

Bail Reform for Local North Carolina Jurisdictions—Options for Each Stage of the Pretrial Process

Jessica Smith, UNC School of Government, May 2019

ARREST	INITIAL APPEARANCE	FIRST APPEARANCE	SUBSEQUENT COURT PROCEEDINGS
Citation in lieu of arrest policies	Adhere to statutory preference for nonfinancial conditions	Adhere to statutory preference for nonfinancial conditions	Enhanced court date reminder systems
Summons in lieu of arrest policies	Implement better risk assessment tools and provide a structure for pretrial conditions decision	Implement better risk assessment tools and provide a structure for pretrial conditions decision	Offer appropriate pretrial services (e.g., mental health, transportation) and supervision (e.g., check-ins) with no up-front costs to defendants
Pre-charge diversion (e.g., mental health, substance use, youth, etc.)	Require reasons for secured bond	Require reasons for secured bond	Align procedures for OFAs after FTAs with goals (e.g., check on detention before issuing OFA; judge sets conditions in OFA to avoid mandatory bond doubling when appropriate)
Data collection & reporting	Require ability to pay determinations before financial conditions are imposed on appearance bonds	Require ability to pay determinations before financial conditions are imposed on appearance bonds	Regular review of jail rolls by jail administrator or judicial official, with court hearings scheduled as needed
	Set first court date prior to officer's next court date	Timely first appearances for all defendants, including those charged with misdemeanors	Require counsel (or waiver after opportunity to consult with counsel) for time served pleas
	Data collection & reporting	Early involvement of public defender or appointed counsel in release determination, including counsel's access to defendant in jail & to prior history record	Expedited trials for detained defendants
		Require counsel (or waiver after opportunity to consult with counsel) for time served pleas	Data collection & reporting
		Hold detention bond hearings for those detained on detention bonds	
		Data collection & reporting	

LOCAL BOND POLICY

LOCAL CULTURE

STATEWIDE																	
COUNTY	Total Financial Count	Total Financial %	Secured Bond Count	Secured Bond %	EHA with Secured Bond Count	EHA with Secured Bond %	Total Nonfinancial Count	Total Nonfinancial %	Custody Release Count	Custody Release %	Unsecured Bond Count	Unsecured Bond %	Written Promise to Appear Count	Written Promise to Appear %	Issued as Not Authorized Count	Issued as Not Authorized %	Total
ALAMANCE	3,027	85.1%	3,027	85.1%	-	0.0%	431	12.1%	17	0.5%	254	7.1%	160	4.5%	99	2.8%	3,557
ALEXANDER	516	74.4%	516	74.4%	-	0.0%	72	10.4%	8	1.2%	63	9.1%	1	0.1%	106	15.3%	694
ALLEGHANY	155	65.1%	155	65.1%	-	0.0%	83	34.9%	-	0.0%	49	20.6%	34	14.3%	-	0.0%	238
ANSON	530	56.7%	530	56.7%	-	0.0%	243	26.0%	4	0.4%	172	18.4%	67	7.2%	162	17.3%	935
ASHE	525	78.7%	525	78.7%	-	0.0%	131	19.6%	2	0.3%	90	13.5%	39	5.8%	11	1.6%	667
AVERY	205	58.4%	205	58.4%	-	0.0%	130	37.0%	12	3.4%	9	2.6%	109	31.1%	16	4.6%	351
BEAUFORT	533	62.1%	533	62.1%	-	0.0%	191	22.3%	6	0.7%	185	21.6%	-	0.0%	134	15.6%	858
BERTIE	318	82.8%	318	82.8%	-	0.0%	47	12.2%	2	0.5%	39	10.2%	6	1.6%	19	4.9%	384
BLADEN	477	73.2%	477	73.2%	-	0.0%	96	14.7%	-	0.0%	93	14.3%	3	0.5%	79	12.1%	652
BRUNSWICK	1,543	81.1%	1,541	81.0%	2	0.1%	336	17.7%	12	0.6%	312	16.4%	12	0.6%	23	1.2%	1,902
BUNCOMBE	4,307	55.2%	4,307	55.2%	-	0.0%	3,481	44.6%	30	0.4%	2,072	26.6%	1,379	17.7%	9	0.1%	7,797
BURKE	2,045	76.4%	2,045	76.4%	-	0.0%	339	12.7%	68	2.5%	35	1.3%	236	8.8%	291	10.9%	2,675
CABARRUS	2,474	76.5%	2,474	76.5%	-	0.0%	409	12.6%	3	0.1%	72	2.2%	334	10.3%	351	10.9%	3,234
CALDWELL	1,596	71.6%	1,591	71.3%	5	0.2%	592	26.5%	201	9.0%	160	7.2%	231	10.4%	42	1.9%	2,230
CAMDEN	38	44.7%	38	44.7%	-	0.0%	46	54.1%	-	0.0%	45	52.9%	1	1.2%	1	1.2%	85
CARTERET	934	70.1%	928	69.7%	6	0.5%	277	20.8%	14	1.1%	44	3.3%	219	16.4%	121	9.1%	1,332
CASWELL	173	59.9%	173	59.9%	-	0.0%	113	39.1%	2	0.7%	34	11.8%	77	26.6%	3	1.0%	289
CATAWBA	2,785	74.1%	2,785	74.1%	-	0.0%	738	19.6%	17	0.5%	694	18.5%	27	0.7%	234	6.2%	3,757
CHATHAM	507	62.6%	506	62.5%	1	0.1%	292	36.0%	6	0.7%	85	10.5%	201	24.8%	11	1.4%	810
CHEROKEE	527	51.8%	527	51.8%	-	0.0%	484	47.5%	8	0.8%	433	42.5%	43	4.2%	7	0.7%	1,018
CHOWAN	206	69.6%	206	69.6%	-	0.0%	86	29.1%	1	0.3%	84	28.4%	1	0.3%	4	1.4%	296
CLAY	101	57.7%	101	57.7%	-	0.0%	74	42.3%	-	0.0%	72	41.1%	2	1.1%	-	0.0%	175
CLEVELAND	1,892	76.1%	1,892	76.1%	-	0.0%	538	21.6%	5	0.2%	518	20.8%	15	0.6%	57	2.3%	2,487
COLUMBUS	875	71.0%	875	71.0%	-	0.0%	275	22.3%	7	0.6%	264	21.4%	4	0.3%	82	6.7%	1,232
Craven	1,512	77.8%	1,510	77.7%	2	0.1%	390	20.1%	57	2.9%	68	3.5%	265	13.6%	41	2.1%	1,943
CUMBERLAND	4,477	63.2%	4,477	63.2%	-	0.0%	2,451	34.6%	30	0.4%	2,384	33.7%	37	0.5%	154	2.2%	7,082
CURRITUCK	393	72.4%	393	72.4%	-	0.0%	147	27.1%	-	0.0%	144	26.5%	3	0.6%	3	0.6%	543
DARE	745	84.9%	745	84.9%	-	0.0%	62	7.1%	1	0.1%	53	6.0%	8	0.9%	71	8.1%	878
DAVIDSON	2,352	66.7%	2,352	66.7%	-	0.0%	718	20.4%	108	3.1%	251	7.1%	359	10.2%	455	12.9%	3,525
DAVIE	408	55.7%	408	55.7%	-	0.0%	321	43.9%	5	0.7%	315	43.0%	1	0.1%	3	0.4%	732
DUPLIN	745	66.7%	745	66.7%	-	0.0%	246	22.0%	7	0.6%	167	15.0%	72	6.4%	126	11.3%	1,117
DURHAM	2,727	61.7%	2,726	61.7%	1	0.0%	1,507	34.1%	36	0.8%	1,079	24.4%	392	8.9%	187	4.2%	4,421
EDGEcombe	1,005	61.7%	1,005	61.7%	-	0.0%	563	34.6%	17	1.0%	421	25.9%	125	7.7%	60	3.7%	1,628
FORSYTH	6,150	77.5%	6,150	77.5%	-	0.0%	1,577	19.9%	70	0.9%	614	7.7%	893	11.3%	210	2.6%	7,937
FRANKLIN	1,309	87.6%	1,309	87.6%	-	0.0%	168	11.2%	7	0.5%	58	3.9%	103	6.9%	17	1.1%	1,494
GASTON	4,801	69.0%	4,801	69.0%	-	0.0%	1,319	18.9%	117	1.7%	1,039	14.9%	163	2.3%	843	12.1%	6,963
GATES	51	32.9%	51	32.9%	-	0.0%	100	64.5%	-	0.0%	100	64.5%	-	0.0%	4	2.6%	155
GRAHAM	230	71.4%	230	71.4%	-	0.0%	79	24.5%	2	0.6%	21	6.5%	56	17.4%	13	4.0%	322
GRANVILLE	615	73.7%	615	73.7%	-	0.0%	78	9.3%	2	0.2%	74	8.9%	2	0.2%	142	17.0%	835
GREENE	242	79.3%	242	79.3%	-	0.0%	16	5.2%	-	0.0%	14	4.6%	2	0.7%	47	15.4%	305
GUILFORD	8,047	63.2%	8,043	63.2%	4	0.0%	4,506	35.4%	234	1.8%	1,847	14.5%	2,425	19.0%	182	1.4%	12,735
HALIFAX	1,512	75.2%	1,512	75.2%	-	0.0%	486	24.2%	18	0.9%	442	22.0%	26	1.3%	12	0.6%	2,010
HARNETT	1,536	72.0%	1,536	72.0%	-	0.0%	588	27.6%	5	0.2%	554	26.0%	29	1.4%	10	0.5%	2,134

