

# **AGENDA**

**BASIC SCHOOL FOR MAGISTRATES: WEEK II**  
**FEBRUARY 22-26, 2016**

## **MONDAY, February 22**

**9:00 Introductory Lecture on Elements of Crimes (60m)** Room 2401  
John Rubin, School of Government

**10:00 Break**

**10:15 Elements of Crimes (Assaults) (120m)** Room 2401  
Jamie Markham, School of Government

**12:15 Lunch at School of Government**

**1:15 Elements (Burglary) (75m)** Room 2401  
Alyson Grine, School of Government

**2:30 Break**

**2:45 Elements (Sexual Assaults) (120m)** Room 2401  
Jamie Markham, School of Government

**4:45 Adjourn**

## **TUESDAY, February 23**

**9:00 Elements (Theft and Robbery) (105m)** Room 2401  
Jeff Welty, School of Government

**10:45 Break**

**11:00 Trespass (60m)** Room 2401  
Jamie Markham, School of Government

**12:00 Lunch at School of Government**

**1:00 Selecting Process (90m)** Room 2401  
John Rubin, School of Government

**2:30 Break**

**2:45 Selecting Process, cont'd (75m)**  
John Rubin, School of Government

Room 2401

**4:00 Break**

**4:15 Selecting Process, cont'd (75m)**  
John Rubin, School of Government

Room 2401

**5:30 Adjourn**

### **WEDNESDAY, February 24**

**9:00 Search Warrants (90m)**  
Jeff Welty, School of Government

Room 2401

**10:30 Break**

**10:45 Search Warrants, cont'd (90m)**  
Jeff Welty, School of Government

Room 2401

**12:15 Lunch at School of Government**

**1:15 Search Warrants, cont'd (60m)**  
Jeff Welty, School of Government

Room 2401

**2:15 Break**

**2:30 Elements of Crimes (Drugs) (75m)**  
Jeff Welty, School of Government

Room 2401

**3:45 Break**

**4:00 Elements of Crimes (Drugs), cont'd (60m)**  
Jeff Welty, School of Government

Room 2401

**5:00 Adjourn**

## **THURSDAY, February 25**

- 9:00 Elements (Drunk, Weapons, Resisting) (60m)** Room 2401  
Jeff Welty, School of Government
- 10:00 Break**
- 10:15 Initial Appearance (105m)** Room 2401  
John Rubin, School of Government
- 12:00 Lunch in 2401**
- 1:00 Initial Appearance, cont'd (75m)** Room 2401  
John Rubin, School of Government
- 2:15 Break**
- 2:30 Initial Appearance, cont'd (60m)** Room 2401  
John Rubin, School of Government
- 3:30 Break**
- 3:45 Impaired Driving Holds (60m)** Room 2401  
Shea Denning, School of Government
- 4:45 Adjourn**

## **FRIDAY, February 26**

- 9:00 Elements (Motor Vehicle Law) (90m)** Room 2401  
Shea Denning, School of Government
- 10:30 Break**
- 10:45 Implied Consent Procedures (90m)** Room 2401  
Shea Denning, School of Government
- 12:15 Lunch in 2401**
- 1:15 Complete Evaluations**
- 1:30 Test on Week 2 Material** Room 2601

**Total available CLEs: 12 hours for two weeks**

**Week II Magistrate CLE hours: 1710 = 28.50**



## **SOG FACULTY BIOGRAPHIES**

**Mark Botts**  
**(919) 962-8204**

**botts@sog.unc.edu**

Mark Botts joined the School of Government in 1992. Prior to that, he served judicial clerkships with the US Court of Appeals for the Sixth Circuit and the US District Court for the Western District of Michigan. Botts' publications include *A Legal Manual for Area Mental Health, Developmental Disabilities, and Substance Abuse Boards in North Carolina*. Mark holds a B.A. from Albion College and a J.D. from the University of Michigan, School of Law.

**Areas of Interest:** Mental health law, including involuntary commitment procedures; legal responsibilities of area boards; client rights (especially confidentiality)

**Shea Riggsbee Denning**  
**(919) 843-5120**

**denning@sog.unc.edu**

Shea Denning joined the School of Government in 2003. Prior to that, she was an assistant federal public defender for the Eastern District of North Carolina and practiced law with the firm of King and Spalding in Atlanta, Georgia. Denning began her career as a law clerk to the Honorable Malcolm J. Howard, US District Judge for the Eastern District of North Carolina. She is a member of the North Carolina State Bar. Denning earned an AB with distinction in journalism and mass communication and a JD with high honors, order of the coif, from the University of North Carolina at Chapel Hill. Shea specializes in motor vehicle law and the criminal laws and procedures associated with this subject area, including the law of search and seizure and the rules of evidence. She teaches and consults with judges, prosecutors, public defenders, magistrates and others. In 2011, she was awarded the Albert and Gladys Coates Term Professorship for Faculty Excellence.

**Areas of interest:** Motor vehicle law; district court judge education

**Alyson Grine**  
**919.966.4248**

**agrine@sog.unc.edu**

Alyson A. Grine has served as the defender educator at the School of Government since 2006, focusing on criminal law and procedure and indigent defense education. Prior to 2006, she worked for five years as an assistant public defender in Orange and Chatham counties. She served as a judicial clerk for Chief Justice Henry Frye of the NC Supreme Court in 2000 and for Judge Patricia Timmons-Goodson of the NC Court of Appeals in 1999. She received the Albert and Gladys Hall Coates Teaching Excellence Award for 2012–2014. She is co-author of the *North Carolina Defender Manual, Volume I; North Carolina Juvenile Defender Manual*; and *Raising Issues of Race in North Carolina Criminal Cases*, for which she received the Margaret Taylor Writing Award in 2015. She was named Albert and Gladys Hall Coates Term Lecturer for Teaching Excellence for 2012–2014. Grine earned a BA with distinction and a JD with honors from UNC-Chapel Hill, and an MA in Spanish from the University of Virginia.

**Areas of interest:** Indigent defense education; criminal law and procedure

**Dona Lewandowski**  
**(919) 966-7288**

**lewandowski@sog.unc.edu**

Dona Lewandowski joined the faculty of the Institute of Government in 1985 and spent the next five years writing, teaching, and consulting with district court judges in the area of family law. In 1990, following the birth of her son, she left the Institute to devote full time to her family. She rejoined the School of Government in 2006. Lewandowski holds a B.S. and an M.A. from Middle Tennessee State University and a J.D. with honors, Order of the Coif, from the University of North Carolina at Chapel Hill. After law school, she worked as a research assistant to Chief Judge R.A. Hedrick of the NC Court of Appeals.

**Areas of Interest:** Magistrates' issues (non-criminal law), including small claims law and procedure, ethics, marriage, and magistrate personnel matters, including appointment and removal.

**Jamie Markham**  
**(919) 843-3914**

**markham@sog.unc.edu**

Jamie Markham joined the School of Government faculty in 2007. His area of interest is criminal law and procedure, with a focus on the law of sentencing, corrections, and the conditions of confinement. He was named Albert and Gladys Coates Distinguished Term Associate Professor for 2015–2017. Markham earned a bachelor's degree with honors from Harvard College and a law degree with high honors, Order of the Coif, from Duke University, where he was editor-in-chief of the *Duke Law Journal*. He is a member of the North Carolina Bar. Prior to law school, Markham served five years in the United States Air Force as an intelligence officer and foreign area officer. He was also a travel writer for Let's Go Inc., contributing to the Russia and Ukraine chapters of *Let's Go: Eastern Europe*.

**Areas of Interest:** Criminal law and procedure, especially community corrections and sentencing law

**John Rubin**  
**(919) 962-2498**

**rubin@sog.unc.edu**

John Rubin joined the School of Government in 1991. Prior to that, he practiced law in Washington, D.C., and Los Angeles. At the School he specializes in criminal law and indigent defense education. He has written several articles and books on criminal law, including the *North Carolina Defender Manual*, and he designs and teaches in numerous training programs each year for indigent defenders. He is a frequent consultant to the Office of Indigent Services, which is responsible for overseeing and enhancing legal representation for indigent defendants and others entitled to counsel under North Carolina law. He is the 2008 recipient of the Albert and Gladys Coates Term Professorship for Faculty Achievement. Rubin earned a B.A. from the University of California at Berkeley and a J.D. from the University of North Carolina at Chapel Hill.

**Areas of Interest:** Criminal law and procedure; public defender training; evidence; indigent defense; domestic violence; subpoenas.

**Jeff Welty**  
**(919) 843-8474**

**welty@sog.unc.edu**

Jeff Welty joined the School of Government in 2008. He was named Albert and Gladys Hall Coates Distinguished Term Assistant Professor for 2012–2014. Prior to that, he completed a federal judicial clerkship, spent eight years in private practice, and served as a lecturing fellow at Duke Law School. Welty earned a bachelor's degree from the University of California at Berkeley and a master's degree in economics and a JD, with highest honors, from Duke University, where he was executive editor of the *Duke Law Journal*.

**Areas of Interest:** Criminal law and procedure; evidence; prosecutor training; police attorneys





**Basic School for Magistrates: Week II**  
**School of Government, Chapel Hill, NC**  
**February 22-26, 2016**

**EVALUATION**

**SESSION EVALUATION**

**Monday, February 22, 2106**

**Introductory Lecture on Elements of Crimes**

John Rubin, School of Government

Please rate your instructor's teaching:	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well-prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult		About right	Too easy	

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

**Elements of Crimes (Assaults)**

Jamie Markham, School of Government

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructors' teaching:					
1. The instructors presented the material clearly.	1	2	3	4	5
2. The instructors were knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate the session content:					
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?		Too difficult	About right		Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

**Elements of Crimes (Burglary)**

Alyson Grine, School of Government

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructor's teaching:					
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

### Elements of Crimes (Sexual Assaults)

Jamie Markham, School of Government

Please rate your instructors' teaching:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
1. The instructors presented the material clearly.	1	2	3	4	5
2. The instructors were knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

## Tuesday, February 23, 2016

### Elements (Theft and Robbery)

Jeff Welty, School of Government

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructor's teaching:					
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate the session content:					
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

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### Elements of Crimes (Trespass)

Jamie Markham, School of Government

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructor's teaching:					
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

### Selecting Process

John Rubin, School of Government

Please rate your instructors' teaching:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
1. The instructors presented the material clearly.	1	2	3	4	5
2. The instructors were knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

## Wednesday, February 24, 2016

### Search Warrants

Jeff Welty, School of Government

Please rate your instructor's teaching:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate the session content:					
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

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### Elements of Crimes (Drugs)

Jeff Welty, School of Government

Please rate your instructors' teaching:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
7. The instructors presented the material clearly.	1	2	3	4	5
8. The instructors were knowledgeable and well prepared.	1	2	3	4	5
9. The instructor's pace was appropriate.	1	2	3	4	5
10. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
11. The session content is important for my professional development.	1	2	3	4	5
12. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

## Thursday, February 25, 2016

### Elements of Crimes (Drunk, Weapons, Resisting)

Jeff Welty, School of Government

Please rate your instructor's teaching:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right			Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

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**Initial Appearance**

John Rubin, School of Government

Please rate your instructor's teaching:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
	1	2	3	4	5
1. The instructor presented the material clearly.	1	2	3	4	5
2. The instructor was knowledgeable and well prepared.	1	2	3	4	5
3. The instructor's pace was appropriate.	1	2	3	4	5
4. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
	1	2	3	4	5
5. The session content is important for my professional development.	1	2	3	4	5
6. Was the content appropriate for your level of knowledge?	Too difficult	About right	Too easy		

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

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**Impaired Driving Holds**

Shea Denning, School of Government

Ashley Confroy, Administrative Office of the Courts

Please rate your instructor's teaching:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
	1	2	3	4	5
7. The instructor presented the material clearly.	1	2	3	4	5
8. The instructor was knowledgeable and well prepared.	1	2	3	4	5
9. The instructor's pace was appropriate.	1	2	3	4	5
10. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:



	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
Please rate the session content:					
11. The session content is important for my professional development.	1	2	3	4	5
12. Was the content appropriate for your level of knowledge?	Too difficult		About right		Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

## Friday, February 26, 2016

### Elements of Crimes (Motor Vehicle Law)

Shea Denning, School of Government

Ashley Confroy, Administrative Office of the Courts

*Strongly*

*Strongly*

	<i>Disagree</i>				<i>Agree</i>
Please rate your instructor's teaching:					
13. The instructor presented the material clearly.	1	2	3	4	5
14. The instructor was knowledgeable and well prepared.	1	2	3	4	5
15. The instructor's pace was appropriate.	1	2	3	4	5
16. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
Please rate the session content:					
17. The session content is important for my professional development.	1	2	3	4	5
18. Was the content appropriate for your level of knowledge?	Too difficult		About right		Too easy

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

**Implied Consent Procedures**

Shea Denning, School of Government  
 Ashley Confroy, Administrative Office of the Courts

Please rate your instructor's teaching:	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
19. The instructor presented the material clearly.	1	2	3	4	5
20. The instructor was knowledgeable and well prepared.	1	2	3	4	5
21. The instructor's pace was appropriate.	1	2	3	4	5
22. Overall, the session was skillfully done.	1	2	3	4	5

Please share any additional comments about the instructor's teaching. If you indicated that you were dissatisfied with one or more aspects of the instructor's teaching, we are particularly interested in learning how he or she can do better in the future:

Please rate the session content:	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
23. The session content is important for my professional development.	1	2	3	4	5
24. Was the content appropriate for your level of knowledge?	Too difficult		About right	Too easy	

Please share any additional comments about the session's content. If you indicated that you were dissatisfied with one or more aspects of the session's content, we are particularly interested in learning how we can do better in the future:

## CONFERENCE EVALUATION

### Conference Content

Please rate the length of each session:

	Usefulness		Session Length		
	Keep Session	Omit Session	Too Short	Just Right	Too Long
Introductory Lecture on Elements of Crimes					
Elements of Crimes (Assaults)					
Elements of Crimes (Burglary)					
Elements of Crimes (Sexual Assaults)					
Elements of Crimes (Theft and Robbery)					
Elements of Crimes (Trespass)					
Selecting Process					
Search Warrants					
Elements of Crimes (Drugs)					
Elements of Crimes (Drunk, Weapons, Resisting)					
Initial Appearance					
Impaired Driving Holds					
Elements of Crimes (Motor Vehicle Law)					
Implied Consent Procedures					

Are there any topics that we should offer at future conferences?

Please rate the conference content:

1. The conference (as a whole) will be useful to me.
2. The conference materials will be useful to me.

*Strongly Disagree*

*Strongly Agree*

1 2 3 4 5  
1 2 3 4 5

Please share any additional comments about conference content. If you indicated that you were dissatisfied with one or more aspects of conference content, we are particularly interested in learning how we can do better in the future:

Please rate the logistics of the conference:

1. Registering for the conference was simple and straightforward.
2. Before attending the conference, I received appropriate and timely information about conference logistics.
3. The room set-up was appropriate for this conference.
4. On-site School of Government staff was informed and helpful.

*Strongly Disagree*

*Strongly Agree*

1 2 3 4 5  
1 2 3 4 5  
1 2 3 4 5  
1 2 3 4 5

Please share any additional comments about conference logistics. If you indicated that you were dissatisfied with one or more logistical aspects of the conference, we are particularly interested in learning how we can do better in the future:

How did you find out about the conference? (please check all that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> Postcard Announcement         | <input type="checkbox"/> Referral from Colleagues     |
| <input type="checkbox"/> Email Announcement            | <input type="checkbox"/> Web Search                   |
| <input type="checkbox"/> School of Government Flyer    | <input type="checkbox"/> Advertisement                |
| <input type="checkbox"/> School of Government Website  | <input type="checkbox"/> School of Government Blog    |
| <input type="checkbox"/> School of Government Listserv | <i>Please specify:</i> _____                          |
| <i>Please specify:</i> _____                           | <input type="checkbox"/> Other, Please specify: _____ |

Tab 1:

# Criminal Procedure

**CRIMINAL PROCEDURE (FEBRUARY, 2016)**

2015 Legislation Affecting Criminal Law and Procedure ..... Criminal Procedure-Page 1



## 2015 Legislation Affecting Criminal Law and Procedure

Robert L. Farb, © UNC School of Government

November 2015

Below are summaries of 2015 legislation affecting criminal law and procedure. To obtain the text of the legislation, click on the link provided below or go to the North Carolina General Assembly's website, [www.ncleg.net](http://www.ncleg.net). (Once there, click on "Session Laws" on the right side of the page and then "2015-2016 Session" under "Browse Session Laws.") Be careful to note the effective date of each piece of legislation.

1. **[S.L. 2015-5 \(S 78\)](#): State correctional officers may carry concealed weapon when off-duty.** This session law adds a new subdivision (7) to G.S. 14-269(b), effective December 1, 2015, to provide that a state correctional officer may carry a concealed weapon when off-duty as long as the officer is not carrying the weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. If the concealed weapon is a handgun, the officer must meet the firearms training standards of the Division of Adult Correction of the Department of Public Safety.
2. **[S.L. 2015-16 \(H 91\)](#): Study misuse of handicapped windshield placards.** The Division of Motor Vehicles is required to study ways to decrease the misuse of handicapped windshield placards. The study must include the cost, feasibility, and advisability of (1) requiring the inclusion of more personal identifying information on the placard, including the handicapped person's picture; (2) linking the placard to the handicapped person's driver's license or identification card; and (3) linking the placard to a license plate. The DMV must report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by January 15, 2016.
3. **[S.L. 2015-18 \(H 601\)](#): Allow lawful sale of deer skins.** Amended G.S. 113-291.3(b), effective for deer lawfully taken on or after October 1, 2015, allows the skin of deer lawfully taken by hunting to be possessed, transported, bought, or sold, subject to tagging and reporting requirements and any season limits set by the Wildlife Resources Commission.
4. **[S.L. 2015-25 \(H 79\)](#): Clarify contempt remedy for violation of civil no-contact order.** Amended G.S. 50C-10 provides that a knowing violation of a civil no-contact order (which involves stalking or nonconsensual sexual conduct) is punishable by civil or criminal contempt under Chapter 5A of the General Statutes. The current statute simply states that a violation is punishable as contempt of court. This session law is effective for orders entered on or after October 1, 2015.
5. **[S.L. 2015-26 \(H 102\)](#): Authorize law enforcement officers and others to operate utility vehicles on certain public highways; include refuse, solid waste, or recycling vehicles to move-over law.** This session law amends G.S. 20-171.23 (motorized all-terrain vehicle may be operated by law enforcement officers and others on certain highways) and G.S. 20-171.24 (motorized all-terrain vehicle may be operated by city and county employees on certain highways) to add as an authorized vehicle a "utility vehicle" as defined in G.S. 20-4.01(48c), which is a motor vehicle designed for off-road use and used for general maintenance, security, agricultural, or horticultural purposes. G.S. 20-171.24 is also amended to make the statute applicable statewide; the current statute is limited to specified towns, cities, and counties. These provisions are effective May 21, 2015.

The session law also amends G.S. 20-157(f), commonly known as the move-over law that is applicable when there is an emergency vehicle parked or standing within 12 feet of the roadway and giving a warning signal, to include a vehicle that is being used for collection of refuse, solid waste, or



recycling. This amendment is effective for offenses committed on or after October 1, 2015.

6. **S.L. 2015-31 (S 90): Motor vehicles must have at least one brake light on each side of rear of vehicle.** Amended G.S. 20-129(g) and G.S. 20-129.1, effective for offenses committed on or after October 1, 2015, make clear that motor vehicles must be equipped with stop lamps, commonly known as brake lights, one on each side of the rear of the vehicle (however, a motorcycle only needs one stop lamp). This session law effectively overrules *State v. Heien*, 214 N.C. App. 515 (2011), which ruled that G.S. 20-129(g) only requires one stop lamp.  
S.L. 2015-241 (H 97) makes clear that, effective for offenses committed on or after October 1, 2015, a motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, must be equipped with a stop lamp in the rear of the vehicle.
7. **S.L. 2015-29 (H 434): No medical recertification for renewal of removable windshield handicapped placard if totally and permanently disabled.** Amended G.S. 20-37.6(c1), effective July 1, 2016, provides that medical recertification is not required for renewals of removable windshield handicapped placards if the person is certified as totally and permanently disabled.
8. **S.L. 2015-32 (H 659), as amended by S.L. 2015-264 (S 119): Add types of prior convictions for Class H felony offense of possessing pseudoephedrine.** Amended G.S. 90-95(d1)(1)c. adds the types of prior convictions to support the Class H felony offense of possession of pseudoephedrine to include possession with intent to sell or deliver methamphetamine, trafficking methamphetamine, and possession of an immediate precursor chemical (current law only includes prior convictions of possession or manufacture of methamphetamine). Additional precursor chemicals are added to the list set out in G.S. 90-95(d2). The Joint Legislative Oversight Committee on Justice and Public Safety is authorized to study the current state and federal law regarding the authority of state agencies to schedule controlled substances without legislative action and the procedure to schedule or reschedule. This session law is effective December 1, 2015, and applies to offenses committed on or after that date.
9. **S.L. 2015-36 (S 445): New provisions to protect clients of facilities providing care, treatment, habilitation, or rehabilitation of people with mental illness, developmental disabilities, or substance abuse disorders.** Amended G.S. 122C-66(a) increases from a Class 1 misdemeanor to a Class A1 misdemeanor when an employee or volunteer at a facility knowingly causes pain or injury to a client other than as a part of a generally accepted medical or therapeutic procedure. New G.S. 122C-66(a1) provides that an employee or volunteer at a facility who borrows or takes personal property from a client commits a Class 1 misdemeanor. Amended G.S. 122C-66(b) increases the punishment from a Class 3 misdemeanor to a Class 1 misdemeanor when an employee or volunteer at a facility witnesses or knows of a violation of subsections (a) or (a1) of G.S. 122C-66 or an accidental injury to a client and fails to report it to authorized personnel designated by the facility. New G.S. 122C-66(b1) provides that an employee or volunteer at a facility who witnesses a client become a victim of a violation of Article 7A (rape and other sex offenses) or Article 26 (offenses against public morality and decency) of Chapter 14 must report the violation within 24 hours to the county department of social services, the district attorney, or local law enforcement agency. A failure to report is a Class A1 misdemeanor. All of these provisions are effective for offenses committed on or after December 1, 2015.
10. **S.L. 2015-40 (H 224): Provisions concerning conditional discharge and deferred prosecution.** This session law revises G.S. 15A-150(a), effective for conditional discharges granted on or after

December 1, 2015, to add a new subdivision (a)(6) to require the clerk of superior court to file with the Administrative Office of the Courts (AOC), as soon as practicable after each court term, the names of people granted a dismissal on completion of a conditional discharge under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14. The substantive change is adding to G.S. 15A-150(a) the citations to G.S. 14-313(f) (conditional discharge for offenses involving youth access to tobacco products) and G.S. 15A-1341(a4) (conditional discharge for certain Class H and I felonies and misdemeanors), because the other statutory provisions are currently listed in G.S. 15A-150(a)(2), (a)(3), and (a)(5), but are moved to new subdivision (a)(6). Amended G.S. 15A-1342(a1), effective July 1, 2015, clarifies that a court may order the Community Corrections Section to supervise an offender's compliance with the terms of any conditional discharge or deferred prosecution agreement (current law is limited to a discharge or agreement entered into under G.S. 15A-1341(a1), (a3), or (a4)). Amended G.S. 15A-151(a)(4), effective July 1, 2015, includes an expunction under G.S. 15A-145.6 (expunction for certain prostitution convictions) to the AOC's authority to disclose certain expunctions to state and local law enforcement agencies for employment purposes.

**11. [S.L. 2015-41](#) (H 295): Division of Juvenile Justice may determine whether it is appropriate to release certain information about escaped delinquent juvenile.** Amended G.S. 7B-3102(a), effective May 29, 2015, provides that the Division of Juvenile Justice, Department of Public Safety, may release, if appropriate (currently law is mandatory), a statement about an escaped juvenile delinquent to the public concerning the Division's level of concern about the juvenile's threat to himself or herself or others. The determination whether to release this information must be made by the Division's Deputy Commissioner or his or her designee.

**12. [S.L. 2015-43](#) (H 82): Court may authorize officer, when executing a nonsecure custody order alleging abuse, neglect, and dependency, to enter private property and make a forcible entry.** Amended G.S. 7B-504 allows a court—if it finds based on a petition alleging abuse, neglect, or dependency or the petitioner's testimony that a less intrusive remedy is unavailable—may authorize a law enforcement officer to enter private property to take physical custody of the juvenile. If required by exigent circumstances, the court may authorize an officer to make a forcible entry at any hour. This session law is effective for orders issued on or after June 2, 2015.

**13. [S.L. 2015-44](#) (H 113): Increase criminal punishment for sex offenses committed against a student by school personnel other than teacher and others.** Amended G.S. 14-27.7(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, commits vaginal intercourse with student), recodified later as G.S. 14-27.32(b) by S.L. 2015-181, increases the punishment from a Class A1 misdemeanor to a Class I felony. This provision is effective for offenses committed on or after December 1, 2015. [Note: Although this punishment change was not carried forward in the statutory language in new G.S. 14-27.32(b), as recodified by S.L. 2015-181, it still became law based on the provisions of G.S. 120-20.1(b1).]

Amended G.S. 14-202.4(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, takes indecent liberties with student) increases the punishment from a Class A1 misdemeanor to a Class I felony. Amended G.S. 14-202.4(d) provides that the definition of "school personnel" includes those employed by a nonpublic, charter, or regional school. This provision is effective for offenses committed on or after December 1, 2015.

Amended G.S. 14-208.15 (sex offender registration), effective December 1, 2015, provides that on request of an institution of higher education, the sheriff of the county in which the institution is

located must provide registry information for any registrant who has stated he or she is a student or employee or expects to become one. Sets out additional provisions about a report of information from the registry.

14. **S.L. 2015-47 (H 294): Criminal offense to provide a cell phone to delinquent juvenile in custody of Department of Public Safety.** Amended G.S. 14-258.1, effective for offenses committed on or after December 1, 2015, provides that it is a Class H felony knowingly to give or sell a cell phone or other wireless communications device to a delinquent juvenile in the custody of the Division of Juvenile Justice of the Department of Public Safety. It makes clear that the offense applies to a juvenile confined in a youth development center or detention facility and also applies when the juvenile is transported to or from confinement.
15. **S.L. 2015-48 (H 570): Duty to identify outstanding arrest warrants.** Amended G.S. 15A-301.1 provides that when a person is taken into custody, the custodial law enforcement agency must attempt to identify all outstanding warrants and notify appropriate law enforcement agencies of the person's location. The same duty is imposed on a court before entering any court order in a criminal case. Newly-enacted G.S. 148-10.5 requires the Division of Adult Correction of the Department of Public Safety to work with law enforcement, district attorneys' offices, and courts to develop a process at intake and before release to identify all outstanding warrants for an inmate and to resolve them while he or she is in custody, if feasible. The inmate must be notified of the outstanding warrant and any right to counsel. This session law is effective October 1, 2015.
16. **S.L. 2015-49 (H 595): Former or current military police officers under certain circumstances may be certified as law enforcement officers without completing training course.** Newly-enacted G.S. 17C-10.1 provides that for law enforcement certification, former or current military police officers under certain circumstances are not required to complete an accredited Criminal Justice Education and Training Standards Commission training course. Amended G.S. 17C-3 adds three additional members to the Commission: (1) Director of State Bureau of Investigation; (2) Commander of State Highway Patrol; and (3) juvenile justice officer employed by the Juvenile Justice Section, to be appointed by the Governor. This session law is effective on June 3, 2015.
17. **S.L. 2015-50 (H 405): Civil action for damages when person exceeds scope of authorized access to property.** Newly-enacted G.S. 99A-2, effective for acts committed on or after January 1, 2016, provides that a person who intentionally accesses nonpublic areas of another's premises and engages in an act exceeding the person's authority to enter those areas is liable to the owner or operator of the premises for any damages sustained. A court may award one or more of the following remedies: (1) equitable relief; (2) compensatory damages as otherwise allowed by state or federal law; (3) costs and fees, including reasonable attorneys' fees; and (4) exemplary damages as otherwise allowed by state or federal law in the amount of \$5,000.00 for each day or a portion of a day that a violation occurs. The session law provides that it does not apply to any governmental agency or law enforcement officer engaged in a lawful investigation of the premises or the owner or operator of the premises. It also provides that its provisions do not diminish the protections provided to employees under Article 21 (retaliatory employment discrimination) of Chapter 95 and Article 14 (protection for reporting improper government activities) of Chapter 126 of the General Statutes.
18. **S.L. 2015-58 (H 879): Various juvenile delinquency law changes.** This session law, effective for offenses committed on or after December 1, 2015, makes various changes to juvenile delinquency

law.

**Custodial interrogation age change.** Current G.S. 7B-2101(b) provides that when a juvenile is less than 14 years old, an in-custody admission or confession resulting from interrogation may not be admitted into evidence unless it was made in the presence of the juvenile's parent, guardian, custodian, or attorney. The session law amends this statute to make it applicable to a juvenile who is less than 16 years old.

**Adjudicatory hearing.** Amended G.S. 7B-2202 (probable cause hearing) and 7B-2203 (transfer hearing) provides that the adjudicatory hearing for a misdemeanor after finding no probable cause for a felony or for an offense after the court does not transfer the offense to superior court, respectively, shall be a separate hearing, and the court may continue this hearing for good cause.

**Suppression motion made before adjudicatory hearing.** New G.S. 7B-2408.5 provides that a motion to suppress evidence made before the adjudicatory hearing must be in writing and a copy of the motion must be served on the State. The remainder of the statute is substantially identical to G.S. 15A-977 (motion to suppress in superior court; procedure), with the following additional provisions. An order denying a suppression motion may be reviewed upon an appeal of a final order of the court in the juvenile matter. The provisions of G.S. 15A-974 (statutory exclusionary rule) are applicable to G.S. 7B-2408.5.

**Preliminary inquiry by juvenile court counselor.** Amended G.S. 7B-1701 provides that if a complaint against a juvenile has not been previously received, as determined by the juvenile court counselor, the counselor must make reasonable efforts to meet with the juvenile and his or her parent, guardian, or custodian if the offense is divertible.

**Prosecutor make take voluntary dismissal or dismissal with leave.** Amended G.S. 7B-2404 provides that a prosecutor may take a voluntary dismissal of allegations in a juvenile petition with or without leave either orally in court or by filing a written dismissal with the clerk. The statute sets out the duty to notify various people of the dismissal. If the prosecutor takes a dismissal with leave because the juvenile failed to appear in court, the prosecutor may refile the petition if the juvenile is apprehended or apprehension is imminent.

**What constitutes prior adjudication for delinquency history levels.** Amended G.S. 7B-2507 (delinquency history levels) provides that a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

**Extension of probation.** Amended G.S. 7B-2510(c) provides that before the expiration of an order of probation, the court may extend the term for an additional period of one year, after *notice* and a hearing (current law requires a hearing but not notice). At the court's discretion, the hearing to determine to extend probation may occur after the expiration of a probation order at the next regularly scheduled court date or if the juvenile fails to appear in court. Amended G.S. 7B-2510(e) (new disposition authorized after probation violation) to provide that the court may order either (1) a new disposition at the next higher level on the disposition chart or (2) a term of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508, but not both as allowed under the current statute.

**Dispositional order and dispositional alternatives.** Amended G.S. 7B-2512 requires the court to include information when issuing a dispositional order, either orally in court or in writing, about the expunction of juvenile records as provided for in G.S. 7B-3200 that are applicable to the order (in effect, informing the juvenile about expunction when issuing the dispositional order). Amended G.S. 7B-2506(12) and (20), involving dispositional alternatives, make clear that the court determines the timing and imposition (underlined words added) of the confinement set out in the statute.

**Secure custody changes.** Amended G.S. 7B-1903 provides that as long as the juvenile remains in secure custody, further hearings on continued secure custody must be held at intervals of no more than 10 calendar days, but may be waived for no more than 30 calendar days only with the consent

of the juvenile through the juvenile's counsel. The order for continued secure custody must be in writing with appropriate findings of fact. The statute is also amended to provide that if the court finds there is a need for an evaluation of a juvenile for medical or psychiatric treatment under subsection (b) of the statute and the juvenile is under 10 years old and does not have a pending delinquency charge, the law enforcement officer or other authorized person assuming custody of the juvenile may not use physical restraints during the transport of the juvenile to the designated place set out in the order, unless in the officer's or other authorized person's discretion the restraints are reasonably necessary for safety reasons.

19. **S.L. 2015-62 (H 465): Miscellaneous changes-1.** This session law, called the "Women and Children's Protection Act of 2015," makes various criminal and civil changes, although not all of the civil changes will be summarized here.

**Statutory rape or sexual offense changes.** G.S. 14-27.7A (statutory rape or sexual offense) currently applies to a victim who is 13, 14, or 15 years old. This session law, effective for offenses committed on or after December 1, 2015, changes the age of the victim in both subsections (a) and (b) to a victim who is 15 years old or younger. It also adds a proviso to the Class C felony in subsection (b) that the offense applies unless the conduct is covered under some other provision of law providing greater punishment. [Note: G.S. 14-27.7A was later recodified in S.L. 2015-181.]

**Chapters 50B (domestic violence protective orders) and 50C (civil no-contact orders) changes.** New G.S. 7A-343.6, effective June 5, 2015, authorizes the Administrative Office of the Courts (AOC) to develop a program in district court for electronic filing in Chapters 50B and 50C cases. To implement the program, each chief district court judge must draft local rules and submit them to the AOC for approval. The local rules must permit the clerk of superior court to accept electronically-filed complaints requesting domestic violence protective orders under Chapter 50B or civil no-contact orders under Chapter 50C that are transmitted from a domestic violence program as defined in G.S. 8-53.12. The authorization for local rules shall be superseded by the promulgation of uniform state rules by the North Carolina Supreme Court.

The following changes are effective for documents filed and hearings held on or after December 1, 2015. Amended G.S. 50B-2 provides that all documents filed, issued, registered, or served in an action under Chapter 50B concerning an ex parte, emergency, or permanent domestic violence protective orders may be filed electronically. Hearings held to consider ex parte relief under G.S. 50B-2(c) may be held via video conference, but hearings held to consider emergency or permanent relief under G.S. 50B-2(a) or (b) shall not be held via video conference. Similar changes are made to Chapter 50C's provisions.

**New non-capital sentencing aggravating factor.** Amended G.S. 15A-1340.16(d) adds a new non-capital sentencing aggravating factor, applicable to offenses committed on or after December 1, 2015, when the defendant committed an offense and knew or reasonably should have known that a person under 18 who was not involved in the commission of the offense was in a position to see or to hear the offense.

**Expand definition of "in the presence of a minor" in assault offense.** Amended G.S. 14-33(d) (assault on person with whom defendant has personal relationship), applicable to offenses committed on or after December 1, 2015, expands the definition of "in the presence of a minor" to include a minor who was in the position to hear as well as to see the assault.

**Expand domestic violence cases subject to special bail and pretrial release conditions under G.S. 15A-534.1.** Amended G.S. 15A-534.1 (domestic violence cases subject to special bail and pretrial release conditions), applicable to offenses committed on or after December 1, 2015, makes subject to the statute a situation in which the victim of the enumerated crimes is a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6).

**Expand applicability of offense involving sex offender unlawfully on premises.** Amended G.S. 14-208.18(c)(1), applicable to offenses committed on or after December 1, 2015, expands the applicability of the crime involving a sex offender unlawfully on certain premises involving minors, to a person required to register as a sex offender for any federal offense or offense committed in another state, which if committed in North Carolina, is substantially similar to an offense in Article 7A (rape and other sex offenses) of Chapter 14.

**Various changes to abortion provisions.** Various amendments relating to abortions are made to G.S. 14-45.1 (when abortion is not unlawful), G.S. 90-21.82 (informed consent to abortion), and G.S. 90-21.86 (procedure when medical emergency requires abortion), but they will not be summarized here.

