>16</sup> Use of citations is widely embraced as a law enforcement tool,<sup>17</sup> and promoting the greater use of citations has been adopted as a criminal justice strategy elsewhere.<sup>18</sup> Greater use of citations offers potential benefits, including increased efficiency for law enforcement.<sup>19</sup> Promoting the increased

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<sup>16</sup> See, e.g., FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING 43 (2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf); ABA STANDARDS FOR CRIMINAL JUSTICE: PRETRIAL RELEASE, Standard 10-1.3 (3d ed. 2007), [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/pretrial\\_release.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/pretrial_release.authcheckdam.pdf).

<sup>17</sup> INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, CITATION IN LIEU OF ARREST: EXAMINING LAW ENFORCEMENT'S USE OF CITATION ACROSS THE UNITED STATES (2016), <https://www.theiacp.org/sites/default/files/all/i-IACP%20Citation%20Final%20Report%202016.pdf>.

<sup>18</sup> See, e.g., CHARLESTON COUNTY CRIMINAL JUSTICE COORDINATING COUNCIL (South Carolina), ANNUAL REPORT 2017 (discussing increased use of "cite and release" practices in that jurisdiction), <https://cjcc.charlestoncounty.org/files/2017annualreport.pdf>.

<sup>19</sup> INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, *supra* note 17, at 3 (finding that citations require 24.2 minutes to process versus arrests, which require 85.8 minutes; citations thus offer a time savings of just over an hour per incident).



use of citations in lieu of arrests also can help reduce unnecessary pretrial detentions of low-risk defendants. Thus, it has been asserted that better decisions regarding whether to issue a citation versus making an arrest will promote officer efficiency, public safety, and efficient use of taxpayer funds.<sup>20</sup>

Local law enforcement agencies agreed to distribute the pocket card to officers and provide training on its use.

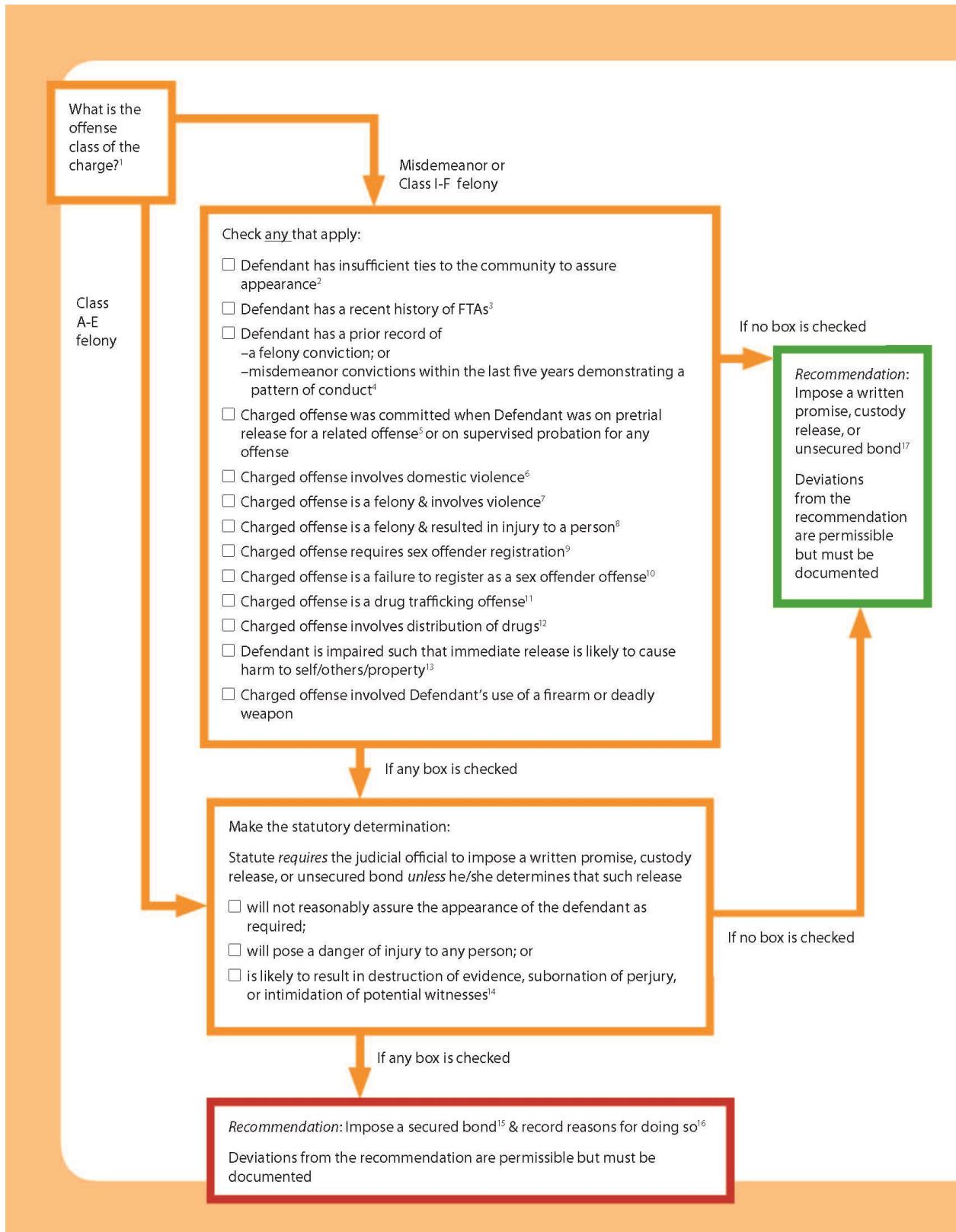
There is some question about implementation of this reform. In response to a survey about it, some officer-respondents indicated that, among other things, they were unfamiliar with the pocket card; did not receive training on the card; and did not receive the card or, if they did, did not carry or reference it when deciding whether to cite or arrest.

