

Bail Reform in North Carolina Judicial District 21: Evaluation Report

Second Quarterly Report

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Executive Summary

Seeking to promote a fair and effective pretrial justice system, North Carolina Judicial District 21 (Forsyth County) adopted—effective January 1, 2020—a new structured decision-making tool to guide decisions regarding pretrial conditions. We are executing an empirical evaluation of implementation and impact of the new tool. The formal evaluation began on July 1, 2020 and will continue through June 30, 2021. This quarterly report presents findings for the period July 1, 2020 to December 31, 2020. Key findings include:

Magistrate Decision-Making

- Magistrates adhered to the decision-making tool’s recommendations in the vast majority of cases (79.35%).
- Magistrates issued a written promise, custody release, or unsecured bond in just over half of cases (57.58%). For cases where the highest charge was a Class 2 or 3 misdemeanor, conditions other than a secured bond were issued in 73.33% of cases. For cases where the highest charge was an intermediate-level offense or a Class A–E felony, that percentage was 54.68% and 12.77% respectively. These results remained stable when mandatory bond doubling cases were removed from the sample.
- When conditions other than secured bond were imposed, magistrates opted for an unsecured bond more frequently than a written promise or custody release, and rarely ordered a custody release.
- Median bond amounts imposed by magistrates decreased as offense charge category decreased. Highest charge Class A–E felony cases had the largest median secured bond amounts (\$50,000), followed by intermediate-level charge cases (\$2,500), and Class 2 and 3 misdemeanor charges (\$250).
- Median secured bond amounts imposed by magistrates for cases where the highest charge was a Class A–E felony were double the median bond amounts imposed by judges for this category of charged offenses (\$50,000 magistrates; \$25,000 judges).
- There was variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the tool’s recommendations, especially for intermediate-level and Class 2 and 3 misdemeanor charges (for intermediate-level charges, the percentage rate for imposition of secured bonds ranged from 20% to 66.67% and median secured bond amounts ranged from \$1,500 to \$37,750; for Class 2 or 3 misdemeanor charges those ranges were 0% to 80.00% and \$250 to \$2,500).
- Magistrates are executing forms without completeness or fidelity issues in the vast majority of cases (83.23% without completeness issues; 90.92% without fidelity issues), suggesting that implementation of the new process is successful at the magistrate level.

Judge Decision-Making

- Judges adhered to the decision-making tool's recommendations in the majority of cases (62.35%).
- Judges imposed a condition other than a secured bond in the minority of cases (37.45%). This result was expected. If the tool is working as anticipated, more cases involving individuals who are likely to succeed pretrial¹ are being screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals less likely to succeed pretrial in the pool of those seen by judges at the first appearance and subject to the most restrictive condition of release (secured bond). Judges imposed conditions other than secured bonds more frequently in Class 2 and 3 misdemeanors charges (78.13%) than for intermediate-level charges (37.39%). Judges imposed secured bonds in all Class A–E felony charges.
- When they imposed conditions other than secured bond for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (39.43% for magistrates; 78.13% for judges).
- Median bond amounts imposed by judges decreased as offense charge categories decreased. Highest charge Class A–E felony cases had the largest median secured bond amounts (\$25,000), followed by cases involving intermediate-level charges (\$2,000), and cases involving Class 2 or 3 misdemeanor charges (\$500).
- As noted, median secured bond amounts imposed by magistrates for cases involving Class A–E felony charges were double the median bond amounts imposed by judges for this charge category (\$25,000 for judges; \$50,000 for magistrates). Median secured bond amounts imposed by judges for intermediate level offenses (\$2,000) were less than those imposed by magistrates (\$2,500) for this category, while secured bond amounts for Class 2-3 misdemeanors were higher for judges (\$500) than magistrates (\$250).
- Judges, like magistrates, are executing forms without fidelity issues in the vast majority of cases (79.83%). Judges executed a little over one-half of forms (57.09%) without completeness issues.

Pretrial Failures

- The percent of individuals incurring a new criminal charge during the pretrial period decreased (4.78 percentage points) in 2020 as compared to 2019.
- The number and percentage of court non-appearances were lower for 2020 offenses than for 2019 offenses.

Pretrial Detention

- There was a 43.69% decrease in pretrial bookings in the third and fourth quarters of 2020 as compared to the same period in 2019.
- Median length of stay decreased from 2 days to 1 day.
- There were statistically significant increases in jail stays of 0 days and 1–7 days and corresponding decreases in stays of 8–14 days, 22–29 days and 30+ days. These results may be partially explained by lower secured bond amounts in 2020. Median secured bond amounts were lower in 2020 relative to 2019, and the

¹ As used in this report, pretrial success and related terms refer to no missed court dates and no new criminal charges during the pretrial period.

likelihood of having a secured bond amount of \$500 or less was greater in 2020 (27.16% of bookings) than in 2019 (18.25%).

- The number of pretrial bookings was 39.92% lower for Black individuals and 48.55% lower for White individuals in 2020 as compared to 2019; these changes were statistically significant. However, there was a greater reduction in the average number of days detained for bookings of Black individuals (-73%) than for White individuals (-61%).
- COVID-19 likely contributed to decreases in bookings and length of stay.

Citation in Lieu of Arrest

- Officers' use of citation in lieu of arrest increased in December 2020, possibly because of the police department's participation in the Citation Project starting on December 1, 2020. Prolonged increases in use of citations will impact the mix of cases appearing before judicial officials for conditions of release.

Background

In 2015, then-Chief Justice Mark Martin convened the North Carolina Commission on the Administration of Law & Justice to make recommendations to strengthen the state's court system. In 2016, that Commission released its report, including a recommendation that North Carolina begin pilot projects supporting evidence-based pretrial justice reform.² Judicial District 30B became the state's first such pilot project, with reforms effective January 1, 2019. Promising evidence from early reports on the initiatives implemented in Judicial District 30B,³ information distributed through the North Carolina Attorney General's Pretrial Release and Accountability Roundtables, and information about efforts to improve pretrial systems around the nation and in North Carolina interested judicial system leaders in Judicial District 21 (JD 21). In 2019, a group of judicial branch employees, law enforcement leaders, and a representative from the county came together to explore whether reforms were needed in the district and if so, what reforms should be implemented. Out of this meeting came a Bail Reform Working Group (Working Group). Participants included:

- Senior Resident Superior Court Judge
- Chief District Court Judge
- Elected District Attorney's designee
- Public Defender
- Magistrates
- The Clerk of Court and office staff
- Representatives from the Sheriffs' offices, including Pretrial Services
- Representatives from the local police departments
- Probation
- Judicial district administrative staff
- A Forsyth County representative

The project was supported by Jessica Smith, whose participation was made possible through a technical assistance award from the State Justice Institute (SJI). The SJI grant, administered by the National Center for State Courts and the Pretrial Justice Institute, funded Smith's time and travel to and from the district.

² NCCALJ CRIMINAL INVESTIGATION AND ADJUDICATION COMMITTEE, PRETRIAL JUSTICE REFORM FOR NORTH CAROLINA (2016) (Report of the North Carolina Commission on the Administration of Law & Justice), https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_criminal_investigation_and_adjudication_committee_report_pretrial_justice.pdf.

³ See, e.g., Jamie Vaske & Jessica Smith, *Judicial District 30B Pretrial Justice Pilot Project Third Quarter 2019 Report* (2019), <https://cjl.sog.unc.edu/files/2019/11/Third-quarter-implementation-results.pdf>. For the final report on the 30B project, see Jessica Smith, *North Carolina Judicial District 30B Pretrial Justice Pilot Project Final Report Part I: Background, Process & Implemented Reforms* (2020), <https://cjl.sog.unc.edu/files/2020/04/March-2020-Final-Report-30B-Project-Part-1.pdf>, and Jamie Vaske, *North Carolina Judicial District 30B Pretrial Pilot Project, Final Report Part II: Evaluation Report* (2020), <https://cjl.sog.unc.edu/files/2020/04/March-2020-Final-Report-30B-Project-Part-2.pdf>.

Process

The Working Group met several times in 2019. Working Group members focused primarily on the negative consequences of unnecessary pretrial detentions for individuals charged with lower-level crimes. Specifically, they focused on those who are detained pretrial not because of risk but because they lack sufficient financial resources to pay money bonds imposed in their cases. Stakeholders examined research on how pretrial detention of such individuals undermines public safety and reviewed information on the cost of pretrial detention and fairness issues associated with poverty-based pretrial detentions. They also considered the status of state and federal litigation challenging money-based bail systems and governing federal constitutional law and state statutes. Working Group members understood the role of local jails to detain those individuals for whom no conditions of release can reasonably assure court appearance and public safety. However, they determined that unnecessary detention of individuals who are likely to succeed pretrial undermines public safety and the fairness and effectiveness of the local pretrial justice system. Ultimately, the Working Group adopted reforms designed to address unnecessary pretrial detention of individuals who do not present any significant pretrial risk but who remain detained pretrial because they are unable to afford money bonds imposed in their cases. Specifically, the district adopted a new structured decision-making tool and related procedures to better inform judicial officials' pretrial decisions and ensure compliance with constitutional and statutory requirements.

After Working Group members reached a consensus on needed reforms, they approved a detailed implementation plan. That plan specified tasks to be completed, and for each task, person(s) responsible, due dates, and other relevant information. Executing the implementation plan occupied most of the third quarter of 2019, and a training event for judicial branch employees and law enforcement personnel was held in December 2019. The reforms took effect on January 1, 2020.

Implemented Reforms

Data show that the 2019 statewide rate of imposition of secured bonds in cases involving only misdemeanor charges was 67.6%.⁴ In JD 21, that rate was 77.5%.⁵ Working Group members were concerned that existing practices regarding setting conditions of pretrial release may not sufficiently account for individualized factors regarding the defendant and the circumstances of the offense as required by state law.⁶ They hoped that new bail tools would promote adherence to state law requiring release on a written promise, custody, or unsecured bond except when the judicial official finds that those conditions:

1. will not reasonably assure appearance;
2. will pose a danger of injury to any person; or
3. are likely to result in the destruction of evidence, subornation of perjury, or intimidation of witnesses.⁷

⁴ Jessica Smith, *County-Level Bail Conditions in North Carolina* (2019), <https://cjlil.sog.unc.edu/files/2019/11/County-Level-Bail-Conditions-in-NC.pdf>.

⁵ *Id.*

⁶ G.S. 15A-534(c).

⁷ G.S. 15A-534(b).

Additionally, Working Group members wanted to develop a tool to help judicial officials quickly identify those individuals who can be released on conditions *other than secured bond* to reduce the occurrence of wealth-based incarceration of individuals who pose little risk to public safety or of flight. 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 to constitutional and statutory requirements.

The new decision-making tool, included in Appendix A and modeled on the tool adopted in Judicial District 30B, applies in all circumstances except where the statutes or the local bail policy require a different process or result.⁸ Key features of the new tool include:

- Expressly incorporating the statutory requirement that a judicial official must impose a written promise, custody release or unsecured bond 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.”⁹
- Creating a presumption for conditions other than secured bonds for persons charged with Class 2 and 3 misdemeanors.
- Providing an easily implemented checklist to quickly identify additional persons who can be released on conditions other than a secured bond.
- Providing that for individuals charged with the most serious offenses, no presumption or screening applies; decision-makers proceed 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 discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

The Working Group also adopted a new ability to pay procedure. Specifically, Pretrial Services will obtain and present to the first appearance judge core financial information listed on the Affidavit of Indigency (AOC-CR-226)¹⁰ to better inform judicial determinations of ability to pay.

To facilitate adoption of the new tool, new Magistrate and Judge Bail Explanation Forms were created for use by magistrates and judges when setting bail (Appendices B & C). These forms were designed to document decision-making, including magistrates’ and

⁸ For example, when a secured bond is required by law.

