

Pretrial Release Reform in District 30B

Professor Jessica Smith

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Senior Resident Superior Court Judge District 30B

The “Basket” of 6 Reforms

- Citation in lieu of arrest
- Replacing the “Bond Table” with a more nuanced Bail Flowchart
- First appearances for all in-custody Defendants
- Pilot project with NC IDS for contract “first appearance counsel”
- New detention bond hearings
- Summons in Lieu of Arrest

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Pretrial Release Policy

- G.S. 15A-535 requires that every district have a bond policy
- The Senior Resident is required to enact this bond policy
- The policies are all quite similar
- Most policies include a bond schedule:
 - *i.e.* an offense class that is assigned a pre-set dollar amount

STATE OF NORTH CAROLINA
JUDICIAL DISTRICTS THIRTY-A AND THIRTY-B
CHEROKEE, CLAY, GRAHAM, HAYWOOD,
JACKSON, MACON and SWAIN COUNTIES

IN THE MATTER OF PROMULGATING
LOCAL RULES RELATING TO BAIL
AND PRETRIAL RELEASE FOR
JUDICIAL DISTRICTS 30-A AND 30-B

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
DISTRICT COURT DIVISION


ORDER


Pursuant to the authority granted by Article 26 of Chapter 15A of the North Carolina General Statutes, and specifically the requirement in said Article that the Senior Resident Superior Court Judge issue recommended policies on bail, and the specified, implied and inherent powers of our respective offices, the undersigned, acting separately and collectively, do hereby approve and enter this order.

IT IS NOW, THEREFORE, ORDERED THAT:

1. The "Bail and Pretrial Release Policy for District 30A and 30B" attached hereto, and incorporated herein by reference, is hereby adopted in compliance with G.S. 15A-535;
2. These policies supersede all prior such policies and shall be effective January 1, 2017.
3. The Clerk shall serve copies of this Order and this Policy upon each judge, magistrate, sheriff and each chief of police in the judicial district.

ENTERED in our respective chambers on this the 28th day of December, 2016.


THE HONORABLE WILLIAM H. COWARD
Senior Resident Superior Court Judge
Superior Court Judicial District 30A


THE HONORABLE BRADLEY B. LETTS
Senior Resident Superior Court Judge
Superior Court Judicial District 30B


THE HONORABLE RICHARD K. WALKER
Chief District Court Judge
District Court Judicial District 30

Bond Schedule

- Our project has uncovered a disappointing truth that many decisions establishing the initial bond are arrived at by only looking at the bond schedule.
- The use of bond tables appears to lead the decision-maker to base the bond amount on the offense class which takes away the focus from an individualized decision and factors other than the offense class which are more predictive in each case.
- So here is the conundrum:
 - If the bond schedule is primarily driving the bonds magistrates set, and the number of those detained pretrial is skewed inaccurately higher relative to public safety & appearance in court factors because bonds are arrived at based upon the bond schedule, and the available data indicates we are getting worse outcomes for those detained pretrial, why do we continue to allow the bond schedule to drive pretrial release decisions?