20. **S.L. 2015-66 (H 222): Elected North Carolina Supreme Court justices subject to retention election.** New Article 1A of Chapter 7A of the General Statutes, effective June 11, 2015, provides that a justice of the North Carolina Supreme Court who was elected to that office by the voters who desires to continue in office shall be subject to approval by the voters in a retention election at the general election immediately preceding the expiration of the expired term. Approval is by a majority of the votes cast.
21. **S.L. 2015-71 (H 352): Standard of proof changed in civil lawsuit against 911 operators.** New G.S. 99E-56, effective for a cause of action arising on or after June 11, 2015, provides that in a civil action arising from any act or omission by the defendant in performing any lawful and prescribed actions concerning the defendant's assigned duties as a 911 or public safety telecommunicator or dispatcher, the plaintiff's burden of proof shall be by clear and convincing evidence (the typical burden of proof is preponderance of evidence, which is a lesser burden than clear and convincing evidence).
22. **S.L. 2015-72 (H 552): New criminal offense of graffiti vandalism.** New G.S. 14-127.1 creates the new offense of graffiti vandalism, which is defined as the unlawful writing or scribbling on, painting, defacing, etc., the walls of (1) any real property, public or private; (2) any public building or facility as defined in G.S. 14-132; or (3) any statue or monument situated in any public place. A person convicted of this offense is guilty of a Class 1 misdemeanor and shall be fined a minimum of \$500 and, if community or intermediate punishment is imposed, shall be required to perform 24 hours of community service. It is a Class H felony if the defendant commits graffiti vandalism and has two or more prior graffiti vandalism convictions, if the current violation was committed after the second conviction, and the violation resulting in the second conviction was committed after the first conviction. Amended G.S. 14-132 (disorderly conduct and injuries to public buildings and facilities) adds a proviso in subsection (d) that it is a Class 2 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment. This session law is effective for offenses committed on or after December 1, 2015.
23. **S.L. 2015-73 (H 574): State wildlife laws are not applicable to opossums between December 29 and January 2.** This session law, effective June 11, 2015, provides that state or local statutes, rules, regulations, or ordinances related to the capture, captivity, treatment, or release of wildlife do not apply to the Virginia opossum between December 29 of each year and January 2 of each subsequent year.
24. **S.L. 2015-74 (H 691): Felony to assault member of North Carolina National Guard discharging official duties.** New G.S. 14-34.7(a1) provides that unless covered under another provision of law

providing greater punishment, it is a Class F felony to assault a member of the North Carolina National Guard (NCNG) while he or she is discharging or attempting to discharge official duties and inflict serious bodily injury. Amended G.S. 14-34.7(c) provides that it is a Class I felony to assault a NCNG member while he or she is discharging or attempting to discharge official duties and inflict physical injury.

This session law also deleted “inflicting serious injury” from the title of G.S. 14-34.7, upon which *State v. Crawford*, 167 N.C. App. 777 (2005), relied in ruling that the State need only prove serious injury instead of the more difficult burden of proving serious bodily injury. This legislative change casts doubt on the continuing application of the *Crawford* ruling, and the State may now be required to prove serious bodily injury instead of serious injury in subsections (a), (a1), and (b) of G.S. 14-34.7.

Amended G.S. 14-34.5 provides that it is a Class E felony to assault with a firearm a NCNG member while he or she is performing duties.

This session law applies to offenses committed on or after December 1, 2015.

25. **[S.L. 2015-87 \(S 83\): Amendments to false lien filing law involving property of public officer or employee.](#)** This session law, effective for filings on or after October 1, 2015, adds a new subsection (b1) to G.S. 14-118.6 (filing false lien or encumbrance against public officer or employee’s property) to provide when a lien or encumbrance (hereafter, lien) as described in subsection (a) is presented to the clerk of superior court for filing and the clerk has a reasonable suspicion that it is false, the clerk may refuse to file the lien. Neither the clerk nor the clerk’s staff are liable for filing or refusing to file a lien. The clerk must not file, index, or docket the document against the property of a public officer or employee until that document is approved for filing by any judge of the judicial district having subject matter jurisdiction. The procedure for judicial review and court orders are set out in this new subsection.
  
26. **[S.L. 2015-89 \(S 161\): North Carolina Supreme Court may hold sessions in Morganton.](#)** Amended G.S. 7A-10(a), effective June 19, 2015, authorizes the North Carolina Supreme Court to hold sessions not more than twice annually in the City of Morganton, and unless a more suitable site is identified, the court must meet in the Old Burke County Courthouse.
  
27. **[S.L. 2015-91 \(S 60\): Establishing permanent civil no-contact order against sex offender on behalf of crime victim.](#)** This session law adds new Chapter 50D to the General Statutes to authorize a civil action in district court to obtain a permanent civil no-contact order against a person who committed a sex offense, defined as any criminal offense that requires sex offender registration under Article 27A of Chapter 14. The permanent no-contact order is a permanent injunction for the lifetime of the offender that prohibits any contact by the offender with the victim of the sex offense for which the offender has been convicted. The civil action may be brought by the victim or an adult residing in the state on behalf of a minor victim or an incompetent adult for a sex offense that occurred in the state. This new law sets out the required court findings before issuing the permanent no-contact order and types of relief that the court may grant, all related to no contact with the victim. A victim may file a motion for contempt for a violation of the order. A person who knowingly violates a court order is guilty of a Class A1 misdemeanor. A law enforcement officer must arrest a person, with or without a warrant or other process, if the officer has probable cause that the person knowingly has violated a non-contact order. The Administrative Office of the Courts must develop forms to implement the processes established by this new law, including amending the Rules of Recordkeeping to require the clerk of superior court to retain the records of an action filed under the law. The provisions described above are effective October 1, 2015.

Amended G.S. 14-50.43(d), effective June 19, 2015, (court order involving criminal street gangs) provides that a court order, which expires one year after entry, may be extended by the court for good cause established by the plaintiff after a hearing.

- 28. [S.L. 2015-94 \(S 154\): Amendments to immunity provisions for drug-related and alcohol-related overdoses.](#)** The session law is effective for offenses committed on or after August 1, 2015. Amended G.S. 90-96.2 (drug-related overdose treatment; limited immunity) provides that a person may not be prosecuted for certain drug offenses (no offense changes from current law) if all of the following exist: (1) the person sought medical assistance for another person experiencing a drug-related overdose by contacting 911, a law enforcement officer, or emergency medical services personnel; (2) the person acted in good faith when seeking medical assistance and reasonably believed that he or she was the first to call for assistance; (3) the person provided his or her own name to 911 or to an officer on arrival; (4) the person did not seek medical assistance during the course of the execution of an arrest warrant or search warrant, or other lawful search; and (5) the evidence for prosecution of the offense was obtained as a result of the person seeking medical assistance for the drug-related overdose. Immunity also is extended to the overdose victim if all but (3), above, are satisfied. A person is not subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on the offense for which the person has immunity from prosecution. A law enforcement officer is not subject to civil liability when he or she in good faith arrests or charges a person later determined to be entitled to immunity under the statute. Amended G.S. 18B-302.2 (alcohol-related overdose treatment; limited immunity) makes similar changes as described above. Amended G.S. 90-106.2 provides that a pharmacist: (1) may dispense an opioid antagonist to a person with an opiate-related overdose pursuant to a prescription issued under the conditions set out in subsection (b) of the statute; and (2) is immune from civil or criminal liability for an authorized action.
- 29. [S.L. 2015-97 \(H 560\): Felony to assault hospital personnel and healthcare providers.](#)** Amended G.S. 14-34.6(a)(3), effective for offenses committed on or after December 1, 2015, provides that it is a Class I felony to assault and cause physical injury to hospital personnel and licensed healthcare providers who are providing or attempting to provide health care services to a patient in a hospital. The current statute describes the victims as “emergency department personnel: physicians, physician assistants, nurses, and licensed nurse practitioners.”
- 30. [S.L. 2015-98 \(H 909\): Various changes to Alcohol Beverage Control Commission laws.](#)** This session law makes various ABC law changes. (1) The sale of antique spirituous liquor is authorized and regulated, effective on the adoption (no later than September 1, 2015) of temporary rules by the ABC Commission. (2) Amended G.S.18B-102, effective June 19, 2015, makes it a Class 1 misdemeanor when a person manufactures, sells, transports, consumes, possesses, etc., powdered alcohol, which is defined in amended G.S. 18B-101. (3) Effective June 19, 2015, the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission is authorized to issue wine shipper permits and commercial ABC permits, and it is made clear that the commission maintains the exclusive authority to issue certain permits. (4) Distillery permit holders are authorized to sell spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises, effective on the adoption (no later than October 1, 2015) of temporary rules by the ABC Commission. (5) Effective June 19, 2015, certain ABC permittees are allowed to sell cider in certain containers for consumption off the permitted premises and technical changes are made to the laws concerning the sale of malt beverages in growlers. (6) Effective June 19, 2015, alternating proprietorships for breweries are authorized. (7) Effective June 19, 2015, the holder of a brewery



permit is allowed to sell malt beverages to a nonresident wholesaler if the malt beverages are shipped from the brewery to licensed wholesalers. (8) Effective June 19, 2015, the ABC Commission is authorized to issue guest room cabinet permits to certain 18-hole golf courses.

- 31. [S.L. 2015-105 \(S 212\): Retired law enforcement officer's qualifications for concealed handgun permit.](#)** Amended G.S. 14-415.12A, effective October 1, 2015, provides that a person applying for a concealed handgun permit who is a qualified retired law enforcement officer and has met the standards for handgun qualification for active officers within the last 12 months satisfies the requirement that an applicant successfully complete an approved firearms safety and training course.
- 32. [S.L. 2015-108 \(S 621\): Division of Motor Vehicles may send vehicle registration renewal notification by e-mail to owner.](#)** Amended G.S. 20-66(a) provides that upon receiving written consent from the vehicle owner, the Division of Motor Vehicles may send the required notice of renewal of a vehicle registration electronically to an e-mail address provided by the owner. A similar provision is added to G.S. 105-330.5(b) so the Property Tax Division of the Department of Revenue or a third-party contractor may send by e-mail a copy of the combined tax and registration notice for a registered classified motor vehicle. This session law is effective January 1, 2016.
- 33. [S.L. 2015-123 \(S 578\): Transfer of abuse and neglect investigations in child care facilities to Division of Child Development and Early Education in Department of Health and Human Services.](#)** This session law, effective January 1, 2016, transfers investigations of child abuse and neglect occurring in a child care facility from a county social services department to the Department of Health and Human Services (hereafter, Department), Division of Child Development and Early Education. New G.S. 110-105.3 describes the investigative authority as applicable to instances of child maltreatment in child care facilities. Child maltreatment is defined as any act or series of acts of commission or omission by a caregiver that results in harm, potential for harm, or threat of harm to a child, including physical, sexual, and psychological abuse, failure to provide for the physical, emotional, or medical well-being of a child, and failure to properly supervise children that results in exposure to potentially harmful environments. The statute sets out in detail the investigative duties and responsibilities of the Department and others, including requiring the Department to contact law enforcement when the report alleges maltreatment that would be considered misdemeanor or felony child abuse. The Department may also request the assistance of local law enforcement or a county department of social services. New G.S. 110-105.4 requires that any person who has cause to suspect that a child in a child care facility had been maltreated or has died as the result of maltreatment in a child care facility, must report the maltreatment to the Department (and not the county department of social services), and specifies the content of the report and that it may be made orally, by telephone, or in writing. The Department must notify the State Bureau of Investigation within 24 hours or on the next workday on receiving a report of maltreatment involving sexual abuse of a child in a child care facility or of suspecting sexual abuse occurred there when assessing a report based on different maltreatment grounds. New G.S. 110-105.5 requires the Department to establish and maintain a Child Maltreatment Registry containing the names of all caregivers who have been confirmed by the Department of having maltreated a child in a child care facility. New G.S. 110-105.6 sets out penalties for child maltreatment in child care facilities, including (1) that child maltreatment is a violation of Article 7 of G.S. Chapter 110, licensure standards, and licensure laws; (2) various departmental administrative actions, including summary suspension, revocation of a facility's child care license, and placement on the Child Maltreatment Registry; and (3) unannounced visits by the Department to determine whether corrective action by the facility has

occurred.

- 34. [S.L. 2015-124 \(H 55\): North Carolina State University included in law permitting fireworks.](#)** Amended G.S. 14-410(a1)(3) and 14-413, effective Jun 29, 2015, permit fireworks on lands or buildings in Wake County owned by The University of North Carolina or North Carolina State University.
- 35. [S.L. 2015-125 \(H 148\): Moped owners must have insurance.](#)** Various provisions of G.S. Chapters 20 and 58 are amended, effective for offenses committed on or after July 1, 2016 (note the year in this date) as follows: They provide that in order to register a moped, a person must have proof of financial responsibility for the operation of the moped, which requires proof of a person's ability to respond to damages for liability in the same amounts required for operators of other types of motor vehicles. Because the financial responsibility requirement is tied to the registration requirement, liability insurance covering the operation of the moped is only required if the moped is to be operated on a street or highway. The Rate Bureau does not promulgate rates for liability insurance or theft and physical damage insurance on mopeds. Instead rates are regulated through Article 40 of Chapter 58. Moped liability insurance or theft and physical damage insurance may, however, be added as an endorsement to a liability and physical damage policy issued for another type of motor vehicle. In addition, liability insurance on mopeds cannot be ceded to the reinsurance facility.
- Amended G.S. 20-286(10), effective July 1, 2015, clarifies that the sale and manufacture of mopeds is not subject to the motor vehicle dealers and manufacturers licensing law. Amended G.S. 20-53.4, effective July 1, 2015, provides that a moped owner is not required to apply for, and the Division of Motor Vehicles is not required to issue, a certificate of title.
- 36. [S.L. 2015-135 \(S 423\): Application for limited learner's permit and provisional driver's license by minor in legal custody of social services department.](#)** Amended G.S. 20-11(i), effective October 1, 2015, adds to the list of people other than the applicant who may sign an application for a limited learner's permit or provisional driver's license by a person under 18 years old, with respect to a minor in the legal custody of a county social services department, to include a guardian ad litem and the director of the department, among others.
- 37. [S.L. 2015-141 \(S 286\): Electronic cigarettes, cigars, etc., regulated.](#)** New G.S. 14-401.18A, effective for offenses committed on or after December 1, 2015, makes it a Class A1 misdemeanor for any person, firm, or corporation to sell, offer for sale, or introduce into commerce in North Carolina (1) an e-liquid container unless the container has child-resistant packaging; and (2) an e-liquid container for an e-liquid product containing nicotine unless the packaging states the product contains nicotine. The statute defines "child-resistant packaging," "e-liquid" (liquid product, whether or not containing nicotine, intended to be vaporized and inhaled as vapor product), "e-liquid container" (container of e-liquid but term excludes container holding liquid intended for use in vapor product if container is pre-filled and sealed by manufacturer and not intended to be opened by consumer), and "vapor product" (term includes e-cigarette, e-cigar, e-cigarillo, and e-pipe). A violator of these provisions is liable in damages to any person injured as a result of the violation.
- 38. [S.L. 2015-144 \(H 640\): Wildlife law changes.](#)** This session law makes several changes affecting wildlife laws, but this summary will focus on just two of them. Amended G.S. 113-276.3(d), effective October 1, 2015, adds a third or subsequent conviction of G.S. 14-159.6(a) (trespass on posted property to hunt, fish, or trap without written permission) to the list of offenses for which there is a two-year license or permit suspension. Current G.S. 103-2 prohibits hunting on Sunday except in

defense of one's property and under other limited exceptions. Amended G.S. 103-2, effective October 1, 2015, adds a provision to provide that a landowner or member of the landowner's family, or any person with the landowner's permission, may hunt with firearms on Sunday on the landowner's property, except for the following Sunday limitations (1) hunting between 9:30 a.m. and 12:30 p.m. is prohibited, except on controlled hunting preserves; (2) hunting of migratory birds is prohibited; (3) using a firearm to take deer that are run or chased by dogs is prohibited; (4) hunting within 500 yards of a place of worship or accessory structure or within 500 yards of a residence not owned by the landowner is prohibited; and (5) hunting in a county with a population greater than 700,000 people is prohibited. A violation of G.S. 103-2 remains a Class 3 misdemeanor. Amended G.S. 153A-129 allows a county to adopt an ordinance (with certain required provisions) prohibiting hunting on Sunday as allowed under G.S. 103-2, but the ordinance cannot take effect until October 1, 2017.

**39. [S.L. 2015-145 \(H 255\): Building code enforcement changes.](#)** This session law, effective October 1, 2015, makes many changes concerning the North Carolina Building Code, but only a few will be summarized here. Amended G.S. 153A-352 (county) and 160A-412 (city) require that (1) inspections be done "in a timely manner" (quoted words added); and (2) inspectors must conduct all inspections requested by the permit holder for each scheduled inspection visit when performing inspections as required by the state building code. For each requested inspection, the inspector must inform the permit holder when the work inspected is incomplete or otherwise fails to meet the requirements of the state residential code for one- and two-family dwellings. Amended G.S. 153A-356 (county) and 160A-416 (city), which currently make it a Class 1 misdemeanor when an inspector willfully fails to perform duties, provides that it is not a violation when the county or city, its inspection department, and inspectors accept a signed written document of compliance with the state building code or residential code for one- and two-family dwellings from a licensed architect or engineer under new G.S. 153A-352(c) or new 160A-412(c).

**40. [S.L. 2015-150 \(H 273\): DWI changes concerning deferred prosecution and conditional discharge, expungement, and sentencing hearing when withdrawal of trial de novo appeal.](#)** Amended G.S. 15A-1341(a), effective for an order placing a person on probation on or after December 1, 2015, provides that if the person is being placed on probation for a conviction of impaired driving under G.S. 20-138.1, subsections (a1) and (a4) (deferred prosecution and conditional discharge, respectively, for a person charged with a Class H or I felony or a misdemeanor), and subsections (a2) and (a5) (deferred prosecution and conditional discharge for drug treatment program), do not apply and the person is ineligible for deferred prosecution and conditional discharge under these provisions.

Amended G.S. 15A-145 (expunction of misdemeanor conviction for first offender under 18), G.S. 15A-145.4 (expunction of nonviolent felony conviction for first offender under 18), and G.S. 15A-145.5 (expunction of certain nonviolent misdemeanor or felony convictions without age limitation), prohibit an expunction for any offense involving impaired driving as defined in G.S. 20-4.01(24a). These changes are effective for petitions filed or pending on or after December 1, 2015.

Amended G.S. 20-38.7 (appeal to superior court after conviction of impaired driving and other implied consent offenses), effective for appeals filed on or after December 1, 2015, deletes the provision that required the consent of a prosecutor and superior court judge to remand a case to district court, thus making remand on this issue subject to G.S. 15A-1431 and the consent provision set out in (3), below. It also provides that when an appeal is withdrawn or a case is remanded, the district court must hold a new sentencing hearing and consider any new convictions unless one of the following conditions is met: (1) if the appeal is withdrawn under G.S. 15A-1431(c) (within 10

days of entry of district court judgment), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (2) if the appeal is withdrawn and remanded under G.S. 15A-1431(g) (before calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (3) if the appeal is withdrawn and remanded under G.S. 15A-1341(h) (after calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that he or she consents to the withdrawal and remand and that there are no new sentencing factors.

41. **[S.L. 2015-152](#) (H 39): Criminal penalty when illegal operation of amusement device causes serious injury or death.** This session law makes several changes to laws concerning an “amusement device” (defined in G.S. 95-111.3), including increasing the civil penalties set out in G.S. 95-111.13, but this summary focuses on one criminal provision. Amended G.S. 95-113.13, effective for a violation occurring on or after December 1, 2015, provides that a person who willfully violates any provision of Article 14B of Chapter 95 of the General Statutes, which includes the illegal operation of an amusement device, and the violation causes serious injury to or death of any person is guilty of a Class E felony, which must include a fine.
42. **[S.L. 2015-154](#) (H 766): Hemp extract exemption modified.** This session law makes several changes to the law permitting the use of hemp extract as an alternative treatment for intractable epilepsy, but this summary focuses on one criminally-related provision. Amended G.S. 90-94.1, effective for offenses committed on or after August 1, 2015, modifies the permissible amount of hemp extract as (1) composed of less than nine-tenths of one percent (current law, three-tenths of one percent) tetrahydrocannabinol by weight, and (2) composed of at least five percent (current law, ten percent) cannabidiol by weight.
43. **[S.L. 2015-162](#) (H 341): Various drugs added to Chapter 90 controlled substances lists.** This session law, effective for offenses committed on or after December 1, 2015, adds various drugs to Schedules I, V, and VI in G.S. 90-89, 90-90, and 90-94, respectively. The descriptions of the added drugs are too lengthy and numerous to be listed in this summary, except to note that multiple “NBOME Compounds” are added to Schedule I.
44. **[S.L. 2015-163](#) (H 6): Autocycle defined and regulated.** This session law, effective October 1, 2015, regulates autocycles under various provisions of Chapter 20 of the General Statutes. Amended G.S. 20-4.01(27) defines an “autocycle” as a three-wheeled motorcycle that has a steering wheel, pedals, seat safety belts for each occupant, antilock brakes, air bag protection, completely enclosed seating that does not require the operator to straddle or sit astride, and is otherwise manufactured to comply with federal safety requirements for motorcycles.
45. **[S.L. 2015-165](#) (H 350): DMV to restore driver’s license of person adjudicated to be restored to competency.** New G.S. 20-17.1A, effective October 1, 2015, provides that if otherwise eligible for a driver’s license under G.S. 20-7 and other statutes, the Division of Motor Vehicles must restore the driver’s license of a person adjudicated to be restored to competency under G.S. 35A-1130 when it receives notice from the clerk of the court in which the adjudication was made.
46. **[S.L. 2015-173](#) (H 59): Amendments to statutes admitting reports of forensic and chemical analysis and remote testimony; no reporting provided for ex parte or emergency hearings before judge under General Statutes Chapters 50B and 50C.** Effective for notices of intent to introduce a statement or report provided by the State on or after July 31, 2015, this session law amends G.S. 8-

58.20(f) and (g) (forensic analysis report, affidavit, and statement admissible), G.S. 15A-1225.3(b) (remote testimony by forensic analyst permitted), G.S. 20-139.1(c1) (report of chemical analysis of blood or urine admissible), G.S. 20-139.1(c3) (establishing chain of custody of tested or analyzed blood or urine without calling unnecessary witnesses), G.S. 20-139.1(c5) (remote testimony permitted by analyst about results of chemical analysis of blood or urine), G.S. 90-95(g) (report of drug analysis admissible), and G.S. 90-95(g1) (establishing chain of custody of analyzed drug evidence without calling unnecessary witnesses), to provide if the defendant's attorney or a defendant, if unrepresented, fails to file a written objection as provided in these statutes, then "the objection shall be deemed waived and" the specified report, affidavit, statement, or remote testimony must be admitted into evidence (quoted language is added to each statute). Amended G.S. 7A-198 (reporting of civil trials) provides that reporting will not be provided in ex parte or emergency hearings before a judge under General Statutes Chapter 50B (domestic violence protective orders) and Chapter 50C (civil no-contact orders), effective for hearings conducted on or after July 31, 2015.

- 47. [S.L. 2015-176 \(S 192\): Electronic or fax transmission of certain orders; other changes.](#)** Effective August 5, 2015, amended G.S. 50B-3 (domestic violence protective orders), G.S. 50C-9 (civil no-contact orders), and new G.S. 122C-210.3 (involving involuntary commitment orders) provide that law enforcement agencies must accept receipt of copies of an order issued by the court clerk by electronic or fax transmission for service on a defendant. Effective August 5, 2015, amended G.S. 122C-251(d) states "[t]o the extent feasible" (quoted words added) a city or county must provide a driver or attendant who is the same sex as the respondent to transport the respondent for an involuntary commitment matter. Within 60 days of the session law becoming effective (August 5, 2015), the Administrative Office of the Courts must solicit input from court clerks concerning the use of the term "costs" rather than "court costs" on the motor vehicle citation form, and must make changes as appropriate based on their input, but this provision does not require the replacement of citation forms until the printing of new forms is otherwise necessary.
- 48. [S.L. 2015-180 \(H 446\): Bail bondsmen amendments.](#)** Among the changes made in this session law: (1) effective for applications for bondsman licenses filed on or after August 5, 2015, amended G.S. 58-71-50(b) raises the minimum age from 18 to 21 years old to apply as a bail bondsman or runner; and (2) effective August 5, 2015, amended G.S. 58-71-200 requires the Administrative Office of the Courts (AOC) to allow professional bondsmen, surety bondsmen, and runners with access to the AOC's real-time civil information systems (current law is limited to access to its criminal information systems).
- 49. [S.L. 2015-181 \(H 383\): Reorganize, rename, and renumber various rape and sexual offenses.](#)** This session law reorganizes, renames, and renumbers various rape and sexual offenses, and makes conforming changes throughout the General Statutes, effective for offenses committed on or after December 1, 2015. It also contains a savings clause to permit prosecutions committed under prior laws. Only some of the many changes are included in this summary.
- The provisions of current G.S. 14-27.2 (first-degree rape) are split into new G.S. 14-27.21 (first-degree forcible rape) and G.S. 14-27.24 (first-degree statutory rape). Current G.S. 14-27.3 (second-degree rape) is recodified as G.S. 14-27.22 and renamed second-degree forcible rape.
- Current G.S. 14-27.2A (rape of a child; adult offender) is recodified as G.S. 14-27.23 and renamed statutory rape of a child by an adult. Current G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years old) is recodified as G.S. 14-27.25 and renamed statutory rape of person who is 15 years of age or younger. The changes to the elements of this offense that were

made earlier in the 2015 session in S.L. 2015-62 are reflected in the new statute, and the sexual offense elements in prior G.S. 14-27.7A are recodified in new G.S. 14-27.30, which is renamed statutory sexual offense of person who is 15 years of age or younger.

Similar changes are made with the forcible and statutory sexual offense statutes as were made with the forcible and statutory rape statutes, described above.

The new codifications of rape, sexual offense, and related statutes are as follows: G.S. 14-27.20 (definitions); G.S. 20-27.21 (first-degree forcible rape); G.S. 14-27.22 (second-degree forcible rape); G.S. 14-27.23 (statutory rape of child by adult); G.S. 14-27.24 (first-degree statutory rape); G.S. 14-27.25 (statutory rape of person 15 years of age or younger); G.S. 14-27.26 (first-degree forcible sexual offense); G.S. 14-27.27 (second-degree forcible sexual offense); G.S. 14-27.28 (statutory sexual offense with child by adult); G.S. 14-27.29 (first-degree statutory sexual offense); G.S. 14-27.30 (statutory sexual offense with person 15 years of age or younger); G.S. 14-27.31 (sexual activity by substitute parent or custodian); G.S. 14-27.32 (sexual activity with student); G.S. 14-27.33 (sexual battery); G.S. 14-27.34 (no defense victim is spouse of person committing act); G.S. 14-27.35 (no presumption as to incapacity); and G.S. 14-27.36 (evidence required in prosecutions under this Article).

The two distinct offenses in current G.S. 14-27.7 (intercourse and sexual offenses with certain victims) are separated into two new statutes and renamed: G.S. 14-27.31 (sexual activity by a substitute parent or custodian) and G.S. 14-27.32 (sexual activity with a student). [Note: Although the punishment change in S.L. 2015-44 from a Class A1 misdemeanor to a Class I felony was not carried forward in statutory language in new G.S. 14-27.32, it still became law based on the provisions of G.S. 120-20.1(b1).]

50. **[S.L. 2015-182 \(H 397\)](#): Disposition of seized assets when person convicted of exploitation of older adult or disabled.** Current G.S. 14-112.2 and 14-112.3 allow a district attorney to apply to a court before trial to freeze or seize the assets of a defendant who may divesting himself or herself of assets that could be seized if the defendant is convicted of G.S. 14-14-112.2 (exploitation of an older adult or disabled adult). This session law, effective for offenses committed on or after October 1, 2015, specifies in detail (1) the contents and procedure involved with a court order to freeze or seize assets; and (2) how the seized assets must be handled to satisfy an order of restitution. Amended G.S. 7A-308 provides that the court fees set out in subdivision (a)(11) (concerning recording or docketing document) do not apply when the service is performed or documents are filed under G.S. 14-112.3.
51. **[S.L. 2015-183 \(H 134\)](#): Minor who solicits as a prostitute is immune from prosecution of solicitation of prostitution.** Amended G.S. 14-205.1, effective for violations occurring on or after August 5, 2015, provides that a minor (person under 18 years old) who solicits as a prostitute is immune from prosecution of solicitation of prostitution under this statute. Instead, the person must be taken into temporary protective custody as an undisciplined juvenile under Article 19 of Chapter 7B of the General Statutes. A law enforcement officer who takes the minor into custody must immediately report an allegation of a violation of G.S. 14-43.11 (human trafficking) and G.S. 14-43.13 (sexual servitude) to the county social services director in the county where the minor resides or is found, who must initiate an investigation into child abuse or child neglect within 24 hours.
52. **[S.L. 2015-185 \(H 229\)](#): Limited privilege may include driving to and from place of religious worship.** Amended G.S. 20-179.3, effective for limited driving privileges issued on or after October 1, 2015, allows driving to and from a place of religious worship.

**53. [S.L. 2015-186](#) (H 529), as amended by [S.L. 2015-264](#) (S 119): Punishments and revocations changed for driving while license revoked and other Chapter 20 changes.** [Note: For a more complete discussion of these two session laws in blog posts from which this summary is excerpted, see Shea Denning, *Technical Corrections Act Clarifies New DWLR Law*, North Carolina Criminal Law Blog (UNC School of Government, October 6, 2015), <http://nccriminallaw.sog.unc.edu/technical-corrections-act-clarifies-new-dwlr-law/>, and Shea Denning, *General Assembly Approves Relief from the Endless Loop of License Revocation*, North Carolina Criminal Law Blog (UNC School of Government, August 3, 2015), <http://nccriminallaw.sog.unc.edu/general-assembly-approves-relief-from-the-endless-loop-of-license-revocation/>.] This session law is effective for offenses occurring on or after December 1, 2015. There also is a savings clause for prosecutions of offenses occurring before that date.

**Driving while license revoked convictions and revocations.** Two types of driving while license revoked (hereafter, DWLR) currently codified in G.S. 20-28(a) are assigned to their own subsections. DWLR for impaired driving, a Class 1 misdemeanor, is codified in amended G.S. 20-28(a1). DWLR generally, a Class 3 misdemeanor, remains in G.S. 20-28(a). The punishment for driving without reclaiming a driver's license, punished as a Class 3 misdemeanor, is recodified in amended G.S. 20-28(a2) and people who are eligible for the reduced punishment under the circumstances set out in this subsection include those convicted under G.S. 20-28(a) or (a1). Driving after notification or failure to appear, a Class 1 misdemeanor, is recodified in new G.S. 20-28(a3).

A person convicted of DWLR under G.S. 20-28(a) will no longer be subject to a mandatory additional period of license revocation. A person convicted of violating G.S. 20-28(a1) or (a3) still will be subject to the same automatic revocation periods. A person punished for driving without a reclaimed license under G.S. 20-28(a2) is not subject to an automatic additional revocation period that exists under current law.

A person's license also is subject to automatic revocation under current G.S. 20-28.1 if the person is convicted of a motor vehicle moving offense that was committed while the person's license was revoked. These session laws amend G.S. 20-28.1(a) to provide that a violation of G.S. 20-7(a) (no operator's license), 20-24.1 (failure to appear or pay fine, penalty, or costs for motor vehicle offense), or G.S. 20-28(a) or (a2) shall not be considered a motor vehicle moving offense unless the offense occurred in a commercial motor vehicle or the person held a commercial driver's license at the time of the offense.

**Ignition interlock amendment.** Amended G.S. 20-17.8(f) provides that a person subject to an ignition interlock restriction who violates the restriction commits the offense of DWLR for impaired driving under G.S. 20-28(a1) and is subject to the punishment and license revocation as provided in that subsection.

**DWI sentencing change.** Amended G.S. 20-179(c)(2) changes the description of the DWI grossly aggravating factor as driving while one's driver's license was revoked pursuant to G.S. 20-28(a1). Thus, driving while one's license is revoked for impaired driving or violating an ignition interlock restriction both are included in this grossly aggravating factor.

**54. [S.L. 2015-188](#) (S 345): Limit time motor vehicle can be impounded after collision.** New G.S. 20-166.3, effective for motor vehicles impounded on or after August 1, 2015, provides that a motor vehicle that is towed and stored at a law enforcement agency's direction after a collision may be held for evidence for not more than 20 days without a court order. Without such an order, the vehicle must be released to the vehicle owner, insurer, or lien holder on payment of the towing and storage fees. This new statute does not apply to a motor vehicle seized as a result of a violation of law or abandoned by the owner.

55. **S.L. 2015-190 (S 182): Automatic license plate reader systems regulated.** New Article 3D of Chapter 20 of the General Statutes, effective December 1, 2015, requires state and local law enforcement agencies using an automatic license plate reader system to adopt a written policy governing its use before the system is operational, and requires the policy to address nine issues set out in new G.S. 20-183.23. Captured plate data obtained by the system, operated by or on behalf of a law enforcement agency for law enforcement purposes, must not be preserved for more than 90 days after the date the data is captured, unless there is a preservation request complying with new G.S. 20-183.24(c) or a state or federal search warrant is issued. Captured plate data is confidential and not a public record. Data must not be disclosed except to a federal, state, or local law enforcement agency for a legitimate law enforcement or public safety purpose pursuant to a written request from a requesting agency.

56. **S.L. 2015-191 (S 183): Eliminate confinement in response to violation for misdemeanants sentenced under Structured Sentencing Act.** This session law is effective for a defendant placed on probation on or after December 1, 2015. Amended G.S. 15A-1344(d2), exempts a misdemeanant placed on probation under the Structured Sentencing Act (SSA) from the provision allowing a court, in response to a probation violation other than the commission of new criminal offense or absconding, to impose a period of confinement in response to violation (CRV) of up to 90 consecutive days. For those misdemeanants, the court may, under the amended law, impose a two- or three-day term of confinement under G.S. 15A-1343(a1)(3) in response to a technical violation (a violation other than commission of a crime or absconding) of probation. The court may not revoke probation for an affected misdemeanant until he or she has received two periods of short-term confinement, imposed either by a judge or by a probation officer through delegated authority.

For an extensive discussion of this session law, see Jamie Markham, *No More CRV for Structured Sentencing Misdemeanants*, North Carolina Criminal Law Blog (UNC School of Government, August 13, 2015), <http://nccriminallaw.sog.unc.edu/no-more-crv-for-structured-sentencing-misdemeanants/>.

57. **S.L. 2015-195 (H 562): Various firearm law amendments.** This lengthy session law, which has varying effective dates, makes multiple changes to firearm laws. It also contains a savings clause for prosecutions of offenses committed before the effective dates. Not all of its provisions are summarized here.

**Carrying concealed weapon, weapon on educational property, or weapon on State Capitol.** All of the following changes are effective for offenses committed on or after July 1, 2015.

The session law adds the following people to the exemptions from the offense of carrying a concealed weapon under G.S. 14-269: (1) a district attorney may carry a concealed weapon while in the courtroom; (2) a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department, possesses written proof of the designation, has a concealed weapon handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body; and (3) an administrative law judge who has a concealed handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body.

The session law exempts from the offense in G.S. 14-269.4 (weapons on certain State property and in courthouses) a person who possesses in the State Capitol Building or on its grounds an ordinary pocket knife in a closed position.

Amended G.S. 14-269.2(k) (exemption for the offense of weapons on educational property when person has concealed handgun permit or exempt from obtaining a permit) adds to the exemption



(1) a person who has a handgun concealed on the person and the person remains in the locked vehicle and only unlocks the vehicle to allow entrance or exit of another person, or (2) the person is within a locked vehicle and removes the handgun from concealment only for the time reasonably necessary to move the handgun (i) from concealment on the person to a closed compartment or container within the vehicle, or (ii) from within a closed compartment or container within the vehicle to concealment on the person. New G.S. 14-269.2(l) adds an affirmative defense to offenses in subsections (b) and (f) that the person was authorized to have a concealed weapon in a locked vehicle under subsection (k) (see above) and removed the handgun from the vehicle only in response to a situation in which a deadly weapon is justified.

**Firearms at State Fair regulated.** New G.S. 106-503.2, effective August 5, 2015, provides that the Commissioner of Agriculture is authorized to prohibit the carrying of firearms on the State Fairgrounds during the State Fair, with exemptions for a person (1) with a concealed handgun permit or exempt from obtaining a permit and keeping a weapon in the person's locked vehicle as specified in the statute; and (2) exempted officers under G.S. 14-269(1), (2), (3), (4), or (5).

**Concealed handgun permit changes.** Amended G.S. 14-415.12(b) (mandatory ground to deny concealed handgun permit), applicable to permit applications submitted on or after July 1, 2015, revises the offenses listed in subdivision (b)(8) and adds the following grounds: (1) adjudicated guilty of or received PJC or suspended sentence for misdemeanor crimes of violence under G.S. 14-33(c)(1) (assault inflicting serious injury or with deadly weapon), 14-33(c)(2) (assault on female), 14-33(c)(3) (assault on child), 14-33(d) (assault on person with personal relationship), 14-277.3A (stalking), 14-318.2 (child abuse), 14-134.3 (domestic criminal trespass), 50B-4.1 (violation of domestic violence protection order), or former 14-277.3 (stalking); (2) prohibited from possessing firearm under federal law for conviction of misdemeanor crime of domestic violence; and (3) adjudicated guilty of or received PJC or suspended sentence for assault on officer and others.