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<sup>20</sup> National Conference of State Legislatures, *Citation in Lieu of Arrest* (Mar. 1, 2019) (“States can use citations to reduce jail populations and provide local cost savings. Citations divert lower risk people from detention, reserving limited space and resources for more dangerous people. By providing an alternative to pretrial detention and release processes for certain defendants, citation in lieu of arrest can be considered a component of state pretrial policies.”), <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

## **JUDICIAL DISTRICT 30B: DETERMINING CONDITIONS OF PRETRIAL RELEASE**

Pursuant to Judicial District 30B's Local Pretrial Release Policy, judicial officials must use the flowchart contained here, with accompanying footnotes and tables, when determining conditions of release in all cases except where the North Carolina General Statutes prescribe a different outcome or result.



1. If the matter is before a judge on the State's motion to increase conditions after the return of a habitual felon indictment, the judge should treat the offense at its "habitualized" offense Class level.
2. The mere fact that the Defendant is homeless and does not have a home address does not warrant checking this box; inquiry should be focused on the Defendant's connections to the community.
3. FTAs within the last 2 years are most relevant.
4. The pattern of conduct must relate to the present offense. For example: the current charge involves drug possession and the Defendant has 3 priors within the last 5 years for misdemeanor drug or drug paraphernalia possession.
5. This factor covers situations where the Defendant continues to engage in the same type of conduct (e.g., repeat larceny) or an escalating course of conduct (e.g., the defendant is charged with injury to real property while on pretrial release for communicating threats to the property owner).
6. An offense involves domestic violence when the relationship between the parties is one of the following:
  - o Current or former spouses
  - o Currently or formerly lived together as if married
  - o Currently or formerly in a dating relationship
  - o Have a child in common
  - o Parent (or one in parental role)/child
  - o Grandparent/grandchild
  - o Current or former members of the same household

Note: this list is drawn from G.S. 15A-534.1, the 48-hour domestic violence hold statute.
7. For example, robbery.
8. This factor applies when the offense involved harm to a person (e.g., assaultive conduct). It does not apply to offenses in which property is taken or harmed (e.g., larceny, embezzlement, obtaining property by false pretenses, etc.).
9. For a list of offenses requiring sex offender registration, see JAMIE MARKHAM & SHEA DENNING, NORTH CAROLINA SENTENCING HANDBOOK 2017-18 (UNC School of Government, forthcoming 2018).
10. See G.S. 14-208.11(a); JESSICA SMITH, NORTH CAROLINA CRIMES: A GUIDEBOOK ON THE ELEMENTS OF CRIME 268 (7th Ed. 2012) (discussing this offense).
11. See G.S. 90-95(h); NORTH CAROLINA CRIMES *supra* note 10, at 721-739 (discussing trafficking offenses).
12. For example, sale and delivery of a controlled substance and possession with intent to manufacture, sell, or deliver.
13. For defendants in impaired driving cases, follow impaired driving procedures. In all other cases if a secured bond is imposed only because of this factor and the defendant remains detained, conditions must be revised without consideration of this factor when the defendant's impairment no longer presents a danger of physical injury to himself or herself or others or of damage to property, but in any event, no later than 24 hours after secured bond was set.
14. G.S. 15A-534(b). When making this inquiry, judicial officials should consider whether pretrial restrictions (e.g., restrictions on travel, associations, conduct or place of abode, as well as abstention from alcohol consumption, as verified by the use of an approved continuous alcohol monitoring system), which can be imposed with a written promise, custody release or unsecured bond, can sufficiently mitigate pretrial risk. See G.S. 15A-534(a).
15. If a secured appearance bond is imposed: (1) the judicial official must consider—among other relevant factors—the defendant's ability to pay; and (2) the amount of the secured appearance bond should not exceed the amounts listed in the tables shown below; if a secured bond is set in excess of these recommended maximums, reasons for doing so must be documented.
 