STATEWIDE																	
COUNTY	Total Financial Count	Total Financial %	Secured Bond Count	Secured Bond %	EHA with Secured Bond Count	EHA with Secured Bond %	Total Nonfinancial Count	Total Nonfinancial %	Custody Release Count	Custody Release %	Unsecured Bond Count	Unsecured Bond %	Written Promise to Appear Count	Written Promise to Appear %	Issued as Not Authorized Count	Issued as Not Authorized %	Total
HAYWOOD	1,141	53.9%	1,141	53.9%	-	0.0%	965	45.6%	41	1.9%	519	24.5%	405	19.1%	10	0.5%	2,116
HENDERSON	2,820	83.8%	2,820	83.8%	-	0.0%	378	11.2%	36	1.1%	204	6.1%	138	4.1%	167	5.0%	3,365
HERTFORD	494	77.3%	494	77.3%	-	0.0%	88	13.8%	2	0.3%	86	13.5%	-	0.0%	57	8.9%	639
HOKE	527	66.5%	527	66.5%	-	0.0%	251	31.7%	7	0.9%	242	30.5%	2	0.3%	15	1.9%	793
HYDE	39	47.0%	39	47.0%	-	0.0%	40	48.2%	-	0.0%	40	48.2%	-	0.0%	4	4.8%	83
IREDELL	2,341	80.6%	2,341	80.6%	-	0.0%	510	17.6%	37	1.3%	446	15.4%	27	0.9%	53	1.8%	2,904
JACKSON	580	54.1%	580	54.1%	-	0.0%	462	43.1%	1	0.1%	378	35.2%	83	7.7%	31	2.9%	1,073
JOHNSTON	2,797	76.0%	2,796	76.0%	1	0.0%	800	21.7%	46	1.3%	744	20.2%	10	0.3%	82	2.2%	3,679
JONES	124	71.3%	124	71.3%	-	0.0%	45	25.9%	4	2.3%	33	19.0%	8	4.6%	5	2.9%	174
LEE	946	78.7%	946	78.7%	-	0.0%	238	19.8%	6	0.5%	230	19.1%	2	0.2%	18	1.5%	1,202
LENOIR	876	64.8%	875	64.7%	1	0.1%	286	21.2%	1	0.1%	266	19.7%	19	1.4%	190	14.1%	1,352
LINCOLN	1,358	78.1%	1,358	78.1%	-	0.0%	350	20.1%	11	0.6%	335	19.3%	4	0.2%	31	1.8%	1,739
MACON	577	65.8%	577	65.8%	-	0.0%	216	24.6%	-	0.0%	214	24.4%	2	0.2%	84	9.6%	877
MADISON	326	73.9%	326	73.9%	-	0.0%	108	24.5%	-	0.0%	107	24.3%	1	0.2%	7	1.6%	441
MARTIN	329	72.6%	329	72.6%	-	0.0%	57	12.6%	5	1.1%	22	4.9%	30	6.6%	67	14.8%	453
MCDOWELL	902	82.3%	902	82.3%	-	0.0%	142	13.0%	5	0.5%	30	2.7%	107	9.8%	52	4.7%	1,096
MECKLENBURG	10,743	41.8%	10,743	41.8%	-	0.0%	14,245	55.5%	630	2.5%	12,080	47.0%	1,535	6.0%	691	2.7%	25,679
MITCHELL	187	74.2%	187	74.2%	-	0.0%	58	23.0%	-	0.0%	48	19.0%	10	4.0%	7	2.8%	252
MONTGOMERY	426	65.8%	426	65.8%	-	0.0%	219	33.8%	4	0.6%	199	30.8%	16	2.5%	2	0.3%	647
MOORE	1,153	69.5%	1,152	69.4%	1	0.1%	505	30.4%	53	3.2%	322	19.4%	130	7.8%	2	0.1%	1,660
NASH	1,615	65.8%	1,615	65.8%	-	0.0%	750	30.5%	28	1.1%	374	15.2%	348	14.2%	91	3.7%	2,456
NEW HANOVER	3,549	67.0%	3,548	67.0%	1	0.0%	1,633	30.8%	10	0.2%	1,588	30.0%	35	0.7%	112	2.1%	5,294
NORTHAMPTON	407	78.0%	407	78.0%	-	0.0%	78	14.9%	-	0.0%	77	14.8%	1	0.2%	37	7.1%	522
ONSLOW	3,052	74.3%	3,052	74.3%	-	0.0%	1,044	25.4%	9	0.2%	822	20.0%	213	5.2%	10	0.2%	4,106
ORANGE	1,111	63.6%	1,111	63.6%	-	0.0%	614	35.1%	3	0.2%	306	17.5%	305	17.4%	23	1.3%	1,748
PAMLICO	217	67.0%	217	67.0%	-	0.0%	103	31.8%	16	4.9%	30	9.3%	57	17.6%	4	1.2%	324
PASQUOTANK	694	69.2%	694	69.2%	-	0.0%	193	19.2%	8	0.8%	183	18.2%	2	0.2%	116	11.6%	1,003
PENDER	637	68.9%	637	68.9%	-	0.0%	193	20.9%	-	0.0%	191	20.6%	2	0.2%	95	10.3%	925
PERQUIMANS	158	66.4%	158	66.4%	-	0.0%	79	33.2%	-	0.0%	72	30.3%	7	2.9%	1	0.4%	238
PERSON	504	62.8%	504	62.8%	-	0.0%	223	27.8%	9	1.1%	120	15.0%	94	11.7%	75	9.4%	802
PITT	3,179	84.4%	3,072	81.6%	107	2.8%	506	13.4%	16	0.4%	427	11.3%	63	1.7%	81	2.2%	3,766
POLK	265	69.6%	265	69.6%	-	0.0%	116	30.4%	3	0.8%	48	12.6%	65	17.1%	-	0.0%	381
RANDOLPH	2,170	70.0%	2,128	68.6%	42	1.4%	877	28.3%	36	1.2%	602	19.4%	239	7.7%	53	1.7%	3,100
RICHMOND	979	62.8%	979	62.8%	-	0.0%	268	17.2%	68	4.4%	99	6.4%	101	6.5%	312	20.0%	1,559
ROBESON	2,813	70.4%	2,813	70.4%	-	0.0%	865	21.7%	51	1.3%	496	12.4%	318	8.0%	317	7.9%	3,995
ROCKINGHAM	1,255	65.7%	1,254	65.7%	1	0.1%	335	17.5%	21	1.1%	197	10.3%	117	6.1%	320	16.8%	1,910
ROWAN	2,111	78.6%	2,111	78.6%	-	0.0%	426	15.9%	17	0.6%	61	2.3%	348	13.0%	150	5.6%	2,687
RUTHERFORD	1,572	69.0%	1,572	69.0%	-	0.0%	672	29.5%	46	2.0%	412	18.1%	214	9.4%	35	1.5%	2,279
SAMPSON	1,139	71.5%	1,139	71.5%	-	0.0%	435	27.3%	13	0.8%	339	21.3%	83	5.2%	18	1.1%	1,592
SCOTLAND	748	58.8%	748	58.8%	-	0.0%	312	24.5%	13	1.0%	191	15.0%	108	8.5%	212	16.7%	1,272
STANLY	1,051	80.1%	1,051	80.1%	-	0.0%	240	18.3%	24	1.8%	164	12.5%	52	4.0%	21	1.6%	1,312
STOKES	668	62.9%	668	62.9%	-	0.0%	289	27.2%	28	2.6%	216	20.3%	45	4.2%	105	9.9%	1,062
SURRY	1,319	75.3%	1,319	75.3%	-	0.0%	350	20.0%	3	0.2%	275	15.7%	72	4.1%	82	4.7%	1,751