Amended G.S. 14-415.13(a), effective for applications submitted on or after October 1, 2015, requires that the sheriff must provide the application form for a concealed handgun permit electronically, and the sheriff must not request employment information, character affidavits, additional background checks, photographs, or other information unless specifically permitted by Article 54B of Chapter 14, which contains the concealed handgun permit provisions.

Amended G.S. 14-415.12(a), effective August 5, 2105, permits a person to apply for a concealed handgun permit who has been lawfully admitted for permanent residence under federal law.

Amended G.S. 14-415.15(a), effective for applications submitted on or after October 1, 2015, requires a sheriff to make a request for any records concerning the mental health or capacity of an applicant for a concealed handgun permit with 10 days of the receipt of items listed in G.S. 14-415.13 (application for permit).

Amended G.S. 14-415.23 (statewide uniformity for state and local government regulations of legally carrying concealed handgun), effective August 5, 2015, provides that a person adversely affected by any ordinance or regulation promulgated or caused to be enforced by an local government unit in violation of this statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in such an action reasonable attorneys' fees and court costs as authorized by law.

Amended G.S. 14-415.27 (expanded concealed handgun permit scope for certain public officials), effective for offenses committed on or after July 1, 2015, adds an administrative law judge and a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department and possesses written proof of the designation.

Amended G.S. 14-415.21, effective for offenses committed on or after December 1, 2015, reduces the punishment for a person who has a concealed handgun permit and carries it in violation of G.S. 14-415.11(c)(8) (unauthorized to carry handgun on private premises when notice that

concealed handgun is prohibited by sign or statement by person in charge) from a Class 1 misdemeanor to an infraction with a maximum \$500 fine.

**Moral character modification for applicant for pistol permit; other changes.** Amended G.S. 14-404 (pistol permit application), applicable for permits issued on or after December 1, 2015: (1) adds a provision that for determining an applicant's good moral character to receive a pistol permit, the sheriff shall only consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application; and (2) requires that an application must be on a form created by the State Bureau of Investigation in consultation with the N.C. Sheriff's Association, and specifies the information that the applicant is required to submit.

**Reporting of certain disqualifiers to National Instant Criminal Background Check System (NICS).** New G.S. 14-409.43 (reporting to NICS), effective January 1, 2016, essentially replaces provisions of repealed G.S. 122C-54(d1) and G.S. 14-404(c1), with some additional changes. G.S. 122C-54.1 (restoration process to remove mental commitment bar) is recodified as G.S. 14-409.42. The Administrative Office of the Courts must use the sum of up to \$20,000 available to it for the 2014-2015 fiscal year from the Court Information Technology Fund to comply with the changes in G.S. 14-409.43 applicable to the AOC and provide all historical records specified in the session law to the NCIS by May 31, 2019.

**New fingerprint and related duties for law enforcement agencies.** Amended G.S. 15A-502, effective October 1, 2015, imposes new fingerprint and related duties on law enforcement agencies.

New G.S. 15A-502(a2) requires an arresting law enforcement agency to fingerprint a person charged with the following misdemeanors and forward the fingerprints to the SBI: G.S. 14-134.3 (domestic criminal trespass), G.S. 15A-1382.1 (offenses involving domestic violence); G.S. 50B-4.1 (violation of domestic violence protection order); G.S. 20-138.1 (impaired driving); G.S. 20-138.2 (commercial impaired driving); G.S. 20-138.2A (operating commercial vehicle after consuming alcohol); G.S. 20-138.2B (operating various specialized vehicles after consuming alcohol); and G.S. 90-95(a)(3) (possessing controlled substance). For a discussion of this statute, see Jeff Welty, *Must Officers Now Arrest, Rather Than Cite, for Misdemeanor Marijuana Possession?*, North Carolina Criminal Law Blog (UNC School of Government, October 7, 2015), <http://nccriminallaw.sog.unc.edu/must-officers-now-arrest-rather-than-cite-for-misdemeanor-marijuana-possession/>.

New G.S. 15A-502(a3) requires an arresting law enforcement agency to cause a person charged with a crime to provide to the magistrate as much as possible of eight categories of information about the arrestee. Among them are: (1) name including first, last, middle, maiden, and nickname or alias; (2) social security number, and (3) relationship to the alleged victim and whether it is a "personal relationship" as defined by G.S. 50B-1(b).

New G.S. 15A-502(a4) requires an arresting law enforcement agency to cause a person charged with a misdemeanor assault, stalking, or communicating a threat and held under G.S. 15A-534.1 to be fingerprinted so the fingerprints can be forwarded to the SBI.

New G.S. 15A-502(a5) requires a magistrate to enter into the court information system all information about the arrestee provided by the arresting law enforcement agency.

(Note: G.S. 15A-502(a2) and (a4) were later amended in S.L. 2015-267 (H 735), and the summary above reflects those amendments.)

**Statewide uniformity of local regulation of firearms.** Amended G.S. 14-409.40(b) adds taxation, manufacture, and transportation to the statute's prohibition of county or municipal ordinances regulating firearms, ammunition, dealers in firearms, etc. New G.S. 14-409.40(h) provides that a person adversely affected by any ordinance in violation of the statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in the action reasonable attorneys' fees and court costs as authorized by

law. All of these provisions are effective for ordinance violations occurring on or after December 1, 2015.

**Chief law enforcement officer's certification when required by federal law concerning firearm.** New G.S. 14-409.41, effective July 1, 2015, provides that when a chief law enforcement officer's certification is required by federal law or regulation to transfer or make a firearm, the officer must, with 15 days of receipt of a request for certification, provide the certification if the applicant is not prohibited by state or federal law from receiving or possessing the firearm and is not subject to a proceeding that could result in a prohibition. An applicant whose request for certification is denied may appeal the decision to the district court of the district in which the request was made.

**Provision concerning restoration of state firearm rights and its effect on restoring federal firearm rights.** For an extensive analysis of this provision, located in section 6 of this session law, see John Rubin, *Restoring State Firearm Rights as a Condition for Restoring Federal Firearm Rights*, North Carolina Criminal Law Blog (UNC School of Government, September 14, 2015), <http://nccriminallaw.sog.unc.edu/restoring-state-firearm-rights-as-a-condition-for-restoring-federal-firearm-rights/>.

58. **S.L. 2015-198 (H 774): Death sentence execution procedures changed.** This session law is effective on August 5, 2015. Amended G.S. 15-190(a) allows a medical professional other than a physician (physician assistant, nurse practitioner, registered nurse, emergency medical technician, etc.) to monitor the injection of the required lethal substances and certify the fact of the execution. If a physician is not present at the execution, then a physician must be present on the premises and available to examine the body after the execution and pronounce the prisoner dead. Amended G.S. 150B-1 exempts execution procedures from contested case and rulemaking provisions of the Administrative Procedure Act. Amended G.S. 15-187 deletes the reference to a specific drug (ultrashort acting barbiturate) to be used during an execution. Amended G.S. 132-1.2 removes from the public records law the revelation of the name, address, etc., of any person or entity that manufactures, compounds, dispenses, etc., drugs or supplies obtained for an execution.
59. **S.L. 2015-201 (S 374): No joint enforcement agreement with National Marine Fisheries Service; study of future joint agreement authorized.** Amended G.S. 113-224, effective August 5, 2015, deletes the authority of the Fisheries Director to enter into an agreement with the National Marine Fisheries Service to allow Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the Service. The Division of Marine Fisheries must conduct a 12-month study of the impacts, costs, and benefits of a joint enforcement agreement and whether authorization to enter into an agreement should be reenacted. The Division must submit its report to the Environmental Review Commission no later than October 15, 2016.
60. **S.L. 2015-202 (S 233): Automatic expunction of records when charge against person is dismissed based on identity theft or mistaken identity.** Amended G.S. 15A-147, effective for charges brought on or after December 1, 2015, provides that if a person is charged with a crime or infraction as a result of another person using the identifying information of the named person or mistaken identity, and the charge is dismissed, the prosecutor or other judicial officer who ordered the dismissal must provide notice to the court of the dismissal, and the court must order the expunction of all official records containing any entries concerning the person's apprehension, charge, or trial.
61. **S.L. 2015-210 (H 284): No fine for civil contempt; jury excuse for attending out-of-state postsecondary school.** Amended G.S. 5A-21 (civil contempt), effective for civil contempt orders entered on or after October 1, 2015, provides that a person found in civil contempt is not subject to

the imposition of a fine. This amendment effectively overrules the ruling in *Tyll v. Berry*, \_\_\_ N.C. App. \_\_\_, 758 S.E.2d 411 (2014), that a trial court has discretion to impose a fine for civil contempt.

Amended G.S. 9-6 and 9-6.1, effective for excusal requests from jury service made on or after August 11, 2015, provides that a prospective juror who is summoned for jury service for a court session when the juror is taking classes or exams as a full-time student at an out-of-state postsecondary education institution, must be excused from jury service on his or her request. The Administrative Office of the Courts (AOC), in consultation with the N.C. Conference of Clerks of Superior Court, must study excusals from jury service, including all of the current exemptions and examine whether an excuse should be granted for out-of-state work assignments. The AOC must report its findings and any recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly at the beginning of the 2016 legislative session.

**62. [S.L. 2015-211](#) (H 814): Medical examiner appointments and training program.** Amended G.S. 130A-382, effective January 1, 2016: (1) requires the Chief Medical Examiner (CME) to appoint two or more county medical examiners for each county (current law, one or more); (2) requires county medical examiners to complete continuing education training as directed by the Office of the Chief Medical Examiner, with newly-appointed examiners completing mandatory orientation training within 90 days of their appointment, and the continuing education must include training concerning sudden unexpected death in epilepsy; and (3) the CME may revoke a county medical examiner's appointment for failure to adequately perform the duties of the office after providing the examiner with written notice of the basis for the revocation and an opportunity to respond.

**63. [S.L. 2015-212](#) (H 566): Procedures established for show-up identifications, including application of procedures to law enforcement officers as eyewitnesses.** Amended G.S. 15A-284.52, effective for eyewitness identifications and show-ups conducted on or December 1, 2015, defines a "show-up" as a procedure in which an eyewitness, including a law enforcement officer, is presented with a single live suspect to determine whether the eyewitness is able to identify the perpetrator of a crime. It requires all officers who conduct a show-up to meet all of the following requirements:

(1) a show-up may only be conducted when a suspect matching the perpetrator's description is located in close proximity in time and place to the crime, or there is a reasonable belief that the perpetrator has changed his or her appearance in a close time to the crime, and only if there are circumstances that require the immediate display of a suspect to an eyewitness;

(2) a show-up may only be performed using a live suspect and may not be conducted with a photograph; and

(3) investigators must photograph a suspect at the time and place of the show-up to preserve a record of the suspect's appearance when the show-up procedure was conducted.

The session law also requires the N.C. Criminal Justice Education and Training Standards Commission to develop a policy concerning standard procedures to conduct show-ups, which will apply to all law enforcement agencies beginning August 1, 2016, and must address all of the following, in addition to the new statutory provisions: (1) standard instructions for an eyewitness; (2) confidence statements by the eyewitness, including information concerning the eyewitness's vision, the circumstances of the events witnessed, and communications with other eyewitnesses, if any; (3) training of officers on how to conduct show-ups; and (4) any other matters the commission considers appropriate.

**64. [S.L. 2015-215](#) (H 371): National Guard member's exemption from concealed weapon law; civil liability for terrorist act.** New G.S. 14-269(b)(3a), effective August 18, 2015, exempts from the law prohibiting carrying a concealed weapon a member of the N.C. National Guard who has been

designated in writing by the Adjutant General and has a concealed handgun permit and is discharging official duties, and the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or unlawful controlled substance remains in the member's body. Current G.S. 14-269(b)(3) exempts officers and soldiers of the National Guard when called into actual service.

New G.S. 14-10.1(e), effective for acts committed on or after October 1, 2015, provides that any person whose property or person is injured by a violation of G.S. 14-10.1 (terrorism) may sue and recover treble damages, costs, and attorneys' fees under new G.S. 1-539.2D, which also is enacted by this session law.

65. **S.L. 2015-218 (H 184): Time limitation on confidentiality of public records, exemptions.** New G.S. 132-11, effective August 18, 2015 and applicable to a public record in existence on or created after that date, provides that all restrictions on access to public records expire 100 years after the creation of the record. However, the statute does not apply to various records, including any record that (1) is ordered to be sealed by any state or federal court, except as provided by that court; (2) is prohibited from being disclosed under federal law, rule, or regulation; and (3) is a record of a juvenile, probationer, parolee, post-releasee, or prison inmate, including medical and mental health records.
66. **S.L. 2015-225 (S 699): Law enforcement officer's personal information protected from disclosure.** G.S. 153A-98 (privacy of county employee personnel records) and G.S. 160A-168 (privacy of city employee personnel records), are identically amended to provide that even if considered part of an employee's personnel file, the following information of a sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed under G.S. 132-1.4 (criminal investigative records released by court order) or G.S. 132-1.10 (limited release of social security numbers and other personal identifying information), or for the personal safety of the officer or any other person residing in the same residence: (1) information that might identify the residence of the officer; (2) emergency contact information, or (3) any identifying information defined in G.S. 14-113.20 (identity theft). Amended G.S. 132-1.7 (sensitive public security information) provides that public records shall not include mobile telephone numbers issued by a local, county, or state government to: (1) a sworn law enforcement officer or nonsworn employee of a public law enforcement agency; (2) a fire department employee; and (3) an employee whose duties include responding to an emergency. This session law is effective October 1, 2015.
67. **S.L. 2015-228 (S 675): Limit frequency of required parole review of inmates convicted of sexually violent offenses committed before October 1, 1994.** This session law amends repealed G.S. 15A-1371(b), which is still applicable to sentences imposed for offenses committed before October 1, 1994 (the Structured Sentencing Act became effective for offenses committed on or after that date), to provide that the Parole Commission (now, the Post-Release Supervision and Parole Commission) must review cases when the prisoner was convicted of a sexually violent offense as defined in G.S. 14-208.6(5), and in its discretion give consideration of parole every second year instead of every year. This session law is effective for parole reviews conducted on or after October 1, 2015.
68. **S.L. 2015-229 (S 185): Clarify credit for time served.** Amended G.S. 15-196.1 provides that credit against a sentence for confinement in correctional, mental, or other institutions applies as a result of the charge that culminated in the sentence "or the incident from which the charge arose" (quoted language is added). The proviso in the statute is rewritten so that credit does not include any time that a defendant has spent in custody as a result of a pending charge while serving a

sentence imposed for another offense (the current statute bars credit for any time that is credited on the term of a previously imposed sentence to which the defendant is subject). This session law is effective December 1, 2015. For a detailed discussion of this session law, see Jamie Markham, *New Jail Credit Rules Signed into Law*, North Carolina Criminal Law Blog (UNC School of Government, August 27, 2015), <http://nccriminallaw.sog.unc.edu/new-jail-credit-rules-signed-into-law/>.

**69. [S.L. 2015-231](#) (H 268): Highway obstruction quick clearance requirements amended.** Amended G.S. 20-161(f), which permits the immediate removal from the state highway system of wrecked, abandoned, burned, etc., vehicles interfering with regular traffic flow, requires before doing so the concurrence of the Department of Transportation and an investigating law enforcement officer (the session law adds the concurrence of the officer). This provision in this session law is effective August 25, 2015, and applies to any obstruction to traffic arising on or after 12:01 a.m. of the day following that date.

**70. [S.L. 2015-232](#) (S 446): Changes to regulation of unmanned aircraft systems (drones).** This session law, effective August 25, 2015, makes changes to the regulation of unmanned aircraft systems, commonly known as drones. Provisions in the 2013 and 2014 appropriation acts are amended to provide that until December 15, 2015, the State Chief Information Officer (CIO) has the authority to approve or disapprove (1) the procurement or operation of an unmanned aircraft system (UAS) by agents or agencies of the State or a political subdivision, and (2) the disclosure of personal information about any person acquired through the operation of an UAS by these agents or agencies. The agents or agencies who receive CIO approval may procure or operate an UAS before implementation of the knowledge test required by G.S. 63-95. In addition to receiving CIO approval, agents or agencies who submit a request on or after the date of implementation of the knowledge test required by G.S. 63-95 are also subject to the provisions of the statute. Amended G.S. 63-95(b) provides that the Division of Aviation (hereafter, Division) must develop a knowledge test for operating an UAS (current law requires a knowledge and skills test). The test must ensure that the UAS operator is knowledgeable about State statutes and regulations concerning UAS operation.

Amended G.S. 63-96: (1) changes from “license” to “permit” what is required to commercially operate an UAS; (2) reduces the minimum age for a permit from 18 years old to 17 years old; (3) requires the Division to administer a program that complies with all applicable federal regulations; and (4) provides that the Division rules for designating a geographic area for operating an UAS must not be more restrictive than those of the Federal Aviation Administration (FAA). Before implementing the knowledge test required by G.S. 63-96, any person authorized by the FAA to commercially operate an UAS is not in violation of the statute if the person applies for a permit for commercial operation within 60 days of the full implementation of the permitting process and is issued a state commercial permit “in due course.”

**71. [S.L. 2015-241](#) (H 97): 2015 Appropriations Act, amended by [S.L. 2015-264](#) (S 119).** This session law makes base budget appropriations for current operations and other changes. Unless otherwise noted, the provisions are effective July 1, 2015. The section numbers and pages of the session law are noted to facilitate locating the provisions.

**New Department of Information Technology.** New Article 14 of General Statutes Chapter 143B creates the Department of Information Technology, headed by the State Chief Information Officer (CIO), who is appointed by the Governor. Unless specifically provided by law, the provisions concerning this department do not apply to the Judicial Department, although it may elect to participate in this new department’s programs, services, etc. Included in this new department are the Criminal Justice Information Network and the North Carolina 911 Board. New G.S. 143B-1325

provides that in Part II of Article 14 the unauthorized use of public purchase or contract procedures for private benefit is a Class 1 misdemeanor. New G.S. 143B-1326 provides that the financial interest of specified department executives or managers in certain contracts or any department employee who receives a financial benefit in return for an awarded contract is guilty of a Class F felony. Sections 7A.1-7A.6 (pages 28-67).

**School safety exercises and other safety issues.** Amended G.S. 115C-105.49 provides that at least once annually (current law, at least every two years) each local school unit must require each school to hold (current law, is encouraged to hold) a school-wide tabletop exercise and drill based on the procedures documented in its School Risk Management Plan. The drill must include a practice school lockdown due to an intruder on school grounds. Schools are strongly encouraged to include law enforcement agencies and emergency management agencies in their tabletop exercises and drills. The Department of Public Safety (DPS) and the Center for Safer Schools (CSS) must provide guidance and recommendations to local school units on the multiple hazards to plan and respond to, including intruders. Amended G.S. 115C-105.51 requires DPS and CSS, in collaboration with the Department of Public Instruction (DPI), to implement and maintain an anonymous safety tip line to receive anonymous student information on internal or external risks to the school population, school buildings, and school-related activities. DPS and CSS, in collaboration with DPI and the NC 911 Board, must implement and maintain a statewide panic alarm system to launch real-time 911 messaging to public safety answering points of internal and external risks to the school population, school buildings, and school-related activities. These statutory changes apply beginning with the 2015-2016 school year. Section 8.26 (pages 76-81).

**Medical examiner fees increased.** Amended G.S. 130A-389 provides that if the death or fatal injury occurred outside the county in which the deceased resided, the State must pay the entire medical examiner autopsy fee of \$2,800. If within the county of residence, the county must pay \$1,750 and the State pays \$1,050. Current law provides for a \$1,250 fee to be paid by the State, except if the deceased is a resident of the county where the death or fatal injury occurred, the county must pay the fee. For filing an autopsy report, the fee is increased from \$100 to \$200, with the State paying the fee unless the deceased is a resident of the county in which the death or fatal injury occurred, then the county pays the fee. These provisions are effective for fees imposed for autopsies performed on or after October 1, 2015, and reports filed on or after that date. Sections 12E.5 and 12E.6 (pages 161-62).

**Sensitive public security information not public record.** Amended G.S. 132-1.7 provides that the following are not public records: specific security information or detailed plans, patterns, or practices (1) associated with prison operations, and (2) to prevent or respond to criminal, gang, or organized illegal activity. Section 16A.5 (page 301).

**Organizational changes within Department of Public Safety.** Amended G.S. 143B-915 provides that the State Bureau of Investigation (SBVI) is administratively located in the Department of Public Safety (DPS) (current law states within the Division of Law Enforcement of DPS). New G.S. 143B-929 provides that the SBI shall operate and manage the Information Sharing and Analysis Center, which shall be under the sole direction and control of the SBI Director. Amended G.S. 143B-911 provides that the State Capitol Police is located within the State Highway Patrol (current law states within the Division of Law Enforcement of DPS). Section 16A.7 (pages 301-302).

**Grants for body-worn video cameras for law enforcement.** The sum of \$2,500,000 is appropriated in both the 2015-2016 and 2016-2017 fiscal years to the Department of Public Safety to provide matching grants to local and county law enforcement agencies to purchase body-worn video cameras, subject to the following requirements: (1) the maximum grant amount is \$100,000; (2) agencies must provide two dollars of local funds for every dollar of grant funds received; and (3) agencies must have appropriate policies and procedures governing the operation of the cameras

and storage of camera images. Section 16A.8 (page 303).

**Report on gang prevention recommendations.** New G.S. 20-196.5 requires the State Highway Patrol, in conjunction with the State Bureau of Investigation and Governor's Crime Commission, to develop recommendations concerning the establishment of priorities and needed improvements concerning gang prevention and report the recommendations to specified legislative committees on or before March 1 of each year. This session law repeals a similar provision in G.S. 143B-1101(b) that places the responsibility solely on the Governor's Crime Commission. Section 16B.3 (page 304).

**Reimburse counties for convicted inmates, parolees, and post-release supervisees, awaiting transfer to state prison system.** The Department of Public Safety may use funds available to the department for the 2015-2017 biennium to pay \$40.00 per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the state prison system under G.S. 148-29. Section 16C.1 (page 307).

**Annual report on safekeepers; collection of delinquent reimbursements.** New G.S. 143B-707.4 requires the Department of Public Safety (DPS) by October 1 of each year to report on various subjects to specified legislative committee chairs on county prisoners housed in the state prison system under safekeeping orders issued pursuant to G.S. 162-39. Among the subjects are: (1) the amount paid by counties for housing and extraordinary medical care of safekeepers, and (2) a list of counties in arrears for safekeeper payments owed to DPS at the end of the fiscal year. Amended G.S. 148-10.4 provides on notification from the Division of Adult Correction that an amount owed by a county for safekeeper reimbursements is more than 120 days overdue, the N.C. Sheriffs' Association must withhold funds from any reimbursements due to a county and transmit those funds to the Division until that overdue safekeeper reimbursement is satisfied. Sections 16C-11 and 16C-12 (page 310).

**Parole eligibility report.** New G.S. 143B-721.1 requires that each fiscal year the Post-Release Supervision and Parole Commission, with the assistance of the Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1 of the prior fiscal year has served compared to the time served by the offenders under the Structured Sentencing Act (SSA) for comparable crimes. The Commission must determine if the person has served more time in custody than the person would have served if sentenced to the "maximum sentence" (calculation set out in the statute) under the SSA. The Commission must reinstate the parole review process for each offender who has served more time than the person would have served under the SSA, as provided in this statute. Section 16C.14 (pages 311-12).

**Collecting DNA sample after felony arrest for additional felonies.** Effective for arrests occurring on or after December 1, 2015, amended G.S. 15A-266.3A(f) includes many additional felonies for which a DNA sample must be collected for analysis after arrest. Some of the common additional felonies include: assault by strangulation (G.S. 14-32.4); habitual misdemeanor assault (G.S. 14-33.2); discharging barreled weapon or firearm into occupied property (G.S. 14-34.1); common law robbery punished under G.S. 14-87.1; malicious conduct by prisoner (G.S. 14-258.4); child abuse inflicting serious injury (G.S. 14-318.4(a)); child abuse inflicting serious bodily injury (G.S. 14-318.4(a3)); cruelty to animals by malicious killing (14-360(a1)); and cruelty to animals by malicious torture (G.S. 14-360(b)). Section 17.3 (pages 314-15).

The Joint Legislative Oversight Committee on Justice and Public Safety must study extending the collection of DNA samples to people arrested for any felony and report its findings and recommendations to the 2016 legislative session.

**Annual report on criminal court cost waivers.** New G.S. 7A-350 requires the Administrative Office of the Courts to maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and report the waivers to specified



legislative committees by February 1 of each year. The report must aggregate the waivers by the district in which the waivers were granted and by the name of each judge granting the waivers. Section 18A.3 (page 316).

**Conference of District Attorneys may use grant funds for toxicology analyses other than from hospitals.** A 2013 session law (S.L. 2013-360) required that of the funds appropriated to the Judicial Department, a specified sum be allocated to the Conference of District Attorneys so district attorneys could obtain toxicology analyses from local hospital hospitals concerning DWI suspects whose conduct did not result in serious injury or death. This session law amends the 2013 session law to allow district attorneys to obtain toxicology analyses from providers other than hospitals. Section 18B.4 (page 316).

**Conference of District Attorneys must report dismissals based on delay in lab analyses.** When a criminal case is dismissed as a direct result of a delay in the analysis of evidence by the State Crime Laboratory, the district attorney for that district must report the dismissal to the Conference of District Attorneys. The Conference must compile these reports and submit them quarterly beginning October 30, 2015, to specified legislative committee chairs. Section 18A.9 (page 317).

**Criminal court costs changed.** Amended G.S. 7A-304(a) changes the allocation of criminal court costs as follows: (1) deletes G.S. 7A-304(a)(2b), which provides \$18.00 to the Statewide Misdemeanor Confinement Fund; (2) increases the amount in G.S. 7A-304(a)(4) from \$129.50 to \$147.50 for support of the General Court of Justice; and (3) changes the distribution of \$50.00 in G.S. 7A-304(a)(4b) from the Statewide Misdemeanor Confinement Fund to the State Treasurer for additional support to the General Court of Justice. Section 18A.11 (pages 317-18).

Note: A separate budgetary provision appropriates \$22.5 million each year to support the Statewide Misdemeanor Confinement Fund.

**Innocence Inquiry Commission audit and transfer.** Amended G.S. 15A-1462 requires the Administrative Office of the Courts (AOC) to conduct an annual audit of the Innocence Inquiry Commission and transfers the commission to the AOC for administrative purposes. Section 18A-16 (page 318).

**Office of Indigent Defense Services audit, transfer, and budget.** Amended G.S. 7A-498.2 requires the Administrative Office of the Courts (AOC) to conduct an annual audit of the budget of the Office of Indigent Defense Services, transfers the office to the AOC, provides that the office's budget will be part of the AOC's budget, and allows the AOC Director to modify the office's budget and to use funds appropriated to the office without the approval of the office or the Commission on Indigent Defense Services. Section 18A-17 (page 318).

**Legislative study of Office of Indigent Defense Services and Innocence Inquiry Commission.** The Joint Legislative Oversight Committee on Justice and Public Safety must study: (1) the Office of Indigent Defense Services and determine whether changes should be made in the ways in which appropriated funds are used to provide legal assistance and representation to indigents; and (2) the Innocence Inquiry Commission and determine whether changes should be made in the way in which the Commission investigates and determines credible claims of factual innocence made by criminal defendants. The Committee must report its findings and recommendations, including any proposed legislation, to the 2016 legislative session. Section 18A.18 (page 319).

**Three special superior court judgeships abolished; designation of judge as business court judge.** Amended G.S. 7A-45.1 abolishes three special superior court judgeships at each current judge's retirement, resignation, end of term, etc., and the Chief Justice is requested to designate a special judgeship created by subsection (a9) as a business court judge. The Chief Justice is also requested, under the justice's authority under G.S. 7A-45.3 to designate business court judges, to maintain at least five business court judgeships from among the authorized special superior court judgeships. Section 18A.19 (pages 319-20).

**E-courts information technology initiative.** The Administrative Office of the Courts must establish a strategic plan for the design and implementation of its e-Courts information technology initiative by February 1, 2016. This initiative, when fully implemented, will provide for the automation of all court processes, including electronic filing, retrieval, and processing of documents. There are several other provisions concerning this initiative in this section. Section 18A.21 (pages 320-21).

**Study efficiency of establishing automated kiosks in local confinement facilities for defense attorneys representing indigent defendants.** The Administrative Office of the Courts, in conjunction with the Office of Indigent Defense Services and the N.C. Sheriffs' Association, must study and determine whether savings can be realized by the establishment of fully automated kiosks in local confinement facilities to allow defense attorneys representing indigent defendants to consult remotely with their clients. The AOC must report its findings and recommendations, including at least two potential pilot sites, to specified legislative committee chairs by February 1, 2016. Section 18B.4 (page 323).

**Study fee schedules used by Office of Indigent Defense Services.** The Joint Legislative Oversight Committee on Justice and Public Safety must study the creation and implementation of fee schedules to be used by the Office of Indigent Defense Services to compensate private assigned counsel representing indigent defendants. The committee must include its findings and recommendations in its report when the General Assembly reconvenes in 2016. Section 18B.5 (page 323).

**DWI towing, storing, and selling changes.** Amended G.S. 20-28.3(d) (custody of motor vehicle when seized under DWI forfeiture law) substitutes the State Surplus Property Agency (Agency) of the Department of Administration in place of the Department of Public Instruction concerning constructive possession of a seized vehicle when it is delivered to a location designated by the Agency. Amended G.S. 20-28.5 adds provisions for the sale of a forfeited motor vehicle when it is in the possession or constructive possession of the Agency. Section 27.3 (pages 344-47).

**New ground for Division of Motor Vehicles to refuse registration or certificate of title.** This session law makes various changes to G.S. 20-311 concerning the Division of Motor Vehicles (DMV) actions when it receives notice of a lapse in financial responsibility. In addition, amended G.S. 20-54, effective for lapses occurring on or after January 1, 2016, requires the DMV to refuse registration or issuance of a certificate of title when the owner of the vehicle has failed to pay any penalty or fee imposed by G.S. 20-311. Section 29.31 (pages 375-77).

**Modification of S.L. 2015-31 concerning stop lamps in older motor vehicles.** Earlier in this session, S.L. 2015-31 amended G.S. 20-129(g) and G.S. 20-129.1, effective for offenses committed on or after October 1, 2015, to make clear that motor vehicles must be equipped with stop lamps, commonly known as brake lights, one on each side of the rear of the vehicle (however, a motorcycle only needs one stop lamp). This session law makes clear that, effective for offenses committed on or after October 1, 2015, a motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, must be equipped with a stop lamp in the rear of the vehicle.

**72. [S.L. 2015-247 \(H 173\): Miscellaneous changes-2.](#)** This session law makes various criminal law changes, effective September 23, 2015, unless otherwise noted in a summary below.

**Extend time to avoid court costs for failure to pay fine, penalty, or costs.** Amended G.S. 7A-304(a)(6) requires the payment of \$50 in court costs when a defendant fails to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment. Current law sets 20 as the number of days.

Amended G.S. 20-24.2(a)(2) requires the court to report to the Division of Motor Vehicles the name of a defendant charged with a Chapter 20 offense who fails to pay a fine, penalty, or costs

within 40 days of the date specified in the court's judgment. Current law sets 20 as the number of days.

These changes are effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of the session law (September 23, 2015) is not abated or affected by this session law and the statutes that would be applicable but for this session law remain applicable to that failure to pay.

**Administrative Office of Courts to report certain remand orders from superior court.** The Administrative Office of the Courts, in consultation with the Conference of Clerks of Superior Court, must make any necessary information system modifications and maintain records of all cases in which a defendant withdraws an appeal for trial de novo in superior court and the judge has remanded the case to district court and must report these remanded to specified legislative chairs by February 1 of each year. The report must (1) include the total number of remanded cases and also the total number of these remanded cases in which the court remitted costs; and (2) aggregate these totals by district and by the name of each judge ordering a remand.

**Designated magistrate may accept waiver of counsel and need not be licensed attorney; magistrates not prohibited from accepting guilty plea to offense of intoxicated and disruptive in public.** Amended G.S. 7A-146(11) allows a chief district court judge to designate certain magistrates to appoint counsel and accept waivers of counsel (current law does not allow acceptance of waiver of counsel) and removes the requirement that the designation was limited to magistrates who are licensed attorneys. Amended G.S. 14-444 (intoxicated and disruptive in public) removes the prohibition against a magistrate's accepting a guilty plea and entering judgment for this offense.

**Probation supervision continues when defendant appeals activation of probationary sentence.** Amended G.S. 15A-1347 provides that if a defendant appeals an activation of a sentence as a result of a finding of a probation violation by the district or superior court, probation supervision continues under the same conditions until the termination date of the supervision period or disposition of the appeal, whichever occurs first. For a discussion of this provision, see Jamie Markham, *Revoked, But Still on Probation?*, North Carolina Criminal Law Blog (UNC School of Government, October 1, 2015), <http://nccriminallaw.sog.unc.edu/revoked-but-still-on-probation/>.

**Changes involving prohibition of death penalty when defendant has intellectual disability.** Amended G.S. 15A-2005 prohibits a death sentence for a defendant who has an "intellectual disability" (this session law replaces the term "mentally retarded" with "intellectual disability"). Amended G.S. 15A-2005(a)(2) provides that an intelligence quotient of 70 is approximate, and a higher score resulting from the application of the standard error of measurement to an intelligence quotient of 70 shall not preclude a defendant from being able to present additional evidence of intellectual disability, including testimony concerning adaptive deficits. Also, the subdivision provides that accepted clinical standards for diagnosing significant limitations in intellectual functioning and adaptive behavior must be applied in the determination of intellectual disability. These legislative changes were made in response to United States Supreme Court rulings in *Hall v. Florida*, 134 S. Ct. 1986 (2014), and *Brumfield v. Cain*, 135 S. Ct. 2269 (2015).

**Notification of expunction and other information by electronic or facsimile transmission.** Amended G.S. 15A-150 provides that the Director of the Administrative Office of the Courts may enter into an agreement with any of the State agencies listed in subsection (b) (Division of Motor Vehicles, Division of Adult Correction, Department of Public Safety, etc.) for electronic or facsimile transmission of any information that must be provided under the statute (expunction and conditional discharges under various statutes).

**Doubling of bond is permissive rather than mandatory.** Amended G.S. 15A-534(d3), effective for conditions of pretrial release imposed on or after October 1, 2015, provides that when conditions of pretrial release are being determined for a defendant who is charged with an offense and the

defendant is currently on pretrial release for a prior offense, the judicial official may require (current law states “shall require”) the execution of a secured bond in an amount at least double the amount of the most recent prior secured or unsecured bond for the charges or, if no bond has yet been required for the charges, at least \$1,000.

**Preservation of biological evidence.** G.S. 15A-268 provides that a custodial agency must preserve physical evidence that is reasonably likely to contain biological evidence collected in the course of a criminal investigation or prosecution. Amended G.S. 15A-268(a5) provides that a duty to preserve may not be waived knowingly and voluntarily by a defendant without a court hearing, “which may include any other hearing associated with the disposition of the case” (quoted words added by this session law). Amended G.S. 15A-268(a6) provides that despite the retention requirements for biological evidence set out in the subsection, at any time after collection of evidence and before or at the time of disposition of the case at the trial court level, if the evidence collected as part of the criminal investigation is of a size, bulk, or physical character to render retention impracticable or should be returned to its rightful owner, the State may petition the court for retention of samples of the biological evidence instead of the actual physical evidence. The subsection sets out the court procedures. These changes are effective October 1, 2015.

**Rule 803(6) is amended to allow certification by the custodian of a business record to show authenticity of a record in lieu of testimony.** Amended Rule 803(6) (hearsay exception for records of regularly conducted activity), effective October 1, 2015, allows the custodian of a business record by affidavit or document under seal made by the custodian or witness, to show the authenticity of the record in lieu of testimony. Authentication of evidence by affidavit must be confined to records of nonparties, and the proponent of that evidence must give advance notice to all other parties of the intent to offer the evidence with authentication by affidavit.

**73. [S.L. 2015-250](#) (H 792): New offense of disclosure of private images; extension of indecent exposure law to person willfully exposing private parts in private premises.** This session law is effective for offenses or acts committed on or after December 1, 2015.