If a secured bond is used to detain ("detention bond"), a detention bond hearing that affords the defendant appropriate procedural protections must be held before a judge on motion by the defense.
16. See G.S. 15A-534(b) (when judicial official imposes secured bond instead of written promise, custody release or unsecured bond, the judicial official "must record the reasons for so doing in writing to the extent provided in the policies or requirements issued by the senior resident superior court judge").
17. Pretrial restrictions can accompany any pretrial condition. See G.S. 15A-534(a) & note 14 above.

**Maximum Secured Appearance Bond Amounts—Drug Trafficking\***

If a bond is set in excess of these recommendations, reasons for doing so must be documented.

Drug	Amount	Class	Maximum Secured Bond
Marijuana	>10 lbs – 49 lbs.	H	\$5,000
	50-1,999	G	\$25,000
	2,000-9,999	F	\$50,000
	10,000 or more	D	\$200,000
Methaqualone	1,000 – 4,999 dosage units	G	\$25,000
	5,000 – 9,999	F	\$50,000
	10,000 or more	D	\$200,000
Cocaine	28-199 grams	G	\$50,000
	200-399	F	\$100,000
	400 or more	D	\$250,000
Methamphetamine	28-199 grams	F	\$50,000
	200-399 grams	E	\$100,000
	400 or more	C	\$250,000
Amphetamine	28-199 grams	H	\$5,000
	200-399	G	\$25,000
	400 or more	E	\$100,000
Opium/Opiate/ Opioid/Heroin	4-13 grams	F	\$50,000
	14-27	E	\$100,000
	28 or more	C	\$500,000
LSD	100-499 dosage units	G	\$25,000
	500-999	F	\$50,000
	1,000 or more	D	\$200,000
MDA/MDMA	100-499 units/28-199 grams	G	\$25,000
	500-999 units/200-399 grams	F	\$50,000
	1,000 units/400 grams or more	D	\$250,000
Substituted Cathinones	28-199 grams	F	\$50,000
	200-399	E	\$100,000
	400 or more	C	\$250,000
Synthetic Cannabinoids	In excess of 50-249 dosage units**	H	\$5,000
	250-1,249	G	\$25,000
	1,250-3,749	F	\$50,000
	3,750 or more	D	\$200,000

\* The maximum secured bonds included in this table are taken from the minimum fines required for the respective offenses.

\*\*A "dosage unit" is 3 grams of synthetic cannabinoid or any mixture containing such substance

**Maximum Secured Appearance Bond Amounts—Felonies (Other Than Drug Trafficking)**

If a bond is set in excess of these recommendations, reasons for doing so must be documented.

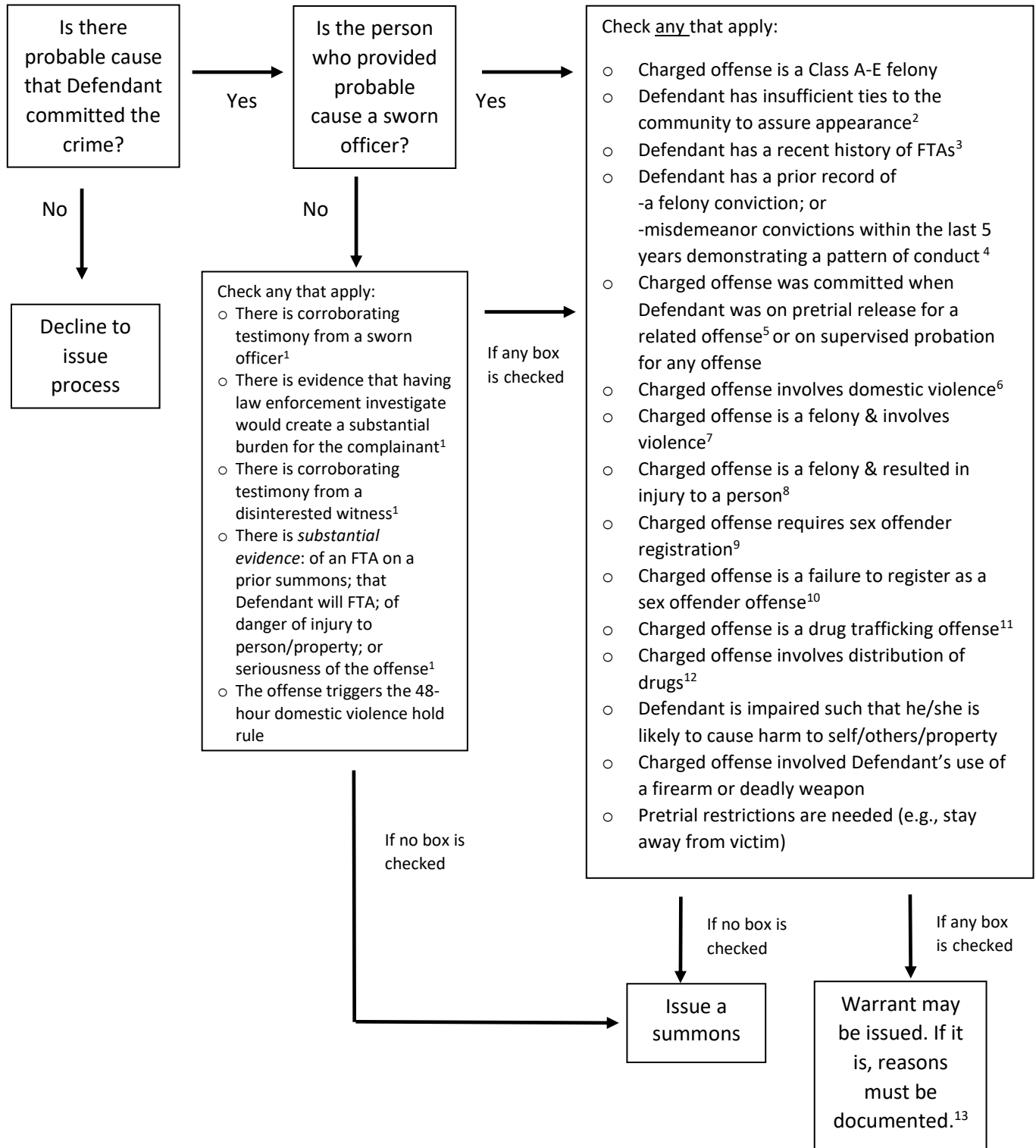
Punishment Class	Maximum Secured Bond
A	Set by Judge
B1	\$200,000
B2	\$200,000
C	\$50,000
D	\$50,000
E	\$25,000
F	\$15,000
G	\$10,000
H	\$5,000
I	\$2,500