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STATEWIDE	146,162	67.6%	145,862	67.4%	300	0.1%	61,381	28.4%	2,819	1.3%	43,540	20.1%	15,022	6.9%	8,803	4.1%	216,346
SWAIN	290	68.4%	290	68.4%	-	0.0%	115	27.1%	-	0.0%	98	23.1%	17	4.0%	19	4.5%	424
TRANSYLVANIA	614	56.0%	614	56.0%	-	0.0%	480	43.8%	26	2.4%	338	30.8%	116	10.6%	2	0.2%	1,096
TYRRELL	41	44.6%	41	44.6%	-	0.0%	46	50.0%	-	0.0%	27	29.3%	19	20.7%	5	5.4%	92
UNION	2,170	78.8%	2,170	78.8%	-	0.0%	522	19.0%	30	1.1%	319	11.6%	173	6.3%	61	2.2%	2,753
VANCE	1,280	79.6%	1,280	79.6%	-	0.0%	268	16.7%	19	1.2%	232	14.4%	17	1.1%	60	3.7%	1,608
WAKE	10,525	83.6%	10,400	82.6%	125	1.0%	1,986	15.8%	149	1.2%	1,344	10.7%	493	3.9%	74	0.6%	12,585
WARREN	237	82.0%	237	82.0%	-	0.0%	49	17.0%	2	0.7%	36	12.5%	11	3.8%	3	1.0%	289
WASHINGTON	211	68.7%	211	68.7%	-	0.0%	79	25.7%	6	2.0%	45	14.7%	28	9.1%	17	5.5%	307
WATAUGA	689	78.1%	689	78.1%	-	0.0%	159	18.0%	23	2.6%	16	1.8%	120	13.6%	34	3.9%	882
WAYNE	1,899	63.2%	1,899	63.2%	-	0.0%	1,063	35.4%	21	0.7%	812	27.0%	230	7.7%	41	1.4%	3,003
WILKES	922	68.9%	922	68.9%	-	0.0%	388	29.0%	48	3.6%	258	19.3%	82	6.1%	29	2.2%	1,339
WILSON	1,556	69.2%	1,556	69.2%	-	0.0%	548	24.4%	34	1.5%	395	17.6%	119	5.3%	143	6.4%	2,247
YADKIN	535	69.8%	535	69.8%	-	0.0%	208	27.2%	8	1.0%	183	23.9%	17	2.2%	23	3.0%	766
YANCEY	148	63.5%	148	63.5%	-	0.0%	80	34.3%	1	0.4%	79	33.9%	-	0.0%	5	2.1%	233

Citation Versus Arrest by North Carolina Law Enforcement Officers: A County-Level Analysis

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Charged with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust, the [Presidential Task Force on 21st Century Policing](#) recommended that law enforcement agencies develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety. Specifically, it recommended that agencies adopt preferences for “least harm” resolutions, including the use of citation in lieu of arrest for low-level offenses. Increased use of citations offers other potential benefits, including increased law enforcement efficiency. A [report](#) by the International Association of Chiefs of Police found that citations offer a time savings of just over an hour per incident. Additionally, increased use of citations can help reduce unnecessary pretrial detentions of low-risk defendants and associated costs, unfairness, and negative public safety outcomes. An arrest triggers an initial appearance and imposition of conditions of pretrial release. Because secured bonds are the most common condition imposed in North Carolina, see Jessica Smith, [How Big a Role Does Money Play in North Carolina’s Bail System](#) (July 2019), the decision to make an arrest versus issue a citation often results in imposition of a secured bond and associated wealth-based detentions. For these and other reasons, justice system stakeholders are interested in citation in lieu of arrest policies, particularly for low-level crimes. One common question that stakeholders have been asking is: What do we know about how often officers use citations or make arrests in North Carolina? Read on for answers.

Working with court system data we compiled a statewide and county-level analysis of the prevalence of citation use in North Carolina. Because we knew that a misdemeanor charge with an associated felony was more likely to result in arrest, we limited our data to cases where the highest charge was a misdemeanor. Specifically, we examined North Carolina Administrative Office of the Courts (NC AOC) data on initial process type. For this analysis, we were interested in the percentage of highest charge misdemeanor cases where the officer issued a citation as opposed to making a warrantless arrest (in a forthcoming analysis we look at a similar decision point at the magistrate level, comparing issuance of summons to issuance of arrest warrants). Because a magistrate’s order is the proper process to issue after a warrantless arrest, we calculated the percentage of charges initiated by citation from the total of charges initiated by citation and by magistrate’s order. Because we wanted to see any trends in the data, we did all this for three years, 2016-2018.

A spreadsheet of our results is available [here](#). Looking just at 2018, the statewide percentage of highest charge misdemeanor cases initiated by citation (as opposed to warrantless arrest) is 87.8%. Significantly, we found considerable variability in the use of citations in North Carolina. The county with the highest percentage of misdemeanor charges initiated by citation (as opposed to warrantless arrest) was Anson County at 97.4%. The county with the lowest percentage was Transylvania at 70.9%. Figure 1 shows a list of counties with the ten highest citation rates in 2018. Figure 2 shows a list of counties with the ten lowest citation rates in 2018.

Data note: Because we were focused on the officer’s decision to cite or arrest, the universe of cases we examined includes only cases initiated by citation or magistrate’s order. The reported percentage shows how often officers opted for citation during this first interaction, not how often a citation was the initiating charging instrument for all initiated cases (a larger universe which includes, e.g., those initiated by warrant, indictment, etc).

Figure 1

Counties with 10 Highest Citation Rates FY18	%
ANSON	97.4%
MADISON	96.8%
CAMDEN	96.1%
TYRRELL	95.8%
MITCHELL	95.1%
HOKE	94.8%
HARNETT	94.6%
BERTIE	94.3%
PASQUOTANK	93.9%
VANCE	93.8%

Figure 2

Counties with 10 Lowest Citation Rates FY18	%
TRANSYLVANIA	70.9%
CHOWAN	75.2%
BUNCOMBE	75.6%
GRAHAM	76.7%
CHEROKEE	78.9%
HAYWOOD	79.0%
RUTHERFORD	79.3%
CLEVELAND	79.4%
PAMLICO	80.2%
CARTERET	80.3%

We also were interested to see whether any of the counties showed significant changes in the percentage of cases initiated by citation. Figure 3 shows the ten counties with the largest increases in citation rates; Figure 4 shows the ten counties with the largest decreases.

Figure 3

10 Counties with Largest Increase in Citation Rate, FY16-18	%
GRAHAM	15.0%
CLAY	6.7%
POLK	6.4%
SCOTLAND	5.9%
PERSON	5.1%
CURRITUCK	4.3%
WATAUGA	4.2%
SWAIN	4.0%
HAYWOOD	3.9%
LENOIR	3.4%

Figure 4

10 Counties with Largest Decrease in Citation Rate, FY16-18	%
ASHE	-8.7%
ALLEGHANY	-7.1%
HYDE	-4.4%
GATES	-3.6%
BURKE	-3.4%
LINCOLN	-3.3%
YADKIN	-3.1%
DAVIE	-2.5%
BUNCOMBE	-2.4%
CHOWAN	-1.9%

Looking to better understand local citation usage, we compared our results to NC State Bureau of Investigation violent crime rates and to whether or not the Local Bail Policy supported citation in lieu of arrest for minor offenses. We found no obvious relationships to either of those benchmarks. In further research we hope to connect with law enforcement leaders to learn what is driving local practices.

To be clear, we are not making any judgment in this paper. There may be very good reasons why law enforcement in any given county use citations in a smaller percentage of misdemeanor charges. For example if the majority of misdemeanor charges in a jurisdiction involve domestic violence, physical violence, stalking and use of a firearm, we would not be surprised to see a lower rate of citation usage, as many believe these scenarios present a greater public safety risk. The purpose of this paper simply is to document the prevalence of citation use in North Carolina and give jurisdictions a baseline against which to evaluate their systems.

We end with three notes about the data. First, although we sought to limit our analysis to cases where the highest charge was a misdemeanor, our efforts may have been imperfect. We worked off of a NC

AOC data set showing the initial process type issued for highest charge misdemeanor cases. When multiple charges are associated in a single case number, the system can limit the data set to highest charge misdemeanor cases. We understand, however, that in some counties multiple charges are not associated with the same case number. When this happens, the system cannot separate misdemeanor charges from associated felony charges because they are not linked through a common case number. Thus, some of the misdemeanor charges in our sample may have been associated with a felony. (To the extent this occurred we hypothesize that it would suppress citation rates.) Second, we sought to examine first process type (i.e. the process that initiated the case) and we understand that for the most part the data we received reflects that. However, we also understand that in some cases the clerk may have updated the relevant field to reflect a later process, such as a statement of charges. If that occurs, original charge information is overwritten and the charge would not be captured in our analysis (which looked only at highest charge misdemeanor cases where the initial process was a citation or a magistrate's order). Finally, although a magistrate's order is the proper process when an officer makes a warrantless arrest, we know that sometimes an arrest warrant is issued after a warrantless arrest. Instances where this occurred would not be captured in our data set, which again was limited to cases where the initial process was a citation or magistrate's order.

We welcome your feedback on how we can further refine this data.

Analysis conducted by the UNC Criminal Justice Innovation Lab: [Website Link](#)
 For any questions, please contact Jessica Smith: [Email](#)

Year-by-Year Comparison of Citations % Growth/Decline

Table Notes

STATEWIDE	86.8%	943,619	87.3%	911,111	87.8%	945,663	1.0%
Minimum	61.7%	357.00	69.5%	432.00	70.9%	434.00	-8.7%
Maximum	97.7%	80,948.00	98.4%	73,844.00	97.4%	71,284.00	15.0%
Number of Counties with Negative Change in Citations							31.00

Color coding is done for each individual year, not across years, as with the previous tabs

Annual changes are calculated by subtracting percentages. For example, to calculate the change from FY16 to FY18, a county's percentage in FY16 is subtracted from its FY18 percentage. This minimizes some of the variability seen in smaller counties.