⁹ G.S. 15A-534(b).

¹⁰ Online at: <https://www.nccourts.gov/assets/documents/forms/cr226-en.pdf?e1Vg5Goi1xRI3OAVkbvPBdXUyDuK.yrV>.

judges' reasons for imposing secured bonds, and to provide data to evaluate the impact of the new procedures.

Empirical Evaluation and This Report

The Working Group knew that an empirical evaluation would provide valuable information regarding the effectiveness of implemented reforms. It thus supported the efforts of Smith and the UNC School of Government Criminal Justice Innovation Lab to seek grant funding to execute such an evaluation. Funding for the evaluation was provided by the Charles Koch Foundation. Specifically, the Foundation provided funding for a 12-month evaluation of the district's reforms. The Foundation had no involvement in the Working Group's work or in the preparation of this report.

Although the evaluation initially was scheduled to begin in the Spring of 2020, the COVID-19 pandemic necessitated delaying that start date until July 1, 2020. The empirical evaluation will continue through June 30, 2021.

We circulated a draft of this report to Working Group members in February and they were invited to submit feedback to us. Additionally, we met with Working Group members to discuss the report and receive additional feedback from them. We thank them for their feedback, which we have incorporated into this report. Additional feedback was provided by Professor Sarah L. Desmarais of North Carolina State University, who serves as a research consultant on this project.¹¹

Findings

Magistrate Decision-Making

In the two sections that follow we report on magistrate decision-making, using data extracted from Magistrate Bail Explanation Forms. **Magistrates adhered to the structured decision-making tool's recommendations in the vast majority (79.35%) of cases. Magistrates issued conditions other than a secured bond for the majority of all cases, and this result held true for highest charge Class 2 and 3 misdemeanor cases and intermediate-level offense cases. Magistrates imposed secured bonds in the majority of cases for only one charge type: Class A–E felony cases. For forms where magistrates reported issuing a secured bond, the bond amount decreased with offense class categories. When ordering conditions of release other than secured bonds, magistrates most frequently chose an unsecured bond over a written promise or custody release. There was, however, variation among magistrates in the use of secured bonds, median secured bond amounts, and deviations from the recommendations of the decision-making tool. Finally, magistrates are executing forms without completeness or fidelity issues in the vast majority of cases, suggesting that implementation of the new process is successful the magistrate level.**

¹¹ Also contributing to this report were Professor Troy Payne of the University Alaska Anchorage Justice Center, PhD student Christopher Ross Hatton, graduate student Maggie Aron Bailey, UNC School of Government Legal Research Associate Christopher Tyner and Criminal Justice Innovation Lab Project Manager Ethan Rex.

Conditions of Release

Since January 1, 2020, magistrates have determined conditions of pretrial release using the new structured decision-making tool and have documented their decision-making on a new Magistrate Bail Explanation Form (Appendix B). We reviewed every bail explanation form completed in the first quarter of 2020, tracking issues regarding completeness and fidelity to the new tool. During this period, we also provided feedback to magistrates to support their efforts to apply the new tool and use the new form. Extracting data from Bail Explanation Forms allows us to report on conditions imposed at the magistrate level. In this report, we present data on the conditions of release imposed by magistrates from July 1, 2020 to December 31, 2020.

Magistrates set conditions in 2,144 forms from July 1, 2020 to December 31, 2020. A total of 159 forms (7.41%) were removed from analyses because of one or more completeness or fidelity issues deemed critical to our evaluation.¹² In the remaining 1,985 forms, **magistrates adhered to the decision-making tool’s recommendations in the vast majority of cases. Specifically, they followed the tool’s recommendations in 1,575 forms (79.35% of forms), while deviating from the tool’s recommendations in 410 forms (20.65% of forms).**¹³

The form captures two types of deviations: (1) deviations from the recommendation to impose a condition other than a secured bond (and imposition of a secured bond); and (2) deviations from the recommendation to impose a secured bond or from the maximum bond table (and imposition of *either* a condition other than a secured bond *or* a secured bond in excess of the maximum bond table). Of the 410 forms on which magistrates reported deviating from the tool’s recommendations, they reported deviation type (1) in 229 forms (55.85% of deviations) and deviation type (2) in 181 forms (44.15% of deviations).

Table 1a shows the percent of conditions of release by highest charge offense class for the 1,985 forms included in these analyses. As shown there, **magistrates issued a written promise, custody release, or unsecured bond for the majority of cases.** Specifically, they issued conditions other than a secured bond for 57.58% of cases and issued secured bonds in 42.42% of cases. We expected that rates of imposition of secured bond would decrease as offense charge category decreased, and the data show that this in fact occurred. Magistrates issued a secured bond in 87.23% of Class A–E felony charge cases; in 45.32% intermediate-level offense charge cases (defined by local policy to include Class F–I felonies and Class A1 and 1 misdemeanors); and in 26.67% of Class 2 or 3 misdemeanor charge cases.

¹² Among the 159 forms removed from analyses, magistrates made one or more of the following errors: failed to record the final bond type (55 forms or 34.59% of forms with issues); recorded they were imposing both a secured bond and another condition of release (45 forms or 28.30%); failed to record whether they were following or deviating from policy recommendations (34 forms or 21.38%); recorded that they were simultaneously following and deviating from policy (74 forms or 46.54%); or did not record offense class or recorded multiple (and sometimes incorrect) offense classes (35 forms or 22.02%).

¹³ As discussed in Background; Implemented Reforms above, the new tool preserves necessary discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

For forms where magistrates reported issuing a secured bond, the bond amount decreased with offense charge category, with more serious charges (Class A–E felonies) having the highest median secured bond amounts (\$50,000), followed by intermediate-level charges (\$2,500), and Class 2 and 3 misdemeanor charges having the smallest median secured bond amounts (\$250). Again, these results are as expected: that bond amounts would increase as cases increase in severity from Class 2 and 3 misdemeanor charges at the low end to intermediate-level offense charges and to Class A–E felony charges at the high end. However, as noted below, median secured bond amounts imposed by judges for highest charge Class A–E felony cases are half the median secured bond amounts imposed by magistrates for these offense classes (\$25,000 for judges versus \$50,000 for magistrates). At a November 2020 stakeholder meeting where we presented first quarter results, stakeholders suggested that the lower median bond amounts imposed by judges for Class A–E felonies may result from the fact that bonds for those charges are addressed at bond reduction hearings where more information about the case and the individual detained is available to the judge than to the magistrate at the initial appearance held immediately after arrest.

We executed a supplemental analysis, removing from the sample cases where the magistrate clearly indicated, either in the offense description or in the deviation explanation, that the mandatory statutory bond doubling rule applied.¹⁴ In those cases, magistrates were required by law to impose a secured bond, and we wanted to explore whether that mandate was impacting results. As shown in Table 1b, **when mandatory bond doubling cases are removed from analysis, there is little change in results, suggesting that the statutory bond doubling rule is not impacting secured bond rates at the magistrate level.** At a February 2021 stakeholder meeting where we reported these findings, one participant explained this result, noting that district court judges often set a condition other than a secured bond in Orders for Arrest (OFAs) for Failures to Appear (FTAs). When judges do so, the statutory bond doubling rule does not apply; rather, the magistrate sets conditions as specified by the judge.

¹⁴ Cases involving an Order for Arrest (OFA) after a Failure to Appear (FTA) with conditions pre-set by a judge already were removed from the data set. The mandatory bond doubling rule is in G.S. 15A-534(d1). That statute provides that if a case is before the magistrate on an OFA after a FTA and conditions have not been specified by a judge, the magistrate must double and secure a prior bond or, if no bond previously was set, impose a \$1,000 minimum secured bond. In our supplemental analysis, we only were able to remove forms clearly indicating that the bond doubling rule applied; since such an indication is not required by the form, some cases involving bond doubling may have remained in the supplemental analysis data set.

Table 1a: Percent conditions of release by highest offense class in magistrate bail forms, Quarters 3 & 4 of 2020

Type of Condition	All Cases	Class A – E felonies	Class F - I felony & Class 1 – A1 misdemeanors	Class 2 & 3 misdemeanors
Written promise, custody release, or unsecured bond	57.58%	12.77%	54.68%	73.33%
Written promise	20.20%	2.13%	16.30%	33.52%
Custody release	1.86%	0.00%	2.56%	0.38%
Unsecured bond	36.17%	10.64%	36.77%	39.43%
Secured bond	42.42%	87.23%	45.32%	26.67%
Median secured bond	\$2,500	\$50,000	\$2,500	\$250

Table 1b. Percent conditions of release by highest offense class in magistrate bail forms, Quarters 3 & 4 of 2020—bond doubling cases removed

Type of Condition	All Cases	Class A – E felonies	Class F - I felony & Class 1 – A1 misdemeanors	Class 2 & 3 misdemeanors
Written promise, custody release, or unsecured bond	57.55%	12.77%	54.65%	73.54%
Written promise	20.20%	2.13%	16.40%	33.46%
Custody release	1.89%	0.00%	2.58%	0.39%
Unsecured bond	36.12%	10.64%	36.63%	39.69%
Secured bond	42.45%	87.23%	45.35%	26.46%
Median secured bond	\$2,500	\$50,000	\$2,500	\$250

As shown in both Tables, **when conditions other than secured bond were imposed, magistrates opted for an unsecured bond more frequently than a written promise or custody release. In fact, custody release was rarely ordered by magistrates (less than 2% of all cases, in both Tables).**

We also examined whether the general pattern of decision-making across individual magistrates differed from the averages shown in Tables 1a and 1b. **We found variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the recommendations of the decision-making tool**, especially for intermediate-level offense charges and Class 2 and 3 misdemeanor charges (Appendix D). Across individual magistrates, the rate of imposition of secured bonds in intermediate-level charge cases ranged from 20% to 66.67%, and median secured bond amounts ranged from \$1,500 to \$37,750. The rate of imposition of secured bonds in Class 2 or 3 misdemeanor charge cases ranged from 0% to 80.00%, and median secured bond amounts ranged from \$250 to \$2,500. Figure 1 displays the variations in percent of cases issued a secured bond across magistrates, relative to the percent of cases issued a secured bond per Table 1a for intermediate-level offense charges (45.32%). Figure 2 illustrates the percent of cases issued a secured bond by magistrate for Class 2 or 3 misdemeanor charges relative to the percent issued a secured bond for the entire group (26.67%). For example, the Figure shows that Magistrate #10 issued a secured bond for 55.17% of Class 2 or 3 misdemeanor charge cases, a rate substantially higher than the group rate for this charge category (26.67%).

Although case specific factors may justify these differences in outcomes across magistrates, larger deviations from the group rate may point to a need for targeted coaching. Finally, there was a wide range in the number of forms completed by magistrates. For Class A–E felony charges, the range was 0 to 12 forms; for intermediate-level offenses it was 3 to 148 forms; for Class 2 or 3 misdemeanor charges it was 2 to 68 forms. If a magistrate completed only two forms for an offense category and one required a secured bond, the magistrate’s rate of imposing of secured bonds would be 50%, and perhaps not representative of what that magistrate’s rate would be across a larger number of cases. As the evaluation continues and the number of forms completed by each magistrate increases, we anticipate having a better understanding of these variations across magistrates.