**Maximum Secured Appearance Bond Amounts—Misdemeanors**

If a bond is set in excess of these recommendations, reasons for doing so must be documented.

Punishment Class	Maximum Secured Bond
A1	\$1,000
1	\$500
2	Use written promise, custody release or unsecured bond
3	Use written promise, custody release or unsecured bond
DWI (non-felony)	\$500

## Appendix B: Decision-Making Framework for Magistrates: Summons Versus Warrant



<sup>1</sup> G.S. 15A-304(b)(3) (effective October 1, 2018, as enacted by S.L. 2018-40).

<sup>2</sup> The mere fact that the Defendant is homeless and does not have a home address does not warrant checking this box; inquiry should be focused on the Defendant's connections to the community.

<sup>3</sup> FTAs within the last 2 years are most relevant.

<sup>4</sup> The pattern of conduct must relate to the present offense. For example: The current charge involves drug possession and the Defendant has 3 priors within the last 5 years for misdemeanor drug or drug paraphernalia possession.

<sup>5</sup> This factor covers situations where the Defendant continues to engage in the same type of conduct (e.g., repeat larceny) or an escalating course of conduct (e.g., the defendant is charged with injury to real property while the defendant was on pretrial release for communicating threats to the property owner).

<sup>6</sup> An offense involves domestic violence when the relationship between the parties is one of the following:

- Current or former spouses
- Currently or formerly lived together as if married
- Currently or formerly in a dating relationship
- Have a child in common
- Parent (or one in parental role)/child
- Grandparent/grandchild
- Current or former members of the same household

Note: this list is drawn from G.S. 15A-534.1, the 48-hour domestic violence hold statute.

<sup>7</sup> For example, robbery.

<sup>8</sup> This factor applies when the offense involved harm to a person (e.g., assaultive conduct). It does not apply to offenses in which property is taken or harmed (e.g., larceny, embezzlement, obtaining property by false pretenses, etc.).

<sup>9</sup> For a list of offenses requiring sex offender registration, see JAMIE MARKHAM & SHEA DENNING, NORTH CAROLINA SENTENCING HANDBOOK 2017-18 (UNC School of Government, forthcoming 2018).

<sup>10</sup> See G.S. 14-208.11(a); JESSICA SMITH, NORTH CAROLINA CRIMES: A GUIDEBOOK ON THE ELEMENTS OF CRIME 268 (7<sup>th</sup> Ed. 2012) (discussing this offense).

<sup>11</sup> See G.S. 90-95(h); NORTH CAROLINA CRIMES *supra* note 10, at 721-739 (discussing trafficking offenses).

<sup>12</sup> For example, sale and delivery of a controlled substance and possession with intent to manufacture, sell or deliver.

<sup>13</sup> If the charged offense is a Class A-E felony, the default is to issue a warrant.