**Disclosure of private images offense.** New G.S. 14-190.5A creates the offense of disclosure of private images. A person commits this offense if all of the following exist:

(1) the person knowingly discloses an “image” (defined as photo, film, video, recording, digital, or other reproduction) of another person with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person, or cause others to do so;

(2) the depicted person is identifiable from the disclosed image itself or information offered in connection with the image;

(3) the depicted person’s “intimate parts” (defined as genitals, pubic area, anus, or nipple of female over age of 12) are exposed or the depicted person is engaged in “sexual conduct” (defined as vaginal, anal, or oral intercourse; masturbation, excretory functions, or lewd exhibition of uncovered genitals; an act or condition that depicts torture, physical restraint by being fettered or bound, etc.) in the disclosed image;

(4) the person discloses the image without the affirmative consent of the depicted person; and

(5) the person discloses the image under circumstances such that the person knew or should have known that the depicted person has a “reasonable expectation of privacy” (defined as when a depicted person has consented to the disclosure of an image within the context of a personal relationship as defined in G.S. 50B-1(b) and the depicted person reasonably believes the disclosure will not go beyond that relationship).

The punishment for this offense is as follows: (1) Class H felony if person is 18 years old or older at the time of the offense; (2) Class 1 misdemeanor for a first offense by a person under 18 at the time of the offense; and (3) Class H felony for a second or subsequent offense by a person under 18

at the time of the offense. The offense is not applicable to (1) images involving voluntary exposure in public or commercial settings; (2) disclosures made in the public interest, including reporting of unlawful conduct or the lawful and common practices of law enforcement, criminal reporting, medical treatment, scientific or educational activities, etc.; and (3) providers of an interactive computer service for images provided by another person. A civil action is authorized for a violation of the statute with specified damages, and the action must be brought within one year after the initial discovery of the disclosure, but in any event must be brought no more than seven years from the most recent disclosure of the private image.

The Joint Legislative Oversight Committee on Justice and Public Safety must study the issue of improper disclosure of images of people superimposed onto other images exposing intimate parts or depicting sexual conduct. The study must include whether any existing crimes or civil actions currently apply and whether this new offense should be amended to include superimposed images. The committee must report its findings and any recommendations by April 1, 2016.

**New indecent exposure offenses.** Amended G.S. 14-190.9 creates three new offenses. Unless the conduct is prohibited by another law providing greater punishment (1) a person who willfully exposes his or her private parts in the presence of anyone other than a consenting adult on the private premises of another or so near thereto to be seen from the private premises for the purpose of arousing or gratifying sexual desire is guilty of a Class 2 misdemeanor; (2) a person located in a private place who willfully exposes his or her private parts with the knowing intent to be seen by a person in a public place is guilty of a Class 2 misdemeanor; and (3) a person at least 18 years old who willfully exposes his or her private parts in a private residence of which the person is not a resident and in the presence of any other person less than 16 years old who is a resident of that private residence is guilty of a Class 2 misdemeanor.

74. **[S.L. 2015-261 \(H 730\)](#): Create next generation 911 reserve fund and other changes.** Effective January 1, 2016, various statutes in Chapter 62A of the General Statutes are amended to create a next generation reserve fund to implement next generation 911, require public safety answering points (PSAPS) to implement next generation 911, authorize the 911 Board to establish purchasing agreements for statewide procurement, allow the PSAP grant account to be used for expenses to enhance 911 service, and amend the limitation of liability for the 911 system. The next generation 911 system is defined as an IP-enabled emergency communications system using Internet Protocol or any other available technology to enable the user of a communications service to reach an appropriate PSAP by sending the digits 911 via dialing, text, or short message service (SMS) or any technological means.
75. **[S.L. 2015-263 \(S 513\)](#): Wildlife and marine fisheries officers' search and seizure authority modified; other criminal law changes.** Amended G.S. 113-136(k), effective for offenses committed on or after December 1, 2015, provides that it is unlawful to refuse to allow wildlife law enforcement officers, marine fisheries inspectors, and other law enforcement officers to inspect weapons and equipment (this session law deletes fish and wildlife) if the officer reasonably believes them to be possessed incident to an activity which the officers and inspectors have enforcement jurisdiction, and the officer has reasonable suspicion that a violation has been committed (this session law adds the reasonable suspicion requirement)—except an officer may inspect a shotgun to confirm whether it is plugged or unplugged without reasonable suspicion that a violation has been committed. It is unlawful to refuse to allow wildlife law enforcement officers, marine fisheries inspectors, and other law enforcement officers to inspect fish or wildlife to ensure compliance with bag and size limits. Except as authorized by G.S. 113-137 (search on arrest; seizure and confiscation of property; disposition of confiscated property), nothing in G.S. 113-136 authorizes the officers and inspectors

described above to inspect, in the absence of a person in apparent control of the item to be inspected: (1) weapons; (2) equipment, except for equipment left unattended in the normal operation of the equipment, including traps, trot lines, crab pots, and fox pens; (3) fish; and (4) wildlife. The Wildlife Resources Commission must report to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016, and annually thereafter, on the number of complaints received against Commission law enforcement officers, the subject matter of the complaints, and the geographic areas in which the complaints were filed.

Amended G.S. 20-171.22, effective for offenses committed on or after September 30, 2015, provides that a person may operate an all-terrain vehicle or utility vehicle on a public street or highway while engaged in farming operations.

Amended G.S. 14-140.1 (certain fires to be guarded by watchman), effective for offenses committed on or after September 30, 2015, changes the punishment for a violation of this statute from a Class 3 misdemeanor with a minimum \$10 fine to an infraction with a maximum penalty of \$50.

- 76. [S.L. 2015-264 \(S 119\): Miscellaneous changes-3.](#)** The various criminal law changes in this summary are effective October 1, 2015.

Amended G.S. 14-269 (carrying concealed weapon) changes the spelling of the weapon, “shurikin,” to “shuriken.”

Amended G.S. 15A-150(b) (notification of expunctions) removes the Division of Adult Correction of the Department of Public Safety from the list of agencies to whom notice of expunctions are sent (but note that the Department of Public Safety remains on the list).

Amendments to G.S. 20-28(a2) (driving without reclaiming license) and G.S. 20-179(c) (DWI grossly aggravating factors) are discussed in the summary of S.L. 2015-186 (H 529), enacted earlier in this session. For a discussion of these amendments, see Shea Denning, *Technical Corrections Act Clarifies New DWLR Law*, North Carolina Criminal Law Blog (UNC School of Government, October 6, 2015), <http://nccriminallaw.sog.unc.edu/technical-corrections-act-clarifies-new-dwlr-law/>.

Amended G.S. 20-28.9(a), as previously amended by section 27.3(d) of S.L. 2015-241, deletes the provision that allowed the State Surplus Agency to enter into contracts for some regions of the state while performing the work of towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to G.S. 20-28.3 itself in other regions of the state.

- 77. [S.L. 2015-265 \(H 297\): Prohibit sale of unborn child’s remains resulting from abortion or miscarriage.](#)** New G.S. 14-46.1, applicable to offenses committed on or after October 1, 2015, provides that it is a Class I felony when a person sells the remains of an unborn child resulting from an abortion or a miscarriage or any aborted or miscarried material. The offense does not apply to a payment for incineration, burial, cremation, etc.

- 78. [S.L. 2015-267 \(H 735\): Changes to S.L. 2015-195 and S.L. 2015-241 concerning fingerprinting and State Capitol Police.](#)** Effective October 1, 2015, S.L. 2015-195 is amended to delete in G.S. 15A-502(a2) and (a4) that fingerprinting is for the purpose of “reporting . . . offenses to the National Criminal Instant Background Check System (NCIS).” S.L. 2015-241 is amended, effective July 1, 2015, to provide that the chief, special officers, and employees of the State Capitol Police Section of the State Highway Patrol (SHP) are not considered SHP members.

- 79. [S.L. 2015-268 \(H 259\): State Capitol Police relocation is clarified.](#)** A new section is added to the Appropriations Act, S.L. 2015-241, effective July 1, 2015, to clarify that the relocation of the State Capitol Police within the State Highway Patrol does not affect the subject matter or territorial

jurisdiction of its officers.

- 80. [S.L. 2015-270 \(S 370\)](#): **Application for certificate of title, registration plate, registration card, etc., may be submitted with electronic signature to Division of Motor Vehicles.** Amended G.S. 20-52, effective August 1, 2016 (note the year in this date), provides that unless otherwise prohibited by federal law, an application for a certificate of title, registration plate, registration card, and any other document required by the Division of Motor Vehicles (DMV) to be submitted with the application and requiring a signature may be submitted to the DMV with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes. Amended G.S. 20-58.4 (release of security interest), effective December 1, 2015, requires that electronic notice of the release of the security interest to the DMV must be sent through the electronic lien release system established under G.S. 20-58.4A.**
- 81. [S.L. 2015-276 \(H 924\)](#): **Miscellaneous changes-4.** Amended G.S. 20-139.1(b5), effective for offenses committed on or after December 1, 2015, makes clear that an officer who requests a person to provide a blood sample, in addition to or in lieu of a breath test, for a violation of G.S. 20-141.4 (felony and misdemeanor death by vehicle), must do so “at any relevant time after the driving” (quoted language added).  
Amended G.S. 20-130.1 (using red or blue lights on vehicles prohibited), effective for offenses committed on or after December 1, 2015, removes the requirement that a red or blue light be “forward facing” (quoted language is deleted from the statute).  
Amended G.S. 15A-298 (SBI administrative subpoena authority), effective for offenses committed on or after October 20, 2015, removes the requirement that the State Bureau of Investigation must issue rules in order to issue administrative subpoenas to a communications common carrier or electronic communications service.**
- 82. [S.L. 2015-282 \(S 238\)](#): **Cyberstalking includes installing electronic tracking device without consent to track person’s location.** Amended G.S. 14-196.3 (cyberstalking, a Class 2 misdemeanor), effective for offenses committed on or after December 1, 2015, prohibits the knowing installation of an electronic tracking device without consent to track a person’s location. There are eleven exceptions, including a law enforcement officer’s performance of official duties.**
- 83. [S.L. 2015-284 \(H 712\)](#): **Needle and hypodermic syringe disposal pilot program; drug paraphernalia law change.** The State Bureau of Investigation (SBI) no later than December 1, 2015, and in consultation with the North Carolina Harm Reduction Coalition, must establish and implement a used needle and hypodermic syringe disposal pilot program. The pilot program must offer the free disposal of used needles and hypodermic syringes to reduce the spread of HIV, AIDS, viral hepatitis, and other blood borne diseases through needle stick injuries resulting from physical contact with improperly discarded used needles and syringes. The SBI must select two counties in which to operate the pilot program but may select up to four counties. No later than one year after implementing the pilot program, the SBI must report its results to specified legislative chairs as set out in the session law.  
Amended G.S. 90-113.22 (possession of drug paraphernalia), effective December 1, 2015, bars a charge or prosecution when there are residual amounts of a controlled substance contained in a needle or sharp object if there is a hypodermic needle or other sharp object on the person or the person’s premises or vehicle if, pursuant to a law enforcement officer’s request, the person alerts the officer of that fact before a search.**

- 84. [S.L. 2015-286 \(H 765\): Miscellaneous changes-5.](#)** The various criminal law changes in this summary are effective October 22, 2015, unless otherwise noted.

G.S. 14-197 (using profane or indecent language on public highways) and G.S. 14-401.8 (refusing to relinquish party telephone line in emergency) are repealed.

Amended G.S. 14-56 (breaking or entering motor vehicle, boats, etc.), effective for offenses committed on or after December 1, 2015, provides that it is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside under certain circumstances such as a person needing first aid or emergency health care treatment, and new G.S. 1-539.27, effective for causes of action arising on or after December 1, 2015, provides immunity from civil liability for damages to the motor vehicle, boat, etc., while doing so—absent gross negligence, intentional wrongdoing, etc.

Amended 20-171.15 (age restrictions for operating all-terrain vehicle) deletes subsection (b) (concerning person under 12 years old) and revises subsection (c) to provide that it is unlawful when a parent or legal guardian of a person under 16 years old knowingly permits that person to operate an all-terrain vehicle in violation of the age restriction warning label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America design standard (the current statute simply provides that the vehicle has an engine capacity greater than 90 cubic centimeter displacement). A similar change is made to G.S. 20-171.17 (prohibited acts by sellers).

G.S. 14-360 prohibits cruelty to animals. Subdivision (c)(1) provides that the statute does not apply to the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission (Commission), except the statute does apply to those birds exempted by the Commission from its definition of “wild birds.” This session law adds “other than pigeons” after “birds.” A similar change is made to G.S. 19A-1.1 (exemptions to civil remedy for protection of animals).

New G.S. 114-8.7 requires the Attorney General to establish a hotline to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act (Article 3 of Chapter 19A of the General Statutes) against animals under private ownership, by means including telephone, electronic mail, and an Internet website. When allegations involving animal cruelty are received, they must be referred to the appropriate local animal control authority where the violations are alleged to have occurred. Allegations involving the Animal Welfare Act must be referred to the Department of Agriculture and Consumer Services. The changes set out in this paragraph are effective March 1, 2016.

- 85. [S.L. 2015-287: H 850: Eastern Band of Cherokee Indians law enforcement functions.](#)** New Article 2 of Chapter 1E of the General Statutes authorizes the Eastern Band of Cherokee Indians to establish a police department, a tribal alcohol law enforcement division, a natural resources law enforcement agency, and a probation and parole agency. Amended G.S. 1E-1 provides that a limited driving privilege signed and issued by a judge or justice of the Cherokee Trial Courts under the applicable provisions of Chapter 20 of the General Statutes and filed in its clerk’s office shall be valid and given full faith and credit as specified in G.S. 1E-1(a) (North Carolina state courts must give full faith and credit to a judgment, decree, or order signed and filed in the Cherokee Tribal Courts as specified in the subsection). This session law is effective October 23, 2015.

- 86. [S.L. 2015-289 \(H 215\): Procedures for criminal defendant to waive right to jury trial.](#)** Amended G.S. 15A-1201, effective for criminal defendants waiving their right to a jury trial on or after October 1, 2015, makes the following changes.

When a defendant waives the right to a jury trial, the waiver includes the determination of DWI



sentencing factors under G.S. 20-179 and aggravating factors under the Structured Sentencing Act as provided in G.S. 15A-1340.16(a1) and (a3).

A defendant must give notice of intent to waive a jury trial by one of three ways: (1) a stipulation, which may be conditioned on each party's consent to the trial judge, signed by both the State and the defendant and served on counsel for any co-defendants; (2) filing a written notice of intent to waive a jury trial and serving it on the State and counsel for any co-defendants within the earliest of (i) ten working days after arraignment, (ii) ten working days after service of a calendar setting, or (iii) ten working days after the setting of a definite trial date; or (3) giving notice of intent to waive a jury trial on the record in open court by the earlier of (i) the time of arraignment, or (ii) the calling of the calendar. If a motion for joinder of co-defendants is allowed, there must be a jury trial unless all defendants waive the right to a jury trial or the court in its discretion severs the case.

When a defendant gives notice of waiver of a jury trial, the State must schedule the matter to be heard to determine in open court whether the judge agrees to hear the case without a jury. The determination must be made by the judge who will preside over the trial. The judge must do the all of the following: (1) personally address the defendant and determine whether the defendant fully understands and appreciates the consequences of the defendant's decision to waive a jury trial; (2) determine whether the State objects to the waiver and, if so, why; and (3) consider the arguments presented by the State and defendant concerning the waiver of jury trial.

Once the defendant's waiver of a jury trial has been made and consented to by the trial judge, the defendant may revoke the waiver one time as of right within ten business days of the defendant's initial notice to waive a jury trial if the defendant (i) does so in open court with the State present, or (ii) in writing to both the State and judge. In all other circumstances, the defendant only may revoke the waiver when the trial judge finds the revocation would not cause unreasonable hardship or delay to the State. Once a revocation is granted, the decision is final and binding.

When a defendant who has waived the right to jury trial makes a suppression motion under Article 53 of Chapter 15A, the court must make written findings of fact and conclusions of law.

- 87. [S.L. 2015-292](#) (H 8): Court of Appeals elections require party designation.** Amended G.S. 163-323, applicable to elections held on or after October 29, 2015, requires a candidate for judge of the North Carolina Court of Appeals when filing notice of candidacy to indicate the political party with which that candidate is affiliated or any unaffiliated status. The party designation or unaffiliated status must be included on the ballot.
- 88. [S.L. 2015-290](#) (H 327): Definition modified involving offense of impersonating firemen or emergency medical services personnel.** Amended G.S. 14-276.1 (impersonating firemen or emergency medical services personnel), effective October 29, 2015, modifies the definition of emergency medical services personnel so it includes an emergency medical responder, emergency medical technician, advanced emergency medical technician, paramedic, or other member of a rescue squad or other emergency medical organization.
- 89. [S.L. 2015-294](#) (H 318), as amended by [S.L. 2015-264](#) (S 119): Consulate, embassy, and other documents not acceptable as identification.** New G.S. 15A-306 provides that the following documents are not acceptable in determining a person's actual identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other government official: (1) a matricula consular or other similar document, other than a valid passport, issued by a consulate or embassy of another country; and (2) an identity document issued or created by any other person, organization, county, city, or other local authority, except if expressly authorized by the General Assembly— however, a law enforcement officer may use the documents described in (2) above to assist in

determining the identity or residency of a person when they are the only documents providing an indication of identity or residency available to the officer then. (Note: The law enforcement officer provision discussed in the prior sentence was added by S.L. 2015-264 (S 119).) Any local government policy or ordinance that contradicts this statute is repealed. This session law also removes similar documents for use under G.S. 20-7(b4) (proof of residency for driver's license), G.S. 58-2-164(c) (verify insurance applicant's address), and G.S. 108A-55.3 (verify state residency for medical assistance). These provisions are effective for contracts entered into on or after October 1, 2015, except the amendment to G.S. 58-2-164(c) is effective for insurance policies entered into on or after January 1, 2016.

New G.S. 153A-145.5 (county ordinance) and G.S. 160A-499.4 (city ordinance) prohibit a locality (1) from adopting a sanctuary ordinance that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law, and (2) concerning information about citizenship or immigration status, lawful or unlawful, of any person, a locality cannot (i) prohibit law enforcement from gathering such information, (ii) direct law enforcement not to gather such information, or (iii) prohibit communication of such information to federal law enforcement. These new statutes are effective October 29, 2015.

90. **S.L. 2015-299: Marijuana definition does not include lawfully-produced industrial hemp.** Amended G.S. 90-87(16) provides in the definition of "marijuana" that the term does not include industrial hemp when it is produced and used in compliance with rules issued by the Board of Agriculture (Board) on recommendation of the North Carolina Industrial Hemp Commission. This provision becomes effective on the first day of the month following the adoption of permanent rules by the Board and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date.



Tab 2:

Selecting  
Process

**SELECTING PROCESS (FEBRUARY, 2016)**

Problems in selecting the proper charge and issuing process.....Selecting Process-Page 1



## **PROBLEMS IN SELECTING THE PROPER CHARGE AND ISSUING PROCESS**

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*Instructions:* For each of the following sets of facts, assume that what is written is reliable information, then decide whether a criminal offense has been committed. If there is a crime, decide what kind of process should be issued. Each magistrate should select the proper AOC form and complete the form for one of the problems. In some of the situations you may be required simply to give advice to another person rather than issue process. If that is the case, be prepared to state in class exactly what you would say to that other person. For this set of problems, do not set conditions of pretrial release.

1. Mrs. Lorean Warren comes in with her 11 year-old son, Tommy. Tommy went to the Running Brook Golf Club yesterday morning to make some money caddying. When he approached Raymond G. Mallory and asked if Mallory wanted a caddy, Mallory said, "Get out of here, you damn little beggar" and pushed Warren to the ground with his arm. Warren fell on gravel and scraped his right arm. Mallory is a 45 year-old real estate broker who lives at 1011 Whitworth Street.
2. Patrolman Robert Lucas of the Franklin Police Department comes in and says that when he stopped Francis Smith about half an hour ago to give him a ticket for speeding 55 mph in a 45 mph zone, Smith called Lucas "a stupid flat-footed pig bastard." Smith's license indicated he was 24 years old and lives at 300 Oakwood Street.
3. Officer Thomas Burgess comes in and says that while Abraham Waverly was driving his 1991 Ford Taurus on Highway 73 near Andrews, N.C., yesterday, Charles T. Lloyd, 34, Apt. 3B, 2100 Brookside Drive, Franklin, drove alongside Waverly and fired a shotgun towards him. The shot shattered the back window and caused Waverly to drive off the side of the road, but no other damage or injury was sustained.
4. Lawrence T. Russell, a local merchant, appears saying that at 11:00 o'clock this morning he saw a 1990 red Chevrolet, N.C. license TRT442, driven by Thomas Sudland, run a red light at the corner of 8th Street and Mud Avenue.
5. Detective Roland Garland comes in with Lewis Wells who says that last night at 11:30 p.m. Bobby Hanners jumped on him, Wells, in Joe's Roadside Bar on Hopewell Boulevard. Hanners pulled a hunting knife with an 8" blade and cut Wells several times. Only one of the cuts required stitches, 5 stitches on the left hand. Wells doesn't know Hanners but got his name from the bartender, who thinks Hanners, a 6'3", 200 lb., white male, 25 years old, lives at Good-View Trailer Park.
6. Merchant Sally Kessler comes and tells you that Peter Kirkman wrote a worthless check in the amount of \$79.95 when he bought some tools last week. Kirkman, white male, 27 years old, lives in an adjoining county at 22 Westover Drive, Smithville.

7. About 20 minutes ago officer Robert Lucas of the Franklin Police Department stopped Alice Lodge to give her a ticket for running a stop sign. Lodge's boyfriend, Fred Chambers, jumped out of the passenger's seat, ran around the car, called Lucas a "fat ignorant jerk" and shoved him to the ground while Lucas was trying to complete the citation. Lucas has placed Chambers under arrest for obstructing an officer and has now brought him before you. Chambers is white, 27 years old, and lives at 1414 Lockwood Circle.
8. Louise Day Hill, a sales clerk at Ivey's in Downtown Mall, Franklin, caught Ira Davis with a Wilson's Originals blouse, size 9, in her shopping bag while she was in the store. The blouse still had the Ivey's tag on it, indicating a price of \$17.99. Davis is 19, white, lives at Apt. 13C, Old Towne Apartments, Kensington Drive. She is a local college student. Hill wants you to issue an arrest warrant.
9. Douglas Feldon, a security guard at Downtown Mall, Franklin, appears and explains that earlier today he caught Rita Davis in the parking lot of the mall with a pair of Brobeggio women's shoes, size 8 narrow. Feldon chased Davis after being told by Louise Day Hill, a sales clerk at Ivey's, that Davis had taken the shoes without paying. The shoes were in a box held in Davis's hand and the price tag had been torn off. Hill said the shoes sell for \$28.95. Feldon checked Davis' driver's license which said that she lives at Apt. 13C, Old Towne Apartments, Kensington Drive, and is 26 years old. She is white. Feldon took the shoes back and let Davis go; he wants a warrant against her for shoplifting.
10. Detective Albert Simmons appears and says that John "The Breadman" Harding broke the kitchen window and entered Diana Stallings' house at 451 Mason Court at 1 a.m. last night. A house guest, Levine Kelley, caught Harding while he was in the living room and before anything had been disturbed by Harding. Harding has no known local address presently. He is about 30, black, about 6', 180 pounds.
11. Detective Ross Davidson appears and says that Eddie Fern entered Ross and Casey's Fine Appliances, 5660 Stanley Drive, through the unlocked back door at some time between 9 p.m., last Friday and 8 a.m., Saturday. Fern took a 13" Sony color television, serial #ART890034, and a Mr. Coffee coffee maker, DiMaggio special, model 53B. The television set is valued at \$359.95 and the coffee maker at \$27.50. Fern is 29, white, lives at 452 Jefferson Court.
12. Patrolman Robert Evans arrests Gilbert Sullivan and takes him to the magistrate's office. At 10:00 p.m. tonight Sullivan walked into Ken's Quickie Mart, Highway 430, about two miles out of town, pulled a pistol, pointed it at the manager, Kenneth Evans, and said, "Give me all your cash or I'll blow your damn head off." Evans complied, handing Sullivan about \$450 in cash. The only customer in the store at the time was Rayline Corley, a 50-year-old housewife buying some bread and eggs.
13. Tom Martin and Mumford Ford have been feuding about a girl for about three months. Ford comes in and tells you that this morning Martin broke into Ford's apartment, #45B Old Towne Apartments, and painted "pig," "queer," and "toad" on the living room and bedroom walls in letters about two feet high. Martin is white, 24, and lives at #237 Village East, Westwood.



14. Detective Mason Gruder appears and says that last Saturday morning Haywood Goodman went into Larry Oldman's unlocked 1994 Pontiac while it was parked in the parking lot of Lynwood's Funeral Home, 1220 Patton Avenue, and took a tan sports coat worth about \$45. He also tore out and took Aldham's Motorola KZR12 cassette tape recorder worth about \$180. Goodman is 32, black, and works at Franklin Auto Repair, 1200 Fuquay Road; Gruder does not know his home address.
  
15. Manning Brandon and Susan Stewart come in and say that about 11 p.m. tonight that John Black was in the Frog's Kiss bar and had been drinking several beers. He walked up to a table at which Stewart and Brandon were sitting and said to Stewart, "Hey, you're quite some honey. Why don't you drop this queer turkey and come with me. I'd really like to give it to you in bed." Stewart was quite embarrassed and Brandon became angry. Brandon told Black to leave, to which Black replied, "Buzz off, you stringy pimp fairy." At that, Brandon leaped to his feet ready to strike Black, but several people intervened and no blows were actually inflicted by either party. Lloyd Crane, the bartender at the time, has come in also and says the story is true. Crane knows that Black, about 25, 6', 175 pounds, lives at the Hot Springs Trailer Park on Old Canton Road. Brandon and Stewart ask for a warrant for verbal assault.
  
16. Janice Monroe appears and says Charlie Davis was dating her until they had a violent argument last week. Monroe told Davis she never wanted to see him again. Saturday morning Davis went to Monroe's house at 213 Corbin Lane. Monroe ordered him to leave, but he refused and then picked up a lawn chair from the front yard and threw it through her front window. It will cost about \$25 to have the window replaced; the lawn chair, worth about \$6, was broken. Davis is 37, white, and lives at 340 Greenwich Road.
  
17. Tom Martin and Mumford Ford have been feuding over a girl for several months. Ford comes in and says that yesterday, Martin came up to him on the street, shook his fist at him, and said, "I've lost my patience with you. You keep away from Tricia from now on or I'll beat the hell out of you." Ford is afraid of Martin because Martin is about six inches taller and weighs 50 pounds more than him. Martin's age, address, etc. is given in #13 above.



Tab 3:

Initial

Appearance

**INITIAL APPEARANCE (FEBRUARY, 2016)**

Exceptions to Pretrial Release Procedures:

A Guide for Magistrates .....	Initial Appearance-Page 1
Domestic Violence Crimes Chart.....	Initial Appearance-Page 5
Problems in Determining the Conditions of Pretrial Release .....	Initial Appearance-Page 9
Problems in Setting Pretrial Release Conditions .....	Initial Appearance-Page 13



**EXCEPTIONS TO PRETRIAL RELEASE PROCEDURES: A GUIDE FOR MAGISTRATES**

**THE GENERAL RULE:** Upon arrest, the defendant must be taken without unnecessary delay before a magistrate, who **MUST** hold an initial appearance and set pretrial release (PTR) conditions. G.S. 15A-511. There are **LIMITED** exceptions to this rule.\*

<b>Category</b>	<b>Specific Situation</b>	<b>Response</b>	<b>Statutory Basis</b>	<b>Form to Use</b>
<b><i>Delay initial appearance altogether</i></b>	Person is unable to understand rights (ex., person is unconscious, grossly intoxicated, does not understand English)	Delay initial appearance for reasonable time without setting PTR conditions. If you commit person to jail until able to understand rights, set reasonable outer time limit and check regularly with jail. To avoid delay of initial appearance if person does not speak English, use telephone interpreting service when possible.	15A-511(a)(3)	AOC-CR-200 Fill out commitment portion of form only. Check the box to hold person “for the following purpose” and write purpose. Do not set PTR conditions in upper portion of form.
<b><i>Conduct initial appearance, BUT delay setting pretrial release conditions</i></b>	Person is charged with domestic violence offense under “48-hour” law (effective for offenses on or after Dec. 1, 2015, includes covered offenses when defendant and victim are in dating relationship as defined in 50B-1(b)(6))	Conduct initial appearance, but do not set PTR conditions. Order that person be returned to magistrate if judge does not set PTR conditions within 48 hours. After 48 hours, magistrate has authority to delay setting of PTR conditions for reasonable time if person continues to pose danger, but authority should rarely be used.	15A-534.1	AOC-CR-200 Fill out commitment portion of form only. Check the domestic violence box and indicate when defendant should be returned to magistrate if judge has not acted.
	Felony by person on probation if insufficient information about danger to public	Conduct initial appearance, but do not set PTR conditions. Order that person be brought for first appearance before judge no later than 96 hours. If sufficient information before then, set PTR conditions.	15A-534(d2)	AOC-CR-200, AOC-CR-272 (side one) Check the appropriate box in AOC-CR-200 and fill out AOC-CR-272 (side one)
	Violation of probation by person who has pending felony charge or who is subject to sex offender registration if insufficient information about danger to public	Conduct initial appearance, but do not set PTR conditions. If defendant has been held for 7 days without PTR conditions, defendant must be brought before any judicial official to set PTR conditions. If sufficient information before then that not a danger, set PTR conditions.	15A-1345(b1)	AOC-CR-200, AOC-CR-272 (side two) Check the appropriate box in AOC-CR-200 and fill out AOC-CR-272 (side two)

\*For more information about conducting initial appearances, see JESSICA SMITH, CRIMINAL PROCEEDINGS BEFORE NORTH CAROLINA MAGISTRATES (UNC School of Government, 2014).

Category	Specific Situation	Response	Statutory Basis	Form to Use
<p><b>Conduct initial appearance, set pretrial release conditions, BUT delay release</b></p>	<p>Probable cause of impaired driving offense and clear and convincing evidence that person is so impaired as to present danger to self or others if released</p>	<p>Set pretrial release conditions (ex., unsecured or secured bond) and order defendant into custody, up to 24 hours, until he or she is no longer impaired to dangerous extent or sober responsible adult agrees to take custody.</p>	<p>15A-534.2</p>	<p>AOC-CR-200, AOC-CR-270 Make special findings in AOC-CR-270 (side one). Use AOC-CR-200 for PTR conditions; check the box that release is subject to AOC-CR-270.</p>
	<p>Probable cause that individual was exposed to defendant in a nonsexual manner that poses significant risk of transmission of AIDS or Hepatitis B</p>	<p>Contact public health official to determine risk of transmission. If risk exists, order defendant detained for up to 24 hours for testing. Set PTR conditions, to go into effect once testing is completed.</p>	<p>15A-534.3</p>	<p>AOC-CR-200, AOC-CR-270 (side two) See immediately above.</p>
<p><b>Conduct initial appearance, BUT deny any pretrial release conditions if criteria met</b></p>	<ul style="list-style-type: none"> <li>• Capital offense</li> <li>• Fugitive from another state charged with offense punishable by life in prison or death, or fugitive charged with any offense after arrest on Governor's warrant</li> <li>• Out-of-state probationer arrested for violation of probation if subject to Interstate Compact for Adult Supervision</li> <li>• Offense while person was involuntarily committed or on escape from involuntary commitment if person is still subject to commitment</li> <li>• Certain drug trafficking offenses</li> <li>• Certain gang offenses</li> <li>• Certain offenses with firearm</li> <li>• Violation of certain health control measures if person poses health and safety threat</li> <li>• Certain methamphetamine offenses if certain findings</li> <li>• Military deserter</li> <li>• Violation of post-release supervision or parole</li> <li>• Violation of probation by person who has pending felony charge or is subject to sex offender registration if danger to public<sup>1</sup></li> </ul>	<p>In all of these situations, deny release if criteria are met. Make findings if required.</p> <p>If offense is while person was involuntarily committed or on escape from involuntary commitment, and person is still subject to commitment, person should be returned to treatment facility.</p> <p>If offense is violation of health control measure (under 130A-145 or 130A-475), pretrial confinement terminates when judicial official finds, based on recommendation of state or local health director, that person no longer poses health and safety threat.</p>	<ul style="list-style-type: none"> <li>• 15A-533(c)</li> <li>• 15A-736</li> <li>• Ch. 148, Art. 4B (Interstate Compact)</li> <li>• 15A-533(a)</li> <li>• 15A-533(d)</li> <li>• 15A-533(e)</li> <li>• 15A-533(f)</li> <li>• 15A-534.5</li> <li>• 15A-534.6</li> <li>• Case law</li> <li>• 15A-1368.6,</li> <li>• 15A-1376</li> <li>• 15A-1345(b1)</li> </ul>	<p>AOC-CR-200</p> <p>In upper portion of form, check the box that states "Your release is not authorized." In additional information section, write any findings or instructions.</p> <p>If a violation of probation by a person who has a pending felony charge or is subject to sex offender registration, also check appropriate box in AOC-CR-200 and fill out AOC-CR-272 (side two)</p>

1. Also applies if probationer would be subject to sex offender registration but for the effective date of NC's sex offender registration program.

Category	Specific Situation	Response	Statutory Basis	Form to Use
<b>Conduct initial appearance, BUT set certain pretrial release conditions</b>	Arrested on order for arrest (OFA) after failure to appear (FTA)	If OFA requires certain PTR conditions, set those conditions. If OFA does not require PTR conditions, set secured bond in at least twice the amount of previous bond. If OFA does not require conditions and there was no previous bond, set secured bond of at least \$1,000. If defendant was already surrendered by surety for this FTA and made new bond, release defendant without setting new bond.	15A-534(d1)	AOC-CR-200 Set pretrial release conditions. Check the box in upper portion of form that defendant was arrested or surrendered for FTA. Also check the box if this is defendant's second or subsequent FTA.
	Surrendered by surety following FTA	Require secured bond in at least twice the amount of previous bond. If defendant was already arrested for this FTA and made new bond, release defendant without setting new bond. If defendant has not been arrested for this FTA, attempt to get OFA recalled.	15A-534(d1)	AOC-CR-200 See immediately above. See also AOC-CR-214 (surrender of defendant by surety)
	New offense while on pretrial release for prior offense	May require (was, shall require) secured bond in at least twice the amount of previous bond for the charges. If no previous bond for the charges, may require (was, shall require) secured bond of at least \$1,000 <sup>2</sup>	15A-534(d3)	AOC-CR-200 Set pretrial release conditions with required bond amount.
	Felony by person on probation if danger to public	Set secured bond, with or without electronic house arrest.	15A-534(d2)	AOC-CR-200, AOC-CR-272 (side one) Check the appropriate box in AOC-CR-200 and fill out AOC-CR-272 (side one)
	Electronic house arrest	If you require house arrest with electronic monitoring, set secured bond.	15A-534(a)	AOC-CR-200 Check appropriate box.
	Order of judge	Follow judge's order.		AOC-CR-200
	Domestic violence offense	If authorized to set PTR conditions, magistrate may impose conditions that defendant stay away from victim, not assault victim, not damage specified property, and may visit defendant's children at times specified in court order	15A-534.1(a)(2)	AOC-CR-200, AOC-CR-630 In space for restrictions in AOC-CR-200, refer to AOC-CR-630 if additional conditions included there.

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2. Effective for pretrial release conditions set on or after Oct. 1, 2015.