Region	2016	2016 Total Citations	2017	2017 Total Citations	2018	2018 Total Citations	2016-2018 % Change
ALAMANCE	84.3%	14,183	86.4%	14,647	86.3%	16,044	2.0%
ALEXANDER	79.8%	2,065	82.2%	2,563	81.5%	2,008	1.7%
ALLEGHANY	90.2%	874	89.1%	811	83.1%	996	-7.1%
ANSON	97.7%	4,513	98.4%	5,535	97.4%	5,972	-0.3%
ASHE	91.6%	1,594	87.3%	1,669	82.9%	1,727	-8.7%
AVERY	88.5%	1,720	92.3%	1,991	90.4%	1,715	1.9%
BEAUFORT	87.0%	4,984	87.6%	5,153	88.0%	5,072	1.1%
BERTIE	93.3%	2,117	94.0%	2,130	94.3%	2,426	1.0%
BLADEN	91.5%	6,338	94.8%	7,038	93.7%	5,799	2.2%
BRUNSWICK	83.9%	11,550	85.2%	10,146	84.9%	9,211	0.9%
BUNCOMBE	78.1%	19,436	75.4%	17,017	75.6%	16,427	-2.4%
BURKE	91.1%	8,268	89.1%	7,883	87.7%	7,437	-3.4%
CABARRUS	91.0%	25,121	92.2%	25,888	92.9%	27,534	1.9%
CALDWELL	85.4%	7,558	87.6%	8,870	86.3%	7,763	0.9%
CAMDEN	95.4%	1,174	96.0%	1,366	96.1%	972	0.8%
CARTERET	79.8%	6,255	80.0%	6,046	80.3%	5,594	0.5%
CASWELL	88.7%	1,668	88.9%	1,527	90.5%	1,701	1.8%
CATAWBA	84.6%	16,983	84.5%	14,962	83.7%	13,502	-0.9%
CHATHAM	93.5%	7,047	92.6%	5,529	91.9%	6,664	-1.6%
CHEROKEE	79.2%	2,060	82.8%	2,349	78.9%	2,248	-0.3%
CHOWAN	77.1%	620	76.4%	589	75.2%	434	-1.9%
CLAY	84.4%	879	89.9%	882	91.1%	880	6.7%
CLEVELAND	79.9%	8,084	81.5%	9,365	79.4%	8,311	-0.4%
COLUMBUS	89.4%	7,524	92.3%	8,082	92.6%	8,356	3.2%
CRAVEN	89.8%	10,114	90.4%	9,773	90.0%	9,406	0.3%
CUMBERLAND	87.1%	33,497	87.4%	29,599	88.7%	30,585	1.6%
CURRITUCK	79.1%	2,104	80.4%	2,416	83.4%	2,626	4.3%
DARE	82.0%	5,337	84.4%	5,951	84.0%	5,152	2.0%
DAVIDSON	85.9%	12,635	84.6%	12,228	84.9%	13,149	-1.0%
DAVIE	90.1%	5,010	87.3%	5,337	87.6%	4,553	-2.5%
DUPLIN	89.7%	7,994	90.7%	7,559	89.8%	6,562	0.1%
DURHAM	84.4%	13,958	83.3%	11,165	85.9%	12,628	1.5%
EDGECOMBE	91.4%	6,547	93.0%	6,225	92.5%	7,081	1.0%
FORSYTH	91.1%	48,967	91.2%	46,217	90.5%	41,320	-0.6%
FRANKLIN	89.8%	5,825	89.7%	6,349	89.8%	7,898	0.0%
GASTON	80.6%	21,330	80.8%	21,410	82.3%	24,159	1.8%
GATES	95.0%	1,096	93.7%	873	91.4%	740	-3.6%
GRAHAM	61.7%	511	72.5%	584	76.7%	606	15.0%
GRANVILLE	90.7%	3,596	92.2%	4,355	92.3%	5,193	1.6%
GREENE	90.8%	1,474	92.6%	1,747	92.3%	2,029	1.5%
GUILFORD	83.7%	44,192	83.9%	41,238	85.1%	46,402	1.4%
HALIFAX	82.9%	5,687	84.1%	5,405	85.2%	6,596	2.3%
HARNETT	93.9%	12,527	94.4%	11,423	94.6%	12,897	0.7%
HAYWOOD	75.1%	5,677	77.2%	5,828	79.0%	5,834	3.9%
HENDERSON	85.2%	9,637	86.4%	10,792	84.8%	10,052	-0.4%

Minimum and maximum represent the lowest and highest values for each column/fiscal year

Columns E and F have been hidden and contain similar calculations for FY16 to FY17 and FY17 to FY18

Counties with 10 Highest Citation Rates in FY18	%	Counties with 10 Lowest Citation Rates in FY18	%	10 Counties with Largest Increase in Citation Rate, FY16-18	%	10 Counties with Largest Decrease in Citation Rate, FY16-18	%
Anson	97.4%	Transylvania	70.9%	GRAHAM	15.0%	ASHE	-8.7%
Madison	96.8%	Chowan	75.2%	CLAY	6.7%	ALLEGHANY	-7.1%
Camden	96.1%	Buncombe	75.6%	POLK	6.4%	HYDE	-4.4%
Tyrrell	95.8%	Graham	76.7%	SCOTLAND	5.9%	GATES	-3.6%
Mitchell	95.1%	Cherokee	78.9%	PERSON	5.1%	BURKE	-3.4%
Hoke	94.8%	Haywood	79.0%	CURRITUCK	4.3%	LINCOLN	-3.3%
Harnett	94.6%	Rutherford	79.3%	WATAUGA	4.2%	YADKIN	-3.1%
Bertie	94.3%	Cleveland	79.4%	SWAIN	4.0%	DAVIE	-2.5%
Pasquotank	93.9%	Pamlico	80.2%	HAYWOOD	3.9%	BUNCOMBE	-2.4%
Vance	93.8%	Carteret	80.3%	LENOIR	3.4%	CHOWAN	-1.9%

Region	2016 Total		2017 Total		2018 Total		2016-2018 % Change
	2016	Citations	2017	Citations	2018	Citations	
HERTFORD	84.8%	2,644	86.2%	2,722	86.9%	3,083	2.1%
HOKE	92.7%	3,971	92.9%	3,811	94.8%	3,160	2.0%
HYDE	88.8%	357	79.6%	432	84.4%	518	-4.4%
IREDELL	90.8%	20,344	90.9%	17,938	90.7%	19,357	-0.2%
JACKSON	87.3%	4,841	88.4%	4,335	85.7%	4,370	-1.6%
JOHNSTON	87.4%	18,816	86.4%	19,525	88.6%	22,769	1.3%
JONES	92.6%	1,679	92.0%	1,957	93.7%	2,908	1.0%
LEE	88.4%	6,019	89.1%	5,325	91.5%	6,645	3.1%
LENOIR	87.6%	6,652	90.0%	6,302	91.0%	6,628	3.4%
LINCOLN	85.8%	7,211	85.1%	7,192	82.5%	6,464	-3.3%
MACON	90.2%	3,646	88.3%	3,115	89.4%	3,710	-0.8%
MADISON	97.5%	3,366	97.0%	3,154	96.8%	2,931	-0.7%
MARTIN	89.4%	3,198	90.5%	3,022	91.8%	3,080	2.4%
MCDOWELL	91.9%	4,762	90.1%	5,141	90.7%	5,555	-1.1%
MECKLENBURG	81.1%	77,938	81.2%	68,712	82.0%	67,624	0.9%
MITCHELL	95.3%	1,081	92.4%	985	95.1%	1,287	-0.3%
MONTGOMERY	90.3%	4,831	90.5%	4,531	92.1%	4,728	1.8%
MOORE	90.7%	9,229	91.7%	9,708	91.9%	10,359	1.2%
NASH	91.9%	11,374	92.4%	11,409	92.3%	11,524	0.4%
NEW HANOVER	84.8%	19,775	84.6%	19,291	85.4%	20,646	0.7%
NORTHAMPTON	87.4%	1,175	86.3%	1,033	88.8%	1,248	1.5%
ONslow	81.3%	12,416	82.7%	12,759	84.7%	14,025	3.4%
ORANGE	91.8%	14,697	92.1%	13,776	92.4%	14,892	0.5%
PAMLICO	81.7%	1,159	83.7%	1,016	80.2%	995	-1.5%
PASQUOTANK	93.1%	3,162	92.4%	2,372	93.9%	2,728	0.9%
PENDER	83.5%	4,338	85.3%	4,899	85.9%	4,888	2.4%
PERQUIMANS	89.3%	1,425	89.1%	1,647	90.5%	1,387	1.2%
PERSON	82.5%	3,172	87.7%	3,877	87.6%	3,952	5.1%
PITT	84.6%	15,989	87.6%	15,630	87.5%	15,907	2.9%
POLK	84.0%	2,164	88.1%	3,036	90.4%	3,594	6.4%
RANDOLPH	89.6%	14,091	91.5%	18,182	91.3%	18,964	1.6%
RICHMOND	90.0%	4,910	92.2%	5,999	91.5%	6,857	1.5%
ROBESON	91.7%	17,943	92.0%	15,870	93.4%	19,915	1.7%
ROCKINGHAM	90.4%	8,421	90.6%	8,129	91.7%	9,257	1.3%
ROWAN	89.3%	17,520	88.2%	13,137	90.7%	15,567	1.4%
RUTHERFORD	80.7%	4,955	80.4%	5,004	79.3%	4,797	-1.4%
SAMPSON	91.7%	6,170	91.5%	6,173	90.7%	8,727	-1.1%
SCOTLAND	87.0%	3,238	90.0%	3,535	92.9%	4,483	5.9%
STANLY	92.0%	9,225	92.9%	8,567	93.1%	9,584	1.2%
STOKES	83.9%	3,432	84.1%	3,731	82.8%	3,564	-1.1%
SURRY	88.4%	7,648	88.4%	7,988	87.4%	7,218	-0.9%
SWAIN	86.3%	1,900	87.0%	1,780	90.4%	2,439	4.0%
TRANSYLVANIA	71.7%	2,057	69.5%	2,028	70.9%	2,124	-0.8%
TYRRELL	95.5%	1,457	97.1%	1,942	95.8%	2,496	0.3%
UNION	89.6%	19,106	90.4%	18,708	90.4%	19,947	0.8%
VANCE	92.6%	6,574	91.9%	6,339	93.8%	8,803	1.3%
WAKE	88.1%	80,948	89.3%	73,844	89.1%	71,284	1.0%
WARREN	90.6%	1,936	88.4%	1,680	89.7%	1,493	-1.0%
WASHINGTON	88.8%	1,122	91.6%	1,678	91.4%	2,214	2.7%
WATAUGA	83.7%	4,361	88.2%	5,223	88.0%	5,397	4.2%
WAYNE	88.2%	14,478	88.7%	14,083	89.6%	13,192	1.4%
WILKES	91.4%	8,124	91.0%	8,593	91.7%	8,920	0.3%
WILSON	89.2%	7,504	89.7%	7,077	91.5%	8,091	2.3%
YADKIN	86.9%	3,267	85.0%	3,257	83.8%	3,471	-3.1%
YANCEY	88.9%	1,471	89.9%	1,400	92.2%	1,636	3.3%