Figure 1. Percent of intermediate-level charges issued a secured bond by magistrate

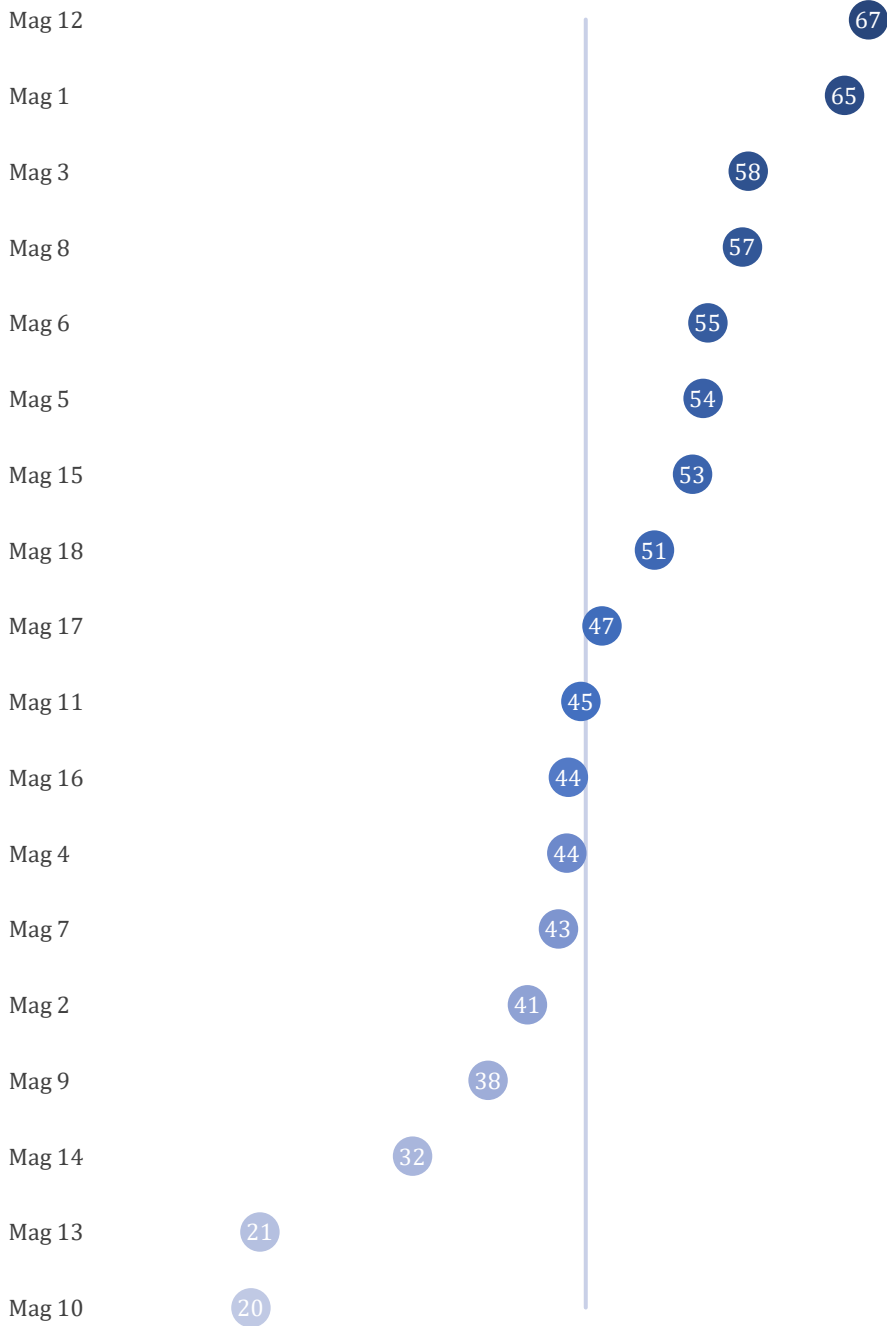
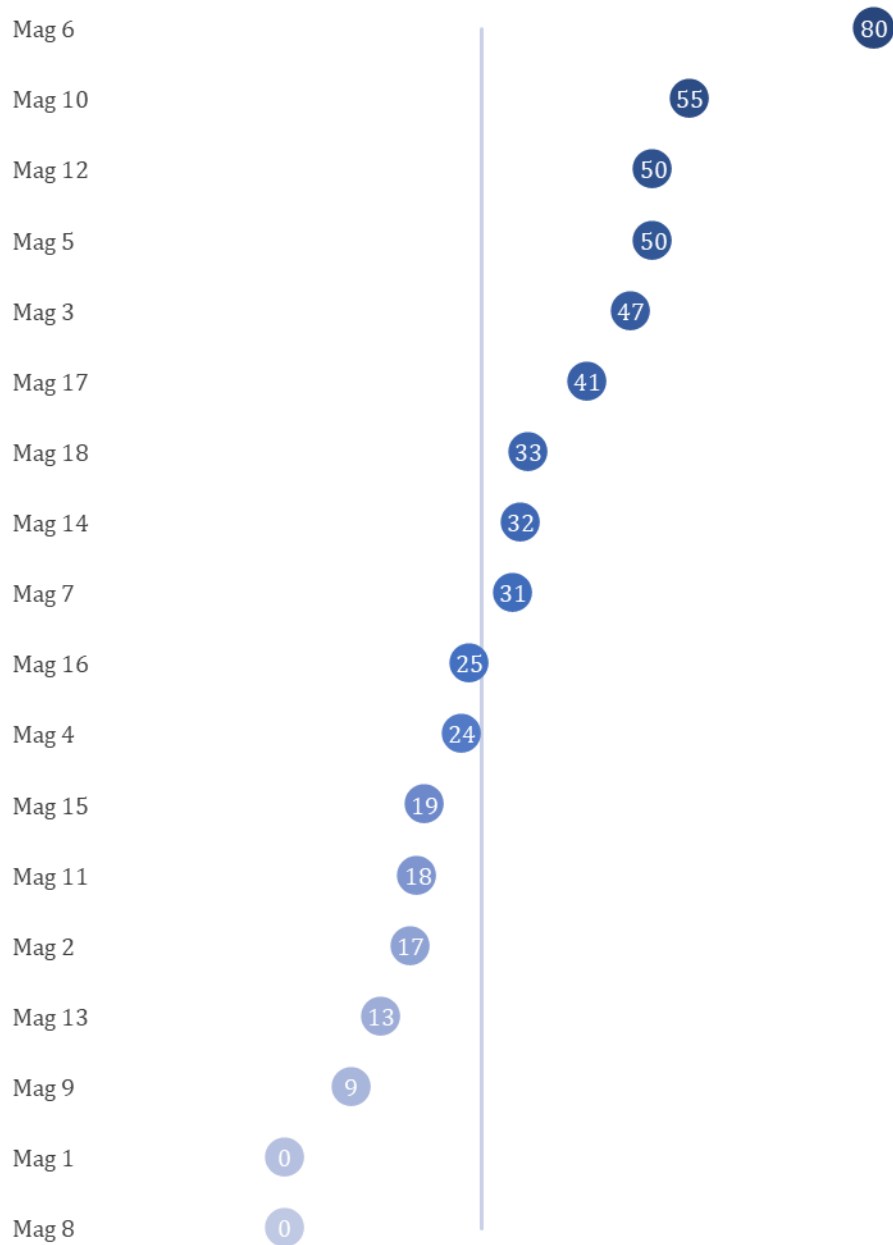


Figure 2. Percent of Class 2 and 3 charges issued a secured bond by magistrate



Completeness and Fidelity Issues

We examined a random sample of 650 forms completed between March 1, 2020 and January 2, 2021 for completeness and fidelity issues. The random sample was completed on a bi-weekly basis. All forms submitted for two weeks were randomly assigned a number between 0 and 2000. The forms were then sorted from smallest to largest number and the first 25 forms were retained for review for completeness and fidelity issues.

Examining the quality of implementation can help explain why a reform may not have the desired or anticipated effect. In our analyses, a completeness issue refers to failure to complete some portion of the form. A fidelity issue refers to a failure to follow the process set out in the decision-making tool. Of the 650 forms examined, 16.77% (109 forms) had one or more completeness issues, and 9.08% (59 forms) had one or more fidelity issues. Among the 109 forms with completeness issues, the majority displayed only one completeness issue (79.82%); smaller percentages of forms exhibited two (11.01%) or three issues (9.17%). Out of the 59 forms with fidelity issues, 79.66% had one fidelity issue, while 20.34% had two issues. Thus, **magistrates are executing forms without completeness or fidelity issues in the vast majority of cases (83.23% without completeness issues; 90.92% without fidelity issues), suggesting that implementation of the new process is successful the magistrate level.** At the February 2021 stakeholder meeting where we reported these results, a participant note that magistrates were comfortable with the new procedures and that the new process was working “seamlessly.” It was however noted that existing forms—at both the magistrate and judge level—do not capture conditions imposed in connection with the county’s participation as a pilot site in the Caitlyn’s Courage Electronic Monitoring program. That program, funded by S.L. 2020-80, allocates resources for domestic violence prevention pilot programs in at least nine judicial districts. Among other things, judges in pilot sites have the option of using global positioning system (GPS) electronic monitoring devices as a condition of pretrial release for individuals charged with stalking, sexual assault, domestic abuse, and violations of a domestic violence protective orders. Forsyth County was selected as a Caitlyn’s Courage pilot site and as a result, judicial officials may specify alternative secured bond amounts: one amount without GPS and a lower amount with GPS. The magistrate and judge bail explanation forms were developed before the pilot project began and do not capture the alternative lower bond amounts.

Table 2 shows the most common completeness and fidelity issues in the random sample.

Table 2. Common fidelity & completeness issues—Magistrate bail forms

Completeness issues	Fidelity issues
<ul style="list-style-type: none"> • Not including the case number, individual name, or charge description at the top of the form (3.66%) • Not noting the underlying offense for a FTA or probation violation (0.91%) • Not checking a redundant box (52.29%) • Not reporting the offense class (7.33%) • Not reporting the final bail condition and/or amount (18.60%) • Not completing Step 1 (36.69%) • Not completing other steps, such as Step 2 (1.83%), Step 3.5 (.91%), Step 5 (7.33%), Step 6 (1.83%), or Step 7 (4.58%) 	<ul style="list-style-type: none"> • Not following the decision-making process (38.98%) • Checking multiple inconsistent boxes, such as selecting multiple offense classes (1.69%), checking both “Yes” and “No” in Step 1 (1.69%), or setting both a secured bond and a bond other than secured (1.69%) • Both adhering to and deviating from policy in Steps 3.5 and 5 (28.81%) • Not reporting a deviation (such as setting a bond amount above the maximum amount) (6.77%) • Not explaining a deviation (25.42%) • Checking the deviation box for a condition that was not a deviation (11.86%) • Not explaining why a secured bond was set in Step 4 (1.69%)

Note: For an explanation of the steps on the decision-making process, see Appendix B (Magistrate Bail Form).

Judge Decision-Making

In the two sections that follow we report on judge decision-making, using data extracted from Judge Bail Explanation Forms. **We find that judges followed the tool’s recommendation in about two-thirds of cases. Unlike magistrates, judges imposed a secured bond in the majority of cases.** *We did, however, expect that judges would impose secured bonds at a higher rate than magistrates.* If the tool is working as anticipated, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals who are less likely to succeed pretrial in the pool of those seen by judges at first appearance and subject to the most restrictive condition of release. **Judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate offense charges than for Class 2 and 3 misdemeanor charges. Median secured bond amounts imposed by judges for Class A–E felony charges are half the median amounts imposed by magistrates for that offense category. Judges followed the tool’s decision-making process without fidelity issues in the vast majority of cases; they executed a little over half of forms without completeness issues.**

Conditions of Release

Since January 1, 2020, judges have determined conditions of pretrial release using the structured decision-making tool and have documented their decision-making on a new Judge Bail Explanation Form (Appendix C). We reviewed every form completed in the first quarter of 2020, tracking issues regarding completeness and fidelity to the new structured decision-making approach. During this period, we also provided feedback to judges to support their efforts to apply the new tool and use the new form. Extracting data from the forms allows us to report on conditions imposed at the judge level. In this report, we present data on the conditions of release imposed by judges from July 1, 2020 to December 31, 2020.