Category	Specific Situation	Response	Statutory Basis	Form to Use
<b>Set certain pretrial release conditions (cont'd)</b>	Certain offenses against a minor	In addition to any other PTR conditions, require that defendant stay away from, not communicate with, and not assault, threaten, or harm alleged victim; stay away and non-communication conditions may be waived on proper findings.	15A-534.4	AOC-CR-200, AOC-CR-631 In space for restrictions in AOC-CR-200, refer to AOC-CR-631 if additional conditions included there.
	When fingerprints or DNA sample have not been collected as required by certain statutes	In addition to any other PTR conditions, require the collection of fingerprints or DNA sample as condition of release.	15A-534(a)	AOC-CR-200 In space for restrictions, write condition.
<b>Reasons that initial appearance and/or pretrial release conditions may NOT be delayed or denied</b>	Noncitizens	No authority to delay or deny PTR conditions. If ICE has filed detainer, defendant may be detained by jail for additional 48 hours (excluding weekends and holidays) after defendant makes PTR conditions.	8 C.F.R. 287.7 (ICE detainer)	AOC-CR-200 Fill out release order as in other cases.
	Out-of-county offenses or violations	No authority to delay or deny PTR conditions.		AOC-CR-200, AOC-CR-241 (out-of-county process verification recall and transmission)
	Arrest without paperwork	No authority to delay or deny PTR conditions.	15A-401(a)(2) (arrest authority when warrant not in possession of officer)	AOC-CR-200
	DCI hit states "no bond"	No authority to delay or deny PTR conditions.		AOC-CR-200
	Probation violation by in-state probationer or "absconder"	No authority to delay or deny PTR conditions except in the circumstances in 15A-1345(b1), described above.	15A-1345(b) (bail following arrest for probation violation)	AOC-CR-200

# Domestic Violence Crimes and the 48-Hour Rule<sup>1</sup>

Jeff Welty  
UNC School of Government  
December 2015

Crime Charged	Relationship between the Parties	Does the 48-Hour Rule Apply?	Is the Case Covered by the Crime Victims' Rights Act?
<ul style="list-style-type: none"> <li>• Simple assault, G.S. 14-33(a)</li> <li>• Assault with a deadly weapon, G.S. 14-33(c)(1)</li> <li>• Assault inflicting serious injury, G.S. 14-33(c)(1)</li> <li>• Assault by pointing a gun, G.S. 14-34</li> <li>• Misdemeanor stalking, G.S. 14-277.3A</li> </ul>	<ul style="list-style-type: none"> <li>• Current or former spouses (same sex or opposite sex)</li> <li>• Currently live or formerly lived together as if married (same sex or opposite sex)<sup>2</sup></li> <li>• Currently or formerly in a dating relationship<sup>3</sup> (opposite sex)</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>• Currently or formerly in a dating relationship (same sex)<sup>4</sup></li> </ul>	Yes	No
	<ul style="list-style-type: none"> <li>• Child in common</li> <li>• Parent (or person in a parental role)/child</li> <li>• Grandparent/grandchild</li> <li>• Current or former members of the same household</li> </ul>	No	Yes

<sup>1</sup> The so-called 48-hour rule of G.S. 15A-534.1 provides that, for certain domestic violence crimes, only a judge may set conditions of release in the first 48 hours after the defendant's arrest. The rule does not require or permit the defendant to be held if a judge is available to set conditions of release. Effective December 1, 2015, the rule applies "[i]n all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or spouse, a person with whom the defendant lives or has lived as if married, or a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes." S.L. 2015-62. This chart indicates whether several common offenses are, or are not, covered by the rule. This chart is not comprehensive. For the listed offenses, the chart also indicates whether they are covered by the Crime Victims' Rights Act, G.S. 15A-830 et seq. When creating criminal processes in NCAWARE, magistrates are required to indicate whether an offense is a "domestic violence case" and whether it is a "victim rights" case. This chart is intended to assist magistrates in making those determinations.

<sup>2</sup> The Crime Victims' Rights Act applies to certain misdemeanor offenses "when the offense is committed between persons who have a personal relationship as defined in G.S. 50B-1(b)." G.S. 15A-830(7)(g). The portion of the definition of "personal relationship" in G.S. 50B-1(b) that concerns "persons . . . who live together or have lived together" applies only to people "of opposite sex." However, another portion of the definition includes all "current or former household members" regardless of sex. Thus, same-sex individuals who live together or have lived together as if married share a "personal relationship" as "current or former household members" and the Crime Victims' Rights Act applies when one such individual is charged with committing a covered misdemeanor against another.

<sup>3</sup> Effective December 1, 2015, G.S. 15A-534.1(a) makes the 48-hour rule applicable to covered offenses committed against "a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6)." G.S. 50B-1(b)(6) provides in pertinent part that "a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship."

<sup>4</sup> Effective December 1, 2015, G.S. 15A-534.1(a) makes the 48-hour rule applicable to covered offenses committed against "a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6)." G.S. 50B-1 contains definitions pertinent to the issuance of domestic violence protective orders. G.S. 50B-1(b) defines the term "personal relationship." G.S. 50B-1(b)(6) states that a "personal relationship" includes "persons of the opposite sex who are in a dating relationship or have been in a dating relationship. A dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship." Nothing in the definition of "dating relationship" requires the parties to be of different sexes. Under the statute, a "dating relationship" is a "personal relationship" only if the parties are of different sexes, but the applicability of the 48-hour rule turns on the existence of a "dating relationship," not the existence of a "personal relationship." By contrast, the Crime Victims' Rights Act applies to certain misdemeanor offenses "when the offense is committed between persons who have a personal relationship as defined in G.S. 50B-1(b)." Thus, the existence of a same-sex dating relationship does not trigger the misdemeanor provisions of the Crime Victims' Rights Act, though the existence of an opposite-sex dating relationship does. Whether it is constitutional to distinguish between same-sex and opposite-sex couples in this way is beyond the scope of this document but might be questioned under *Obergefell v. Hodges*, 576 U.S. \_\_\_ (2015) (holding that laws limiting marriage to same-sex couples are unconstitutional, in part on equal protection grounds).

Crime Charged	Relationship between the Parties	Does the 48-Hour Rule Apply?	Is the Case Covered by the Crime Victims' Rights Act?
<ul style="list-style-type: none"> <li>Assault on a female, G.S. 14-33(c)(2) (note that this offense requires a male defendant and a female victim, so issues concerning same-sex couples do not arise)</li> </ul>	<ul style="list-style-type: none"> <li>Current or former spouses</li> <li>Currently live or formerly lived together as if married</li> <li>Currently or formerly in a dating relationship</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	
<ul style="list-style-type: none"> <li>Assault with a deadly weapon with intent to kill, G.S. 14-32(c)</li> <li>Assault with a deadly weapon inflicting serious injury, G.S. 14-32(b)</li> <li>Assault with a deadly weapon with intent to kill inflicting serious injury, G.S. 14-32(a)</li> <li>Assault inflicting serious bodily injury, G.S. 14-32.4(a)</li> <li>Habitual misdemeanor assault, G.S. 14-33.2</li> <li>Felony stalking, G.S. 14-277.3A</li> </ul>	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> <li>Currently or formerly in a dating relationship (same sex or opposite sex)</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	
<ul style="list-style-type: none"> <li>Assault by strangulation, G.S. 14-32.4(b)</li> <li>Communicating a threat, G.S. 14-277.1</li> </ul>	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> <li>Currently or formerly in a dating relationship (same sex or opposite sex)</li> </ul>	Yes	No
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	
<ul style="list-style-type: none"> <li>Harassing telephone calls, G.S. 14-196</li> <li>Cyberstalking, G.S. 14-196.3</li> </ul>	Any	No	No
Domestic criminal trespass, G.S. 14-134.3	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> </ul> <p>(Note that having one of the above relationships is an element of the offense)</p>	Yes	Yes <sup>5</sup>

<sup>5</sup> Domestic criminal trespass normally is a Class 1 misdemeanor, but is a Class G felony if the defendant trespasses “upon property operated as a safe house or haven for victims of domestic violence and . . . is armed with a deadly weapon.” G.S. 14-134.3(b). The felony offense is not listed in G.S. 15A-830(7), so the Crime Victims’ Rights Act does not appear to apply to the felony.

Crime Charged	Relationship between the Parties	Does the 48-Hour Rule Apply?	Is the Case Covered by the Crime Victims' Rights Act?
Violating a domestic violence protective order, G.S. 50B-4.1	Any (Such orders may be issued only when a "personal relationship" exists, as defined in G.S. 50B-1(b), but a magistrate considering a violation of a DVPO should not second-guess the determination of the judicial official who issued the order that such a relationship existed)	Yes	Yes
<ul style="list-style-type: none"> <li>Rape (any kind/degree), G.S. 14-27.21, 14-27.22, 14-27.23, 14-27.24, 14-27.25</li> <li>Sex offense (any kind/degree), G.S. 14-27.26, 14-27.27, 14-27.28, 14-27.29, 14-27.30<sup>6</sup></li> </ul>	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> <li>Currently or formerly in a dating relationship (same sex or opposite sex)</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	
<ul style="list-style-type: none"> <li>Kidnapping, G.S. 14-39</li> <li>Felonious restraint, G.S. 14-43.3</li> </ul>	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> <li>Currently or formerly in a dating relationship (same sex or opposite sex)</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	
Arson, G.S. 14-58	<ul style="list-style-type: none"> <li>Current or former spouses (same sex or opposite sex)</li> <li>Currently live or formerly lived together as if married (same sex or opposite sex)</li> <li>Currently or formerly in a dating relationship (same sex or opposite sex)</li> </ul>	Yes	Yes
	<ul style="list-style-type: none"> <li>Child in common</li> <li>Parent (or person in a parental role)/child</li> <li>Grandparent/grandchild</li> <li>Current or former members of the same household</li> </ul>	No	

<sup>6</sup> As of this writing, G.S. 15A-534.1 refers in pertinent part to felonies "provided in Article[] 7A . . . of Chapter 14 of the General Statutes." However, S.L. 2015-181 gutted Article 7A and moved the rape and sex offense crimes to new Article 7B. The General Assembly certainly did not intend to remove these crimes from the scope of the 48-hour rule, and the Revisor of Statutes is expected to correct G.S. 15A-534.1 to refer to Article 7B under the authority in section 47 of S.L. 2015-181. Crimes committed before December 1, 2015, will be prosecuted under the former statutes set forth in Article 7A, and the 48-hour rule should apply to those cases as well.



### **PROBLEMS IN DETERMINING THE CONDITIONS OF PRETRIAL RELEASE**

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[Choose best answer(s) for each problem]

1. Frank Furrillo is arrested and brought before you for communicating threats to Joyce Davenport. Furrillo has been living as if married with Davenport for the past 18 months. Furrillo appears to be very upset at being arrested, but he cooperates with you and makes no threats. What action should you take?
  - a. Set release conditions as usual.
  - b. Set release conditions and commit him to jail for a reasonable time.
  - c. Do not set release conditions and commit him to jail for a reasonable time.
  - d. Place him in a holding cell for about 30 minutes.
  - e. Commit him to jail because only a judge may set release conditions for the period of 48 hours from Furrillo's arrest.
  
2. Rex "High Ball" Lincoln has been arrested and charged with driving while impaired. Lincoln is able to understand his procedural rights, but there is clear and convincing evidence that he presents a danger, if he is released, of physical injury to himself or others. What action should you take?
  - a. Order him detained until he is no longer impaired, up to 24 hours.
  - b. Set a high secured bond that he won't be able to meet for a while.
  - c. Set conditions of pretrial release, and order him detained for a while.
  - d. Set conditions of pretrial release, and order him detained until his mental and physical faculties are no longer impaired, up to 24 hours or a specified time less than 24 hours, or until a sober, responsible adult is willing and able to assume responsibility for the defendant until the defendant is no longer impaired.
  
3. Charles Manson was arrested and was charged with being drunk and disruptive. After you have found probable cause he starts screaming obscenities in a loud voice. You ask him to be quiet and he yells louder. This continues for several minutes and then he quiets down. Every few minutes he continues to mumble obscenities. What action should you take?
  - a. Place him in a holding cell for about 30 minutes.
  - b. Set release conditions as usual.
  - c. Set release conditions and commit him to jail for a reasonable time.
  - d. Do not set release conditions and commit him to jail for a reasonable time.
  
4. Amy Ames, a local prostitute, is arrested and charged with assault on a government officer. She walked up to his patrol car, leaned in the open window, yelled "buzz off," and slapped him in the face. You have placed her under a \$500 secured bond. May you specify that the bond is to be satisfied with "cash only"?
  - a. Yes
  - b. No, unless authorized by a judge in local pretrial release policy
  
5. It is near the end of your shift and you have just conducted an initial appearance for Wilson Snipes. You have placed him under a \$2,000 secured bond. Snipes is resting uncomfortably in the jail because he cannot make bond. On the next shift (you are asleep at home) another magistrate, without consulting you, modifies Mr. Snipes' bond and places him under an unsecured bond. Snipes is released. Was the second magistrate's modification legally authorized based on these facts?







Now, defendant's mother only has \$500 but she brings in three other relatives who have \$500 each. They do not intend to make the cash available to satisfy the defendant's obligations and want to split the bond. What do you do? If your county allows splitting, how do you fill out the forms?

15. Defendant was arrested by law enforcement officers on a DCI hit on a warrant from another county. The officers do not have the warrant when they bring the defendant to you. What should you do?

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## PROBLEMS IN SETTING PRETRIAL RELEASE CONDITIONS

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*Instructions:* For the following problems set the conditions of pretrial release as you would do so in your county.

To assist in doing these problems, the following is a list of each class of felonies and the minimum and maximum punishment for each, with the minimum based on a mitigated sentence in Prior Record Level 1 and the maximum based on an aggravated sentence in Prior Record Level VI:

Class A.....	life without parole or death	Class E.....	15 to 85 months
Class B1.....	144 months to life without parole	Class F.....	10 to 50 months
Class B2.....	94 to 481 months	Class G.....	8 to 38 months
Class C.....	44 to 228 months	Class H.....	4 to 30 months
Class D.....	38 to 201 months	Class I.....	3 to 15 months

1. Detective Steve Roman arrests without a warrant and brings in Allen Watts Ewing, age 26, of 1150 Brookside Drive. Earlier this evening—in the course of a search of Ewing’s home with a search warrant—ten pounds of marijuana were found in his bedroom. He also had a .38 caliber pistol under his jacket in his belt. Ewing has two previous arrests and convictions for misdemeanor assault and has been employed as a cook at the same place for the past two years.

The charges are maintaining a dwelling and possession with intent to sell or deliver (Class I felony)

2. Officer Kerry Davis arrests without a warrant Jerry Dennis Lawrence, age 17, of 1407 Roosevelt Drive, and brings him to you. Early this afternoon, Lawrence saw the keys in the ignition of Marsha Williams’ 1982 Volkswagen, license TRG 887, when the car was parked on Kennedy Street. Lawrence got in the car, drove it to Frame Street on the other side of town, and abandoned it, just before being apprehended by Davis. Lawrence lives with his parents and is a high school student. He has a previous conviction for reckless driving.

The charge is unauthorized use of conveyance (Class 1 misdemeanor)

3. SBI agent Felix Katz brings in Troy K. Cake, age 24, arrested under an arrest warrant for selling heroin and possessing heroin with intent to sell and deliver. The arrest warrant was issued in a county located 200 miles from your county. Cake has no prior arrests. Cake has \$1,500 cash and says he would be willing to post a cash bond.

The charges are sale of heroin (Class G felony) and possession with intent (Class H felony)

4. A Highway Patrol Officer arrest K.T. Rowse, age 19, of 65 Roosevelt Drive, for DWI. Rowse's alcohol concentration is 0.27. Rowse is cooperative but appears to be extremely intoxicated. There is no sober adult willing and able to take care of him.

The charge is DWI

5. A new .45 caliber Smith & Wesson revolver, serial #RR456J77, fair market value of \$345, was stolen from Smithville Gun and Hobby Shop during a nighttime break-in two days ago. An undercover officer bought it this morning for \$30 from Fred Lloyd, age 30, and then arrested him without a warrant and brings him to you. Lloyd is a resident of the county and has one prior conviction for felonious breaking and entering.

The charges are felony breaking and entering and felony larceny (Class H felonies) and possession of firearm by a felon (Class G felony)

6. Detective Nancy Stone arrests Wayne Buchanan without a warrant and brings him to you and explains: Last night Wayne Buchanan poured gasoline inside and set fire to Donald Bell's 1991 Ford Mustang. The entire back seat was burned before the fire was extinguished. Buchanan is 16 years old and lives with his parents in town. He refuses to be released to the custody of his parents and he has previously failed to appear in court for a reckless driving charge.

The charges are burning personal property (Class H felony) and malicious use of an incendiary device (Class G felony)

7. Deputy Sheriff Samuel Burden arrests Steve Wiles, age 18, with an order for arrest for Wiles for failing to appear in court for the charge of accessory after the fact of armed robbery. The order for arrest was issued by a district court judge in your county and bears the notation "\$25,000 secured bond."

No new charge

8. A city police officer arrests Susan T. Jones, age 35, of 66 E. Main Street, for DWI. Jones's alcohol concentration is 0.20. Jones is uncooperative and extremely intoxicated. Her husband, age 37, was a passenger in the car that Jones was driving. He is sober, has a valid driver's license, and states that he will take care of her until she becomes sober.

The charge is DWI

9. Officer Jesse Wilson appears at your office with Ron Z. Bloat, age 31. The officer has arrested Bloat based on an outstanding arrest warrant for a \$55 worthless check. It is Saturday night. Bloat has a long history of mental trouble. Shortly after his appearance a worker from the Franklin Mental Health Clinic appears and says the Clinic would be happy to see to it that Bloat appears in court.

No new charge



Tab 4:

Search

Warrants

**SEARCH WARRANTS (FEBRUARY, 2016)**

Self-Instructional Materials for Magistrates & Law Enforcement Officers  
in Applying the Law of Search Warrants ..... Search Warrants-Page 1  
Statements of Probable Cause for Search Warrants ..... Search Warrants-Page 21  
Search Warrant (AOC-CR-119) and 2 copies ..... Search Warrants-Page 27  
Form for Evaluation of Real Applications ..... Search Warrants-Page 31  
Bartlett..... Search Warrants-Page 33  
Taylor ..... Search Warrants-Page 35  
Edwards..... Search Warrants-Page 41





# **Self-instructional Materials for Magistrates and Law Enforcement Officers in Applying the Law of Search Warrants**

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Institute of Government  
The University of North Carolina at Chapel Hill  
Revised July 1993

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# APPLYING THE LAW OF SEARCH WARRANTS

## PREFACE

These materials are intended to help you learn how to apply the law of search warrants in making decisions that a magistrate might be required to make when dealing with search warrants. Although they are directed toward teaching a magistrate how to determine probable cause and how to fill-out a search warrant, they also are applicable to teaching these duties to a law enforcement officer. These materials are intended to guide you toward learning skills in applying the law of search and seizure. When you have successfully learned a skill, you should be able to make a correct decision in a situation that calls for the skill. Following is a list of the skills that you should learn from these materials.

- A. To determine whether a given set of facts justifies the issuance of a search warrant.
- B. To draw out from a law enforcement officer the information that is necessary to establish probable cause.
- C. To write an adequate description of the property to be searched for.
- D. To write an adequate description of the place to be searched.
- E. To follow the proper procedure in issuing a search warrant.

The materials are divided into an introduction and five sections. Each section is directed toward one of the skills listed above. The material in these sections is largely presented in the form of "programmed" instruction. This means that you will be asked to fill in blanks and supply the answers to questions using information that has appeared in the material. When you come to one of these blanks or questions, you may certainly read back over the material to find the answer. The answer itself appears below the question, in single-spaced type enclosed between two lines. You should keep that answer covered, however, until you have answered the question yourself. Proceeding in this way helps you to master the material more easily. *Read each answer all the way through.* Take your time and reread any preceding material if you do not understand an answer. If you still have questions you will be provided an opportunity to ask them later. Remember, you are *teaching yourself* a subject basic to the proper performance of your duties.

## INTRODUCTION

Americans traditionally have resented the invasion of individual privacy by government officials for the purpose of search. Yet they have recognized the necessity of invading individual privacy in order to detect and to prevent crime. The law of search and seizure has grown in response to the need to balance these two interests.

The Fourth Amendment to the Constitution of the United States responds to this conflict by prohibiting "unreasonable" searches and seizures. This command is directed to both federal and state governments. In addition, the Constitution of North Carolina, which prohibits the general warrant (authorizing arbitrary searches) as "dangerous to liberty," has been expanded by judicial interpretation to encompass a general prohibition against unreasonable searches and seizures.

### *Origin of the Law of Search and Seizure*

The Fourth Amendment to the Constitution of the United States provides: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

The laws of search and seizure has developed largely in response to the \_\_\_\_\_ Amendment to the United States \_\_\_\_\_. This amendment requires that searches be \_\_\_\_\_ and sets out requirements for search warrants.

---

**The law of search and seizure has developed largely in response to the Fourth Amendment to the Constitution of the United States and requires that searches be reasonable.**

---

Article I, Section 20 of the Constitution of North Carolina provides: "General warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted."

The North Carolina Constitution prohibits \_\_\_\_\_ warrants.

---

**The North Carolina Constitution prohibits general warrants and encompasses a general prohibition against unreasonable searches and seizures.**

---

In recent years, court cases and a fairly small number of statutes have put additional flesh on the bones of these \_\_\_\_\_ requirements to protect people's privacy.

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**The constitutional requirements have been clarified in recent years.**

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The law of search and seizure are aimed at protecting for everyone a basic American right--the right to be left alone. The law helps to p\_\_\_\_\_ this r\_\_\_\_\_ by restricting government officials' power to interfere with people's \_\_\_\_\_.

---

**The law of search and seizure helps to protect this right to be left alone by restricting official action in interfering with people's privacy.**

---

If an officer wants to search an individual's person or property, the officer may do so as long as the officer does not illegally \_\_\_\_\_ with the individual's privacy.

---

**An officer may not illegally interfere with a person's privacy.**

---

The law of search and seizure attempt to balance the need to enforce laws against the need to \_\_\_\_\_ people's \_\_\_\_\_ to be \_\_\_\_\_ alone.

---

**To protect people's right to be left alone is a major purpose of the laws of search and seizure.**

---

One of the traditional means of protecting the right to privacy has been to require law enforcement officers to obtain a search warrant from a neutral judicial officer. Decisions of both the United States Supreme Court and the North Carolina Supreme Court make clear the importance of the role of the magistrate as a check on the power of the state to interfere with a person's privacy. These decisions have required that the judicial officer be neutral, that the person applying for the warrant demonstrate probable cause to make a search, and that the warrant and its supporting affidavit specify the justification for the search.

Your principal function as a magistrate then is to exercise your independent judgment in evaluating facts presented to you by a law enforcement officer to see if they establish p\_\_\_\_\_ c\_\_\_\_\_ and therefore \_\_\_\_\_ the issuance of a search warrant.

---

**In issuing search warrants, the magistrate's primary function is to use neutral and independent judgment to determine if the facts described by the officer establish probable cause to justify the issuance of the warrant.**

---

Failure to comply with the constitutional requirements can result in adverse effects on both the state and the officer executing the search warrant. The courts refuse to admit into evidence information and objects obtained from a search based on an invalid search warrant. The result is that the state is unable to convict some offenders because the constitutional requirements for a valid search were not satisfied. The warrant may in some cases be so defective as to subject the officer executing it to civil and criminal penalties and disciplinary action by the officer's employing agency.

Two practical consequences of an invalid search warrant are the real possibilities that the state may find that information critical to a conviction is in \_\_\_\_\_ in evidence or that the officer executing the invalid warrant faces \_\_\_\_\_ and \_\_\_\_\_ sanctions for doing so.

---

**The invalid search warrant presents real problems for the prosecution because essential evidence may be inadmissible and may subject the law enforcement officer to criminal and civil sanctions.**

---

Of course the most serious result is a weakness in our system of criminal justice that comes from the failure of the judicial officer to exercise independent judgment as a \_\_\_\_\_ on the power of the state to invade the \_\_\_\_\_ of its citizens.

---

**The most serious consequence of the magistrate's failure to observe constitutional requirements in issuing a search warrant is the harm that is done to our system of criminal justice because the magistrate does not act as a check on the state's power to interfere with a person's privacy.**

---

## Section A

*The purpose of this section is to develop the skill to determine whether a given set of facts justifies the issuance of a search warrant.*

As discussed in the introduction, a basic constitutional requirement for any search is probable cause. One of the judicial officer's most difficult problems is determining whether the facts related by an officer establish probable cause to support the issuance of a valid search warrant. This determination, however, is one of the most valuable contributions that a magistrate makes. An independent evaluation of

the facts when an officer applies for a search warrant can prevent an illegal search, the results of which may be excluded from evidence at trial. Probable cause for a search requires enough knowledge to lead a reasonable person to believe that there is a fair probability that the object of the search is in the place to be searched. Probable cause, then, is based on the use of judgment by a \_\_\_\_\_ person. It is (more/less) than reasonable suspicion but (more/less) than proof beyond a reasonable doubt.

---

**Probable cause is based on the judgment of a reasonable person. It must be more than reasonable suspicion but less than proof beyond a reasonable doubt.**

---

CASE: Several residents living near a bank which had just been robbed described to police a car (including license number) which had been at the bank before the robbery and left immediately after the robbery occurred. They saw a man with a satchel run from the bank into the car at the time of robbery. Is this information sufficient to establish probable cause that the fruits of the robbery are in the suspect's car?

---

**The evidence provided by the residents was sufficient to show probable cause for a warrant. A reasonable man would believe that it was likely that the stolen money would be in the car, even though it is not certain.**

---

CASE: A woman called the police that The Cove, a local night club, was selling crack cocaine. Her son had come home apparently having just used cocaine, and she said that it was common knowledge that The Cove was the only place her son could obtain cocaine in her small rural community. Does probable cause exist to indicate that cocaine is present at The Cove?

---

**Probable cause does not exist. The only indication that cocaine were there was the woman's vague belief that her son obtained cocaine at The Cove. She did not see anyone sell cocaine to her son, nor did she claim that her son had ever told her that he purchased cocaine from The Cove. This information would not convince a reasonable person of the likelihood of finding cocaine for sale at The Cove.**

---

CASE: A city law enforcement officer comes into your office and says that the officer has just received an anonymous telephone call which said that a noted drug dealer had heroin in his house. The officer wants you to issue a warrant to search the house for heroin. What should you do?

---

**The facts given by the officer, based solely on an anonymous telephone call, are no more than speculation about what is in the house. You should refuse to issue the warrant unless the officer can swear to specific facts that would lead a reasonable person to believe there is a fair probability that heroin is in the house. The next section contains instruction about obtaining those specific facts.**

---

One of the most difficult situations in which you will have to determine if probable cause exists is the case when an officer wants a search warrant based on a confidential informant's report. The officer naturally wishes to protect the informant's identity as much as possible, but must show enough facts to indicate probable cause for the search. Specific information must be included in the search warrant application when an informant's report is being used. The officer should state specifically why the informant is probably telling the truth and give enough information to convince a reasonable person that the informant is indeed telling the truth. In other words, the informant should be shown to be reliable (or the informant's information should be shown to be reliable). However, the informant's name does not have to be revealed to the magistrate or appear in the application.

An informant's \_\_\_\_\_ or the \_\_\_\_\_ of the informant's information should be established when a search warrant is based on an informant's report.

---

**It is important to establish an informant's reliability or the reliability of the informant's information when an informant's report is used in a search warrant application.**

---

Just exactly what information will be sufficient to establish an informant's reliability in any given case is unclear. But it helps if the officer can state how often the officer has relied on the informant's information and how often this information has led to an arrest and/or conviction.

Determine whether the following statement is adequate to establish the informant's reliability: "A reliable and confidential informant who has in the past given me, Detective Don Smith, information that has resulted in arrests and convictions in court on drug charges six times."

---

**This is a fairly common way of stating an informant's record of reliability and is sufficient. But the statement can be strengthened considerably if the officer states how often the informant has volunteered information and that the information has generally been accurate.**

---

The informant's good track record is not the only factor to be considered. Especially when the informant is used for the first time, you should consider the informant's relationship to the suspect, the likelihood of that informant having the particular information, and any other factor the officer would know that would increase the likelihood that the informant was not an irresponsible person giving false information.

Another way to show that the informant's report is reliable is for the officer requesting the warrant to offer evidence of independent personal information about the suspect that supports or corroborates the informant's report. This knowledge must be shown in the affidavit by specific facts and not by the mere assertion that the officer has such information. Determine whether the following statement is adequate: "This officer has personal knowledge that the person named in the warrant is a user of narcotics."

---

**The officer may indeed have such information, but has not said what it is. This statement establishes no more than a mere assertion that such information exists. The court will want to know (and so should you) just exactly what the officer knows to support a belief that the suspect is a narcotics user.**

---

The informant should be able to supply enough information to convince a reasonable person that the suspect is indeed engaging in an illegal activity and that the informant is not merely passing on a rumor. Consider the following statement: "The informant states that his roommate told him that a man, whose name he thinks is John Doe, was on Main Street last night selling amphetamine pills." Is this informant's report sufficient probable cause to issue a warrant?

---

**It is evident from the statement that the informant has no firsthand knowledge of the alleged offense. Further, assuming as a court will, that the statement contains all the information that the informant has, the informant is unable to accurately identify the suspect or give enough facts about the alleged offense to be sure that a violation of law actually took place. A warrant based on this information would be invalid, and evidence obtained in a search in executing the warrant would be inadmissible in court.**

---

In other words, even though the informant is reliable, there should be an indication of the basis of the informant's conclusion and not just the conclusion itself.



In short, an application for a search warrant based on an informant's report should contain enough facts to indicate the source of the informant's conclusion and that the information is not a mere r\_\_\_\_\_. And it should establish the informant's r\_\_\_\_\_, including, when possible, the officer's p\_\_\_\_\_ k\_\_\_\_\_ that supports the informant's report.

---

**Before an informant's information may be used as a basis for a valid warrant, the application should indicate enough to establish that the information is not a mere rumor. The informant's reliability should also be shown, and it's especially helpful if the officer's personal knowledge corroborates the informant's report.**

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Is the following affidavit adequate under the guidelines discussed above?

"A reliable informant, who has in the past volunteered information on three occasions that resulted in an arrest and conviction each time, within the past 24 hours told me, Detective Jane Miller, that Henry Smith has in his house located at 24 Main St., Dunn, N.C., a quantity of the controlled substance, amphetamine. The informant told me he saw the a large quantity of amphetamines in the house within the past 72 hours, and at that time he received several amphetamine pills that came from Henry Smith while he was in the kitchen. I have suspected Henry Smith of possessing amphetamines since three months ago when I arrested him during a raid at a party at which amphetamines and other narcotics were being used. I have seen Henry Smith since that time in the company of other confirmed users of narcotic drugs on several occasions."

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**This is a good example of the type of information that an affidavit should contain when based on an informant's report. The basis of his conclusion is stated (he saw the drugs) and his reliability is shown by his track record and by the officer's information which corroborates the informant's report. In addition, the report gives the time when the informant saw the drugs in the house as well as the time the informant gave his information to Detective Jane Miller.**

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Sometimes information is supplied by informants who are not merely confidential—they are anonymous. Even the officer does not know the identity of the person who has given the information. Anonymous information by itself is insufficient to establish probable cause. In some cases, however, anonymous information may help to establish probable cause if the officer provides other corroborating and reliable information so that the totality of circumstances establish a fair probability that the object of the search is in the place to be searched.

Anonymous information by itself is \_\_\_\_\_ to establish probable cause. However, anonymous information along with other corroborating and reliable information may establish probable cause when the t \_\_\_\_\_ of the circumstances establish a f \_\_\_\_\_ p \_\_\_\_\_ that the object of the search is in the place to be searched.

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**Anonymous information by itself is insufficient to establish probable cause. However, when the totality of circumstances presented, including the anonymous information, establishes a fair probability that the object of the search can be found in the place to be searched, then probable cause exists to issue a search warrant.**

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### Section B

*The purpose of this section is to develop the ability to draw out information from an officer which will support probable cause.*

In the previous section we took a look at what facts constitute probable cause. As you have probably guessed, probable cause is a fairly ambiguous concept. Often an officer will actually have good reason to believe that contraband may be found in a certain place but fail to articulate reasons adequately to establish probable cause for issuance of the warrant. In these situations you will need to be able to spot weaknesses in the officer's statement of facts and then question the officer to see if the information is sufficient to justify the issuance of a warrant. In this section you will practice picking out the weak spots in various statements of facts.

As we have seen before, probable cause is information which would lead a \_\_\_\_\_ person to believe that the object of the search is in the place to be searched.

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**The information should be sufficient to cause a reasonable person to believe that the object of the search is really in the place to be searched.**

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From the list that follows, choose the items which would lead a reasonable person to believe that contraband could be found in a certain house:

- A. A detailed report from a confidential informant whose previous reports had been accurate and which showed that he had seen a suspect selling drugs in his house, confirming what the police already had suspected.

- B. A tip from a Department of Social Services caseworker who during a house call had seen marijuana growing behind the house.
- C. A complaint from an irate woman that her neighbors were car thieves because they had several cars in their yard which they were apparently "stripping."
- D. A report by an officer that she saw and smelled what appeared to be several gallon jugs of whiskey partially covered by a sheet in the kitchen of a house when called to the house concerning a possible domestic dispute.

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**Answers "A" and "D" are fairly clearly facts that would cause a reasonable person to believe that contraband could indeed be found at the location described by the officer or informant. Answer "B" could be very strong evidence that marijuana could be found behind the house, but what additional information would you want to know? Wouldn't it be reasonable to first satisfy yourself that the caseworker was capable of identify growing marijuana? Answer "C" pretty clearly could not stand by itself. A reasonable person could think of several explanations for the presence of the automobiles which would be at least as reasonable as the possibility that they were stolen. If an officer had come to you with the woman's complaint and asked for a warrant, what additional information would you want? At the very least the officer should drive by the house to see if any of the cars resemble those reported stolen, and to make other inquiries regarding the activities of the occupants of the house.**

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Consider the case situations which follow and write in the space provided the kind of additional information that would be required to establish probable cause.

CASE: An officer comes to you and says that the officer has been watching a suspect who previously has been convicted of possessing stolen goods. This man has been meeting another man who has also been convicted of possessing stolen goods in the latter's house at regular intervals. The officer states that the officer has personally seen the suspect enter the house several times with VCR's, stereo equipment, and television sets, and that the suspect's wife has also been seen at the house.

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**The facts that the officer gave simply do not establish illegal activity any more than legal activity. The facts that will constitute probable cause are (1) facts that are inconsistent with lawful activity (or if the facts by themselves are consistent with lawful activity, what makes those facts collectively appear to be indicators of illegal activity, based on the officer's training or experience), or (2) the presence of evidence of illegal activity. The facts in the stolen goods case described above can be explained just as easily by legal as illegal conduct, so there is not yet probable cause. You might try to find out whether the officer has evidence of whether the goods being brought to the house are stolen, whether there have been recent break-ins in the community which these kind of goods have been stolen, whether a reliable informant had passed on information indicating that the suspect is currently dealing in these kind of stolen goods, etc.**

---

CASE: An officer comes to you and says that the officer has a report from an informant that there is going to be a drug party at a certain house tonight in which marijuana, LSD, and possibly cocaine will be distributed to the guests. The officer has a list of names, including the occupant of the house and several of the guests. The officer knows what time it is going to be held and how much of each drug will be available. The officer knows that several of the persons listed have been convicted of possessing drugs and that almost all have been suspected of being drug users.

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**The officer has information indicating that there will indeed be contraband at the place to be searched, but the officer has neglected to give any information concerning the reliability of the informant and how the informant knew that the party is going to be held there (that is, the informant's basis of knowledge). You will want to know what the officer's experience has been with this informant and any other information that would tend to show that the informant knew what he was talking about.**

---

CASE: An officer asks for a warrant to search a house based on an informant's report. This informant has cooperated with the department several times. Most of the informant's reports have resulted in convictions and all have resulted in arrests. The informant states that yesterday he was playing poker in a regularly held game out in a house in the country when one of the players, who lived in the house, put a quart of nontaxpaid whiskey on the table. When the other players questioned him about where he had gotten it, he jokingly said that he was "picking up a little extra money between Asheville and Morganton on Friday nights." The informant also stated that he had seen in the kitchen two

cardboard cartons of quart jars identical to the one on the table that looked like they had white liquor in them. He also said that the man's name was Harry James and provided the exact location of the house. The officer said that the officer has had Harry James under surveillance off and on for several months.

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**Although this information might be sufficient to establish probable cause (especially if something was said about the informant's ability to recognize nontaxpaid liquor), it would be helped by providing more specific information about the officer's own personal knowledge of Harry James's involvement with nontaxpaid liquor that would support the informant's report. A statement that the officer "suspected" or had "been watching" the suspect for some time is not particularly useful. What had the officer seen while having James under surveillance?**

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CASE: An officer requests a warrant to search a house based on an informant's report. The informant has volunteered information about drug cases on six separate occasions, and all have resulted in convictions. The informant stated that the informant thinks that the occupant of a house (giving its address) is selling crack cocaine. The basis of his conclusion is the fact that he has seen several young people stop briefly at the house, talk to the occupant, and then leave. The informant knows one of the young people to be a user of cocaine. This person is also known to the officer as having been convicted of possession of cocaine and is now on probation.

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**The facts given by the informant do not establish probable cause. There are just as many legitimate reasons for the people to be going to the house as illegal, and there is no specific information about selling cocaine. Don't be fooled by the proven reliability of the informant. The facts given in each case must be considered independently. In this case the officer will have to get more specific information, if possible, from the informant or from other sources to support a belief that cocaine is being sold from the house. You probably noticed that the officer's personal corroboration of the informant's report concerned only one of the people going to the house.**

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### Section C

*The purpose of this section is to develop the skill to write an adequate description of the property to be searched for.*

The search warrant must describe as accurately as possible what the officer is to look for, so that it will not appear to authorize the officer to grab everything in the place and so that the officer can identify the property to be seized. The warrant must describe \_\_\_\_\_ the officer is looking for and the description must be detailed enough that the officer can \_\_\_\_\_ the property if the officer finds it.