15. **Pretrial Release in Capital Cases. G.S. 15A-533(b).**

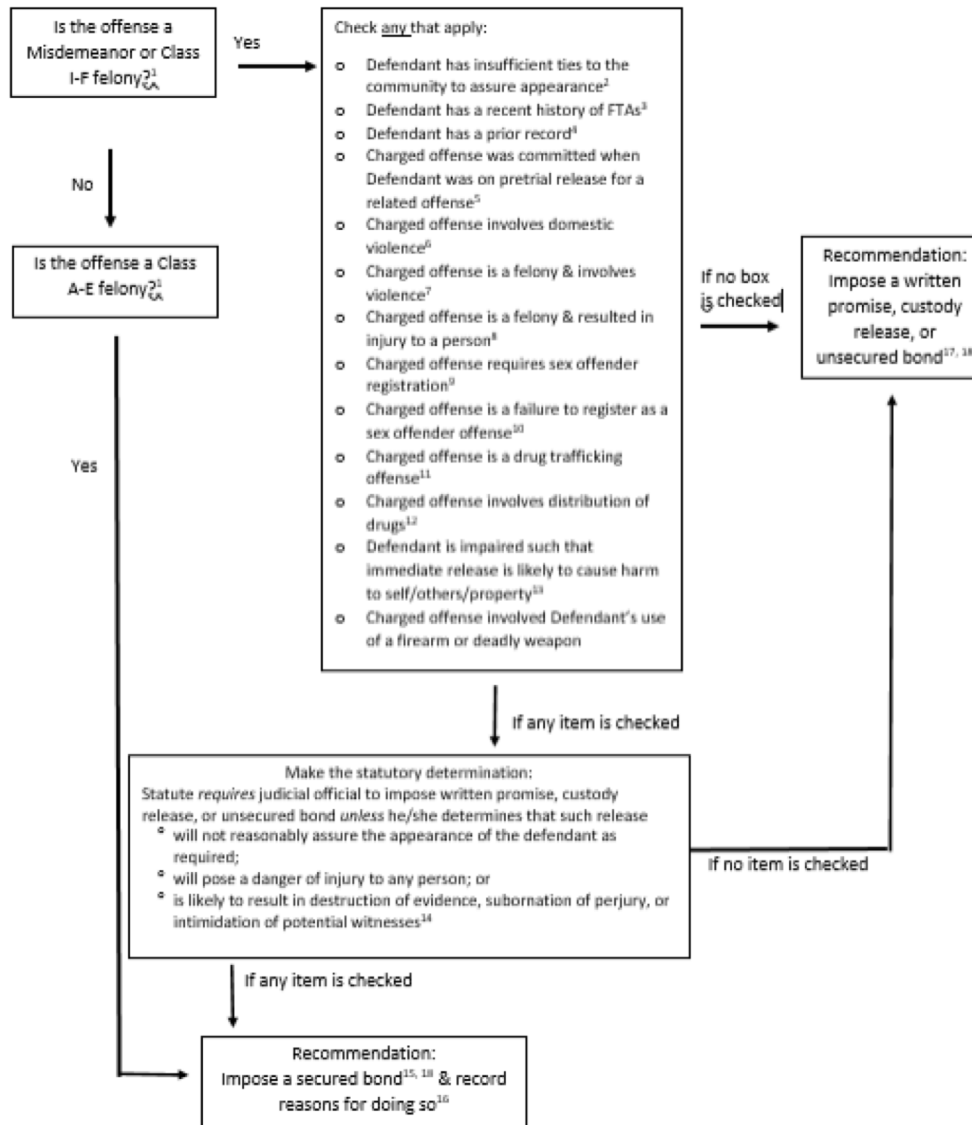
- (a) Only a judge may determine whether a defendant charged with a capital offense may be released before trial.
- (b) If a judge determines that the interests of justice require the release of the defendant in accordance with the provisions of this section, the judge may authorize release of the defendant.

16. **Suggested Bail Amounts.**

The suggested bail schedule is intended to provide a guide for the judge in determining the appropriate bail amount for an individual case. The suggested bail schedule is not intended to govern the decision of the judge. If the suggested bail schedule is incompatible with the interests of justice, the judge should be consulted. For all cases involving non-violent misdemeanors, except DWI's, complete the attached form and include it with the bail schedule.

FELONIES SUGGESTED BAIL AMOUNTS	
Judge	
	\$ 500,000
	100,000
C	
D	
E	\$
F	\$ 15,000
G	\$ 10,000
H	\$ 5,000 - \$10,000
I	\$2,500 - 5,000
MISDEMEANORS/DWI Suggested Bond	
	\$1,000 - \$2,500 (Secured Bond)
	\$1,000 (Secured Bond)
3	
DWI (non-violent)	\$5,000 (Secured Bond) (G.S. 15A-534.2) (Impaired Drivers)

17. **Non-violent misdemeanors.** Bonds for non-violent misdemeanors, except DWI's, should normally be unsecured.



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How We Did It

- Engaged process; all stakeholders invited
- Series of facilitated, in-person, public stakeholder meetings
- One on one calls and meetings, vetting ideas & solutions
- Support from SOG
- Support from WCU
- Support from Pretrial Justice Institute
- Started Summer 2018; new procedures approved Sept. 2018; procedures in effect Jan. 2019

Questions?

Contact Professor Jessie Smith or Brad Letts if you have questions or need more information