Judges completed 570 forms between July 1, 2020 and December 31, 2020. Sixty-eight forms (11.93%) were removed from the analyses because of completeness and/or fidelity issues deemed critical to this evaluation.¹⁵ Of the remaining 502 forms, **judges followed the tool's recommendation in about two-thirds of cases** (62.35%; 313 forms). Judges deviated from the tool's recommendation in about one-third of cases (37.65%; 189 forms), a rate that was higher than that for magistrates (20.65%).

For cases where judges deviated from the tool's recommendation, 75.66% of deviations were to impose a secured bond above the maximum dollar amount or to impose a written promise, custody release, or unsecured bond instead of a secured bond. In 24.33% of deviations, the judge deviated from the recommendation to impose a written promise, custody release, or unsecured bond, opting instead to impose a secured bond.

Table 3 shows the percent of conditions of release by offense class for the 502 forms included in these analyses. **Judges imposed a secured bond in the majority of cases.** Specifically, they imposed a secured bond in 62.55% of all offenses, and issued a written promise, custody release, or unsecured bond for 37.45% of cases. Judges did not issue a custody release for any cases and imposed a written promise in only three cases. As noted above, magistrates issued conditions other than a secured bond in the majority of cases. *We expected to see secured bonds imposed in a greater percentage of cases at the judge level than at the magistrate level.* If the tool is working as expected, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals who are less likely to succeed pretrial in the pool of cases seen by judges at first appearance and subject to the most restrictive condition of release. At the February 2021 stakeholder meeting where we presented these results, a judge reported that judges were seeing a higher percentage of more serious cases, such as those involving domestic violence.

¹⁵ Nineteen forms (or 27.94% of forms with fidelity and/or completeness issues) were removed because the judge did not note the final bond condition; 2 forms (or 2.94%) were removed because the judge indicated they were simultaneously setting a secured bond and a bond other than secured; 24 forms (35.29%) were removed because the judge indicated simultaneously following and deviating from the policy; 12 forms (17.65%) were removed because the judge did not note whether the official was following or deviating from policy; 10 forms (14.71%) were removed because the judge did not report the offense class; and 17 forms (25.00%) were removed because the judge reported multiple offense classes for one charge.

Judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate-level offense charges than for Class 2 and 3 misdemeanor charges. Judges issued a secured bond in 100% of Class A–E felony charge cases, and the median bond amount was \$25,000. They issued a secured bond in 62.61% of intermediate-level offense charge cases, and the median secured bond amount was \$2,000. In cases where individuals were charged with Class 2 and 3 misdemeanors, judges issued a secured bond in 21.87% of cases, and the median secured bond amount was \$500. **Median secured bond amounts imposed by judges for Class A–E felonies are half the median amounts imposed by magistrates for these offense classes** (\$25,000 for judges; \$50,000 for magistrates).

This pattern of findings mirrors that found for magistrates, shown in Table 1a. However, while rates of imposition of unsecured bonds for intermediate-level charges were similar for magistrates and judges (39.43% for magistrates; 36.70% for judges), **for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (39.43% for magistrates; 78.13% for judges).**

Table 3: Percent conditions of release by highest offense class in judge bail forms, Quarters 3 & 4 of 2020

Type of Condition	All Cases	Class A – E felonies	Class F - I felony & Class 1 – A1 misdemeanors	Class 2 & 3 misdemeanors
Written promise, custody release, or unsecured bond	37.45%	0.00%	37.39%	78.13%
Written promise	0.60%	0.00%	0.69%	0.00%
Custody release	0.00%	0.00%	0.00%	0.00%
Unsecured bond	36.85%	0.00%	36.70%	78.13%
Secured bond	62.55%	100.00%	62.61%	21.87%
Median secured bond	\$2,500	\$25,000	\$2,000	\$500

Completeness and Fidelity Issues

We reviewed a random sample of 550 judge forms for completeness and fidelity issues. Similar to our review of magistrate bail forms, we sampled forms from March 1, 2020 to December 31, 2020. 42.91% of sampled forms had one or more completeness issue, while 21.64% of forms had one or more fidelity issues. Thus, **judges followed the tool’s decision-making process without fidelity issues in 78.36% cases. A little over half of forms (57.09%) were executed without completeness issues.** Of the 119 forms with fidelity issues, 79.83% had only one such issue. Of the 236 forms with completeness issues, 64.84% had one completeness issue, 24.15% had two issues, 9.32% had three issues, and 1.69% had four or more issues.

Table 4 shows the most common completeness and fidelity issues in the random sample.

Table 4. Common fidelity and completeness issues—Judge bail forms

Completeness issues	Fidelity issues
<ul style="list-style-type: none"> • Not completing Step 1 (57.62%) • Not reporting final bond amount (4.23%) or final bond condition (1.69%) • Not checking a redundant box (28.38%) • Deviating but not explaining the type of deviation (15.25%) • Not recording the type of deviation in Step 6 (23.30%) • Not recording offense class (9.74%) • Not including the case number, individual name, or charge description at the top of the form (1.27%) • Not noting the underlying offense for a FTA or probation violation (1.69%) • Not completing other steps, such as Step 2 (3.38%), Step 4 (0.84%), or Step 5 (0.42%) 	<ul style="list-style-type: none"> • Deviating but not explaining the reason for the deviation (33.61%)¹⁶ • Checking the deviation box for a condition that was not a deviation (18.48%) • Not following the decision-making process (34.45%) • Both adhering to and deviating from policy in Steps 3.5 and/or Step 5 (16.80%) • Setting bond in both Step 3.5 and 5 (5.04%) • Not recording reasons for setting secured bond in Step 4 (2.52%) • Reported multiple offense classes for highest charge (2.52%) • Checking the wrong deviation type (2.52%) or selecting both deviation types in Step 6 (1.68%) • Failing to complete Step 4 when required (0.84%) • Not reporting a deviation (such as setting a bond amount above the maximum amount) (0.84%) • Setting both a secured bond and a bond other than secured (0.84%)

Note: For an explanation of the steps on the decision-making process, see Appendix C (Judge Bail Form)

¹⁶ This issue can be both a completeness and fidelity issue and thus is recorded here as both.

Pretrial Failures

In an earlier check-in report to stakeholders, we presented data showing that the use of secured bonds decreased in 2020 relative to 2019.¹⁷ And, as discussed below, there was a substantial decrease in the number of pretrial bookings during the third and fourth quarters of 2020 relative to the same period in 2019. Some have expressed concern that a reduction in the use of secured bonds and in pretrial detention may result in substantially higher rates of court non-appearances and pretrial criminal activity. The following sections examine whether or not: (1) the prevalence of incurring new criminal charges during the pretrial period changed in 2020 relative to 2019; and (2) the prevalence of court non-appearance changed in 2020 relative to 2019. **We find (1) that the percent of individuals incurring a new criminal charge during the pretrial period decreased in 2020 as compared to 2019; and (2) that rates of court non-appearances in 2020 were lower than non-appearance rates in 2019.** We discuss these findings in more detail in this section.

New Criminal Charges During Pretrial Period

We used data from the North Carolina Automated Criminal/Infractions System (ACIS) to examine whether or not individuals whose criminal cases were served in the first six months of 2020 and closed by December 31, 2020 had higher rates of new criminal charges during the pretrial period than individuals whose cases were served in and closed by corresponding periods in 2019. We categorized a case as having a new criminal charge during the pretrial period if the defendant was served with a new charge before the first one was disposed. Among individuals who had a new charge during the pretrial period, new criminal charges were categorized as either a felony, traffic misdemeanor, or non-traffic misdemeanor. We calculated the percent of individuals who incurred a new charge during the pretrial period, both for Forsyth county individuals and for individuals from two counties identified by Forsyth stakeholders as peer counties: Guilford and Buncombe counties.¹⁸

Table 5 displays the percent of individuals who had a new criminal charge during the pretrial period during any quarter of 2019 and 2020. As shown in the table, **the percent of individuals incurring a new criminal charge during the pretrial period decreased a statistically significant 4.78 percentage points in 2020 as compared to 2019.** Specifically, in 2019, 23.97% of individuals incurred a new criminal charge before their case was disposed, compared to 19.19% of individuals in 2020. Among individuals who acquired a new pretrial charge, the percent of individuals who incurred a new felony charge increased 0.50 percentage points; the percent of individuals who incurred a new non-traffic misdemeanor charge increased 1.65 percentage points; and the percent of individuals who incurred a new non-traffic misdemeanor charge decreased 1.60 percentage points. While Forsyth's overall decrease

¹⁷ We were not able to report on that metric in this report because the NC AOC previously declined to provide an updated Conditions of Release Report for use in this evaluation project.

¹⁸ Since we do not have jail data for the comparison counties, we cannot account for whether a defendant was incarcerated during the pretrial period and thus had a limited opportunity to incur a new charge. We will however seek to address this issue with jail data that we do have in future reports.

in pretrial criminal activity was statistically significant, none of these “offense level” metrics were statistically significant.

We also compared the prevalence of new pretrial charges by Forsyth County individuals to the prevalence of new pretrial charges by individuals in Guilford and Buncombe counties. As shown in Table 5, Buncombe County, like Forsyth, experienced a statistically significant decrease in the percent of individuals incurring a new pretrial charge in 2020 relative to 2019. However, the Forsyth decrease was larger (4.78 percentage points for Forsyth; 2.45 percentage points for Buncombe). As in Forsyth, none of the Buncombe County “offense level” metrics were statistically significant.

In Guilford County, the overall change in pretrial criminal activity was not statistically significant. However, Guilford did experience a statistically significant increase in the percent of individuals incurring a new felony charge (6.72 percentage point increase) and a statistically significant decrease in the percent of individuals receiving a non-traffic misdemeanor charge (4.13 percentage point decrease) among individuals who had a new criminal charge during the pretrial period. As noted above, the changes in Forsyth as to these “offense level metrics” were not statistically significant.

We will continue to examine how Forsyth is performing vis-à-vis its peer counties with respect to these metrics, including adding Durham as a peer county, as requested by stakeholders at the February 2021 stakeholder meeting.

As noted, this analysis examines cases served in the first six months of 2019 and 2020, and disposed of by the end of each respective year. We will continue to examine new pretrial criminal activity as the evaluation continues. It is possible that as the evaluation encompasses cases that remain pending for longer time periods, new pretrial criminal activity rates will change.

Finally, at the February 2021 stakeholder meeting, one participant asked if it would be possible to examine new pretrial criminal activity rates for individuals charged with Class A–E felonies. Specifically, to examine any pre/post implementation change in the rate at which those individuals acquired new violent felony charges, particularly gun related offenses. We will examine the feasibility of performing this analysis in connection with our next reporting.

Table 5. Percent (and number) of individuals who acquired new criminal charges during the pretrial period for Forsyth County and peer counties in 2019 and 2020

	2019	2020	% pt. difference
<i>Forsyth County</i>			
New criminal charges	23.97% (3907)	19.19% (1914)	-4.78*
New felony charges	15.33% (1107)	15.83% (303)	0.50
New non-traffic misdemeanor charges	43.23% (1689)	44.88% (859)	1.65
New traffic misdemeanor charges	74.69% (2918)	73.09% (1399)	-1.60
<i>Guilford County</i>			
New criminal charges	20.20% (3967)	20.04% (2051)	-0.16
New felony charges	21.02% (834)	27.74% (569)	6.72*
New non-traffic misdemeanor charges	43.33% (1719)	44.08% (904)	0.75
New traffic misdemeanor charges	70.88% (2812)	66.75% (1369)	-4.13*
<i>Buncombe County</i>			
New criminal charges	19.94% (1652)	17.49% (1383)	-2.45*
New felony charges	25.61% (423)	22.99% (318)	-2.62
New non-traffic misdemeanor charges	53.57% (885)	51.99% (719)	-1.58
New traffic misdemeanor charges	59.20% (978)	57.85% (800)	-1.35

Asterisks (*) indicate that a finding is statistically significant. Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Court Non-Appearance

To assess changes in non-appearance rates, we examined and report on data from two sources: (1) ACIS, and (2) the Criminal Court Information System – Public Defender (CCIS–PD). We used two data sources to be as comprehensive as possible with respect to capturing missed court appearances. We find that **the number and percent of court non-appearances decreased during 2020 relative to 2019.**

Our analyses focus on missed court appearances in criminal cases recorded in the ACIS and the CCIS-PD systems with an offense date within any quarter of 2019 or 2020. We examined the prevalence of non-appearance for charges that occurred on the same date for each defendant. ACIS includes data on all charged state crimes and is used by court officials when making pretrial decisions. The CCIS-PD data include court non-appearances for cases where the individual, at any point in the case, received services from the public defender or appointed counsel. Although these data do not include all cases, they are an alternate source of non-appearance data, and thus we included CCIS-PD data in our analyses.