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**The officer must know as accurately as possible what to be looking for and to be able to recognize/identify the property if the officer sees it.**

---

If the officer is searching for a stolen refrigerator, the officer needs a clear idea of what this stolen refrigerator looks like (identifying marks, model number, serial number, etc.) so that the officer will be unlikely to take one that is legally owned.

Below are three descriptions of property to be searched for. In each case indicate whether you think the description was precise enough to be considered valid.

Description 1: ". . . certain evidence of the crime (possession of stolen goods) was to be found on the defendant's person and his residence . . ." (valid/invalid) Why?

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**Invalid. Not specific in any way.**

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Description 2: The warrant directed the officers to seize any property ". . . being used and/or possessed in violation of . . ." the obscenity statute. (valid/invalid) Why?

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**Invalid. The court ruled that the warrant was too general in that it gave no guidelines to the officers as to what is obscene and what is not.**

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Description 3: The warrant described ". . . a set of Wilson Staff golf clubs with rubber grips, in fairly worn condition . . ." to be searched for in the defendant's house. (valid/invalid) Why?

---

**Valid. The description indicates the item which should be seized with enough precision so that it would be unlikely that legally owned property would be taken by mistake.**

---

When the kind of property the officer is searching for can never be possessed legally, the description need not be as detailed as when the property the officer is searching for can be confused with something that can be legally possessed.

If the warrant says only to seize "heroin" then it (can/cannot) be interpreted to permit the officer to take something that the owner is entitled to have. This is because the owner can (sometimes/never/always) have heroin.

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**Describing "heroin" as the property to be seized cannot be interpreted as permitting the officer to take away something the owner is entitled to have, because the owner can never legally possess heroin.**

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### Section D

*The purpose of this section is to develop the skill to write an adequate description of the place to be searched.*

The search warrant must accurately describe the place to be searched so that the officer may reasonably be expected to find the place to be searched; otherwise it would not be clear that the warrant authorized the search actually made by the officer. The description of the place must be complete enough so that the officer \_\_\_\_\_ reasonably make a mistake and search the \_\_\_\_\_ place.

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**An officer cannot reasonably make a mistake and search the wrong place if the description of the place to be searched is detailed enough.**

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This rule ensures that the search covers only the place for which \_\_\_\_\_ to search has been shown. It is also a good idea, whenever possible, to state in the warrant the name of the person who possesses the place to be searched.

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**A full description of the place to be searched ensures that the search covers only the place for which probable cause to search has been demonstrated.**

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CASE: The affidavit reads "to search an apartment located at Colonial Arms Apts. located at 714 W. Henderson Street, Monroe, N.C." Is this description is adequate?

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**The affidavit is inadequate since there is more than one apartment at the given address. An adequate description would include the apartment number and the tenant's name, if available.**

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CASE: The affidavit reads, "to search apartments occupied by John Doe at 413 W. Franklin Street (Apt. 22B), Chapel Hill, N.C. and at 117 Canal Street (Apt. 6), Chapel Hill, N.C. for appliances stolen from Hill Office Supply: two IBM computers model 118, serial numbers 473-Z11368 and 356-X4629." Is this affidavit is adequate?

---

**This affidavit is adequate. There's not much chance of using the warrant at the wrong place. Although not discussed before, it is better to issue a separate warrant for each of two separate places to be searched, even if they belong to the same person.**

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### Section E

*The purpose of this section is to develop the ability to follow the proper steps in issuing a search warrant.*

In the preceding sections you have learned that p \_\_\_\_\_ c \_\_\_\_\_ consists of facts that would lead a \_\_\_\_\_ person to believe that the object of a search can be found in the place to be searched; that an adequate description of the \_\_\_\_\_ to be searched is one that would not lead the officer to make a \_\_\_\_\_ and to search the wrong place; that an adequate description of the \_\_\_\_\_ of the search is one that would prevent an officer from making a \_\_\_\_\_ and from taking property which should not be taken.

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**Probable cause is a factual situation that would lead a reasonable person to believe that the object of the search can be found in the place to be searched. An adequate description of the place to be searched is one that would prevent an officer from making a mistake about the place to be searched, and an adequate description of the object of the search is one that would prevent the officer from making a mistake about what to take.**

---

If you can do what has been taught so far, you have the most important aspects of the law's requirements. Meeting these requirements is part of the general warrant-issuing procedure, which must be followed to make sure that the validity of the warrant cannot be successfully attacked.

The steps you as a magistrate must be sure to follow in issuing a search warrant are these:

1. Make sure there is a completed application for a search warrant. Either the applicant or you may complete the application (other than where signatures are required).
2. Place the applicant under oath or affirmation and swear the applicant to the truth of facts stated in application.



3. Examine the officer about the facts stated in the application.
4. If applicant tells you facts that are not stated in application, they must be added in writing to the application OR you may tape-record the testimony OR reduce it to writing on separate paper, provided you file the tape-recording or separate paper with clerk when you file the copy of the search warrant and application.
5. You may take affidavits from persons other than applicant, provided you attach them to application.
6. Determine whether descriptions of the premises and property are adequate.
7. Make sure the applicant has signed the application. Sign and date the application.
8. If a tape-recording or separate paper writing of oral testimony has been made or additional affidavits have been attached, indicate that at bottom of application and sign your name.
9. Complete the search warrant, including date and hour, signature, names of applicant and others giving information.
10. Give original (white copy) and one copy (pink copy) of warrant and application to officer.
11. File a copy (green copy) of warrant and application and tape-recording or separate writing or oral testimony, if any, with clerk.

Using these steps means, for example, that immediately after getting a completed search warrant application, you would \_\_\_\_\_ the applicant to the truth of facts in the application, and \_\_\_\_\_ the applicant about those facts.

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**You would swear the applicant to the truth of facts stated in the application, and examine the applicant concerning those facts.**

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If the applicant tells you facts that are not stated in the \_\_\_\_\_, they must be \_\_\_\_\_ to the application OR \_\_\_\_\_ or \_\_\_\_\_ AND you must file them with the clerk when you file the \_\_\_\_\_.

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**If the applicant testifies about facts not stated in the application, they must be added in writing to the application OR tape-recorded or reduced in writing on a separate paper AND you must file them with the clerk when you file the application and warrant.**

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It is important to tape-record or reduce oral testimony to writing in the application or on separate paper because the failure to do so will mean that the testimony cannot be considered in court when the validity of the search warrant is challenged.

In summary, carefully see that all the information provided for in the application and search warrant form is filled in. Remember to:

- place the applicant under oath or affirmation;
- examine the applicant about the facts stated in the application;
- if the applicant gives oral testimony about facts not stated in the application, either add facts in writing to the application or tape-record or write on a separate paper and file with the clerk;
- determine probable cause;
- check to make sure the application and the search warrant are properly signed and completed;
- file a copy (green copy) of the search warrant and application with clerk;
- give the original (white copy) and a copy (pink copy) to the officer.

Briefly these seven requirements are:

- (1) \_\_\_\_\_.
- (2) \_\_\_\_\_.
- (3) \_\_\_\_\_.
- (4) \_\_\_\_\_.
- (5) \_\_\_\_\_.
- (6) \_\_\_\_\_.
- (7) \_\_\_\_\_.

---

**Briefly these seven requirements are:**

- (1) swear the applicant.**
  - (2) examine the applicant.**
  - (3) write or record oral testimony about facts not in application.**
  - (4) determine probable cause.**
  - (5) make sure application and warrant complete.**
  - (6) file copy (green copy) of warrant and application with clerk.**
  - (7) give original (white copy) and copy (pink copy) to officer.**
- 

These are the steps that make up the whole search warrant procedure. Follow these steps, make sure probable cause has been shown, see that the descriptions are adequate . . . and you have done your job.



**STATEMENTS OF PROBABLE CAUSE FOR SEARCH WARRANTS**

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1. The applicant states that yesterday , he purchased two ounces of cocaine. The cocaine was delivered to the applicant by Gene Orendorff, Jeff Manning, and Kenny Woods, who were arrested when they delivered the cocaine. The applicant further states that he paid \$1650.00 in marked U.S. currency (listed above) for the cocaine. During the time spent on the purchase of cocaine, the applicant and the suspects were under surveillance by other officers. The applicant states that from the movement of the suspects during and before the purchase and information received from two confidential sources of information after the purchase, the applicant has reason to believe the U.S. currency (listed above) and other controlled substances are at this time located in the above described location.

Good/Bad

Why?

See *State v. Hyleman*, 324 N.C. 506 (1989).

2. The information contained in this application is based upon my personal knowledge and upon factual information I have received from others. A reliable informant who had provided information in the past and whose information in the past had led to arrest and conviction under the N.C. Controlled Substances Act has told the undersigned that approximately one week ago the informant saw Lilly Ann Beam with approximately one pound of marijuana at her home on Ridge Road. Another informant told the undersigned that Lilly Ann Beam sold marijuana to them today. Lilly Ann Beam is on probation for a violation of the Controlled Substances Act.

Good/Bad

Why?

See *State v. Beam*, 325 N.C. 217 (1989).

3. We have been informed by a reliable confidential informant that he has been inside the above address within the past 48 hours and has seen cocaine inside the residence and cocaine is being sold at this time by the above occupants. The informant is familiar with how cocaine is packaged and sold on the streets, and he has used cocaine in the past. We have known this informant for three weeks and information provided by this informant has resulted in the seizure of controlled substances included in the N.C. Controlled Substances Act and led to the arrest of at least six individuals for violations of the N.C. Controlled Substances Act.

Good/Bad

Why?

See *State v. Graham*, 90 N.C. App. 564 (1988).

4. I, the undersigned applicant, have been a law enforcement officer for more than three years with the Smith County Sheriff's Department. During this time I have received extensive training including Basic Law Enforcement Officer's Certification and Advanced Criminal Investigation courses presented through the North Carolina Justice Academy. During the last year I have been involved in several investigations concerning drug offenses in Smith County. Within the past five days, the person who I will refer to as "He," regardless of the person's sex, contacted me. This person offered his assistance to the city/county vice unit in the investigation of drug sales in the city and county. This person told me that he had been inside the residence described above where he observed a room filled with marijuana plants. He stated that the suspect Charles Wayne Newcomb was maintaining the plants. This applicant confirmed the identity of the suspect to be Charles Wayne Newcomb. This information was obtained through D.M.V. records through vehicle registration. This applicant further checked with Duke Power Company and found this residence to have Charles Wayne Newcomb listed as the current occupant.

Good/Bad

Why?

See *State v. Newcomb*, 84 N.C. App. 92 (1987).

5. Sometime between one and five days ago, the Fairchild Christian School in the City of Livingston was broken into and two microscopes (described above) were stolen. That sometime before the date of this application a reliable and confidential informant personally contacted the applicant with the information that the stolen microscopes are in the above described residence of Mark Timothy Roark.

Good/Bad

Why?

See *State v. Roark*, 83 N.C. App. 425 (1986).

6. I and other officers have received information from a confidential and reliable informant that the Bo King is residing at 1509 Luther Street and is possessing cocaine for the purpose of sale at 1509 Luther Street. This informant has been to 1509 Luther Street within the past 48 hours and has observed Bo King possessing cocaine. This informant is familiar with cocaine and how it is packaged for street use. We officers have known this informant for approximately one year and during this time this informant's information has led to the arrests and convictions of many people for violations of the North Carolina Controlled Substances Act.

Good/Bad

Why?

See *State v. King*, 92 N.C. App. 75 (1988).

7. I have received information from a confidential and reliable informant that occupants of the dwelling described above have in their possession and are selling a large quantity of cocaine. I have known this informant only one week, but during that time he has given me information that I know from police intelligence files is true. He has also introduced me to two individuals (while I was in an undercover capacity) from whom I have bought controlled substances. He has also given me information that has allowed me to buy cocaine from two other individuals. Based upon the proven reliability of this informant, I request a warrant to search the above described premises for cocaine.

Good/Bad

Why?

8. A confidential and reliable informant has given me information that occupants of the above described premises are selling large quantities of cocaine. This informant has been inside the dwelling within the past 48 hours and has seen large quantities of cocaine. Within the past 48 hours, this informant has, at my direction and while under my control, purchased a small quantity of cocaine from the dwelling occupants. The informant was searched prior to entering the dwelling. At that time he had no cocaine in his possession. I then gave the informant \$200 in Department funds. I maintained constant observation while the informant entered the dwelling and until he exited the building. All other exits were observed by other officers. After the informant exited, he was again searched. A small quantity of cocaine and \$75 was found on his person.

Good/Bad

Why:

9. Three days ago, an armed robbery occurred at the 7/11 Store on Main Street. Cash in the amount of \$78 and a derringer pistol (pearl handles; owner applied number of 237-72-8451 on barrel) were stolen by the robber. A customer who identified himself as David Kiser stated to this affiant that he recognized the robber. He states that robber sells newspapers (the Daily Gazette) on the corner of Main Street and Elm Street. I have personally observed the subject described above selling newspapers on this corner. Employees of the Gazette confirm that this is the only subject that has sold papers on the corner of Main and Elm for the past year. The city telephone directory indicates that the suspect resides in the above described dwelling, and I have observed an automobile registered to the suspect in the driveway of the dwelling. I met my informant, Mr. Kiser, only as a result of investigating this crime. I have never before received information from Mr. Kiser. Based on this information, I request a search warrant for the above described dwelling to search for the above described derringer pistol.

Good/Bad

Why?

10. A search warrant issued on the basis of information supplied by a person named in an affidavit is usually valid if there is no reason to believe the named person's information is unreliable.

True/False

11. A search warrant issued on the basis of information supplied by a person whose identity must remain confidential is usually valid even if no other basis for reliability appears in the affidavit.

True/False

12. A magistrate may not issue a search warrant based upon hearsay.

True/False



13. Which of the following are adequate descriptions of things to be seized?
- a. “quantity of marijuana”
  - b. “quantity of stolen TV's”
  - c. “cocaine”
  - d. “stolen property”
  - e. “evidence of any crime”
  - f. “obscene magazines”
  - g. “RCA XL 100 Color TV set with a broken antenna”
  - h. “journals, registers, ledgers, canceled checks, and similar records and documents that constitute evidence of the embezzlement described in the affidavit”
  - i. “Smith & Wesson .38 Cal. revolver (4 inch barrel)”
14. Which of the following describe the place to be searched adequately?
- a. single family dwelling at 1132 Yale Place, Durham, N.C.
  - b. an apartment in the building at 198 West Cameron Avenue, Chapel Hill, N.C.
  - c. single family dwelling at 1818 Jameston Drive, Greensboro, N.C. and a 1990 Oldsmobile Delta 88, N.C. license number SFL 298, located in the driveway there
  - d. John Smith's apartment at the Oaks Apartments, Chapel Hill, N.C.
  - e. yellow 2 story stucco, Dutch colonial dwelling, located on Arrow Wood Drive (street number unknown), exactly 1 mile north of the intersection of US 15, on the east side of the road, Bahama, N.C. The dwelling has a green roof, green shutters, and a driveway with an oak tree on either side.
15. If you have a street address, there is no reason to include a physical description of the building.

True/False

16. Failure to include a physical description of the building will render a search warrant invalid even if the address (street and number) is given and is correct.

True/False

17. If the officer who applies for a search warrant gives the magistrate information other than that in the affidavit, the magistrate
- a. may not consider this information under any circumstances.
  - b. may always consider this information.
  - c. may consider this information only if the affidavit is amended or a new affidavit is submitted.
  - d. may consider this information only if the affidavit is amended or a new affidavit is submitted or if magistrate reduces the information to writing and files it with clerk, or if magistrate prepares a tape recording of the oral testimony.

(Circle letter for the best answer)

File No.

# STATE OF NORTH CAROLINA

In The General Court Of Justice  
District/Superior Court Division

County \_\_\_\_\_

## SEARCH WARRANT

### IN THE MATTER OF

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

Date Issued \_\_\_\_\_ Time Issued \_\_\_\_\_ AM  PM

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

Name Of Applicant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

Name Of Additional Affiant \_\_\_\_\_

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

### RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received \_\_\_\_\_ Time Received \_\_\_\_\_ AM  PM

Date Executed \_\_\_\_\_ Time Executed \_\_\_\_\_ AM  PM

I made a search of \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_ Name (Type Or Print) \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_ as commanded.

Deputy CSC  Assistant CSC  CSC  Magistrate  District Ct. Judge  Superior Ct. Judge

I seized the items listed on the attached inventory.

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

This Search Warrant was delivered to me on the date and at the time shown below when the Office of the Clerk of Superior Court is closed for the transaction of business. By signing below, I certify that I will deliver this Search Warrant to the Office of the Clerk of Superior Court as soon as possible on the Clerk's next business day.

Name Of Officer Making Return (Type Or Print) \_\_\_\_\_

Date \_\_\_\_\_ Time  AM  PM \_\_\_\_\_ Name Of Magistrate (Type Or Print) \_\_\_\_\_ Signature Of Magistrate \_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Department Or Agency Of Officer \_\_\_\_\_ Incident Number \_\_\_\_\_

Date \_\_\_\_\_ Time  AM  PM \_\_\_\_\_ Name Of Clerk (Type Or Print) \_\_\_\_\_ Signature Of Clerk \_\_\_\_\_

Dep CSC  Asst CSC  CSC

# APPLICATION FOR SEARCH WARRANT

I, \_\_\_\_\_,   
*(Insert name and address; or if law enforcement officer, name, rank and agency)*   
 being duly sworn, request that the Court issue a warrant to search the person,   
 place, vehicle, and other items described in this application and to find and seize   
 the property and person described in this application. There is probable cause to   
 believe that *(Describe property to be seized; or if search warrant is to be used for searching a   
 place to serve an arrest warrant or other process, name person to be arrested)* \_\_\_\_\_

constitutes evidence of a crime and the identity of a person participating in a   
 crime, *(Name crime)* \_\_\_\_\_

and is located *(Check appropriate box(es) and fill-in specified information)* \_\_\_\_\_

in the following premises *(Give address and, if useful, describe premises)* \_\_\_\_\_

*(and)*   
 on the following person(s) *(Give name(s) and, if useful, describe person(s))* \_\_\_\_\_

*(and)*   
 in the following vehicle(s) *(Describe vehicle(s))* \_\_\_\_\_

*(and)*

*(Name and/or describe other places or items to be searched, if applicable)* \_\_\_\_\_

The applicant swears or affirms to the following facts to establish probable cause   
 for the issuance of a search warrant: \_\_\_\_\_

## SWORN/AFFIRMED AND SUSCRIBED TO BEFORE ME

Date

Name Of Applicant *(Type Or Print)*

Signature

Signature Of Applicant

Magistrate

Dep. CSC

Asst. CSC

Clerk Of Superior Court

Judge

In addition to the affidavit included above, this application is supported by   
 additional affidavits, attached, made by \_\_\_\_\_

In addition to the affidavit included above, this application is supported by   
 sworn testimony, given by \_\_\_\_\_

This testimony has been *(check appropriate box)*  reduced to writing   
 tape recorded and I have filed each with the clerk.

**NOTE:** *If more space is needed for any section, continue the statement on an attached   
 sheet of paper with a notation saying "see attachment." Date the continuation and   
 include on it the signatures of applicant and issuing official.*

File No.

# STATE OF NORTH CAROLINA

In The General Court Of Justice  
District/Superior Court Division

County \_\_\_\_\_

## SEARCH WARRANT

### IN THE MATTER OF

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath or affirmation by the person(s) shown.

Date Issued \_\_\_\_\_ Time Issued  AM  PM

Name Of Applicant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

### RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received \_\_\_\_\_ Time Received  AM  PM

Date Executed \_\_\_\_\_ Time Executed  AM  PM

I made a search of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ as commanded.

I seized the items listed on the attached inventory.

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Name Of Officer Making Return (Type Or Print) \_\_\_\_\_

Date \_\_\_\_\_

Time  AM  PM

Name Of Magistrate (Type Or Print) \_\_\_\_\_

Signature Of Magistrate \_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Department Or Agency Of Officer \_\_\_\_\_

Incident Number \_\_\_\_\_

Date \_\_\_\_\_

Time  AM  PM

Name Of Clerk (Type Or Print) \_\_\_\_\_

Signature Of Clerk \_\_\_\_\_

Dep CSC  
 Asst CSC  
 CSC

# APPLICATION FOR SEARCH WARRANT

I, \_\_\_\_\_,   
*(Insert name and address; or if law enforcement officer, name, rank and agency)*   
 being duly sworn, request that the Court issue a warrant to search the person,   
 place, vehicle, and other items described in this application and to find and seize   
 the property and person described in this application. There is probable cause to   
 believe that *(Describe property to be seized; or if search warrant is to be used for searching a   
 place to serve an arrest warrant or other process, name person to be arrested)* \_\_\_\_\_

constitutes evidence of a crime and the identity of a person participating in a   
 crime, *(Name crime)* \_\_\_\_\_

and is located *(Check appropriate box(es) and fill-in specified information)* \_\_\_\_\_

in the following premises *(Give address and, if useful, describe premises)* \_\_\_\_\_

*(and)*   
 on the following person(s) *(Give name(s) and, if useful, describe person(s))* \_\_\_\_\_

*(and)*   
 in the following vehicle(s) *(Describe vehicle(s))* \_\_\_\_\_

*(and)*

*(Name and/or describe other places or items to be searched, if applicable)* \_\_\_\_\_

The applicant swears or affirms to the following facts to establish probable cause   
 for the issuance of a search warrant: \_\_\_\_\_

## SWORN/AFFIRMED AND SUSCRIBED TO BEFORE ME

Date

Name Of Applicant *(Type Or Print)*

Signature

Signature Of Applicant

Magistrate

Dep. CSC

Asst. CSC

Clerk Of Superior Court

Judge

In addition to the affidavit included above, this application is supported by   
 additional affidavits, attached, made by \_\_\_\_\_

In addition to the affidavit included above, this application is supported by   
 sworn testimony, given by \_\_\_\_\_

This testimony has been *(check appropriate box)*  reduced to writing   
 tape recorded and I have filed each with the clerk.

**NOTE:** *If more space is needed for any section, continue the statement on an attached   
 sheet of paper with a notation saying "see attachment." Date the continuation and   
 include on it the signatures of applicant and issuing official.*

## Evaluation of Search Warrant Applications

### **Application 1**

Would you issue a search warrant based on this application? \_\_\_\_\_

If not, why not? Be specific. \_\_\_\_\_

\_\_\_\_\_

If so, do you have any reservations or concerns about it? Be specific. \_\_\_\_\_

\_\_\_\_\_

### **Application 2**

Would you issue a search warrant based on this application? \_\_\_\_\_

If not, why not? Be specific. \_\_\_\_\_

\_\_\_\_\_

If so, do you have any reservations or concerns about it? Be specific. \_\_\_\_\_

\_\_\_\_\_

### **Application 3**

Would you issue a search warrant based on this application? \_\_\_\_\_

If not, why not? Be specific. \_\_\_\_\_

\_\_\_\_\_

If so, do you have any reservations or concerns about it? Be specific. \_\_\_\_\_

\_\_\_\_\_





IN THE MATTER: TIMOTHY WEAVER 1/26/1960 AND KENNETH WAYNE BARTLETT 12/27/1961 507 PARK AVENUE DURHAM NC

Description of Premises to be Searched

In the following premises: 507 PARK AVENUE. 507 PARK AVENUE IS A WHITE FRAME HOUSE WITH THE NUMBERS 507 DISPLAYED ON THE FRONT OF THE HOUSE. THERE ARE BRICK PILLARS ON THE FRONT OF THE HOUSE AND THERE IS ALSO A PORCH THAT EXTENDS THE LENGTH OF THE FRONT OF THE HOUSE. THERE IS A WHITE SHED IN THE BACK OF THE HOUSE USED AS A RESIDENCE BY KENNETH WAYNE BARTLETT AND KIMBERLY GRAY.

in the following vehicles: A BLUE PINTO STATION WAGON POSSESSED BY MR. TIMOTHY WEAVER AND MR. KENNETH WAYNE BARTLETT. A WHITE VOLVO POSSESSED BY MR. TIMOTHY WEAVER AND MR. KENNETH WAYNE BARTLETT. ANY OTHER VEHICLE THAT IS POSSESSED OR OCCUPIED BY TIMOTHY WEAVER, KENNETH WAYNE BARTLETT, OR ANY OTHER PERSONS INVOLVED IN ILLEGAL ACTIVITY AT 507 PARK AVENUE DURHAM NC.

Directions from Police Station 1, 2400 Holloway Street Durham N.C. -- TURN LEFT ONTO HOLLOWAY STREET. TRAVEL WEST ON HOLLOWAY STREET FOR APPROXIMATELY 1 MILE UNTIL YOU GET TO NORTH GUTHRIE AVENUE. TURN LEFT ONTO NORTH GUTHRIE AVENUE. MAKE A RIGHT ONTO SOUTHGATE STREET AND THEN ANOTHER RIGHT ONTO PARK AVENUE, ENDING AT 507 PARK AVENUE.

Probable Cause Affidavit

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant: I BEING THE AFFIANT, INVESTIGATOR A.M. CRISTALDI, AM CURRENTLY EMPLOYED AS A POLICE OFFICER WITH THE DURHAM POLICE DEPARTMENT. MY JOB DUTIES INCLUDE INVESTIGATING AND ENFORCING THE CRIMINAL LAWS ENACTED BY THE STATE OF NORTH CAROLINA. I HAVE RECEIVED OVER 900 HOURS OF FORMAL TRAINING FROM THE DURHAM POLICE DEPARTMENT IN VARIOUS TOPICAL AREAS INCLUDING POLICE LAW INSTITUTE, CRIMINAL INVESTIGATIONS, AND INTERVIEW & INTERROGATION. I HAVE BEEN EMPLOYED BY THE DURHAM POLICE DEPARTMENT FOR OVER 6 YEARS AND HAVE CONDUCTED OR BEEN INVOLVED IN EXCESS OF 100 INVESTIGATIONS AND AM CURRENTLY ASSIGNED TO THE DISTRICT 1 INVESTIGATIONS DIVISION WHERE I INVESTIGATE PROPERTY AND VIOLENT CRIMES TO INCLUDE ROBBERIES, RAPES, KIDNAPPINGS, ASSAULTS, AND BURLGARIES.

ON 3/25/07 I SPOKE WITH TWO INDEPENDENT WITNESSES THAT TOLD ME TIMOTHY WEAVER HAS BEEN PAYING KENNETH WAYNE BARTLETT AND

Affiant: A.M. Cristaldi Magistrate: [Signature]

Date: 4/26/07

APPLICATION 1: BARTLETT

000006

IN THE MATTER: TIMOTHY WEAVER 1/26/1960 AND KENNETH WAYNE  
BARTLETT 12/27/1961 507 PARK AVENUE DURHAM NC

OTHERS CASH MONEY FOR PIPES AND COIL. MR. BARTLETT GOES OUT TO NEW HOUSING DEVELOPMENTS, APARTMENT COMPLEXES AND ANYWHERE ELSE HE CAN FIND PIPES AND COILS AND STEALS IT FROM THESE LOCATIONS. MR. BARTLETT USES ONE OF MR. WEAVERS VEHICLES TO TRANSPORT THIS STOLEN PIPE AND COIL BACK TO MR. WEAVER. MR. WEAVER THEN SELLS THE COPPER WIRE TO A SCRAP YARD AND SPLITS THE PROFITS WITH MR. BARTLETT. MY INDEPENDENT WITNESSES TOLD ME THAT ON 3/24/07 MR. BARTLETT WENT INTO CARY DRIVING A VEHICLE THAT MR. WEAVER GAVE TO HIM TO USE. MR. BARTLETT THEN WENT WITH HIS GIRLFRIEND (KIMBERLY GRAY) TO CARY WHERE THEY MADE FOUR TRIPS BACK AND FORTH FROM CARY TO DURHAM WITH COPPER WIRE MR. BARTLETT HAD STOLEN FROM THE HOUSES. THE COPPER WIRE INCLUDED THE LARGE COPPER PIPE THAT HAD THE PLACEMENT LOCATION INSIDE THE HOUSE WRITTEN ON IT. MR. WEAVER THEN WENT TO AMERICAN METALS IN GARNER NORTH CAROLINA ON THE MORNING OF 3/25/07 AND SOLD IT. I KNOW FROM DEALING WITH AMERICAN METALS THAT THEY ONLY BUY COPPER ON WEDNESDAYS AND FRIDAYS.

MY TWO INDEPENDENT WITNESSES ALSO TOLD ME THAT MR. WEAVER IS IN POSSESSION OF A SHOTGUN. MR. WEAVER KEEPS THE SHOTGUN HIDDEN INSIDE 507 PARK AVENUE. MR. WEAVER IS ALSO A CONVICTED FELON AND DOES NOT HAVE THE RIGHT TO POSSESS A FIREARM.

ON 4/26/07 I SPOKE WITH A REPRESENTATIVE FROM AMERICAN METALS WHO TOLD ME THAT TIMOTHY WEAVER WAS AT THAT LOCATION THE MORNING OF 4/25/07 SELLING WIRE AND COIL. THE REPRESENTATIVE SAID MR. WEAVER WAS THERE AROUND 0900 HOURS.

Description of Evidence to be Seized

There is probable cause to believe that the following property will be contained in the residence.

- 1- STOLEN COPPER WIRE TO INCLUDE PIPE AND COIL.
- 2- FIREARMS AND AMMUNITION
- 3- TOOLS USED FOR BUGLARIES INCLUDING BUT NOT LIMITED TO WIRE CUTTERS, SAWS, SCREW DRIVERS, PLIERS AND WRENCHES.
- 4- U.S. CURRENCY THAT IS THE FRUIT OF ILLEGAL SALES OF COPPER WIRE
- 5- TIMOTHY WEAVER WHITE MALE D/O/B 1/26/1960

Affiant: Ann Cristaldi

Magistrate: [Signature]

Date: 4/26/07

Application For Search Warrant

I, Corporal Kevin Perry, Special Investigations Division, Sampson County Sheriff's Office, being duly sworn, request that the court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that:

- (1) Books, records, receipts, notes, ledgers, and other papers relating to the transportation, ordering, purchasing, in particular, Cocaine, a scheduled controlled substance included in the North Carolina Controlled Substance Act;
- (2) Books, records, receipts, bank statements and records, money drafts, letters of credit, money orders, cashier's check receipts, passbooks, bank checks, safe deposit boxes, safe deposit box keys, and other items evidencing the obtaining, secreting, transfer, and / or concealment of assets and the obtaining, secreting, transfer, concealment, and / or expenditure of money;
- (3) United States currency, precious metals, jewelry, and financial instruments, and other items indicative of the proceeds of illegal narcotics trafficking;
- (4) Photographs, including still photos, negatives, videotapes, undeveloped film and the contents therein, slides, in particular photograph of co-conspirators, of assets, and / or controlled substances;
- (5) Address and / or telephone books, rolodex entries and any papers reflecting the names, addresses, telephone numbers, pager numbers, fax numbers, cellular phone numbers of any co- conspirators, sources of supply, customers, financial institutions, and other individual or business with whom a financial relationship exist;
- (6) Papers and documents that would establish occupancy, residency, rental and / or ownership of the premises described herein, including, but not limited to utility and telephone bills, canceled envelopes, rental, purchase or lease agreements, and keys;
- (7) Firearms and ammunition, including, but not limited to handguns, pistols, revolvers, rifles, shotguns, machine-guns, and other weapons, and any records or receipts pertaining to firearms;

SWORN AND SUBSCRIBED BEFORE ME

Signature: [Signature] Date: September 27, 2006

Deputy CSC  Assistant CSC  Clerk of Superior Court

Magistrate  District Court Judge  Superior Court Judge

Signature of Applicant: [Signature] Date: September 27, 2006

APPLICATION 2: TAYLOR

Application For Search Warrant

- (8) Electronic equipment, such as computers, cellular phones, pagers, facsimile machines, currency counting machines, tape recording devices, video recording devices, cameras and other items and related manuals used to generate, transfer, count, and / or to store information described in items 1, 2, 3, 4, 5, and 6 of this affidavit. Additionally, computer software tapes and discs, audiotapes, and the contents there in, containing the information generated by the aforementioned electronic equipment;
- (9) Controlled substances, in particular Cocaine, which is included in Schedule II of the North Carolina Controlled Substance Act and would be illegal to possess; in violation of North Carolina General Statute 90-95;
- (10) Paraphernalia, used to weigh, manufacture, sell, distribute, package, re-package, store, secret, ingest, inhale, inject, or otherwise introduce into the body a controlled substance, in particular Cocaine, which would be illegal to possess; in violation of North Carolina General Statute 90-113.22;

Would constitute evidence of a crime and the identity of a crime and the identity of a person participating in a crime, namely **Illegal Distribution of a Controlled Substance in Violation of North Carolina General Statute 90-95** and is located;

[X] on the following premises: **which is described as a tan single wide mobile home located at 3095 Brewer Rd Faison, NC 28341 and the single story wood frame house that is located directly behind the mobile home. Directions to the residence are as follows: Travel Hwy 403 North from Clinton towards Faison. After crossing I-40 stay to the right and continue on Hwy 403 towards Faison. Turn right on to Brewer Rd. The house is located on the right side of the road just after a curve to the right approximately 100 feet off the roadway.**

(and)

[X] on the following person(s): **Any person or persons as may be on the premises of the residence to be searched at the time of the execution of this Search Warrant, should it please the Court for its issuance.**

(and)

[X] in the following vehicle(s): **Any vehicle as may be located within the curtilage of the residence to be searched or as may be determined to be under the dominion and control of any of the persons located within the residence to be searched at the time of the execution of this Search Warrant, should it please the Court for its issuance.**

(and)

[X] **Any outbuildings or other such appurtenances as may be affixed to the residence to be searched or situated within its curtilage at the time of the execution of this Search Warrant, should it please the Court for its issuance.**

Application For Search Warrant

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

*I, Corporal Kevin Perry, am a sworn law enforcement officer for the Sampson County Sheriff's Office and assigned as a Narcotic/Alcohol Enforcement Special Agent in the Special Investigation Division Previously I was a sworn law enforcement officer with the Goldsboro Police Department. I have been a sworn law enforcement officer for 02 years. I have served 10 years as a United States Marine where I was promoted to the rank of Sergeant and was awarded the Navy Achievement Medal, along with two Meritorious Mass commendations. As a law enforcement officer, I have received 500 hours training in the area of investigations and have been involved in over 100 Narcotic/Alcohol investigations. I have been awarded the Patriot award; meritorious award and I hold certificates for, The United States Department of Justice, Drug Enforcement Administration Basic Narcotic's Investigator School, Interview and Interrogations, and Methamphetamines awareness and recognition. I am familiar with the methods of operations of people involved in Narcotic/Alcohol and the evidence associated with these crimes. I will be known as Applicant from this point on.*

-Based upon the Affiant's training, knowledge, experience and participation in other investigations involving the illegal distribution of controlled substances, He knows that:

-That persons involved in the illegal drug trade must maintain, on hand, U. S. currency in order to maintain and finance their on-going narcotics business. That this U. S. currency is maintained in the residence, businesses or other locations in which these persons maintain control over;

-That it is common for persons involved in the illegal drug trade to maintain books, tally sheets, records, notes, ledgers, airline tickets, receipts relating to the purchase of financial instruments and / or the transfer of funds, and other papers relating to the transportation, ordering, sale and distribution of controlled substances. That the aforementioned books, records, receipts, notes, ledgers, etc., are maintained within their residences, businesses, or other locations in which they have dominion and control over;

-That it is common for persons involved in the illegal drug trade to secret contraband, proceeds of drug sales, and records of drug transactions in secure locations within their residences, their businesses and / or other locations which they maintain dominion and control over, for the ready access and to conceal these items from law enforcement authorities.