Use of Summons v. Arrest in North Carolina Misdemeanor Cases: A County-Level Analysis

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Under state law, pretrial conditions must be set after a defendant is arrested for a crime, and this typically occurs at the initial appearance before a magistrate. G.S. 15A-511. Although state statutes express a preference for non-financial conditions (written promise to appear, custody release, and unsecured bond), G.S. 15A-534(b), secured bonds are the most commonly imposed pretrial condition in North Carolina. See Jessica Smith, [How Big a Role Does Money Play in North Carolina's Bail System](#) (July 2019). Much has been written about the problems of using money to detain pretrial, including the unfairness of incarcerating people not because they are risky but because they are poor. Thus, in discussions about procedural reform, there is interest in making sure that law enforcement and court officials only execute or order arrests in cases where arrest is in fact required. If, in low-level cases for example, the officer opts for a citation instead of a warrantless arrest or the magistrate opts for a summons instead of an arrest warrant, the defendant simply is directed to appear in court to answer the charges. Since the defendant is not taken into custody, there is no initial appearance or setting of conditions, which again, skew towards secured bonds and create the potential for wealth-based detentions and other negative consequences. This explains why stakeholders are looking at citation and summons in lieu of arrest policies, either as stand-alone reforms or as part of broader bail reform efforts. As stakeholders explore these matters, they are asking questions about the prevalence of citation and summons use in their communities. In a paper [here](#), we present data regarding citation usage in North Carolina. In this paper, we focus on usage of the criminal summons.

Working with court system data we compiled a statewide and county-level analysis of the prevalence of summons use in North Carolina. Because we knew that a misdemeanor charge with an associated felony was more likely to result in arrest, we limited our data to cases where the highest charge was a misdemeanor. Specifically, we examined North Carolina Administrative Office of the Courts (NC AOC) data on initial process type. For this analysis, we were interested in the percentage of highest charge misdemeanor cases where the magistrate issued a summons opposed to an arrest warrant. Because we wanted to see any trends in the data, we did all this for three years, 2016-2018.

A spreadsheet of our results is available [here](#). Looking just at 2018, the statewide percentage of misdemeanor cases initiated by a summons (as opposed to an arrest warrant) is 32.9%, showing that statewide the summons is used in only a minority of misdemeanor cases. This is interesting given that the statutes seem to contemplate limited use of warrants and a number of bond policies encourage use of summons in lieu of arrest. As to the statutes, G.S. 15A-304(b)(1) provides that a warrant for arrest may be issued, instead of a criminal summons “when it appears . . . that the person . . . should be taken into custody.” Circumstances to be considered in the determination of whether custody is required “include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.” *Id.*

Data note: Because we were focused on the decision to initiate misdemeanor charges by summons versus an arrest warrant, the universe of cases we examined includes only cases initiated by summons or warrant. The reported percentage shows how often officials opted for a summons versus a warrant at this decision point, not how often a summons was the initiating charging instrument for all initiated cases (a larger universe which includes e.g., those initiated by indictment, citation, etc).

The statute further provides that in citizen-initiated cases, the official “shall not issue a warrant for

arrest and instead *shall* issue a criminal summons” unless the official finds that certain circumstances exist. G.S. 15A-304(b)(3) (emphasis added). As to the bond policies, our review indicates that fourteen local bond policies encourage the use of summons instead of warrants in appropriate cases. *See, e.g.,* Rules Relating to Bail and Pretrial Release for Judicial District 16B (June 2001) (“Clerks and magistrates are encouraged to use a criminal summons instead of warrants for arrest in appropriate misdemeanor and felony cases. G.S. §15A-303.”). In light of these statutory and local bond policy provisions, it was surprising to find that the summons is used in only a minority of misdemeanor cases.

Getting back to the numbers, the statewide average of misdemeanor cases initiated by summons—32.9%—masks considerable variability in the use of summons in North Carolina. At the high end is Greene County, where 60.9% of misdemeanor cases were initiated by summons. At the low end is Yancey County, where only 8.7% of cases were initiated by summons. Figure 1 shows a list of counties with the ten highest summons rates in 2018. Note that only eight counties issue summons in the majority of misdemeanor cases; in the remaining 92 counties, the arrest warrant is used in most misdemeanor cases. Figure 2 shows a list of counties with the ten lowest summons rates in 2018.

Figure 1

Counties with 10 Highest Summons Rates FY18	%
GREENE	60.9%
CUMBERLAND	60.0%
ALLEGHANY	59.1%
GRANVILLE	53.5%
CALDWELL	53.4%
ALEXANDER	52.4%
DAVIDSON	52.2%
LEE	51.2%
HAYWOOD	47.0%
LENOIR	46.8%

Figure 2

Counties with 10 Lowest Summons Rates FY18	%
YANCEY	8.7%
MADISON	9.2%
ONSLow	11.6%
WASHINGTON	13.8%
ANSON	15.1%
HENDERSON	15.1%
NORTHAMPTON	15.5%
WATAUGA	15.9%
AVERY	16.2%
PASQUOTANK	16.7%

We also were interested to see whether any of the counties showed significant changes in the percentage of cases initiated by summons. Figure 3 shows the ten counties with the largest percentage point increases in summons rates; Figure 4 shows the ten counties with the largest decreases.

Figure 3

10 Counties with Largest Increase in Summons Rate, FY16-18	%
CALDWELL	24.5%
BERTIE	22.1%
HERTFORD	22.0%
COLUMBUS	21.9%
RICHMOND	21.0%
STANLY	21.0%
BLADEN	20.3%
VANCE	19.3%
ROBESON	19.3%
TYRRELL	19.1%

Figure 4

10 Counties with Largest Decrease in Summons Rate, FY16-18	%
HYDE	-14.5%
GATES	-9.9%
WASHINGTON	-9.0%
MACON	-8.9%
MONTGOMERY	-7.5%
MCDOWELL	-7.5%
AVERY	-7.2%
CHOWAN	-4.0%
WARREN	-2.8%
JACKSON	-2.2%

Looking to better understand local summons usage, we compared our results to NC State Bureau of Investigation violent crime rates and to whether or not the Local Bail Policy supported summons in lieu of arrest for minor offenses. We found no obvious relationships to either of those benchmarks. In further research we hope to connect with court officials to learn what is driving local practices.

As with our paper on prevalence of citation use in North Carolina, we are not making any judgment here. There may be very good reasons why judicial officials in any given county use criminal summons in a smaller percentage of misdemeanor charges. For example if the majority of misdemeanor charges in a jurisdiction involve violence or firearms, we would not be surprised to see a lower rate of summons usage, as many believe these scenarios present a greater public safety risk. The purpose of this paper simply is to document the prevalence of summons use in North Carolina and give jurisdictions a baseline against which to evaluate their systems.