Both the ACIS and CCIS-PD data include two indicators of court non-appearance: (1) called and failed, and (2) failure to appear (FTA). We recorded a case as having a called

and failed if such an entry was noted in ACIS and/or CCIS-PD for any time in 2019 or 2020. We recorded a case as having an FTA if an FTA was noted in the CCIS-PD system and/or if a Motor Vehicle FTA was recorded in ACIS at any time in 2019 or 2020. We note that not all called and failed result in entry of a FTA.¹⁹

Figure 3 displays the prevalence and number of court non-appearances as measured by called and failed for cases with offense dates in each quarter of 2019 and 2020. As shown in Figure 3, the number and percent of called and faileds decreased in 2020 relative to 2019. Most significantly, there was a 70.02% decrease in called and faileds for cases with offenses occurring during the first quarter of 2020 relative to the same period in 2019 (18.08% in 2019 compared to 5.42% in 2020). Although we expected some drop off in non-appearance rates associated with suspension of court operations in March 2020 due to the COVID-19 pandemic, this decrease in the first quarter of 2020 is larger than expected given that the pandemic did not impact court operations in January, February, or early March 2020. Even larger decreases in called and failed rates are seen for the rest of 2020, and these results likely are impacted by reduced court operations due to the pandemic.

Figure 4 shows non-appearance data as measured by FTAs, and tells a similar story. In the first quarter of 2020, there was a dramatic decrease in FTAs (24.42% in 2019 compared to 0.47% in 2020). The remaining quarters of 2020 show no FTAs, results that undoubtedly relate to modifications in court procedures due to the pandemic.

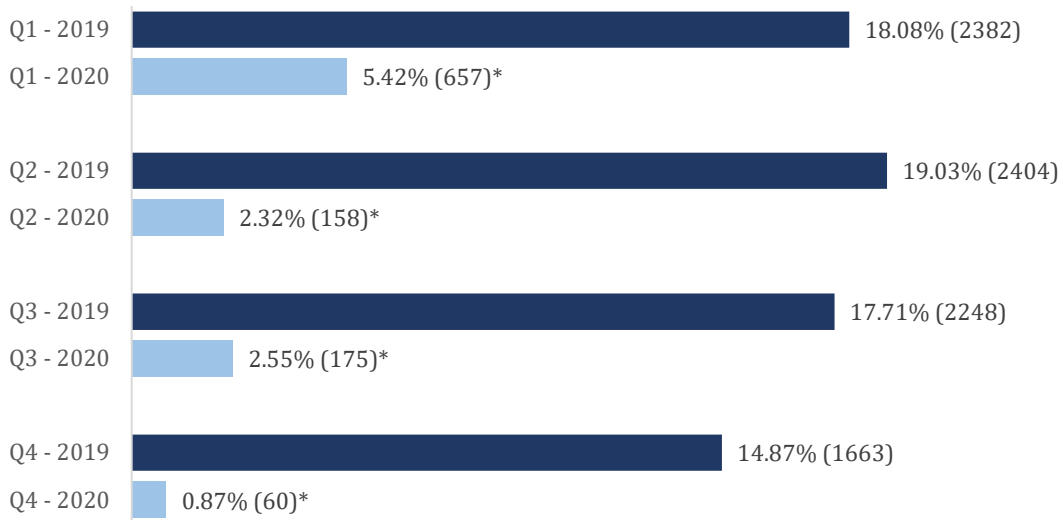
Together these results suggest that court non-appearance did not increase in 2020 as compared to 2019.

The data show very low rates of non-appearances in 2020, whether measured as a called and failed or a FTA. We knew that suspension of court operations in 2020 because of the COVID-19 pandemic likely depressed 2020 non-appearance rates. At the February 2021 stakeholder meeting where we presented these results, we asked participants for their thoughts on other ways that COVID-related procedural changes may have impacted non-appearance rates. They reported several such changes including: that FTAs are not being noted in traffic court; that only lawyers are being required to attend certain proceedings in other cases; that for first missed court dates after the initial appearance, some judges are simply directing that the individual be marked as not present (as opposed to called and failed) and that a notice of a new court date be sent; that in other proceedings, a non-appearance may not be noted or may be noted on the shuck and not in the ACIS or CCIS systems; and that because of public health concerns and the need to socially distance, 2020 calendars are smaller than 2019 calendars, resulting in fewer opportunities to fail to appear. Not all of these matters are being handled consistently across the district but collectively likely are depressing 2020 non-appearance rates. Although offering these explanations for depressed 2020 non-appearance rates, stakeholders expressed confidence in the direction of implemented reforms.

¹⁹ We explored alternative indicators of court non-appearance, such as order of bond forfeiture and whether an order for arrest was issued in response to a FTA. However, the level of missing data in these fields indicated that these variables are not consistently reported in ACIS, and thus we did not use them. For instance, less than .03% of cases served in 2019 reported that an order for bond forfeiture was filed or that an order for arrest was issued in response to an FTA during the period January 1, 2019 to June 30, 2020.

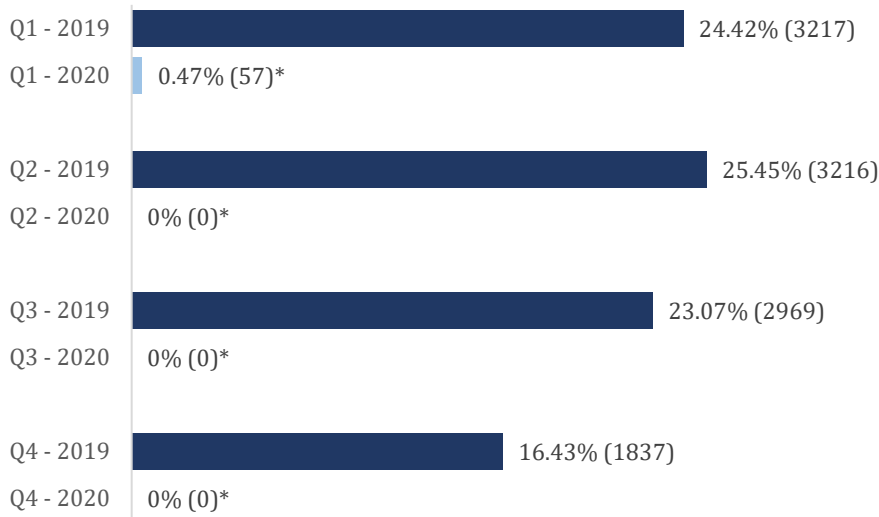
Additionally, we expect that as this evaluation continues and courts resume full operations, 2020 non-appearance rates may increase significantly. Finally, 2020 non-appearance rates may be suppressed as compared to 2019 rates for another reason: we are capturing non-appearances for two years (2019 and 2020) for 2019 cases but only for one year (2020) for 2020 cases. As this evaluation continues, we will capture additional pending time for 2020 cases and in our final project reporting will seek to limit results to comparable reporting periods.

Figure 3. Percent (and number) of cases with a called and failed for offenses in Q1-Q4 2019 and 2020



Asterisks (*) indicate that a finding is statistically significant. Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Figure 4. Percent (and number) of cases with an FTA for offenses in Q1-Q4 2019 and 2020



Asterisks (*) indicate that a finding is statistically significant. Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Pretrial Detention

There was a 43.69% decrease in pretrial bookings in 2020 as compared to 2019. Median length of stay decreased from 2 days to 1 day. There was an increase in shorter jail stays and a corresponding decrease in longer stays. Shorter pretrial detentions in 2020 may be partially explained by lower secured bond amounts in 2020 relative to 2019.

Pretrial bookings decreased 39.92% for Black individuals and 48.55% for White individuals. Black individuals experienced a larger decrease in the number of days detained than White individuals.

We note that COVID-19 undoubtedly was a factor with respect to jail detention findings, as pandemic-related public health concerns created pressure to reduce jail populations.

Bookings & Length of Stay

In an earlier check-in report to stakeholders, we presented data showing that the use of secured bonds decreased during the first and second quarter of 2020 relative to the same periods in 2019.²⁰ One expected result of a decrease in the use of secured bonds is reduced pretrial detention. In this section, we assess whether there have been changes in

²⁰ We were not able to report on that metric in this report because the North Carolina Administrative Office of the Courts (NC AOC) previously declined to provide an updated Conditions of Release Report for use in connection with this evaluation.

the number of pretrial bookings and the length of jail stays. To address this question, we examined booking data from the Forsyth County Detention Center for all individuals admitted between July 1 to December 31 of 2019 and 2020, restricting our analyses to individuals detained pretrial who were issued a secured bond.²¹

Figure 5 shows the number of bookings from July 1 to December 31 in 2019 and 2020. **The number of pretrial bookings was 43.69% lower during the third and fourth quarters of 2020 compared to the same periods in 2019.** Specifically, there were 1,830 pretrial bookings of 1,357 individuals during the last six months of 2020, compared to 3,250 bookings of 2,545 individuals during the same period in 2019.

Figure 5. Number of pretrial bookings, Quarters 3 & 4 of 2019 and 2020

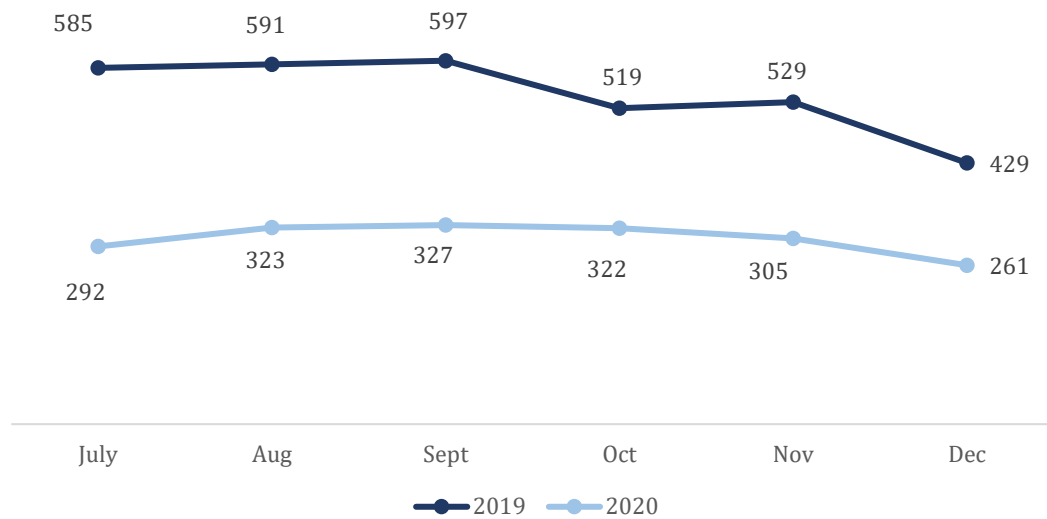


Table 6 shows that **individuals booked into the detention center were more likely to have a lower secured bond amount in 2020 relative to 2019.** During the third and fourth quarters of 2020, 27.16% of bookings had a secured bond of \$500 or less, compared to 18.25% of bookings in 2019. **Additionally, the median secured**

²¹ We excluded individuals who were held on a writ; serving a sentence; held for child support; and released to another local law enforcement agency, or a federal law enforcement agency such as the U.S. Marshals; we did not consider these cases to involve pretrial detention. We modified our definition of pretrial detention from our earlier quarterly report in two ways: (1) we included bookings where the individual was released to state prison or for time served, and (2) we considered the designation “released to probation” to be a pretrial release if the jail recorded the defendant’s status as pretrial. Release to probation was not considered pretrial if the defendant’s booking status was recorded as something other than pretrial. We also excluded individuals who were issued a condition of release other than a secured bond at the initial appearance for any charges. Our previous analyses captured only individuals whose first charge was a secured bond, omitting those with multiple charges who had a secured bond for later charges. We revised our analyses to include these individuals in this report. Bookings were included for all pretrial individuals (meeting the conditions above) booked into the detention facility with a secured bond regardless of year the case was initiated; thus, a defendant who was booked into the detention center in 2019 on a 17CR case was included in the analysis.

bond amount was lower in 2020 than in 2019 (\$1,500 in 2020 versus \$2,000 in 2019).