SWORN AND SUBSCRIBED BEFORE ME:

Signature: [Signature] Date: September 27, 2006

Deputy CSC  Assistant CSC  Clerk of Superior Court

Magistrate  District Court Judge  Superior Court Judge

Signature of Applicant: [Signature] Date: September 27, 2006

Application For Search Warrant

-That it is common for persons involved in the illegal drug trade to maintain evidence pertaining to their obtaining, secreting, transfer, concealment and / or expenditure of narcotics proceeds such as: currency, financial instruments, precious metals and gemstones, jewelry, books, records, invoices, receipts, records of real estate transactions, bank statements and related records, passbooks, money drafts, letters of credit, money orders, bank drafts, cashiers checks, bank checks, safe deposit boxes, safe deposit box keys, and money wrappers. These items are maintained by these persons within their residences, businesses, or other locations in which they have dominion and control over;

-That it is common for persons involved in the illegal drug trade to maintain address and / or telephone numbers in books or on papers, in rolodex entries and reflect the names, addresses, telephone numbers, pager numbers, fax numbers of their associates in the illegal drug trade. That these items are maintained by these persons within their residences, businesses, or other locations in which they have dominion and control over;

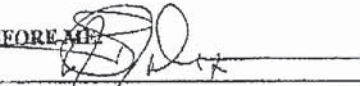
-That it is common for persons involved in the illegal drug trade to have in their possession photographs / videotapes of themselves, their associates, their property and their product. That these items are maintained by these persons within their residences, businesses, or other locations in which they have dominion and control over;

-That it is common for persons involved in the illegal drug trade to commonly have in their possession, that is on their person, at their residences, and / or other locations in which they have dominion and control over, firearms and other weapons. Said firearms and other weapons are used to protect and secure property. Such property may include, but not limited to: narcotics, jewelry, narcotics paraphernalia, books, records, and U. S. currency;

-That it is common for persons involved in the illegal drug trade to utilize electronic equipment, such as computers, cellular phones, pagers, facsimile machines, currency counting machines, tape recording devices, video recording devices, cameras and other items and related manuals used to generate, transfer, count, and / or to store information described in items 1, 2, 3, 4, 5, and 6 above;

-That it is common for persons involved in the illegal drug trade to keep on hand, that is on their person, in their residences, and / or other locations in which they have dominion and control over, controlled substances, in particular Cocaine. That this Cocaine would be used for the illegal sale, distribution and use of this controlled substance;

SWORN AND SUBSCRIBED BEFORE ME:

Signature:  Date: September 27, 2006

Deputy CSC     Assistant CSC     Clerk of Superior Court  
 Magistrate     District Court Judge     Superior Court Judge

Signature of Applicant:  Date: September 27, 2006

Application For Search Warrant

-That it is common for persons involved in the illegal drug trade to keep on hand, that is on their person, in their residences, and / or other locations in which they have dominion and control over, paraphernalia. That this Paraphernalia would be used to weigh, manufacture, sell, distribute, package, re-package, store, secret, ingest, inhale, inject, or otherwise introduce into the body a controlled substance which would be illegal to possess;

-In addition, the Affiant is aware that: during the past several months the Special Investigations Division of the Sampson County Sheriff's Office has received several complaints in reference to the sale of the controlled substance Cocaine, a controlled substance that is included in Schedule II of the North Carolina Controlled Substance Act, at the above location.

Due to these complaints, this applicant began an investigation that included surveillance and the use of a Confidential Informant.

Within the past seventy-two, (72) hours, a Confidential Informant had visited the described location at the direction and surveillance of this Applicant and while at the location the Confidential Informant made a purchase of the controlled substance. Immediately after leaving the location, the Confidential Informant met with the applicant and turned over the controlled substance.

The Confidential Informant has proven reliable by making numerous controlled buys of controlled substances at the direction of the Applicant. This was accomplished by insuring the Confidential Informant has no controlled substances in his / her possession, then furnishing the informant with Special Funds, then directing the Confidential Informant to a predetermined location known as an illegal outlet for the sale of controlled substances. The Confidential Informant was observed entering the location and after only a few minutes leaving, then meeting with the applicant and turning over the substance purchased.

-Based on the above-mentioned facts, the Applicant prays to the Court for the issuance of this Search Warrant.

SWORN AND SUBSCRIBED BEFORE ME:

Signature: [Signature] Date: September 27, 2006

Deputy CSC     Assistant CSC     Clerk of Superior Court  
 Magistrate     District Court Judge     Superior Court Judge

Signature of Applicant: [Signature] Date: September 27, 2006





Continuation page attached to the SEARCH WARRANT application, dated Thursday, July 14, 2005

CONTINUATION OF "PROPERTY / EVIDENCE TO BE SEIZED"

Hydrocodone (Schedule III), devices used to introduce controlled substances into the body which are illegal to possess, and evidence of ownership access, possession and control; also beepers, firearms, cellular phones, and US currency.

CONTINUATION OF "PREMISES, PERSON, VEHICLE, OR OTHER ITEM (S) TO BE SEARCHED"

A single story, single family dwelling, constructed of white vinyl siding with brick underpinning and black shutters, located at 5228 Statesville Road, Charlotte, Mecklenburg County, N.C., USA.

CONTINUATION OF "PROBABLE CAUSE AFFIDAVIT"

This applicant swears to the following facts to establish probable cause for a search warrant: Officer M.F. Warren #353 has received information from a confidential and reliable informant who has been in 5228 Statesville Road and has seen a large quantity of the Schedule III drug Hydrocodone in the residence without a prescription. This informant states that they have been in the above described location within the past 48 hours and have seen various forms of Hydrocodone throughout the house. This officer has known this informant for approximately 9 years. During this time, this officer has used information provided by this confidential and reliable informant to be true through independent investigations. This informant is familiar with various forms of Hydrocodone and the uses of various forms of Schedule III drugs.

Officer M.F. Warren #353 has been a Charlotte-Mecklenburg Police officer for 24 years and 6 months, including 7 years of Street level Drug Interdiction. I have been to various drug schools at the federal, state and local level. I have been directly or indirectly involved with over 1,900 drug arrests and have assisted with the execution of approximately 550 search warrants. Based on this affiant's training and experience, I have knowledge that firearms, beepers, cellular phones, and U.S. Currency are commonly used in the furtherance of drug distribution.

Based on the information contained in this application, I have knowledge that firearms, beepers, cellular phones, and US currency are commonly used in the furtherance of drug distribution. Based on the information contained in this application and the proven reliability of this informant, I request that a search warrant be issued for a single story, single family dwelling, constructed of white vinyl siding with brick underpinning and black shutters, located at 5228 Statesville Road, Charlotte, Mecklenburg County, N.C., USA.

SEP 01 2005

APPLICATION 3: EDWARDS

SWORN AND SUBSCRIBED TO BEFORE ME:

Judge / Magistrate [Signature]  
Date 7-14-05

Applicant(s) [Signature]  
Date 7/14/05



**Tab 5:**

# **Elements of Crimes**

**ELEMENTS (FEBRUARY, 2016)**

Conspiracy, Solicitation, Attempts, and Principals,  
and Accessories ..... Elements of Crimes-Page 1

Selected Assault Crimes ..... Elements of Crimes-Page 3

Selected Sexual Assaults and Offenses ..... Elements of Crimes-Page 5

Chart: Burglary & Breaking or Entering Offenses ..... Elements of Crimes-Page 7

Major Categories of Violations of Controlled Substances Act..... Elements of Crimes-Page 9

Review Questions on Conspiracy, Solicitation, Attempts,  
Principals, Accessories ..... Elements of Crimes-Page 11

Review Questions on Assaults and Related Offenses ..... Elements of Crimes-Page 13

Review Questions on Larceny and Robbery ..... Elements of Crimes-Page 17

Review Questions on Sexual Assaults ..... Elements of Crimes-Page 21

Review Questions on Burglary and Breaking & Entering..... Elements of Crimes-Page 25

Review Questions on Trespass Law and Damage to Property ..... Elements of Crimes-Page 29

Review Questions on Drug Offenses ..... Elements of Crimes-Page 31

Review Questions on Disorderly Conduct, Obstruction of Justice,  
and Weapons Offenses ..... Elements of Crimes-Page 33



## Conspiracy, Solicitation, Attempts, and Principals and Accessories

### After-the-Fact Crimes

Accessory after the fact  
Compounding a felony

### Crimes of Preparation

Solicitation  
Conspiracy  
Attempt

### Responsibility as Principal

Accessory before the fact  
Aiding and abetting  
Acting in concert



## Selected Assault Crimes

### Victim's Job

### Victim Characteristics

### Weapon

### Injury

<p>Simple assault [Class 2]</p> <p>Inflicting serious injury [A1]</p> <p>Inflicting serious bodily injury [F]</p> <p>Inflicting physical injury: strangulation [H]</p>	<p>With deadly weapon [A1]</p> <p>By pointing gun [A1]</p> <p>With deadly weapon with intent to kill [E]</p> <p>With deadly weapon inflicting serious injury [E]</p> <p>With deadly weapon with intent to kill inflicting serious injury [C]</p> <p>Discharge of firearm into occupied:                  - property [E]                  - dwelling/conveyance in operation [D]                  - property causing serious bodily injury [C]</p> <p>Discharge of firearm within property to incite fear [F]</p> <p>Secret assault [E]</p>	<p>On female [A1]</p> <p>On child under 12 [A1]</p> <p>In presence of minor [A1]</p> <p>On handicapped person:                  - simple [A1]                  - aggravated (deadly weapon, serious injury, intent to kill) [F]</p> <p>On unborn child :                  - battery [A1]                  - inflicting serious bodily injury [F]</p>	<p>On gov't officer/employee or company/campus police officer [A1]</p> <p>With deadly weapon on:                  - gov't officer/employee or company/campus police [F]</p> <p>With firearm on:                  - law enforcement officer                  - probation/parole officer                  - detention employee                  - NC National Guard [E]</p> <p>Inflicting physical injury on:                  - law enforcement officer                  - probation/parole officer                  - detention employee                  - NC National Guard [I]</p> <p>Inflicting serious bodily injury on:                  - law enforcement officer                  - probation/parole officer                  - detention employee                  - NC National Guard [F]</p> <p>Malicious conduct by prisoner [F]</p>	<p>On court officer:                  - simple [I]                  - on another person as retaliation [I]                  - with deadly weapon or inflicting serious injury [F]</p> <p>On school personnel [A1]</p> <p>On sports official [I]</p> <p>On transit operator [A1]</p> <p>On firefighter, EMT, medical responder, or hospital personnel:                  - inflicting physical injury [I]                  - inflicting serious bodily injury or with deadly weapon other than firearm inflicting physical injury [H]                  - with firearm [F]</p> <p>On emergency personnel in declared emergency/riot:                  - inflicting physical injury [I]                  - with dangerous weapon or substance [F]</p>
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## Selected Sexual Assaults and Offenses

### FIRST DEGREE FORCIBLE RAPE/SEXUAL OFFENSE

Rape	Sexual offense
Vaginal intercourse	1 of 5 sex acts
By force and against the victim's will*	Same
Under specified conditions	Same

\*Courts also may find this element met if victim helpless

### SECOND DEGREE FORCIBLE RAPE/SEXUAL OFFENSE

Rape	Sexual offense
Vaginal intercourse	1 of 5 sex acts
By force and against the victim's will, or victim helpless	Same

### SEXUAL BATTERY

Sexual battery
Sexual contact
For sexual purpose
By force and against the victim's will, or victim helpless

### CRIME AGAINST NATURE

Crime against nature
Unnatural sexual act

### FIRST DEGREE STATUTORY RAPE/SEXUAL OFFENSE

Rape	Sexual offense
Vaginal intercourse	1 of 5 sex acts
Victim < 13	Same
Defendant ≥ 12	Same
Defendant ≥ 4 years older than victim	Same

### RAPE/SEXUAL OFFENSE OF CHILD UNDER 13 BY ADULT

Rape	Sexual offense
Vaginal intercourse	1 of 5 sex acts
Victim < 13	Same
Defendant ≥ 18	Same

### STATUTORY RAPE/SEXUAL OFFENSE OF CHILD 13, 14, 15

Rape	Sexual offense
Vaginal intercourse	1 of 5 sex acts
Victim = 13, 14, 15	Same
<i>B1 felony:</i> Defendant ≥ 6 years older than victim	Same
<i>C felony:</i> Defendant > 4 and < 6 years older than victim	Same

### INDECENT LIBERTIES WITH MINOR

Indecent liberties with minor
Indecent liberty or lewd or lascivious act
Victim < 16
Defendant ≥ 16
Defendant ≥ 5 years older than victim



**Chart: Elements of Burglary & Breaking or Entering Offenses**  
 Alyson Grine, Feb. 2014

<b>1st Degree Burglary</b>	<b>2d Degree Burglary</b>	<b>Felony B or E</b>	<b>Misd. B or E</b>
<b>breaks</b>	<b>breaks</b>	<b>breaks</b>	<b>breaks</b>
<b>and enters</b>	<b>and enters</b>	<b>or enters</b>	<b>or enters</b>
<b>w/o consent</b>	<b>w/o consent</b>	<b>w/o consent</b>	<b>w/o consent</b>
<b>dwelling</b>	<b>dwelling/ curtilage</b>	<b>any building</b>	<b>any building</b>
<b>of another</b>	<b>of another</b>	<b>of another</b>	<b>of another</b>
<b>while occupied</b>	<b>---</b>	<b>---</b>	<b>---</b>
<b>at night</b>	<b>at night</b>	<b>---</b>	<b>---</b>
<b>w/intent</b>	<b>w/intent</b>	<b>w/intent</b>	<b>---</b>



**Major Categories of Violations of Controlled Substances Act (90-86 through 90-113.8)\***

<b>90-95(a)(3) offenses</b>	<b>90-95(a)(1) offenses</b>	<b>90-95(a)(2) offenses</b>	<b>90-95(d1) offenses</b>	<b>Trafficking (90-95(h))</b>	<b>Common 90-108 offenses</b>
Possess	Manufacture	Create	Possess precursor with intent to mfg.	Sell	Maintain dwelling, etc.
	Sell or deliver	Sell or deliver	Possess or distribute precursor with knowledge of mfg.	Manufacture	Obtain controlled substance by fraud/forgery
	Possess with intent to manufacture, sell, or deliver	Possess with intent to sell or deliver	Possess pseudoephedrine product after conviction of certain methamphetamine and precursor offenses	Deliver	
<b>Enhancements</b>	<b>Enhancements</b>		<b>Enhancements</b>	Transport	
Possess controlled substance in prison or jail (90-95(e)(9))	Sell or deliver to person who is 16/13 or younger by person 18 or older (90-95(e)(5))		Possess precursor with intent/knowledge re mfg. (90-95(d1)(2))	Possess	
Prior conviction under Controlled Substances Act (90-95(e)(3), (e)(4), (e)(7))	Sell or deliver to pregnant female by person 18 or older (90-95(e)(5))				
	Any (a)(1) violation by person 21 or older near school, child care center, or public park (90-95(e)(8), (10))				
	Employ minor/person 13 or younger to commit (a)(1) violation by person who is 18/21 or older (90-95.4)				
	Promote (a)(1) violation by minor (90-95.6)				
	Purchase or receive by person 21 or older from minor 13 or under who sells or delivers or possesses with intent to sell or deliver (90-95.7)				
	Give or sell controlled substance to inmate (14-258.1)				
<b>Reductions</b>	<b>Reductions</b>			<b>Reductions</b>	
No active time for first offender for Class 3 misdemeanor possession of Schedule VI substance (90-95(d)(4)) <sup>‡</sup>	Delivery of less than 5g of marijuana or 2.5g of synthetic cannabinoid for no remuneration is possession only, not delivery (90-95(b)(2))			Substantial assistance (90-95(h)(5)) <sup>‡</sup>	
Discharge and dismissal for first offender (90-96(a), (a1)) <sup>‡</sup>					

\* This chart does not include violations of the NC Toxic Vapors Act (90-113.8A through 90-113.14) or NC Drug Paraphernalia Act (90-113.20 through 90-113.24).

<sup>‡</sup> Not a charging decision made by magistrates.



### **Questions on Conspiracy, Solicitation, Attempts, Principals, and Accessories**

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1. Tonya Hardnose, world class roller skater, suspects that her husband, Jeff McGillicuddy, and her bodyguard, Bill Moose, are planning to assault Hardnose's chief rollerskating rival, Bambi Carrigan. The plan is to break Bambi's nose with a baseball bat so that potential sponsors will not be interested in using her in commercials even if she wins the upcoming world rollerskating championship. Hardnose says nothing to the authorities, and Bambi is later assaulted. What crimes, if any, has Hardnose committed?
2. Hardnose is concerned that if the World Rollerskating Association (WSA) learns of her prior knowledge of the planned assault on Bambi, the WSA will not let her skate at the world rollerskating championship next month. After the assault takes place, Hardnose agrees with McGillicuddy that she will not report him to the police if he will not say anything to the WSA. What crimes, if any, has Hardnose committed?
3. Assume Bill Moose, Hardnose's bodyguard, goes to John Indifferent and offers him \$10,000 to break Bambi's nose with a baseball bat. Indifferent says he's not interested. What crimes, if any, has Moose committed? What about John Indifferent?
4. Same facts as Question # 3, except Indifferent accepts the money. However, three weeks later he changes his mind and does not commit the assault. What crimes, if any, have Moose and Indifferent committed? What if Indifferent returns the money?
5. Suppose Bill Moose goes to Jim Survivalist and makes the same offer. Survivalist accepts the money and agrees to break Bambi's nose. Two weeks later Survivalist follows through on the plan. At the time of the assault, Moose is home asleep. What crimes, if any, has Moose committed?





**NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON ASSAULT AND RELATED OFFENSES**

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Which assault offense would be the proper charge under these facts?

1. A city law enforcement officer is on the way home, still wearing his uniform, after completing his shift for that day. For no apparent reason, another man comes up behind the officer, shoves him to the ground, and runs.
  
2. A husband beats his wife about her head and body with his fists, and she suffers a broken arm and lacerations to her face that requires 35 stitches.
  
3. A man is standing next to his house when his angry neighbor, about 50 yards away, fires a pistol at him—wanting to scare him. The shot misses about five feet to the left of the man.
  
4. After having a violent argument in a bar, a man is walking through the parking lot when the man he was arguing with comes at him in his car, going about 50 m.p.h. The man jumps out of the way and just avoids being hit.
  
5. Smith shoots a law enforcement officer who is attempting to execute a search warrant at his house. The officer suffers serious chest injuries but survives.
  
6. An 18 year-old male kicks a 5 year-old boy one time.

7. While being tried in district court for impaired driving, a man gets angry at the judge, jumps up on the judge's bench, and hits her twice in the shoulder.
  
8. While on patrol in a residential neighborhood, a city law enforcement officer has the back side window of his car shot out with a rifle.
  
9. An officer arrests Jones for armed robbery. While taking Jones to the magistrate's office for the initial appearance, he spits in the officer's face.
  
10. Unhappy with the amount of noise they are making, a theater manager grabs two 10-year old boys, drags them into his office, spansks them both, and sends them out of the theater.
  
11. At the end of a heated argument in a bar, one man yells at the other, "I'm going to kill you some day, you damn bastard!" He then leaves.
  
12. After stopping a car for impaired driving, a state trooper is jumped on by the driver. The man has a knife in his hand but the trooper manages to subdue him without being cut.
  
13. After being called by the neighbors, an officer finds a man standing on his front porch holding a butcher knife in his hand. He is yelling at his wife in the front yard that he will kill her if she tries to come back in the house.

14. Two men have an argument in a bar. One leaves and hides behind a car in the parking lot. When the second man comes out, the first jumps from behind the car with a knife in his hand and makes several superficial cuts before two other men intervene and stop the attack.
  
15. When two men pull into a parking space at the same time, one driver gets out of his car, pulls the other driver out and hits him with his fist several times, knocking the man unconscious. When he is taken to the hospital, the doctor says he has a mild concussion and will have to stay overnight.
  
16. Two neighbors get in an argument about the noise made by one of the neighbor's kids. After saying "I'll get even with you for those damn noisy brats of yours; I'm going to cut your damn head off," one man stabs the other in the shoulder with a nine-inch knife. He is about to stab again when stopped by another neighbor.
  
17. While his wallet is being taken, a man is beaten over the head with a pistol carried by the thief. When the victim raises his arm to protect himself, his arm is broken.
  
18. Angry that her two-year-old daughter will not stop crying, a mother deliberately places her in a bathtub with extremely hot water. The daughter suffers third-degree burns.
  
19. John Jones is the former husband of Susan Jones. She is now dating Howard Findley. John Jones follows her to work every day for a week, after having told her over the telephone that if she continues to date Findley, "something serious might happen" to her. Findley calls John Jones and tells him that Susan Jones wants him to stop following her to work. The next day, John Jones follows her to work again.

20. An officer arrests Peter Smith for assault on a female. Smith shoved the female in the back, and she fell down and bruised her elbow. Smith has previously been convicted of simple assault, and assault by pointing a gun. Both convictions have occurred within the past 3 years. Assuming the magistrate finds probable cause for assault on a female, what is the most serious charge that may be brought against Smith?
21. An officer arrests John Jones for assault by pointing a gun. The victim of the assault suffered no injury. He has previously been convicted of simple assault and assault with a deadly weapon inflicting serious injury. Both convictions have occurred within the past 12 years. Assuming the magistrate finds probable cause for assault on a female, what is the most serious charge that may be brought against Jones?

## NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON LARCENY AND ROBBERY

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Which offense would be the proper charge under these facts?

1. A man picks a lock and enters a home at 2 p.m., then takes three Playboy magazines and nothing else.
  
2. A man goes to another man's farm and takes a hunting dog worth about \$300.
  
3. A woman is trying on dresses at a department store. While the sales clerk is busy elsewhere, the woman puts on one of the store's dresses worth \$500 and walks out without paying for it.
  
4. At the State Fair a man picks the wallet out of another man's back pocket without being noticed. The wallet has about \$40 in cash and four gasoline credit cards.
  
5. Two men are working together at the State Fair. While one bumps into a man, starts a scuffle, and pushes the man, the other slips behind the victim and takes his wallet. There is \$25 in the wallet.
  
6. Two teenage boys see a car with the keys still in it, get in, and drive the car around town for about five hours. They then leave the car parked on the street about two miles from where they took it.

7. A man enters a grocery store and tells the clerk that he will shoot her unless she gives him the cash from her cash register. He has an object in his pocket which he points at her. She hands over the cash. The man is captured as he leaves the store; all that is found in his pocket other than the cash is a carrot. The amount of cash was \$327.
  
8. Seeing that the clerk at a jewelry store has gone to the back of the store, a man tells a 6-year old kid that he left his ring on the store counter. The child goes in, picks up the ring off the counter, and brings it out to the man. The ring, which belongs to the store, is worth about \$1,750.
  
9. A man has a television set worth \$450 and a stereo worth \$600 he is holding for a friend. The friend, who is taking a short vacation at the beach, tells him the goods are stolen. The man will be giving the goods back to the friend when he returns in a week.
  
10. A man puts a watch worth \$50 in his pocket and walks out of the department store without paying for it.
  
11. A store employee sees a man put a pen worth \$3.00 in his pocket while shopping in the store.
  
12. Two neighbors have been arguing for several months about which one owns a lawn mower. Each asserts that another neighbor who moved recently gave it to him. One night one of the two men sneaks over to the other's yard and takes the mower. It is worth about \$80.
  
13. A man hits another man over the head with a blackjack and takes from him a wallet containing \$12.

14. While searching a house for drugs, officers finds iPods which were stolen one week earlier in a housebreaking. The iPods are worth about \$75 each.
  
15. A man goes into a sporting goods store, puts on a tennis racket a price tag which was on another racket, listing the price at \$25 instead of \$35, then takes the racket to the cashier to pay for it.
  
16. A man steals two television sets from the beach cottage he is renting. The sets were bought for \$1,500 about a year and a half before. The owner says he recently had someone offer to buy the sets for \$950.





## NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON SEXUAL ASSAULTS

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Which sexual assault offense would be the proper charge under these facts?

1. A 21 year-old man forces a 19 year-old woman to have sexual intercourse with him by holding a knife to her face and threatening to cut her.
2. A 21 year-old man forces a 19 year-old woman to have sexual intercourse with him by driving her into the woods and threatening to abandon her.
3. A 21 year-old man holds a 19 year-old woman down to make her submit to sexual intercourse. Although he says nothing about it, a large knife strapped to his waist is plainly visible.
4. A 21 year-old man holds a 19 year-old woman down and makes her submit to sexual intercourse. When she fights, he twists her arm and breaks it.
5. A 19 year-old woman is pulled off the street by a 21 year-old man and shoved into a car driven by another man. The 21 year-old holds her down and has sexual intercourse with her on the back seat while the other man drives through a wooded area.
6. A 21 year-old woman holds a 25 year-old woman down while her boyfriend has sexual intercourse with her.

7. A 17 year-old male (whose birthday is on July 15) has sexual intercourse with a 13 year-old female (whose birthday is on August 21) with her consent.
  
8. On April 22, a 16 year-old male (whose birthday is on January 2) makes a 12 year-old female (whose birthday is on March 15) have sexual intercourse with him by holding a knife to her throat and threatening to kill her.
  
9. A 17 year-old male holds a 12 year-old female down and has sexual intercourse with her against her will.
  
10. A 22 year-old man commits fellatio with a 15 year-old female with her consent.
  
11. A 26 year-old man gives his date, a 25 year-old woman, a great deal to drink during the evening. After she passes out, he has sexual intercourse with her.
  
12. Same facts as #11 except that he has cunnilingus with her instead of intercourse.
  
13. A man and woman are husband and wife, but they have been separated for a year and a half without a written agreement. One night the man comes over to his wife's apartment and forces her to have sexual intercourse with him.
  
14. A 28 year-old woman has consensual sexual intercourse with a 12 year-old male.

15. Three 30 year-old men pick up a 16 year-old woman who is hitchhiking, drive her to a wooded area and make her perform fellatio on each by threatening to beat her and abandon her.
  
16. A 16 year-old male and a 12 year-old female are dating. His birthday is on July 15; hers is on July 1. On August 1, she voluntarily performs fellatio on him.
  
17. A 15 year-old male and a 15 year-old female voluntarily have sexual intercourse with each other.
  
18. Two 30 year-old men hold down a 24 year-old woman and threaten to beat her, making her perform fellatio on one man. After that, the second man forces a soft drink bottle into her vagina.



**NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON BURGLARY  
AND BREAKING AND ENTERING**

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Which burglary or breaking and entering offense would be the proper charge under these facts, and why?

1. A man breaks a window and enters a home at 3 a.m., takes a \$150 television set, and leaves. No one is home at the time.
2. A man breaks a window and enters a home at 3 a.m., takes a \$150 television set, and leaves. The woman who is at home upstairs is too scared to do anything while the man is there.
3. A man breaks a window and enters a home at 1 p.m. He takes a tape recorder worth \$75 and leaves. No one was home at the time.
4. A man breaks a window and enters a store at 3 a.m. He takes jewelry worth \$800 and leaves.
5. At 3 a.m., a man knocks on the door of a house saying "police." Mrs. Jones opens the door, the man rushes in, steals her pocketbook, and leaves.
6. Because of the hot weather, all the doors and windows of a house are open. A man walks through an open door at 11 a.m., takes a tape recorder worth \$40, and leaves. The man and woman who live in the house are across the street visiting a neighbor at the time.
7. Because of the hot weather, all the doors and windows of a house are open. A man walks through an open door at 11 a.m., takes a television set worth \$90, and leaves. The woman working in the kitchen does not notice the man come and leave.

8. A man lifts open an unlocked store window, goes into the store at 2 a.m., takes six radios worth about \$40 each, and leaves.
9. A man lifts open an unlocked store window at 2 a.m., but before he enters is scared away by a passing patrol car.
10. A man breaks into a closed jewelry store at 1 p.m., takes a dozen watches worth a total of \$1,500, and leaves.
11. A man breaks into Harold Smith's beach cottage at 11 p.m. and takes several pieces of furniture worth a total of about \$300. This happens in January; the cottage has not been used for two months and probably will not be used again for three more months.
12. A man picks the lock and enters a motel room at 1 a.m. He takes an \$80 watch and a wallet with \$150 in cash and several credit cards, without disturbing the man who is sleeping in the room.
13. A man loans his radio to his neighbor; the neighbor tells him he can get his radio back whenever he wants. The neighbor is not home one night when the man wants the radio back to listen to a ball game, so the man lifts open an unlocked window, climbs in, gets his radio, and leaves.

14. A man breaks into a garage about 20 feet from a house and takes a bicycle worth \$150. This takes place at 4:30 in the morning.
  
15. A man goes into a house under construction at 11:00 p.m. to take shelter from the rain.
  
16. A man enters an open window of a house at 3 a.m., walks down the hallway, opens a closed bedroom door, and enters and takes a watch worth \$12 and leaves, while Thelma Jones is sleeping in the room.





**NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON TRESPASS LAW AND  
DAMAGE TO PROPERTY**

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Which trespass or property damage offense would be the proper charge under these facts?

1. Elmo Suggins takes his shotgun and goes hunting for doves on the property of John James without his consent. The property is not posted.
  
2. Peter Ryder, a college student, has a one-year lease with Paul Jones to rent an apartment; there are no restrictions in the lease about visitors. Jones realizes that Ryder is inviting Sylvia Sweetheart over to Ryder's apartment each night. Jones tells Sweetheart that she cannot come to Ryder's apartment, but she ignores him.
  
3. John Alston lives in his house at 312 Main Street. His neighbor, Jim Billerman, and he get into an argument in Alston's living room. Alston tells him to leave and never come back. Billerman leaves, but he comes back an hour later into Alston's house and begins to argue with him again.
  
4. At 4:30 a.m., Howard Garfield climbs over the ten-foot high chain link fence surrounding Powe's Lumber Yard. As he begins to examine the lumber, a law enforcement officer drives by and arrests him.
  
5. Phil Garner enters the woods surrounding Sally Jeffrey's house where there are posted "NO TRESPASSING" signs every twenty feet. There is no direct evidence that Garner saw the signs.
  
6. Sam and Alice Simmons, who are married, are living separate and apart by written agreement. Alice tells Sam that she never wants him entering her property. One night Sam (after a few drinks) enters her property and knocks on her door, because he wants to tell her how happy he is that he is no longer living with her.
  
7. Howard Jones, owner of the Eastowne Shopping Mall, signs an agreement with the West Orange Police Department authorizing its officers to give trespass warnings to anyone who is on Mall property from 12 midnight to 6 a.m. without a reasonable basis for being there. Officer Jones tells three teenagers parked on Mall property at 3 a.m. to leave because they give no reason for being there. The teenagers refuse to leave.

8. A person hired by the owner of a tavern to keep order there tells an unruly person to leave the tavern. He refuses to leave.
  
9. Fred Smith is using his neighbor's mountain cabin for the weekend. Three deer hunters, carrying deer rifles, appear and tell Smith to get off the property because they want to use the cabin that night. Smith leaves because he is afraid he will get hurt.
  
10. Husband and wife orally agree to break up, with the wife staying in the house and the husband renting an apartment. A boyfriend moves into the house with the wife. One night the husband, angry about his wife having a boyfriend, enters the house and refuses to leave when asked by the boyfriend.
  
11. Sam Jones gets into an argument with his neighbor while both are on Jones's front lawn and tells the neighbor to leave. The neighbor refuses to leave.
  
12. A neighbor deliberately throws one brick through a window of his neighbor's house and another brick through a window of this neighbor's car, causing a total of \$100 damage.
  
13. Fred Smertz deliberately and maliciously spray paints his brother's car, causing \$750 damage.
  
14. Peter Jones puts a bomb in the car of his ex-wife, hoping that it will kill her when she turns the ignition switch. Instead it goes off prematurely before she enters the car, destroying the car but not injuring her.
  
15. Sylvia Kitchens plants a bomb in the local movie theater. It goes off during a movie, damaging the movie screen but not injuring any person.

**NORTH CAROLINA CRIMES: REVIEW QUESTIONS ON DRUG OFFENSES**

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Which drug offense(s) would be the proper charge(s) under these facts?  
(Note: 28.34 grams equals 1 ounce)

1. A person arrested for shoplifting has 87 phenobarbital (Schedule IV) tablets in his pocket and no valid prescription for them. He offers no explanation why he has them.
2. When law enforcement officers execute a search warrant at Smith's house, they find an ounce of heroin, a spoon, and a hypodermic needle on the dresser in his bedroom.
3. A college student writes a prescription for Miltown (meprobamate, Schedule IV) on a stolen prescription form, goes to the pharmacist, and obtains 20 tablets.
4. What a dealer sells to an undercover agent as cocaine turns out to be pieces of chalk.
5. A valid search discloses that a farmer has 90 pounds of marijuana stored in his barn.

6. When they enter a man's house to arrest him for receiving stolen goods, officers find approximately 10 ounces of marijuana, some of which is in eight small envelopes but most of which is in one large bag, plus about 30 empty envelopes and a small scale.
  
7. Officers execute a search warrant to search a house rented by Jack Sterling for cocaine. There is no cocaine there, but the officers find 450 Ritalin (methylphenidate, Schedule II) tablets. On the dresser are some credit cards in the name of Jack Sterling and on the kitchen table are some letters addressed to him at that address. Sterling's name is also on the mailbox.
  
8. Two college students are sitting on a bench on campus. One puffs on a marijuana cigarette and passes it to the other.
  
9. When a car is stopped for speeding, the officer smells marijuana and asks for permission to search. The driver-owner gives consent and the driver and three passengers (one in front, two in back) step out. The remains of a marijuana cigarette are found in the ash tray below the radio.
  
10. A person arrested for an assault in a bar has 30 grams of methamphetamine in his pocket.
  
11. A 21-year-old man sells five ounces of marijuana to an undercover agent about 150 feet from an elementary school.
  
12. A search of a boat tied to the dock discloses that 400 grams of cocaine are aboard. The boat owner is present at the time of the search.

**NC CRIMES REVIEW QUESTIONS COVERING CHAPTERS 19 THROUGH 22  
DISORDERLY CONDUCT, OBSTRUCTION OF JUSTICE,  
AND WEAPONS OFFENSES**

---

Which offense, if any, would be the proper charge under these facts?

1. A man walks up to someone standing on a public street, raises his fist, and tells him that he is a cowardly bastard who better get ready to defend himself.
2. Paul Jones gets drunk at a party, walks down Main Street loudly yelling “Go to hell” to each person he sees.
3. Howard Keller, who is drunk, stands still in front of Roses Store for an hour looking in the window at a toy train running around a circular track.
4. Officer Jones stops a car for speeding 45 m.p.h. in a 35 m.p.h. zone. While writing the citation, the driver says, “Officer, you are an S.O.B. for stopping me.”
5. Officer Smith writes Peter Gant a citation for concealing merchandise. Gant crumbles his pink copy of the citation in a ball and tosses it in the trash can.
6. A Duke University public safety officer is patrolling a parking lot on the campus because there have been several auto break-ins committed there in the past few weeks. He sees Sam Jones standing next to a car. Jones has a gun in a holster attached to his belt.
7. Susan Jones is arrested for impaired driving. When searching her pocketbook incident to her arrest, law enforcement officers find a pocketknife.

8. When Harold Jones is arrested for impaired driving, he is searched and found to have a blackjack in his back pants pocket.
  
9. Officer Jones is executing a search warrant to search Mildred Cashwell's home. Mrs. Cashwell refuses to let Officer Jones in her home, saying she wants to talk to her husband before she lets him in.
  
10. Officer Johnson arrests John Matheson for disorderly conduct. Matheson tells Johnson that Johnson is a pig, and takes Johnson's hat and tosses it in the nearby pond.
  
11. Steve Grogan is stopped for speeding. Next to him on the front seat is a .357 magnum revolver. Last week he was terminated from his parole for an armed robbery conviction.
  
12. Tina Stevenson shoplifts a purse. A clerk sees her leave the store and runs after her. Tina offers the clerk \$20 if the clerk will agree not to report the incident.

**Tab 6:**

# **Motor Vehicles**




**MOTOR VEHICLES (FEBRUARY, 2016)**

Impaired Driving Holds and Implied Consent Offense Notices .....Motor Vehicles-Page 1  
Think you know Chapter 20-Test Yourself .....Motor Vehicles-Page 11



# Impaired Driving Holds & Implied Consent Offense Notices

Shea Denning  
School of Government  
February 2016




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## Impaired Driving Holds

**§ 15A-534.2. Detention of impaired drivers.**  
 (a) A judicial official conducting an initial appearance for an offense involving impaired driving, as defined in G.S. 20-4.01(24a), must follow the procedure in G.S. 15A-511 except as modified by this section. This section may not be interpreted to impede a defendant's right to communicate with counsel and friends.  
 (b) If at the time of the initial appearance the judicial official finds by clear and convincing evidence that the impairment of the defendant's physical or mental faculties presents a danger, if he is released, of physical injury to himself or others or damage to property, the judicial official must order that the defendant be held in custody and inform the defendant that he will be held in custody until one of the requirements of subsection (c) is met; provided, however, that the judicial official must at this time determine the appropriate conditions of pretrial release in accordance with G.S. 15A-534.