We end with three notes about the data. First, although we sought to limit our analysis to cases where the highest charge was a misdemeanor, our efforts may have been imperfect. We worked off of a NC AOC data set showing the initial process type issued for highest charge misdemeanor cases. When multiple charges are associated in a single case number, the system can limit the data set to highest charge misdemeanor cases. We understand, however, that in some counties multiple charges are not associated with the same case number. When this happens, the system cannot separate misdemeanor charges from associated felony charges because they are not linked through a common case number. Thus, some of the misdemeanor charges in our sample may have been associated with a felony. (To the extent this occurred we hypothesize that it would suppress summons rates.) Second, we sought to examine first process type (i.e. the process that initiated the case) and we understand that for the most part the data we received reflects that. However, we also understand that in some cases the clerk may have updated the relevant field to reflect a later process, such as a statement of charges. If that occurs, original charge information is overwritten and the charge would not be captured in our analysis (which looked only at highest charge misdemeanor cases where the initial process was a summons or arrest warrant). Finally, although a magistrate's order is the proper process when an officer makes a warrantless arrest, we know that sometimes an arrest warrant is issued after a warrantless arrest. Instances where this occurred would be tracked as an arrest warrant issued by a magistrate (inflating those numbers), even though the initial decision to arrest was made by an officer.

We welcome your feedback on how we can further refine this data.

Year-by-Year Comparison of % Summons Growth/Decline

Table Notes

STATEWIDE	24.0%	35,813	23.7%	33,853	32.9%	44,403	8.9%
Minimum	2.8%	11	5.3%	7	8.7%	13	-14.5%
Maximum	#####	3,303	#####	2,907	#####	3,860	24.5%
Number of Counties with Negative Change in Summons							17.00

Color coding is done for each individual year, not across years, as with the previous tabs

Annual changes are calculated by subtracting percentages. For example, to calculate the change from FY16 to FY18, a county's percentage in FY16 is subtracted from its FY18 percentage. This minimizes some of the variability seen in smaller counties.

Region	2016 Total		2017 Total		2018 Total		2016-2018 % Change
	2016	Summons	2017	Summons	2018	Summons	
ALAMANCE	27.5%	575	29.3%	593	31.8%	668	4.3%
ALEXANDER	38.0%	243	48.1%	296	52.4%	258	14.5%
ALLEGHANY	53.9%	89	56.3%	85	59.1%	110	5.2%
ANSON	3.3%	34	5.8%	57	15.1%	130	11.7%
ASHE	22.1%	113	16.4%	92	30.6%	170	8.5%
AVERY	23.4%	51	18.4%	53	16.2%	34	-7.2%
BEAUFORT	22.1%	191	24.4%	194	32.5%	246	10.5%
BERTIE	6.8%	26	9.0%	28	28.9%	86	22.1%
BLADEN	17.8%	159	17.2%	107	38.1%	241	20.3%
BRUNSWICK	25.7%	539	23.2%	438	40.3%	681	14.5%
BUNCOMBE	9.0%	368	9.4%	363	21.2%	751	12.2%
BURKE	20.5%	454	18.4%	402	19.9%	365	-0.6%
CABARRUS	34.3%	598	38.3%	606	42.9%	712	8.6%
CALDWELL	28.8%	516	31.9%	622	53.4%	998	24.5%
CAMDEN	13.4%	13	15.9%	14	30.9%	30	17.5%
CARTERET	12.8%	175	14.4%	180	29.7%	283	16.8%
CASWELL	22.5%	51	29.4%	64	33.8%	90	11.4%
CATAWBA	27.7%	768	22.7%	620	35.0%	894	7.3%
CHATHAM	32.7%	175	27.8%	174	38.0%	229	5.3%
CHEROKEE	9.6%	47	5.3%	24	19.2%	89	9.6%
CHOWAN	30.8%	76	20.3%	44	26.8%	48	-4.0%
CLAY	19.1%	21	40.5%	51	35.0%	48	15.9%
CLEVELAND	26.4%	497	21.8%	383	26.9%	454	0.5%
COLUMBUS	14.9%	232	21.0%	297	36.8%	435	21.9%
CRAVEN	20.5%	289	20.5%	277	35.2%	482	14.7%
CUMBERLAND	58.6%	3,303	54.7%	2,907	60.0%	3,268	1.3%
CURRITUCK	36.4%	107	39.0%	128	45.0%	108	8.6%
DARE	25.0%	79	30.6%	110	38.8%	138	13.8%
DAVIDSON	42.0%	1,093	43.7%	1,151	52.2%	1,160	10.2%
DAVIE	19.1%	93	18.4%	102	23.3%	130	4.2%
DUPLIN	28.9%	258	28.4%	243	31.3%	246	2.5%
DURHAM	23.0%	702	26.0%	760	25.7%	680	2.7%
EDGECOMBE	15.0%	234	12.6%	199	26.2%	332	11.2%
FORSYTH	29.7%	915	24.0%	816	28.7%	895	-1.0%
FRANKLIN	29.6%	265	22.7%	180	30.0%	211	0.4%
GASTON	22.4%	939	20.9%	895	34.7%	1,310	12.3%
GATES	41.7%	70	29.5%	44	31.7%	53	-9.9%
GRAHAM	11.9%	21	21.6%	35	24.7%	48	12.8%
GRANVILLE	36.5%	353	36.4%	317	53.5%	478	17.0%
GREENE	56.9%	194	48.6%	154	60.9%	185	4.0%
GUILFORD	13.6%	1,042	14.5%	1,082	26.2%	1,987	12.6%
HALIFAX	13.5%	235	19.8%	331	17.5%	271	4.0%
HARNETT	17.4%	492	17.3%	406	22.1%	486	4.7%
HAYWOOD	37.5%	557	40.0%	567	47.0%	569	9.5%

Minimum and maximum represent the lowest and highest values for each column

Columns E and F have been hidden and contain similar calculations for FY16 to FY17 and FY17 to FY18

Counties with 10 Highest Summons Rates in FY18	%	Counties with 10 Lowest Summons Rates in FY18	%	10 Counties with Largest Increase in Summons Rate, FY16-18	%	10 Counties with Largest Decrease in Summons Rate, FY16-18	%
GREENE	60.9%	YANCEY	8.7%	CALDWELL	24.5%	HYDE	-14.5%
CUMBERLAND	60.0%	MADISON	9.2%	BERTIE	22.1%	GATES	-9.9%
ALLEGHANY	59.1%	ONSLow	11.6%	HERTFORD	22.0%	WASHINGTON	-9.0%
GRANVILLE	53.5%	WASHINGTON	13.8%	COLUMBUS	21.9%	MACON	-8.9%
CALDWELL	53.4%	ANSON	15.1%	RICHMOND	21.0%	MONTGOMERY	-7.5%
ALEXANDER	52.4%	HENDERSON	15.1%	STANLY	21.0%	MCDOWELL	-7.5%
DAVIDSON	52.2%	NORTHAMPTON	15.5%	BLADEN	20.3%	AVERY	-7.2%
LEE	51.2%	WATAUGA	15.9%	VANCE	19.3%	CHOWAN	-4.0%
HAYWOOD	47.0%	AVERY	16.2%	ROBESON	19.3%	WARREN	-2.8%
LENOIR	46.8%	PASQUOTANK	16.7%	TYRRELL	19.1%	JACKSON	-2.2%