Table 6. Secured bond amounts for bookings during Quarters 3 & 4 of 2019 and 2020

All Offenses	2019	2020
% with a secured bond of \$500 or less	18.25%	27.16%*
Median secured bond amounts	\$2,000	\$1,500

Asterisks (*) indicate that a finding is statistically significant ($p \leq .05$). Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Table 7 shows that **the median length of stay decreased from 2 days in 2019 to 1 day in 2020. Additionally, there was a statistically significant reduction in longer pretrial jail detentions.** Specifically, there was a statistically significant decrease in the number of bookings resulting in pretrial detentions for 8 – 14 days, 22 – 29 days, and 30+ days in the third and fourth quarters of 2020 relative to the same period in 2019. Most significantly, the percentage of bookings that resulted in detentions longer than 30 days was 58.91% lower during the third and fourth quarters of 2020, as compared to the same period in 2019 (7.21% of pretrial bookings in 2020 versus 17.55% in 2019). Additional analyses show that overall decreases in the number of days detained between 2019 and 2020 may be partially explained by lower secured bond amounts across these years.²² That is, results suggest that average secured bond amounts were lower in the third and fourth quarter of 2020 relative to the same period in 2019, and as a result, individuals spent fewer days in pretrial detention. At the February 2021 stakeholder meeting, participants clarified that in many cases individuals are not required to put down the full amount for lower bonds to secure release from pretrial detention; in many cases the judicial official sets a secured bond amount but also orders that the person may secure the bond with a 10% deposit (e.g., \$50 for a \$500 bond).

Along with decreases in longer detentions, **data show a statistically significant increase in shorter jail stays** (0 days and 1 – 7 days), including a 9.78 percentage

²² An ordinary least squares regression of log secured bond amount on year shows that the average secured bond amounts were significantly lower in 2020 relative to 2019 ($b = -.213, p < .001$). We estimated two negative binomial regressions with the Huber/White sandwich estimate of variance that accounts for clustering for individuals who are booked multiple times: (1) the first model only included the effect of year ($b = -1.166, p < .001$) on days detained, and (2) the second model included year ($b = -.828, p < .001$) and log transformed secured bond amount ($b = .464, p < .001$) predicting the number of days detained. The effect of year (on days in detention) was reduced 28.98% after inclusion of secured bond amount in the model. Similar results were found for the variable of time ($b = -.979, p < .001$) when including secured bond under \$500 in the model instead of log transformed secured bond amount ($b = -1.294, p < .001$). These effects may be reduced when additional variables (such as criminal history) are added to the analyses, but they provide preliminary evidence of an indirect effect.

point increase in detentions of 1 – 7 days in the third and fourth quarters of 2020 (53.55% versus 43.77%). Supplemental analyses²³ indicate that this difference may be driven by an increase in 1-day detentions (25.03% of bookings in 2020 versus 16.01% in 2019). At a November 2020 meeting where we presented our draft first quarterly report to stakeholders, they suggested that this increase may be explained by an increase in impaired driving cases receiving a “disappearing appearance bond.” A disappearing appearance bond occurs when the magistrate imposes a secured bond that converts to a written promise when the individual becomes sober; it is imposed in impaired driving cases to ensure that the individual does not resume driving while still impaired. Results showed that there has been an increase in the number 1-day detentions where the bond was converted from a secured bond to a written promise (1.91% in 2019, 3.93% in 2020). However, this percentage point change appears to be too small to fully explain the increase in 1-day detentions.

Table 7. Percent of bookings by length of stay in Forsyth County Detention Center for Quarters 3 & 4 of 2019 and 2020

All Offenses	2019	2020
0 days	26.10%	30.44%*
1 – 7 days	43.77%	53.55%*
8 – 14 days	5.27%	3.61%*
15 – 21 days	3.82%	3.22%
22 – 29 days	3.49%	1.97%*
30+ days	17.55%	7.21%*
Median number of days	2	1
Total number of bookings	3242	1830

Asterisks (*) indicate that a finding is statistically significant ($p \leq .05$). Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Pretrial Detention by Race

Because racial information was included in the jail data, we were able to analyze whether there were any differences in pretrial detention by race.²⁴ **The number of pretrial bookings was 39.92% lower for Black individuals and 48.55% lower for White individuals in 2020 as compared to 2019** (Figure 6). During the third and fourth quarters of 2020, there were 1,091 bookings representing 776 Black individuals, as compared to 1,816 bookings for 1,380 Black individuals in 2019. The total number of bookings for White individuals in 2020 was 732 bookings for 552 individuals compared to 1,423 bookings for 1,141 individuals in 2019. We note that the number of pretrial booking for Black individuals exceeded those for White individuals in every month of both 2019 and 2020.

²³ Results available upon request.

²⁴ Race is identified based on the racial designations recorded by detention center staff. The categories in the detention center data include Asian or Pacific Islander, Black, Indian, and White.

Figure 7 shows the percent change in the number of pretrial bookings each month in 2019 and 2020 for Black and White individuals. As shown in the figure, the percent change was greater for White individuals during each month of quarter 3 and 4 of 2020 (relative to the same period in 2019).

Figure 6. Number of pretrial bookings by race, Quarters 3 & 4 of 2019 and 2020

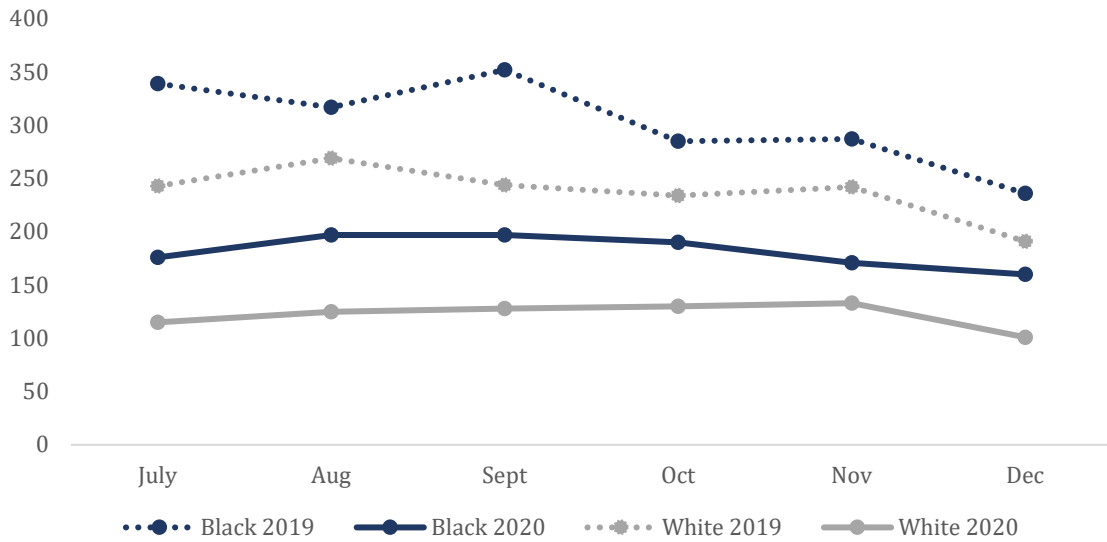


Figure 7. Percent change in the number of pretrial bookings by race, Quarters 3 & 4 of 2019 and 2020

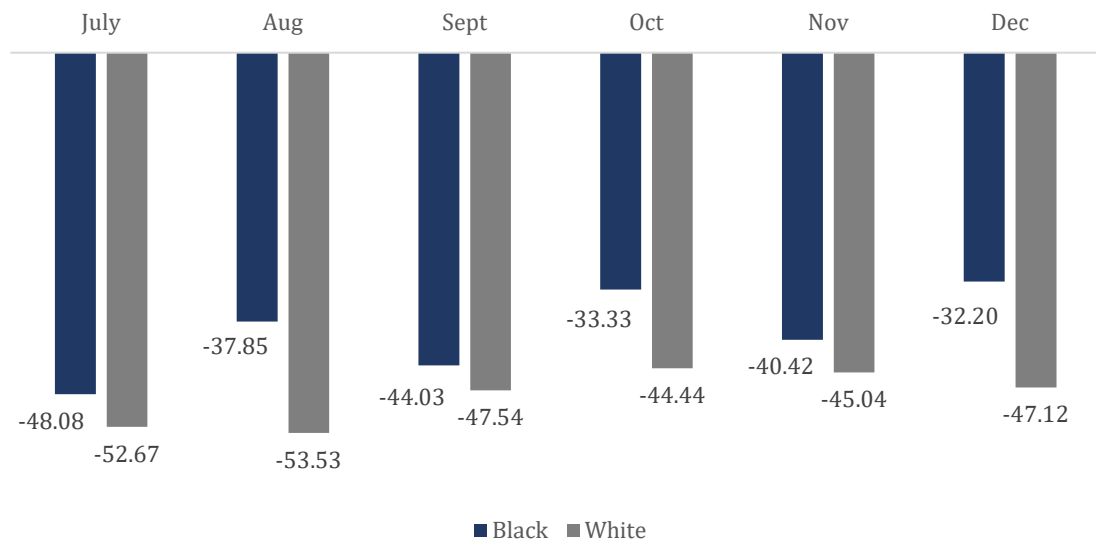


Table 8 shows that when comparing the last six months of 2020 to the same period in 2019, **there was a statistically significant increase in the prevalence of pretrial bookings with a secured bond amount of \$500 or less for both Black and White individuals.** Specifically, the percent of bookings with a secured bond of \$500 or less increased 43.86% for Black individuals (28.60% in 2020 versus 19.88% in 2019) and 56.92% for White individuals (25.14% in 2020 versus 16.02% in 2019). Although the percentage change was greater for White individuals, in both years a greater percentage of Black individuals received a secured bond of \$500 or less.

Table 8. Secured bond amounts bookings during Quarters 3 & 4 of 2019 and 2020

All Offenses		
Black individuals	2019	2020
% with a secured bond amount \$500 or less	19.88%	28.60%*
Median secured bond amounts	\$2,000	\$1,500
White individuals	2019	2020
% with a secured bond amount \$500 or less	16.02%	25.14%*
Median secured bond amounts	\$2,190	\$2,000

Asterisks (*) indicate that a finding is statistically significant ($p \leq .05$). Findings that are statistically different or statistically significant indicate that differences between the two percentages are not due to chance alone or statistical noise. Note that difference scores without any asterisk (*) means the difference is not statistically significant.

Table 9 shows that between 2019 and 2020, **the median number of days detained decreased from 2 days to 1 day for both White and Black individuals. However, Black individuals experienced a greater decrease in the number of days detained than White individuals.**²⁵ Table 9 shows that the mean number of days detained for Black individuals decreased from 25.47 in 2019 to 6.80 in 2020. By contrast, for White individuals that number decreased from 19.53 days in 2019 to 7.50 days in 2020. Supplemental analyses show that reductions in the number of days

²⁵ We estimated a negative binomial regression (with clustered robust standard errors) of days detained on race, year, and the interaction of race*year. The interaction coefficient was statistically significant ($b = .355, p = .017$). Separate regressions by race showed that the effect of year was larger for Black individuals ($b = -1.31, p < .001$) than White individuals ($b = -.956, p < .001$). The predicted number of days detained decreased 73.25% for Black individuals between 2019 and 2020, compared to a 61.55% reduction for White individuals. Results were similar when re-estimated using a zero-inflated negative binomial regression model and when we recoded days in detention so that the highest value was 120 to mitigate the right skew of the variable.

detained in 2020 may be partially explained by lower secured bond amounts in 2020 for bookings involving both Black and White individuals.²⁶

Table 9. Median & Mean number of days detained pretrial for Black and White individuals, Quarters 3 & 4 of 2019 and 2020

All Offenses	2019	2020
Black		
Mean	25.47	6.80
Median	2	1
White		
Mean	19.53	7.50
Median	2	1

Citation in Lieu of Arrest

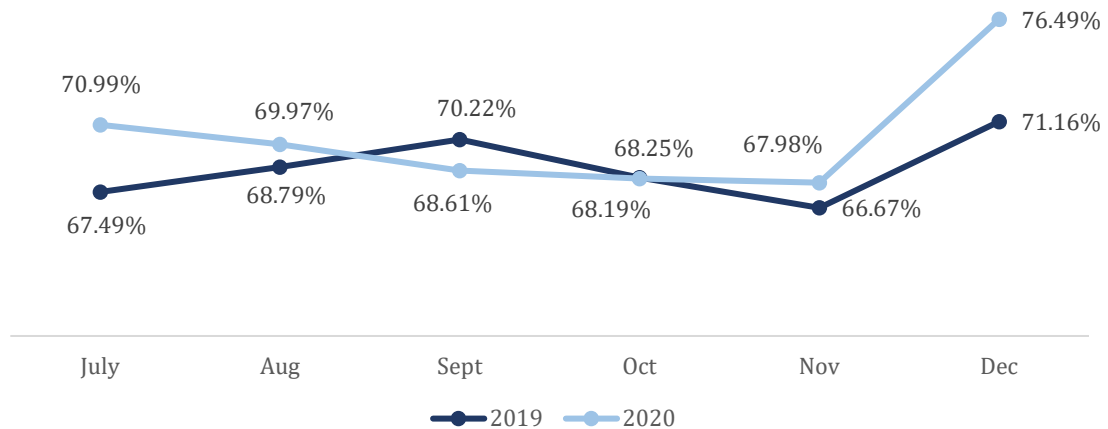
We used ACIS data to examine whether an increased use of citation in lieu of arrest in Forsyth County in 2020 may have impacted pretrial conditions set at the magistrate level. We identified three possible reasons why officers may have initiated a larger percentage of charges by citation versus arrest in 2020. First, law enforcement officers may have been more likely to issue citations in lieu of arrest for lower-level offenses in 2020 upon seeing that—as a result of implemented reforms—a larger percent of individuals charged with lower-level offenses were being immediately released by magistrates on conditions other than secured bonds. Second, COVID-19 may have increased the use of citations in lieu of arrest for health and safety reasons. Third, on December 1, 2020, the Winston-Salem Police Department began implementation of a Model Citation in Lieu of Arrest Policy, as part of its participation as a pilot site in North Carolina’s Citation Project. That project, executed by Smith, the UNC School of Government Criminal Justice Innovation Lab, and the North Carolina Association of Chiefs of Police, may impact both the number and types of cases resulting in arrest. Because individuals charged by citation are not brought to the magistrate for an initial appearance and the setting of conditions, if these changes occurred, each may have impacted the 2020 mix of cases presented to the magistrate. If that mix of cases includes a larger percentage of more serious misdemeanor offenses, this may result in more restrictive conditions of pretrial release in 2020 as compared to 2019. We thus explored

²⁶ We repeated our previous analyses where we: (1) estimated an ordinary least squares regression model of year predicting logged values of secured bond amounts, and (2) estimated a negative binomial model (with clustered robust errors) that regressed days in detention on year and logged values of secured bond amounts for bookings of Black and White individuals separately. Results showed that secured bond amounts decreased for bookings among both Black ($b = -.213, p < .001$) and White individuals ($b = -.226, p < .001$), and that secured bond amounts explained approximately 35.01% of the difference in days in detention (between 2020 and 2019) for bookings of Black individuals (year $b = -.856, p < .001$) and 16.73% of the difference for bookings of White individuals (year $b = -.956, p < .001$).

whether there was an increased use of citations to determine whether these changes may be artificially deflating the impact of reforms on lower-level offenses.

To examine these issues, we used data for criminal charges initiated on the same date via a citation or arrest in Forsyth County for July to December in 2019 and 2020.²⁷ **The data show mixed results regarding use of citations for July through November 2020, but show expanded use of citations (versus arrest) during December 2020.** Figure 8 shows that in Forsyth County there was a 5.33 percentage point increase in the use of citations in lieu of arrest during December 2020 relative to December 2019. A review of magistrate bail forms completed also shows a decrease in the number of forms completed in December 2020 (249 forms) as compared to the months of July (434 forms), August (410 forms), September (357 forms), October (379 forms), and November (315 forms). We will continue to examine whether the citation in lieu of arrest project impacts the number and types of cases issued a condition of release in future evaluations. *Note that because the Citation Project began on December 1, 2020 and the current data only capture cases initiated on or before December 31, 2020, that project impacts only one month shown in Figure 8. As this evaluation proceeds, that project may continue to impact results.*

Figure 8. Percent of Forsyth misdemeanor cases initiated by citation, July – December, 2019 and 2020



Next Steps

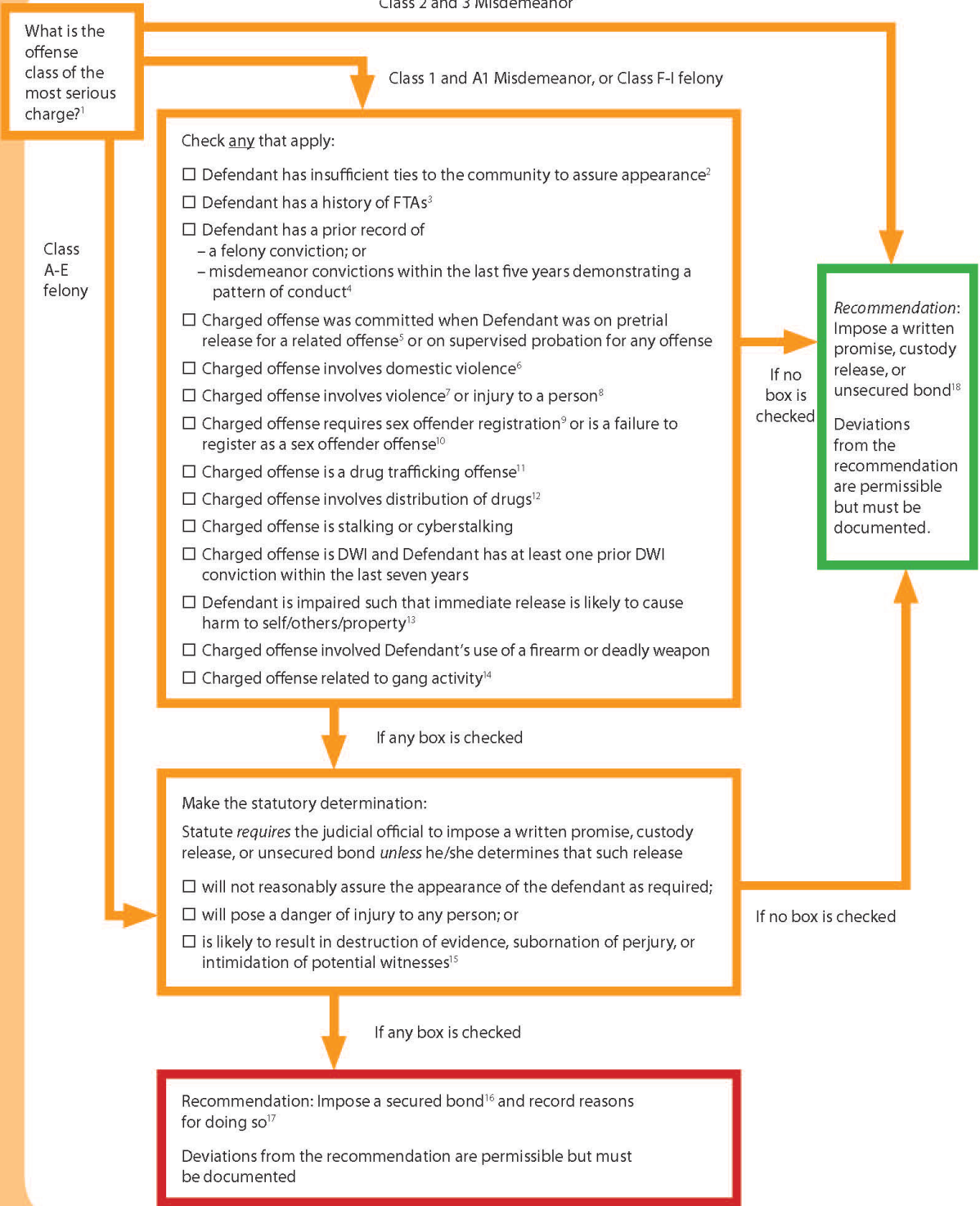
Our next quarterly evaluation report will encompass data through March 2021. In future reporting we plan to analyze pretrial failure metrics by race, using racial data in ACIS.

²⁷ Some individuals with multiple charges were charged via both a citation and a magistrate order (the process issued after a warrantless arrest). For instance, an individual may have been charged with a non-traffic misdemeanor via a magistrate order and with a traffic misdemeanor via a citation. In these situations, we recorded the case as involving an arrest.

Appendix A – New Structured Decision-Making Tool

JUDICIAL DISTRICT 21: DETERMINING CONDITIONS OF PRETRIAL RELEASE

Pursuant to Judicial District 21'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 or local policy prescribe a different process 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. There must be more than one prior FTA for this factor to apply. FTAs within the last two years are most relevant, as are OFAs for FTAs in cases other than minor traffic. Impaired driving is not a minor traffic case.
4. The pattern of conduct must relate to the present offense. For example: the current charge involves drug possession and the Defendant has three priors within the last five 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, assault, assault by pointing a gun, and assault by strangulation.
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 and 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. Specific evidence of relation to gang activity must be presented (e.g., admission of defendant or social media material). The mere statement that a defendant is a "validated" gang member is insufficient by itself to establish this factor.
15. 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).
16. 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 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.
17. 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").
18. Pretrial restrictions can accompany any pretrial condition. See G.S. 15A-534(a) and note 14 above.