Region	2016 Total		2017 Total		2018 Total		2016-2018 % Change
	2016	Summons	2017	Summons	2018	Summons	
HENDERSON	9.4%	159	7.0%	124	15.1%	234	5.8%
HERTFORD	22.9%	109	24.3%	123	44.9%	223	22.0%
HOKE	20.5%	237	15.3%	152	29.3%	275	8.8%
HYDE	33.9%	19	44.6%	29	19.4%	13	-14.5%
IREDELL	29.8%	620	24.9%	510	35.3%	673	5.6%
JACKSON	25.3%	136	19.6%	101	23.1%	116	-2.2%
JOHNSTON	19.6%	424	20.0%	431	25.3%	522	5.7%
JONES	22.4%	28	24.8%	31	27.1%	46	4.7%
LEE	33.7%	413	35.7%	389	51.2%	456	17.5%
LENOIR	35.1%	372	38.8%	337	46.8%	411	11.7%
LINCOLN	14.4%	213	17.9%	245	32.4%	424	18.0%
MACON	31.0%	150	24.3%	114	22.1%	136	-8.9%
MADISON	9.7%	43	10.8%	52	9.2%	42	-0.6%
MARTIN	34.9%	181	35.9%	141	40.9%	201	6.0%
MCDOWELL	43.1%	324	41.9%	354	35.6%	244	-7.5%
MECKLENBURG	23.3%	2,761	22.1%	2,674	33.0%	3,860	9.7%
MITCHELL	9.6%	26	14.1%	39	22.4%	48	12.8%
MONTGOMERY	47.4%	231	49.1%	234	40.0%	201	-7.5%
MOORE	24.8%	307	24.4%	270	33.1%	340	8.3%
NASH	16.6%	375	13.6%	280	26.4%	482	9.8%
NEW HANOVER	30.7%	861	29.7%	887	37.4%	984	6.7%
NORTHAMPTON	2.8%	14	11.6%	58	15.5%	51	12.7%
ONSLOW	10.6%	245	10.8%	218	11.6%	232	1.0%
ORANGE	16.1%	150	18.2%	169	31.8%	254	15.7%
PAMLICO	28.8%	57	22.0%	44	26.8%	51	-1.9%
PASQUOTANK	9.5%	117	11.4%	136	16.7%	201	7.2%
PENDER	16.0%	116	13.3%	106	30.8%	240	14.7%
PERQUIMANS	21.6%	41	14.6%	30	34.7%	59	13.1%
PERSON	22.8%	202	24.2%	200	33.6%	195	10.7%
PITT	17.8%	466	17.2%	420	25.2%	585	7.5%
POLK	29.3%	51	24.6%	56	32.6%	70	3.2%
RANDOLPH	40.6%	891	38.2%	765	46.4%	935	5.8%
RICHMOND	16.5%	221	20.4%	279	37.6%	488	21.0%
ROBESON	21.6%	982	21.3%	929	40.9%	1,607	19.3%
ROCKINGHAM	20.7%	388	18.3%	303	28.6%	396	7.9%
ROWAN	20.9%	396	18.1%	306	25.7%	434	4.9%
RUTHERFORD	18.5%	240	20.9%	256	31.9%	394	13.4%
SAMPSON	17.5%	315	17.3%	276	29.0%	387	11.4%
SCOTLAND	19.7%	371	17.5%	316	35.5%	595	15.8%
STANLY	21.6%	191	30.4%	284	42.5%	382	21.0%
STOKES	33.3%	224	28.7%	225	35.4%	242	2.0%
SURRY	27.9%	550	28.7%	460	32.3%	534	4.4%
SWAIN	26.5%	48	35.1%	33	37.8%	45	11.3%
TRANSYLVANIA	18.7%	155	17.5%	143	18.0%	169	-0.8%
TYRRELL	13.3%	11	9.5%	7	32.4%	22	19.1%
UNION	33.0%	492	34.9%	527	44.4%	665	11.4%
VANCE	15.3%	331	19.9%	381	34.7%	657	19.3%
WAKE	24.2%	1,425	23.9%	1,185	24.0%	1,117	-0.2%
WARREN	35.9%	85	30.0%	76	33.1%	89	-2.8%
WASHINGTON	22.8%	60	15.3%	32	13.8%	38	-9.0%
WATAUGA	14.7%	69	14.4%	72	15.9%	79	1.2%
WAYNE	20.5%	477	16.1%	354	34.3%	746	13.8%
WILKES	39.3%	543	33.4%	471	43.0%	576	3.7%
WILSON	25.1%	493	32.6%	585	34.5%	622	9.4%
YADKIN	23.9%	130	24.6%	113	40.3%	211	16.4%
YANCEY	9.3%	25	12.5%	30	8.7%	17	-0.6%

**What Risk Assessment Validation Tells Us about Pretrial Failures:
They're Lower than We Think**

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Suppose I told you that we could categorize defendants into six categories for risk of failure to appear (FTA) in court as required, with 1 being the lowest risk category and 6 being the highest. What is your guess as to the percentage of defendants who appear in court as required at risk level 1? At risk level 6? When I ask this question of North Carolina stakeholders, most guess that the percentage of defendants who appear in court at risk level 1 is about 50% and that the percentage who appear at risk level 6 is about 20%. They are wrong. Risk assessment validation done in North Carolina shows that 87.4% of risk level 1 defendants appear in court as required and that 61.2% of risk level 6 defendants do so. In fact, that validation shows that at all risk levels, a majority of defendants appear in court as required.

Suppose I also told you that we could categorize defendants into six risk categories for risk of new criminal activity during the pretrial period, with 1 being the lowest risk category and 6 being the highest. What is your guess as to the percentage of defendants who engage in new criminal activity risk level 1? At the other risk levels? Stakeholders' guesses on these questions vary, but they always are surprised to learn the facts. Risk assessment validation done in North Carolina shows that 90.9% of defendants categorized at risk level 1 have no new criminal activity during the pretrial period. In fact, even at risk levels 2 through 5, the majority of defendants have no new criminal activity during the pretrial period. Only at the very highest risk level—risk level 6—do we see a minority of defendants (46.4%) being successful as to this pretrial metric.

There is an ongoing national debate about whether or not it is appropriate to use empirical risk assessment tools in pretrial decision-making. As discussed in this [primer](#), pretrial empirical risk assessment tools use factors (things like the defendant's criminal history and the nature of the current charge) to estimate the likelihood that a defendant will appear in court as required and pick up no new arrests during the pretrial period. One empirical risk assessment tool used in dozens of jurisdictions nationwide is the Public Safety Assessment (PSA). That tool uses nine factors from a defendant's history to produce two risk scores: one representing the likelihood of a new crime being committed and another representing the likelihood of a FTA. The PSA also indicates if the defendant has an elevated risk of a new violent criminal activity. Mecklenburg County, NC is one jurisdiction that uses the PSA. Mecklenburg uses PSA risk scores in connection with a county-developed decision-making framework (DMF) that provides a pretrial release recommendation. Under the DMF, release conditions become more restrictive as PSA risk levels go up. Importantly, Mecklenburg has validated the PSA for local populations. When a jurisdiction adopts an empirical risk assessment tool it does a validation to ensure that the tool is sufficiently predictive. Among other things, the validation looks at pretrial failures for defendants in various risk categories. For a tool that's functioning well, you'd expect to see higher failures at higher risk levels. One thing frequently lost in the national debate about empirical risk assessment tools is what validation reports of the tools teach us about pretrial failures. Specifically, that stakeholders typically overestimate the rate of pretrial failures. Consider the PSA validation done in Mecklenburg County. See Public Safety Assessment (PSA) Validation in Mecklenburg County, NC (on file with author) [hereinafter Mecklenburg PSA Validation]. As shown in Table 1, below, that validation shows that the majority of defendants appear in court as required at *all* risk levels.

Table 1. Mecklenburg County: Percentage of Defendants Who Appear in Court, By Risk Level

Risk Level	Percentage Who Appear for Court
1	87.4%
2	85.4%
3	83.8%
4	74.4%
5	66.2%
6	61.2%

Source: Mecklenburg PSA Validation at p.2.

Table 2 shows the percentage of defendants who have no new criminal activity during the pretrial period, again by risk level.

Table 2. Mecklenburg County: Percentage of Defendants Who Have No New Criminal Activity, By Risk Level

Risk Level	Percentage With No New Criminal Activity
1	90.9%
2	80.1%
3	70.7%
4	62.7%
5	54.3%
6	46.4%

Source: Mecklenburg PSA Validation at p.5.

The results from the Mecklenburg validation are not an anomaly. A validation in Kentucky—that whole state uses the PSA—shows even higher pretrial success rates, with the majority of all defendants at each risk level having no failures either with respect to court appearance or new criminal activity. See Matthew DeMichele et al., *The Public Safety Assessment: A Re-Validation and Assessment of Predictive Utility and Differential Prediction by Race and Gender in Kentucky* 24, 28 (April 30, 2018) (Working Paper), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3168452.

I'm not suggesting that the percentages of defendants who succeed pretrial in Mecklenburg holds true throughout the state. In fact there may be good reasons why other counties could see higher or lower success rates. As far as I know, however, Mecklenburg is the only county that has done such a validation; thus, it's the only North Carolina data we have on the issue. And I think it's important. Why? First, regardless of how you feel about empirical risk assessment tools and their ability to calculate risk levels, the validation studies produce pretrial failure rates for all released defendants. In the Kentucky study (sample size 164,597), the base FTA rate for all released defendants was 14.8%, the base new criminal activity rate was 10.6% and the base new violent criminal activity rate was 1.1%. *Id.* at 21. In the Mecklenburg validation (sample size 12,082) those numbers are 21.5%, 34.8%, and 9.8% respectively. See Mecklenburg PSA Validation at 2, 5, 8. These data show that the majority of those released pretrial had no pretrial failures. Second, when people dramatically overestimate pretrial failures, they may view the notion of pretrial reform through a warped lens. For example, if you incorrectly believe that the majority of low risk people released pretrial FTA and commit new crimes (facts the Mecklenburg and

Kentucky validations disprove), you may be unwilling to support a system change that encourages greater release of such individuals. On the other hand, if you understand that the vast majority of the lowest risk defendants commit no new crimes pretrial and appear in court as required (90.9% and 87.4% respectively per the Mecklenburg validation), you'll likely be willing to work on reforms to get those defendants out of pretrial incarceration, especially given the high cost of those pretrial detentions in terms of public safety and taxpayer resources (for detail on that last point, see my blog post [here](#)). And finally, knowing pretrial success rates can help jurisdictions figure out how to most effectively deploy limited pretrial support and supervision services. For example, if decision makers know that 90.9% of risk level 1 defendants commit no new criminal activity while on release, they might decide not to expend pretrial supervision resources on that population but rather to deploy resources to individuals who present a higher pretrial risk (a decision that also would be supported by the research on pretrial supervision effectiveness).