Maximum secured appearance bond amounts—offenses other than drug trafficking

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

Type of Offense	Maximum Secured Bond
Misdemeanor, Class 2-3	\$250 ¹⁹
Misdemeanor, Class 1	\$500
Misdemeanor, Class A1	\$1,000
Driving While Impaired non felony	\$500
Felony Class I	\$2,500
Felony Class H	\$5,000
Felony Class G	\$10,000
Felony Class F	\$15,000
Felony Class E	\$25,000
Felony Class D	\$50,000
Felony Class C	\$50,000
Felony Class B2	\$200,000
Felony Class B1	\$200,000
Felony Class A	Set by a Judge

19. Or 15% if \$250 will result in a detention bond.

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
Methaqualone	10,000 or more	D	\$200,000
	1,000 – 4,999 dosage units	G	\$25,000
	5,000 – 9,999	F	\$50,000
Cocaine	10,000 or more	D	\$200,000
	28-199 grams	G	\$50,000
	200-399	F	\$100,000
Methamphetamine	400 or more	D	\$250,000
	28-199 grams	F	\$50,000
	200-399 grams	E	\$100,000
Amphetamine	400 or more	C	\$250,000
	28-199 grams	H	\$5,000
	200-399	G	\$25,000
Opium/Opiate/Opioid/Heroin	400 or more	E	\$100,000
	4-13 grams	F	\$50,000
	14-27	E	\$100,000
LSD	28 or more	C	\$500,000
	100-499 dosage units	G	\$25,000
	500-999	F	\$50,000
MDA/MDMA	1,000 or more	D	\$200,000
	100-499 units/28-199 grams	G	\$25,000
	500-999 units/200-399 grams	F	\$50,000
Substituted Cathinones	1,000 units/400 grams or more	D	\$250,000
	28-199 grams	F	\$50,000
	200-399	E	\$100,000
Synthetic Cannabinoids	400 or more	C	\$250,000
	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

Appendix B – Magistrate Bail Explanation Form

FORSYTH COUNTY MAGISTRATE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

Magistrate's Name	Date		
Defendant's Name			
Case #s			
Highest charge	Class A-E Felony	Class 1-A1 Misdemeanor or F-I Felony	Class 2 or 3 Misdemeanor

STEP 1: OFA after FTA with conditions set by judge

- Yes
 - Written Promise
 - Custody Release
 - Unsecured Bond \$ _____
 - Secured Bond \$ _____
- (FORM COMPLETE)**
- No (Go to **STEP 2**)

STEP 3: (check all that apply)

- Defendant has insufficient ties to the community to assure appearance
- Defendant has a history of FTAs
- Defendant has a prior record of
 - a felony conviction; or
 - misdemeanor convictions within the last five years demonstrating a pattern of conduct
- Charged offense was committed when Defendant was on pretrial release for a related offense or on supervised probation for any offense
- Charged offense involves domestic violence
- Charged offense involves violence or injury to a person
- Charged offense requires sex offender registration or is a failure to register as a sex offender offense
- Charged offense is a drug trafficking offense
- Charged offense involves distribution of drugs
- Charged offense is stalking or cyberstalking
- Charged offense is DWI and defendant has at least 1 prior DWI conviction within the last seven years
- Defendant is impaired such that immediate release is likely to cause harm to self/others/property
- Charged offense involved Defendant's use of a firearm or deadly weapon
- Charged offense related to gang activity

STEP 2: Highest Charge

- Class 2 or 3 Misdemeanor (Go to **STEP 3.5**)
- Class 1-A1 Misdemeanor or Class I-F Felony (Go to **STEP 3**)
- Class A-E Felony (Go to **STEP 4**)

If no box is checked, in **STEP 3**, go to **STEP 3.5**

If any box is checked in **STEP 3**, go to **STEP 4**

STEP 3.5:

- Follow bond policy recommendation and impose a
 - Written promise,
 - Custody release, or
 - Unsecured bond \$ _____ (form complete)
- Deviate from bond policy recommendation to impose a nonfinancial condition;
 - Secured bond \$ _____ if Deviate is checked, complete **STEP 7** below)

From **STEP 2** or **Step 3**

STEP 4: Make the statutory determination

Statute *requires* the judicial official to impose a written promise, custody release, or unsecured bond *unless* he/she determines that such release (Check any that apply and provide explanation for any checked box)

will not reasonably assure the appearance of the defendant as required

Explanation: [Redacted]

will pose a danger of injury to any person

Explanation: [Redacted]

is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses

Explanation: [Redacted]

If no box is checked in Step 4, go to step 3.5 above. If any box is checked in Step 4, go to **Step 5**.

STEP 5:

Follow bond policy recommendation and impose a secured bond consistent with maximum bond tables (*if this box is checked, make sure that reason is stated in STEP 4 and once that is done, form is complete* \$ [Redacted])

Deviate from bond policy recommendation to impose a secured bond within maximum bond table amount and impose:

- Written promise
- Custody release
- Unsecured bond \$ [Redacted]
- Secured bond \$ [Redacted]

(if Deviate is checked, proceed to **STEP 6**)

STEP 6: Type of Deviation (check one)

- From recommendation to impose secured bond
- From maximum bond table

STEP 7: Reasons for deviating from local bond policy recommendation (check any that apply):

- NC General Statute 15A-534(d3) - Bond is doubled because an offender already is released on bond for a related crime.
- NC General Statute 15a-534(d2) - Probationer is charged with a new felony and is deemed to pose a danger to the public.
- NC General Statute 15A-534.6 - Offender is charged with manufacturing methamphetamine or has a pattern or regular use of methamphetamine
- Other:

[Redacted]

(Form is complete)

Appendix C – Judge Bail Explanation Form

FORSYTH COUNTY JUDGE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

Judge's Name		Date	
Defendant's Name			
Case #s			

Highest charge	Class A-E Felony	Class 1-A1 Misdemeanor or F-I Felony	Class 2 or 3 Misdemeanor
	No	No	No

STEP 1: OFA after FTA with conditions set by judge

- Yes
 - Written Promise
 - Custody Release
 - Unsecured Bond \$ _____
 - Secured Bond \$ _____
- (FORM COMPLETE)
- No (Go to **STEP 2**)

STEP 3: (check all that apply)

- Defendant has insufficient ties to the community to assure appearance
- Defendant has a history of FTAs
- Defendant has a prior record of
 - a felony conviction; or
 - misdemeanor convictions within the last five years demonstrating a pattern of conduct
- Charged offense was committed when Defendant was on pretrial release for a related offense or on supervised probation for any offense
- Charged offense involves domestic violence
- Charged offense involves violence or injury to a person
- Charged offense requires sex offender registration or is a failure to register as a sex offender offense
- Charged offense is a drug trafficking offense
- Charged offense involves distribution of drugs
- Charged offense is stalking or cyberstalking
- Charged offense is DWI and defendant has at least 1 prior DWI conviction within the last seven years
- Defendant is impaired such that immediate release is likely to cause harm to self/others/property
- Charged offense involved Defendant's use of a firearm or deadly weapon
- Charged offense related to gang activity

STEP 2: Highest Charge

- Class 2 or 3 Misdemeanor (Go to **STEP 3.5**)
- Class 1-A1 Misdemeanor or Class I-F Felony (Go to **STEP 3**)
- Class A-E Felony (Go to **STEP 4**)

If no box is checked, in **STEP 3**, go to **STEP 3.5**

If any box is checked in **STEP 3**, go to **STEP 4**

STEP 3.5:

- Follow bond policy recommendation and impose a
 - Written promise,
 - Custody release, or
 - Unsecured bond \$ _____ (form complete)
- Deviate from bond policy recommendation to impose a nonfinancial condition;
 - Secured bond \$ _____ if Deviate is checked, complete **STEP 7** below)

From **STEP 2** or **Step 3**

STEP 4: Make the statutory determination

Statute *requires* the judicial official to impose a written promise, custody release, or unsecured bond *unless* he/she determines that such release (Check any that apply and provide explanation for any checked box)

will not reasonably assure the appearance of the defendant as required

Explanation: [Redacted]

will pose a danger of injury to any person

Explanation: [Redacted]

is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses

Explanation: [Redacted]

If no box is checked in Step 4, go to step 3.5 above. If any box is checked in Step 4, go to **Step 5**.

STEP 5:

Follow bond policy recommendation and impose a secured bond consistent with maximum bond tables (*if this box is checked, make sure that reason is stated in STEP 4 and once that is done, form is complete* \$ [Redacted])

Deviate from bond policy recommendation to impose a secured bond within maximum bond table amount and impose:

- Written promise
- Custody release
- Unsecured bond \$ [Redacted]
- Secured bond \$ [Redacted]

(if Deviate is checked, proceed to **STEP 6**)

STEP 6: Type of Deviation (check one)

- From recommendation to impose secured bond
- From maximum bond table

STEP 7: Reasons for deviating from local bond policy recommendation (check any that apply):

- NC General Statute 15A-534(d3) - Bond is doubled because an offender already is released on bond for a related crime.
- NC General Statute 15a-534(d2) - Probationer is charged with a new felony and is deemed to pose a danger to the public.
- NC General Statute 15A-534.6 - Offender is charged with manufacturing methamphetamine or has a pattern or regular use of methamphetamine
- Other:

[Redacted]

(Form is complete)

Appendix D – Magistrate Bail Form Results by Magistrate

	Total # of forms magistrates completed	Median # of forms by magistrate
Class A–E felonies	94	4.5
Class F – I felonies & Class A1 – 1 misdemeanors	1368	78.5
Class 2 – 3 misdemeanors	525	27

	Magistrate #1	Magistrate #2	Magistrate #3	Magistrate #4	Magistrate #5	Magistrate #6
% issued secured bonds	100.00%	100.00%	100.00%	100.00%	0.00%	N/A
	64.86%	40.91%	57.58%	43.88%	54.17%	54.55%
	0.00%	16.67%	46.81%	23.53%	50.00%	80.00%
Median secured bond amounts	\$100,000	\$37,500	\$87,500	\$87,500	N/A	N/A
	\$5,000	\$5,000	\$3,000	\$5,000	\$2,500	\$3,000
	N/A	\$250	\$250	\$750	\$500	\$2,500
% of forms w/deviations	0.00%	25.00%	40.00%	66.67%	0.00%	N/A
	2.70%	31.82%	14.14%	17.27%	54.17%	54.55%
	0.00%	11.11%	46.81%	23.53%	50.00%	80.00%
% of forms removed from analysis due to error	18.33%	12.00%	4.29%	3.10%	15.38%	0.00%

	Magistrate #7	Magistrate #8	Magistrate #9	Magistrate #10	Magistrate #11	Magistrate #12
% issued secured bonds	N/A	100.00%	100.00%	100.00%	87.50%	N/A
	43.24%	57.14%	37.93%	20.00%	44.93%	66.67%
	30.77%	0.00%	8.62%	55.17%	17.50%	50.00%
Median secured bond amounts	N/A	\$37,500	\$50,000	\$140,000	\$25,000	N/A
	\$2,000	\$5,000	\$2,000	\$2,000	\$2,500	\$37,750
	\$500	N/A	\$250	\$500	\$250	\$250
% of forms w/deviations	N/A	25.00%	37.50%	0.00%	25.00%	N/A
	35.14%	34.45%	10.34%	20.00%	7.97%	33.33%
	30.77%	0.00%	8.62%	55.17%	7.50%	50.00%
% of forms removed from analysis due to error	24.24%	13.95%	4.95%	25.26%	8.37%	16.67%

	Magistrate #13	Magistrate #14	Magistrate #15	Magistrate #16	Magistrate #17	Magistrate #18
% issued secured bonds	100.00%	75.00%	66.67%	75.00%	60.00%	100.00%
	20.69%	32.23%	53.38%	44.00%	46.53%	50.50%
	13.04%	32.00%	19.05%	25.00%	40.63%	32.61%
Median secured bond amounts	\$25,000	\$50,000	\$112,500	\$75,000	\$50,000	\$50,000
	\$5,000	\$2,500	\$2,000	\$10,000	\$1,500	\$3,600
	\$250	\$500	\$250	\$750	\$250	\$250
% of forms w/deviations	66.67%	16.67%	11.11%	50.00%	40.00%	0.00%
	18.97%	4.96%	8.78%	24.00%	29.70%	26.73%
	13.04%	32.00%	16.67%	25.00%	40.63%	30.43%
% of forms removed from analysis due to error	6.67%	0.00%	5.69%	10.87%	4.17%	0.00%

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