Research on the Effectiveness of Pretrial Electronic Monitoring

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Since becoming commercially available in 1984, electronic monitoring (EM) has been used as a condition of pretrial release both in federal and state systems. However, few studies have examined the effect of EM on pretrial outcomes, such as failure to appear (FTA), re-arrest for a new crime while on release, or technical violations, such as curfew violations, unauthorized absences, or tampering with EM equipment (Coopridner & Kerby, 1990, p. 32). This paper discusses the origins and history of EM and the literature concerning its effects on these outcomes.

This paper does not address EM imposed after conviction. Research has found that individuals subject to EM behave differently in pre and post-trial settings. Researchers believe this may be attributable to defendants in a pretrial setting believing they can avoid consequences by failing to appear. Meanwhile, those under post-trial EM may see completing the program and moving out of the system as a benefit, which makes them less likely to fail (Baumer, Maxfield, & Mendelsohn, 1993, pp. 135-136). For this reason, this paper focuses on pretrial EM, which is the approach of the four papers discussed below (Cadigan, 1991; Coopridner & Kerby, 1990; Sainju et al., 2018; Wolff, Dozier, Muller, Mowry, & Hutchinson, 2017).

A Short History of Pretrial EM

EM technology first became commercially available in 1984 (Baumer et al., 1993, pp. 121-122) when the 1984 Bail Reform Act was passed and federal courts were showing a greater willingness to order states to resolve jail overcrowding (Baumer et al., 1993, p. 123; Cole & Call, 1992, pp. 29, 35-36; Wolff et al., 2017, p. 8). Alongside a growing desire to alleviate some of the negative consequences of pretrial detention, this environment led to the operation of EM programs in all states by 1990¹ (Baumer et al., 1993, p. 121).

Early uses of pretrial EM were limited by radio frequency (RF) technology, which is restricted to alerting an officer when an individual leaves a preset area, deviates from an approved schedule, or tampers with the equipment (Wolff et al., 2017, pp. 8-9). In later years, GPS emerged as another EM option. GPS can continuously track defendants, has greater programming flexibility, and can track defendants over a much larger area than RF (Gur, Ibarra, & Erez, 2016, pp. 34-35). A 2003 survey of state and federal pretrial services programs found that 54% use at least one form of electronic monitoring (Clark & Henry, 2003, p. viii). Similarly, a 2009 survey of 171 state and local jurisdictions found that nearly half reported having the capability to use GPS for pretrial monitoring, and 64% reported being able to supervise home confinement with EM (Pretrial Justice Institute, 2009, p. 36).

Early Studies of Pretrial EM

¹ Usage of EM continues to vary significantly both between states and between state and federal systems.

Early EM research is limited to two studies. Coopriider and Kerby (1990) examined whether pretrial EM had an effect on FTA rates, rearrests, and technical violations in Lake County, IL. After comparing 334 non-EM defendants to 219 EM defendants, they found that those with EM were more likely to fail their supervision than those released without EM. However, this was primarily due to an increase in technical violations (7.76% vs. 1.20%), which was expected given that the use of EM creates more opportunity for such violations (tampering with equipment). The study found that differences in FTA rates (6.89% vs. 6.85%) were negligible and EM defendants were rearrested less often than non-EM defendants (3.65% vs. 4.79%). Notably, over 95% of defendants in both groups were not rearrested pretrial. The study also did not report on the nature of rearrests for either group, e.g., violent offenses versus non-violent ones. The overall high success rate for all defendants and the small improvement offered by EM (1.14%) with respect to rearrest rate may be read by some as undermining its potential value given implementation costs.

Cadigan's (1991) study also focused on FTA and rearrest rates, though his study did not include technical violations and instead compared outcomes for 168 EM federal defendants in 17 districts to their non-EM counterparts. Contrary to Coopriider and Kerby's findings, Cadigan found that EM defendants were more likely to have a FTA (5.4% vs. 3.0%) or rearrest (3.6% vs. 2.1% for felonies and 2.4% vs. 1.0% for misdemeanors) than non-EM defendants in the same district (Cadigan, 1991, pp. 29-30). As in Coopriider and Kerby's study, overall success rates in this study, both for court appearance and no rearrest were very high for both groups—94+% for both metrics for both EM and non-EM defendants. However, this study shows that EM defendants had worse pretrial success rates, as measured against both FTA and rearrest, though observed differences were small.

These findings should be interpreted with caution. When comparing the EM and non-EM groups, neither study adjusted for the severity of charges, criminal backgrounds, or any other factors that might influence pretrial outcomes. Both studies noted that there were significant differences between the two populations that had not been factored into the analysis (Cadigan, 1991, p. 30; Coopriider & Kerby, 1990, p. 33), and neither study explored whether their findings were statistically significant, which limits the significance of their findings. The contradictory findings of early studies, alongside these design limitations, suggest that there is little definitive evidence concerning the effects of pretrial EM from the early years of its implementation.

Recent Studies of Pretrial EM

Recognizing the limitations of earlier studies, two² recent studies sought to account for confounding factors between EM and non-EM defendants. In the first, researchers compared 310 EM defendants to 310 non-EM defendants in the Federal District of New Jersey. By controlling for demographic factors (age, sex, and race), PTRR risk assessment category, offense type, supervision length, and additional conditions of release, the researchers were able to better compare similar released individuals who either received EM conditions or did not. The researchers found that EM defendants were no more or less likely to have a FTA (both 3.2%) and

² Grommon, Rydberg, and Carter's (2017) study was not included, as it focused narrowly on domestic violence cases and did not disclose the jurisdiction where the study was conducted.

were less likely to be rearrested (6.8% vs. 10.6%). They were also more likely to commit a technical violation (44.8% vs. 32.6%) and less likely (27.7% vs. 44.8%) to commit a technical violation unrelated to the EM than non-EM defendants, though these findings were not statistically significant (Wolff et al., 2017, p. 12). The authors added that the record of technical violations did not distinguish which penalties led to remand, which limits our understanding of the technical violation findings. Notably this study also finds that the vast majority of defendants successfully complete pretrial without a FTA or rearrest regardless of whether or not EM is used as an intervention. Here, 97% of defendants—regardless of whether or not they had EM—had no FTA. Although 93% of defendants on EM had no rearrest, the vast majority of non-EM defendants (89%) also had no new charges during the pretrial period.

Using the same methodology (with two differences), Sainju et al. (2018) examined EM defendants at the county level in Santa Clara County, CA. Sainju et al. did not include a risk assessment tool, instead using FTAs, arrests, and incarcerations (Sainju et al., 2018, p. 6). In addition, all technical violations in their analysis resulted in the revocation of supervised release. Their analysis of 208 EM defendants and 208 non-EM defendants found that EM defendants were more likely to commit technical violations (16.82% vs. 4.32%) but were far less likely to have a FTA (8.17% vs. 22.59%) than those defendants who were not electronically monitored (Sainju et al., 2018). While the authors did find that EM defendants were slightly more likely to be rearrested (4.80% vs. 4.32%), this finding was not statistically significant. Although this study shows a significant positive impact of EM on FTA, again, the vast majority of EM and non-EM defendants (95+% of both groups) had no rearrest, and a majority of both groups had no FTAs.

The findings of these studies present a mixed picture. In the federal analysis, use of EM was associated with a decline in rearrests and no change in FTAs, whereas the Santa Clara analysis found EM was associated with a decline in FTAs and no change in rearrests. Both studies found EM defendants were more likely to commit technical violations, though federal EM defendants were less likely to commit these violations when violations associated with the technology (tampering) were removed. In addition, neither study examined how EM systems and processes contributed to these results, and it is not clear how the lack of a risk assessment tool in Sainju et al.'s study or the difference in what was considered a technical violation affected the final results.

Nonetheless, there is some indication between these two studies that the use of EM can have an effect upon pretrial outcomes. In each case, the use of EM was associated with a decrease in either FTA or rearrest rates, though this appears to come with the tradeoff increased technical violations. Furthermore, neither FTA nor rearrest rates increased with the use of EM in each study. Without knowing what elements of the federal or local court systems contributed to these results, it is impossible to generalize these findings to other jurisdictions. Future studies will need to examine what specific components of federal, state, and local programs contribute to these pretrial outcomes. And finally, all of the studies showed that the vast majority of defendants succeed pretrial with respect to court appearance and new criminal activity, and only the Santa Clara study found benefits of EM as to any metric to exceed 5% (8.17% versus 22.59%, there for FTAs). EM, whether using RF or GPS equipment, requires significant costs, including both the

monitoring and fitting of equipment and the staff required to implement the programs. To date, there has been little examination of these costs for either defendants or the court system. The fact that the vast majority of defendants succeed with respect to FTAs and rearrests may thus factor into a jurisdiction's cost benefit analysis with respect to implementing or continuing EM.

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