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### Offenses involving impaired driving

- Impaired driving under G.S. 20-138.1
- Habitual impaired driving under G.S. 20-138.5
- Impaired driving in commercial vehicle under G.S. 20-138.2
- Any offense under G.S. 20-141.4 (felony and misdemeanor death by vehicle and serious injury by vehicle) based on impaired driving
- First- or second-degree murder under G.S. 14-17 based on impaired driving
- Involuntary manslaughter under G.S. 14-18 based on impaired driving
- Substantially similar offenses committed in another state or jurisdiction


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### AOC-CR-200: Conditions of Release

STATE OF NORTH CAROLINA

County: \_\_\_\_\_

STATE VERSUS \_\_\_\_\_

CONDITIONS OF RELEASE AND RELEASE ORDER

U.S. Chapter 15A, Art. 25, 26

Your release is subject to the conditions as shown on the attached  AOC-CR-270  Other: \_\_\_\_\_

UNC

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### Impaired Driving Holds

Offense involving impaired driving

**§ 15A-534.2. Detention of impaired drivers.**

(a) A judicial official conducting an initial appearance for an offense involving impaired driving, as defined in G.S. 20-4.01(24a), must follow the procedure in G.S. 15A-511 except as modified by this section. This section may not be interpreted to impede a defendant's right to communicate with counsel and friends.

(b) If at the time of the initial appearance the judicial official finds by clear and convincing evidence that the impairment of the defendant's physical or mental faculties presents a danger; if the defendant is released of physical injury to himself or others or damage to property, the judicial official must order that the defendant be held in custody and inform the defendant that he will be held in custody until one of the requirements of subsection (c) is met; provided, however, the judicial official must at this time determine the appropriate conditions of pretrial detention in accordance with G.S. 15A-534.

Clear and convincing evidence that the impairment presents a danger

UNC

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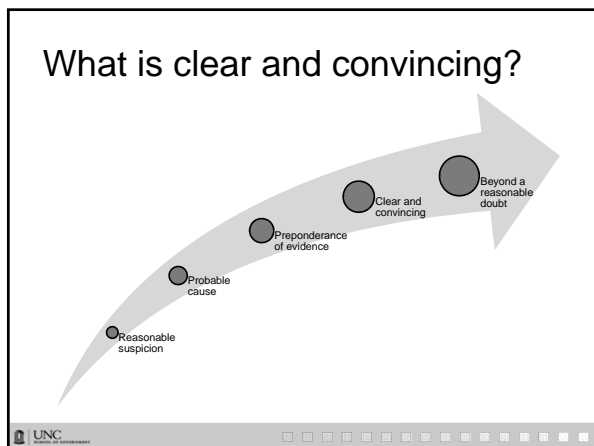
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When is a defendant impaired to extent he or she presents a danger?

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State v. Bumgarner,  
97 N.C. App. 567 (1990)

- Hold warranted based on
  - Trooper’s testimony
  - Magistrate’s personal observations
  - 0.14 alcohol concentration

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State v. Labinski,  
188 N.C. App. 120 (2008)

~~Because I think anyone charged with DWI who blows 0.08 or more on the breath test would possibly hurt himself or someone else, I’m imposing a hold.~~

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**G.S. 15A-534.2(c)**

(c) A defendant subject to detention under this section has the right to pretrial release under G.S. 15A-534 when the judicial official determines either that:

- (1) The defendant's physical and mental faculties are no longer impaired to the extent that he presents a danger of physical injury to himself or others or of damage to property if he is released; or
- (2) A sober, responsible adult is willing and able to assume responsibility for the defendant until his physical and mental faculties are no longer impaired. If the defendant is released from the custody of another, the judicial official may impose any other condition of pretrial release authorized by G.S. 15A-534, including a requirement that the defendant execute a secured appearance bond.

The defendant may be detained for a period no longer than 24 hours after the judicial official releases the defendant only upon meeting the conditions of pretrial release under this section for a period no longer than 24 hours. If the defendant is detained for more than 24 hours, a judicial official must determine the appropriate conditions of pretrial release in accordance with this section.

**No longer impaired to extent that he presents danger**

**No longer than 24 hours**

**Sober, responsible adult willing and able to assume responsibility for defendant until no longer impaired**

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**How does magistrate determine that defendant is no longer impaired to the extent that he/she presents a danger?**

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**G.S. 15A-534.2(d)**

(d) In making his determination whether a defendant detained under this section remains impaired, the judicial official may request that the defendant submit to periodic tests to determine his alcohol concentration. Instruments acceptable for making preliminary breath tests under G.S. 20-16.3 may be used for this purpose as well as instruments for making evidentiary chemical analyses. Unless there is evidence that the defendant is still impaired from a combination of alcohol and some other impairing substance or condition, a judicial official must determine that a defendant with an alcohol concentration less than 0.05 is no longer impaired. The results of any periodic test to determine alcohol concentration may not be introduced in evidence:

- (1) Against the defendant by the State in any criminal, civil, or administrative proceeding arising out of an offense involving impaired driving; or
- (2) For any purpose in any proceeding if the test was not performed by a method approved by the Commission for Public Health under G.S. 20-139.1 and by a person licensed to administer the test by the Department of Health and Human Services.

The fact that a defendant refused to comply with a judicial official's request that he submit to a chemical analysis may not be admitted into evidence in any criminal action, administrative proceeding, or a civil action to review a decision reached by an administrative agency in which the defendant is a party. (1983, c. 435, s. 4; 1997-443, s. 11A.118(a); 2007-182, s. 2.)

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### May request periodic breath tests



- Less than 0.05, no longer impaired
- Unless evidence that defendant still impaired from combination of alcohol and some other impairing substance or condition

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- Let's review how to impose an impaired driving hold in NCAWARE.

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Who is a sober, responsible adult willing and able to assume responsibility for the defendant?

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### State v. Haas, 131 N.C. App. 113 (1998)

- Magistrate had no duty to release defendant to custody of an adult who was a passenger in the car driven by defendant when officer informed magistrate that the adult was extremely intoxicated 80 minutes earlier




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### State v. Daniel, 208 N.C. App. 364 (2010)

- No statutory violation when magistrate refused at 11 p.m. to release defendant to adult who earlier in evening had odor of alcohol and who said he had beer with dinner
- Defendant met with friend for 8 minutes during crucial period of time after her arrest, so no prejudice




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### Implied Consent Offense Notice

**§ 20-38.4. Initial appearance.**  
 (a) Appearance Before a Magistrate. — Except as modified in this Article, a magistrate shall follow the procedures set forth in Article 24 of Chapter 15A of the General Statutes.

(1) A magistrate may hold an initial appearance at any place within the county and shall, to the extent practicable, be available at locations other than the courthouse when it will expedite the initial appearance.

(2) In determining whether there is probable cause to believe a person is

- (4) The magistrate shall also:
- Inform the person in writing of the established procedure to have others appear at the jail to observe his condition or to administer an additional chemical analysis if the person is unable to make bond; and
  - Require the person who is unable to make bond to list all persons he wishes to contact and telephone numbers on a form that sets forth the procedure for contacting the persons listed. A copy of this form shall be filed with the case file.

(b) The Administrative Office of the Courts shall adopt forms to implement this Article. (2006-253, s. 5.)




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# Procedures for Access

- § 20-38.5. Facilities.**  
 (a) The Chief District Court Judge, the Department of Health and Human Services, the district attorney, and the sheriff shall:
- (1) Establish a written procedure for attorneys and witnesses to have access to the chemical analysis room.
  - (2) Approve the location of written notice of implied-consent rights in the chemical analysis room in accordance with G.S. 20-16.2.
  - (3) Approve a procedure for access to a person arrested for an implied-consent offense by family and friends or a qualified person contacted by the arrested person to obtain blood or urine when the arrested person is held in custody and unable to obtain pretrial release from jail.
- (b) Signs shall be posted explaining to the public the procedure for obtaining access to the room where the chemical analysis of the breath is administered and to any person arrested for an implied-consent offense. The initial signs shall be provided by the Department of Transportation, without costs. The signs shall thereafter be maintained by the county for all county buildings and the county courthouse.
- (c) If the instrument for performing a chemical analysis of the breath is located in a State or municipal building, then the head of the highway patrol for the county, the chief of police for the city or that person's designee shall be substituted for the sheriff when determining signs and access to the chemical analysis room. The signs shall be maintained by the owner of the building. When a breath testing instrument is in a motor vehicle or at a temporary location, the Department of Health and Human Services shall alone perform the functions listed in subdivisions (a)(1) and (a)(2) of this section. (2006-253, s. 5.)



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# Procedures for Access

## Procedures for the Observation of Prisoners Charged with Implied Consent Offenses Pursuant to N.C.G.S. 20-38.5

1. Any person seeking to observe jailed or incarcerated impaired drivers shall first check in with the Staff Duty Officer or Detention staff on duty at the Guilford County Sheriff's Office. Observations are limited to the first twenty-four hours following the defendant's admission into the jail.
2. The Staff Duty or Detention Officer shall immediately notify the arresting officer and Booking officer that a witness is present to observe the defendant. The time of this notification shall be documented by Booking in the Booking log book and by the dispatcher on the attached witness observation form.
3. Booking shall inform the jail supervisor on-duty of the witness's presence in the facility. The supervisor shall send a detention officer to escort the witness to the jail or appropriate viewing area. The escorting officer shall obtain the form and complete the information concerning the name of the witness, the person to be observed, the time and date the witness was escorted to the jail and the time and date of the completion of the observation.
4. A witness seeking to observe the defendant shall be admitted to observe the defendant in an area designated by the Sheriff for observation of the defendant. Jail staff shall note the time the witness is admitted to the jail and the time the observation begins.
5. All witnesses shall be required to submit to a search of their person and belongings prior to entry into the jail. Witnesses must comply with all jail or facility regulations prior to being admitted into any secured area.
6. Guilford County Sheriff's Office staff shall not hold or retain any personal property items for the witness.



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# Implied Consent Offense Notice

**§ 20-38.4. Initial appearance.**  
(a) Appearance before a Magistrate. — Except as modified in this Article, a magistrate shall follow the procedures set forth in Article 24 of Chapter 15A of the General Statutes.

- (1) A magistrate may hold an initial appearance at any place within the county and shall, to the extent practicable, be available at locations other than the courthouse when it will expedite the initial appearance.
- (2) In determining whether there is probable cause to believe a person is impaired, the magistrate may review all alcohol screening tests, chemical analyses, receive testimony from any law enforcement officer concerning impairment and the circumstances of the arrest, and observe the person arrested.
- (3) If there is a finding of probable cause, the magistrate shall consider whether that the provisions of G.S. 15A-534.2

AOC shall adopt forms

- of the established procedure to have serve his condition or to administer an if the person is unable to make bond.
- b. Require the person who is unable to make bond to list all persons he wishes to contact and telephone numbers on a form that sets forth the procedure for contacting the persons listed. A copy of this form shall be filed with the case file.
- (b) The Administrative Office of the Courts shall adopt forms to implement this Article. (2006-253, s. 5.)



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# AOC-CR-271: Implied Consent Offense Notice

Defendant must list contacts and phone numbers

Magistrate: I informed defendant in writing of access procedures



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# Implied Consent Offense Notice

**§ 20-38.4. Initial appearance.**  
 (a) Appearance Before a Magistrate. - Except as modified in this Article, a magistrate shall follow the procedures set forth in Article 24 of Chapter 15A of the General Statutes.  
 (1) A magistrate may hold an initial appearance at any place within the county and shall, to the extent practicable, be available at locations other than the courthouse when it will expedite the initial appearance.  
 (2) In determining whether there is probable cause to believe a person is

(4) The magistrate shall also:  
 a. Inform the person in writing of the established procedure to have others appear at the jail to observe his condition or to administer an additional chemical analysis if the person is unable to make bond; and  
 b. Require the person who is unable to make bond to list all persons he wishes to contact and telephone numbers on a form that sets forth the procedure for contacting the persons listed. A copy of this form shall be filed with the case file.

(b) The Administrative Office of the Courts shall adopt forms to implement this Article. (2006-253, s. 5.)



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# Implied Consent Offense Notice



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• Implied consent offense notice form is available in NCAWARE.



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What's the big deal?



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**Think you know Chapter 20? Test yourself.**  
**August 2015 NC Magistrates' Basic School**  
**Shea Denning, School of Government**

1. Dana Driver was convicted of impaired driving in January 2013. Her license was restored in January 2014 with a 0.04 alcohol concentration restriction (Restriction 19). Dana is stopped at a checkpoint. After the officer examined Dana's driver's license, he noticed that Dana's eyes were red and detected a "moderate odor" of alcohol on her breath. The officer requested that Dana submit to a chemical analysis of her breath in the BATmobile stationed at the checkpoint. The resulting blood alcohol concentration was 0.04. The officer performed no field sobriety tests. Dana may properly be charged with:
  - A. Operating in violation of a license restriction (G.S. 20-7(e))
  - B. Driving while license revoked (G.S. 20-28)
  - C. Driving while impaired (G.S. 20-138.1)
  - D. Both A and B
  
2. Must the magistrate require Dana to surrender her driver's license?
  - A. Yes
  - B. No
  
3. Same facts as above except Dana also was subject to an ignition interlock restriction (Restriction 20). The car she was driving when she was stopped at the checkpoint belonged to a friend and was not equipped with ignition interlock. Dana may properly be charged with:
  - A. Reckless driving (G.S. 20-140)
  - B. Driving while license revoked (G.S. 20-28)
  - C. Driving while impaired (G.S. 20-138.1)
  - D. Dana has not committed a criminal offense. This is a matter to be dealt with solely through DMV's licensure process.
  
4. Should the magistrate order Dana to surrender her license?
  - A. Yes
  - B. No

5. Fred Farmer was granted a limited driving privilege after he was convicted of DWI in 2014. Fred was granted a limited driving privilege, which allowed him to drive during standard business hours, and which prohibited driving while consuming alcohol or driving at any time while he had remaining in his body any alcohol. Fred was charged with impaired driving and driving while license revoked on March 14, 2015. He willfully refused to submit to a breath test. Which of the following procedure potentially applies at the initial appearance?
- A. Civil license revocation under G.S. 20-16.5
  - B. Seizure of motor vehicle driven by the defendant under G.S. 20-28.3
  - C. License revocation under G.S. 20-179.3(j)
  - D. A and B
  - E. All of the above
6. Trooper Thomas has charged Dan Defendant with felony speeding to elude. At Dan's initial appearance, Thomas presents to you an affidavit for seizure and impoundment of the motor vehicle that Dan drove in the offense (form AOC-CR-323B). Which of the following actions should you take?
- A. Tell Thomas that you will file the form, but that you cannot fill out the "magistrate's order" section since you previously have been instructed that magistrates are not involved in the seizure of motor vehicles driven in the offense of felony speeding to elude.
  - B. Tell Thomas that you will not place a copy of this form in the file since you previously have been instructed that magistrates are not involved in the seizure of motor vehicles driven in the offense of felony speeding to elude.
  - C. Consider whether the requirements of G.S. 20-28.3 have been satisfied. Those requirements are: (1) a law enforcement officer had probable cause to believe that the person committed the offense of felony speeding to elude; (2) the person was charged with that offense; (3) the motor vehicle described on the affidavit was driven in the commission of the offense; (4) the motor vehicle has not been reported stolen; (5) the motor vehicle is not a rental vehicle, or, if it is, the driver is listed as an authorized driver on the contract.
7. Sam Speedy was convicted of impaired driving on December 15, 2014. His license was revoked upon conviction. Sam, who is 19, was charged on March 16, 2015 with driving while license revoked and driving by a person under 21 after consuming alcohol, in violation of G.S. 20-28 and G.S. 20-138.3. At his initial appearance the law enforcement officer presents an affidavit for seizure and impoundment of the car Sam was driving on March 16, 2015. Do you order seizure and impoundment of the vehicle?
- A. Yes
  - B. No

8. Doris Driver was impaired when she crashed her car into a telephone pole on the side of a highway. She managed to free herself from the car and to leave the scene. She was arrested a week later. In addition to DWI, which of the following offenses has Doris committed?

- A. Felony Serious Injury by Vehicle (G.S. 20-141.4(a3))
- B. Hit and Run (G.S. 20-166(a))
- C. Both A and B
- D. None of the above

9. Officer Able is called to the scene of a single-car accident on the shoulder of Interstate 40. Trooper Barnes arrives after Able. The two see Cynthia Carter's car upside down in a ditch next to an exit ramp, where it came to rest after rolling several times. Able asks Carter to submit to an alcosensor test. Carter provides one sample. It is positive. Carter says she is unable to blow again because of the intense pain in her neck from the accident. Carter explains: "My left front tire looked flat. I was going to stop to check the air pressure but I couldn't find a gas station. I was having an argument on the phone. The next thing I knew I ran off the road." Before handing the investigation over to Barnes, Able told him he smelled alcohol on Carter's breath and that the alcosensor result was positive. Barnes smelled no alcohol on Carter. Barnes arrested Carter for impaired driving. Carter failed to provide a sufficient breath sample for the Intoximeter, again saying that the pain in her neck prevented her from blowing any harder. Do you find probable cause that Carter was driving while impaired?

- A. Yes
- B. No

10. A sheriff's deputy testifies as follows: I noticed a car parked near the entrance of a pawn shop in the downtown area at 1 a.m. The pawn shop was closed, but the car was parked near the entrance, and the engine was running. I pulled into the parking lot and walked up to the car. I saw the defendant slumped over the steering wheel asleep. I knocked on the window and called out to him. He woke up and turned off the car engine. I motioned for him to roll down the window. When he did, I smelled a strong odor of alcohol coming from the defendant and saw that his eyes were red and glassy. I asked him to step out of the car. He fell down in the parking lot. I arrested the defendant for impaired driving. I took him downtown, and administered an Intox EC/IR II. He registered a 0.14. Do you find probable cause that the defendant committed the offense of impaired driving?

- A. Yes
- B. No

11. The North Carolina driver's license of the defendant in the previous example was revoked. The officer also charged him with driving while license revoked in violation of G.S. 20-28(a). Is there probable cause that the defendant committed the offense of driving while license revoked?
- A. Yes
  - B. No
12. Ashley Angel, who is 21 and a senior in college, leaves the library, where she has been diligently studying for mid-term exams for the previous six hours, to drive to a party a few miles from campus. On the way, she picks up her friend, Bethany Bedlam who also is 21. Bedlam has spent the last few hours gearing up for the party rather than studying. Bedlam gets into the cab of Angel's pick-up truck with a 40-ounce bottle of King Cobra malt liquor in her hand. At the next stoplight, Angel drives up next to a police vehicle. The officer sees Bedlam holding the bottle of malt liquor, which clearly is half-full, though the cap is screwed on top of the bottle. When the light turns green, the police officer pulls behind Angel's car and activates the blue lights and siren on her cruiser. Which of the following is a true statement?
- A. Angel has violated G.S. 20-138.7 by driving a motor vehicle on a highway while there is an open alcoholic beverage in the passenger area of the motor vehicle.
  - B. Bedlam has violated G.S. 20-138.7 by possessing an open alcoholic beverage in the passenger area of a motor vehicle.
  - C. Both A and B
  - D. None of the above
13. Brian Barker, whose driver's license is revoked, is stopped while driving a moped (engine size: 50 ccs – will not go faster than 30 mph) on a city street. There is a beer in the cupholder of the moped, and Barker admits to drinking. He does not appear to be impaired by alcohol. Which of the following charges is supported by these facts?
- A. Driving while license revoked
  - B. Transporting an open container of alcoholic beverage in violation of G.S. 20-138.7(a)
  - C. Both A and B
  - D. None of the above.



# Tab 7: Implied Consent Procedures

**IMPLIED CONSENT PROCEDURES (FEBRUARY, 2016)**

Impaired Driving: Test Yourself..... Implied Consent - Page 1  
Civil License Revocations & Motor Vehicle Seizures .....Implied Consent – Page 5





## Impaired Driving: Test Yourself



1. Donna Driver was charged with impaired driving on September 2, 2012, and her license was civilly revoked. Donna was convicted of impaired driving on March 1, 2013. Donna completed a substance abuse assessment and ADET school. She did not, however, pay the \$100 fee required to end the civil license revocation. Donna is again charged with impaired driving on February 22, 2015, based upon driving that occurred on that date. Donna was driving a car registered to Edwin Elms. The charging officer has presented to you an AOC-CR-323, an affidavit for seizure and impoundment of the vehicle Donna was driving when she was stopped on February 22, 2015. Do you order seizure and impoundment of the vehicle?
  - a. Yes
  - b. No
2. Sam Speedy was convicted of impaired driving on June 15, 2014. His license was revoked upon conviction. Sam, who is 19, was charged on February 22, 2015 with driving while license revoked and driving by a person under 21 after consuming alcohol, in violation of G.S. 20-28 and G.S. 20-138.3. At his initial appearance the law enforcement officer presents an affidavit for seizure and impoundment of the car Sam was driving on February 22, 2015. Do you order seizure and impoundment of the vehicle?
  - a. Yes
  - b. No

3. Which official may sign the "Release from Detention Order" section of AOC-CR-270, thereby releasing a person from an impaired driving hold?
  - a. Jailer
  - b. Magistrate
  - c. Probation officer
  - d. Defendant's attorney
  
4. To save time and paperwork, it is acceptable to impose a detention of an impaired driver on the Conditions of Release form, AOC-CR-200, instead of on the Detention of Impaired Driver form, AOC-CR-270.
  - a. Yes
  - b. No
  
5. A law enforcement officer may request that a person submit to chemical analysis of his or her blood after the person has already submitted to a chemical analysis of his or her breath.
  - a. True
  - b. False
  
6. Helen Heart is charged with impaired driving under G.S. 20-138.1 as well as driving by a person less than 21 years old after consuming under G.S. 20-138.3. Both charges arise from the same incident of driving. Helen submitted to a breath test that revealed an alcohol concentration of .08. Assuming that other statutory factors are met, should the magistrate order two civil license revocations?
  - a. **Yes**, the magistrate should issue two civil license revocations. Both of these offenses are implied consent offenses that, along with other statutory factors, require civil license revocation
  - b. **No**, only one civil license revocation should issue. When more than one offense requiring civil license revocation results from a single transaction, a magistrate should order only one civil license revocation.

7. A magistrate orders civil revocation of James Johnson's driver's license. James is licensed in California. Should the magistrate order James to surrender his California driver's license?
  - a. **Yes.** The magistrate should order James to surrender his California driver's license. Licenses issued by jurisdictions other than North Carolina are covered by the surrender provisions and must, like North Carolina driver's licenses, be surrendered to the magistrate.
  - b. **No.** A magistrate may only order surrender of a North Carolina driver's license



# Civil License Revocations & Motor Vehicle Seizures

Shea Denning  
School of Government  
February 2016




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## What is a CVR?



STATE OF NORTH CAROLINA  
County: \_\_\_\_\_ In The General Court of Justice  
District Court Division

Revoked for license: \_\_\_\_\_

**REVOCATION ORDER WHEN PERSON PRESENT** G.S. 20-16.5

**FACTORS FOR PROBABLE CAUSE**

- The undersigned judicial official has probable cause to believe that:
  - The driver/owner of the motor vehicle has been charged with that offense as provided in G.S. 20-16.2;
  - The driver/owner of the motor vehicle has been charged with that offense as provided in G.S. 20-16.2 and 20-129.1 in requiring the driver/owner's submission to or procuring a chemical analysis; and
  - The driver/owner of the motor vehicle:
    - is a newly licensed driver subject to chemical analysis;
    - had an alcohol concentration of 0.08 or more at any relevant time after the driving;
    - had an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle;
    - had any alcohol concentration at any relevant time after the driving, and at the time of the offense, was under 21 years of age;
- The driver/owner of the motor vehicle has one or more pending offenses in the following jurisdiction(s): \_\_\_\_\_ for which the person's driver's license had been or is revoked under G.S. 20-16.5.

**NOTICE**

It is ORDERED that the driver/owner's license to drive be revoked. The driver/owner is prohibited from operating a motor vehicle on the highways of North Carolina during the period of revocation. The revocation remains in effect for **at least thirty (30) days** from:

- the date the judicial official issues the order of revocation; or
- the date the judicial official issues the order of revocation if the driver/owner is not currently licensed to drive.

It is further ORDERED that the driver/owner be notified of the date the driver/owner's license is to be reinstated to drive to the Clerk or Commissioner that he/she is not currently licensed to drive and voluntarily, and if that condition is not met, has been arrested for the period of revocation and for pending offenses for which he/she drives. Revocation is pending for the period of \_\_\_\_\_ under G.S. 20-16.5.

The driver/owner's privilege to drive in North Carolina is revoked and will remain revoked until the person has actually surrendered his/her license for the period specified above and has paid a \$10 fee to the Clerk of Superior Court. Inform the driver/owner of this order by personal appearance and advise him/her of the date of the order.

**NOTE:** See statute for applicable findings and order, and for disclaimer of license.

**NOTICE**

If at the time of this Order you have any pending criminal charges, you must appear in court for the revocation, and your plea may have immediate consequences. I and my assistants will not be available if I am not here from 10:00

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## CVRs in Implied Consent Cases

CVRs “provide for swift and certain penalties for DWI, rather than the lengthy and uncertain outcomes of criminal courts”

(NHTSA 2011 Highway Safety Countermeasure Guide at 1-11)




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**Henry v. Edminston,**  
**315 NC 474 (1986)**  
Remedial  
highway safety  
measure – not  
punishment



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**State v. Oliver,**  
**343 NC 202 (1996)**  
“Any deterrent effect”  
“merely incidental to  
overriding purpose of  
protecting the public’s  
safety”



UNC

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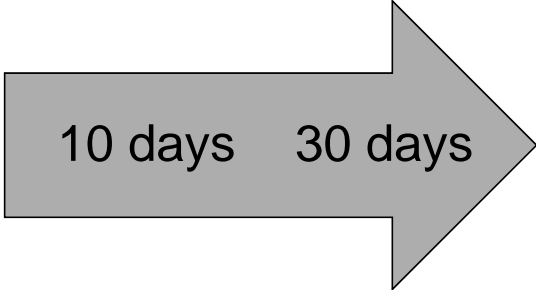
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Minimum CVR period



10 days 30 days

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**State v. Evans,  
145 NC App 324 (2001)**

- Purpose still is “remov[ing] from our highways drivers who either cannot or will not operate a motor vehicle safely and soberly”



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**State v. Reid,  
148 NC App 548 (2002)**

- 30 day civil revocation of commercial driver's license was exercise of reasonable regulatory authority
- Not criminal punishment that prevents subsequent prosecution on underlying DWI



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**State v. McKenzie,  
367 NC 112 (2013)**

- 1-year commercial driver's license disqualification based on CVR for DWI in noncommercial vehicle car is civil sanction rather than criminal punishment
- CDL disqualification does not bar subsequent criminal prosecution



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**G.S. 20-16.5 Civil License Revocation (CVR)**

- 1. LEO has reasonable grounds to believe person committed implied consent offense
- 2. Person is charged with that offense
- 3. LEO and CA comply with implied consent procedures re chemical analysis
- 4. Person
  - a. Willfully refuses
  - b. A/C of 0.08 or more
  - c. A/C of 0.04 or more if CMV
  - d. Any A/C if person <21



Horizontal lines for notes

**AOC-CVR-1A**

NOTE TO OFFICER: Read the instructions and follow the instructions on State Test of this form. ATTACH TEST RECORD TICKET HERE.

STATE OF NORTH CAROLINA

County: \_\_\_\_\_ In The General Court Of Justice  
 District Court Division

IN THE MATTER OF: \_\_\_\_\_

AFFIDAVIT AND REVOCATION REPORT OF  
 LAW ENFORCEMENT OFFICER  
 CHEMICAL ANALYST

I am a law enforcement officer as defined in G.S. 20-16.5(a) and I am a sworn officer of the State of North Carolina.

I am a chemical analyst as defined in G.S. 20-16.5(b) and I am a sworn officer of the State of North Carolina.

The undersigned being first duly sworn says:

I am a law enforcement officer. On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, North Carolina, I, a law enforcement officer, had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle (Commercial motor vehicle in the above named county upon \_\_\_\_\_) while committing an implied consent offense in that \_\_\_\_\_.

I am a chemical analyst. On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, North Carolina, I, a chemical analyst, had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle (Commercial motor vehicle in the above named county upon \_\_\_\_\_) while committing an implied consent offense in that \_\_\_\_\_.

The driver has a driver license revocation.  alcohol concentration.  ignition interlock.  conditional restoration show is.

The driver violated a driver license restriction by:  refusing to be transported for testing.  Not having an operative ignition interlock on the vehicle being driven.  Failing to personally activate the ignition interlock on the vehicle being driven.

The driver's alcohol concentration:  being in personal custody for the purpose of testing for a breath analysis in accordance with the methodology approved by the Department of Health and Human Services at \_\_\_\_\_.

Other Implied Consent Offense: \_\_\_\_\_ and the driver has one or more pending offenses in the following jurisdiction(s): \_\_\_\_\_.

After the driver was charged, I took the driver before \_\_\_\_\_ a chemical analyst who advised me that \_\_\_\_\_.

I informed the driver, orally and also gave notice in writing of the rights specified in G.S. 20-16.5(a) and I completed informing the driver of the rights as indicated on the attached State Form \_\_\_\_\_.

I began observing the driver for the purpose of complying with the observation period requirements for a breath analysis in accordance with the methodology approved by the Department of Health and Human Services at \_\_\_\_\_.

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, North Carolina, I requested the driver to submit to a chemical analysis of either breath or blood or urine. For breath or urine, I directed the taking of a breath or urine sample by a person qualified under G.S. 20-159.

The driver was uncooperative in observing me and therefore the notification of rights and request to submit to a chemical analysis were not made. I directed the taking of a blood sample by a person qualified under G.S. 20-159.

The driver submitted to a chemical analysis of either breath, urine or blood and I administered the chemical analysis to the driver in accordance with \_\_\_\_\_.

Horizontal lines for notes

**G.S. 20-16.5 Civil License Revocation (CVR)**

- 1. LEO has reasonable grounds to believe person committed implied consent offense
- 2. Person is charged with offense
- 3. LEO and CA comply with implied consent procedures re chemical analysis
- 4. Person
  - a. Willfully refuses
  - b. A/C of 0.08 or more
  - c. A/C of 0.04 or more if CMV
  - d. Any A/C if person <21



Horizontal lines for notes

**G.S. 20-16.5**

1. LEO has reasonable grounds to believe person committed implied consent offense.

The undersigned being first duly sworn says:

1. I am a law enforcement officer. On the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ (a /p /m), a law enforcement officer had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle ( commercial motor vehicle) in the above named county upon \_\_\_\_\_ (State Street, Highway, Or Public Vehicular Area) while committing an implied-consent offense in that \_\_\_\_\_ (List Sufficient Facts To Establish Probable Cause)

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**G.S. 20-16.5**

2. Person is charged with that offense

4. A law enforcement officer charged the driver with the implied-consent offense of:  G.S. 20-138.1;  Other Implied-Consent Offense: \_\_\_\_\_;  and the driver has one or more pending offenses in the following county(ies) \_\_\_\_\_ for which the drivers license had been or is revoked under G.S. 20-16.5.

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**G.S. 20-16.5**

3. The law enforcement officer and chemical analyst comply with G.S. 20-16.2 and G.S. 20-139.1 in requiring person's submission to or procuring a chemical analysis.

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## Compliance with procedures

- 5. After the driver was charged, I took the driver before \_\_\_\_\_ a chemical analyst authorized to administer a test of the driver's breath.
- 6. I am a chemical analyst and possess a current permit issued by the Department of Health and Human Services authorizing me to conduct chemical analyses of the breath utilizing the Intox ECIR II.
- 7. I informed the driver, orally and also gave notice in writing of the rights specified in G.S. 20-16.2(a). I completed informing the driver of the rights as indicated on the attached DHHS 4081.
- 8. I began observing the driver for the purpose of complying with the observation period requirements for a breath analysis in accordance with the methods/rules approved by the Department of Health and Human Services at \_\_\_\_\_ (a) [p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ (a) [p.m. I requested the driver to submit to a chemical analysis of his/her breath or blood or urine. For blood or urine, I directed the taking of a blood or urine sample by a person qualified under G.S. 20-139.1.
- 9. The driver was unconscious or otherwise incapable of refusal and therefore the notification of rights and request to submit to a chemical analysis were not made. I directed the taking of a blood sample by a person qualified under G.S. 20-139.1.
- 10. The driver submitted to a chemical analysis of his/her breath. I administered the chemical analysis to the driver in accordance with the methods/rules approved by the Department of Health and Human Services using an Intox ECIR II, and I printed the results of the driver's chemical analysis on the attached test record, DHHS 4082, which is made part of this Affidavit. The most recent preventive maintenance was performed on this Intox ECIR II on the \_\_\_\_\_ day of \_\_\_\_\_ as shown on the preventive maintenance record. I provided the driver with a copy of the attached test record before any trial or proceeding in which the results of the chemical analysis may be used.



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North Carolina Department of Health and Human Services  
**Rights of Person Requested to Submit to a Chemical Analysis to Determine Alcohol Concentration or Presence of an Impairing Substance Under N.C.G.S. 20-16.2(a)**

\_\_\_\_\_  
*Last First MI*

\_\_\_\_\_  
*Driver License Number / State Date of Birth Citation Number*

- Breath  Blood  Subsequent Test
1. You have been charged with an implied-consent offense. Under the implied-consent law, you can refuse any test, but your drivers license will be revoked for one year and could be revoked for a longer period of time under certain circumstances, and an officer can compel you to be tested under other laws.
  2. The test results, or the fact of your refusal, will be admissible in evidence at trial.
  3. Your driving privilege will be revoked immediately for at least 30 days if you refuse any test or the test result is 0.08 or more, 0.04 or more if you were driving a commercial vehicle, or 0.01 or more if you are under the age of 21.
  4. After you are released, you may seek your own test in addition to this test.
  5. You may call an attorney for advice and select a witness to view the testing procedures remaining after the witness arrives, but the testing may not be delayed for these purposes longer than 30 minutes from the time you are notified of these rights. You must take the test at the end of 30 minutes even if you have not contacted an attorney or your witness has not arrived.

Date \_\_\_\_\_ Time \_\_\_\_\_ [ ] a.m. [ ] p.m. \_\_\_\_\_  
 Signature of Person Charged

Did defendant call an attorney and/or witness? [ ] NO [ ] YES Time \_\_\_\_\_ [ ] a.m. [ ] p.m.

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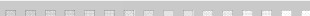
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## G.S. 20-139.1

- (b): Chemical analysis of breath admissible if done pursuant to DHHS rules by person with permit
- (b2): preventative maintenance
- (b3): at least duplicate sequential breath samples
  - results may not differ by more than 0.02
  - refusal to give second sample makes first result admissible
- (b5): may be asked for blood or urine too



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# Intoximeter: Intox EC/IR II

## 10A NCAC 41B .0322 INTOXIMETERS: MODEL INTOX EC/IR II

The operational procedures to be followed in using the Intoximeters, Model Intox EC/IR II are:

- (1) Insure instrument displays time and date;
- (2) Insure observation period requirements have been met;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample; and
- (8) Print test record.

If the alcohol concentrations differ by more than 0.02, a third or fourth breath sample shall be collected when "PLEASE BLOW" appears. Subsequent tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

History Note: G.S. 20-139.1(b);  
Eff. November 1, 2007.



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# Exception: G.S. 20-16.5(n)

- Currently revoked DL
- No LDP
- Not eligible for restoration during period of CVR
- Then not required to issue CVR
- If exception applies, and no CVR issued, must file copy of documentary evidence and set out in writing other evidence



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# AOC-CVR-02: Revocation Order

STATE OF NORTH CAROLINA  
County \_\_\_\_\_ In The General Court Of Justice  
District Court Division

IN THE MATTER OF \_\_\_\_\_  
Name And Address \_\_\_\_\_

**REVOCATION ORDER**  
**WHEN PERSON PRESENT**  
G.S. 20-16.5

**FINDINGS FOR PROBABLE CAUSE**  
G.S. 20-16.5

The undersigned judicial official finds probable cause to believe that:

1. a law enforcement officer has reasonable grounds to believe that the above named person committed an offense subject to the implied consent provisions of G.S. 20-16.2;
2. the above named person has been charged with that offense as provided in G.S. 20-16.2(a);
3. both the law enforcement officer and the chemical analyst(s) complied with the provisions of G.S. 20-16.2 and 20-139.1(n) regarding the above named person's submission to or procuring a chemical analysis; and
4. The above named person:
  - (1) a. refused to submit to a chemical analysis;
  - b. had an alcohol concentration of 0.08 or more at any relevant time after the driving;
  - c. had an alcohol concentration of 0.08 or more at any relevant time after the driving of a commercial motor vehicle;
  - d. had any alcohol concentration at any relevant time after the driving, and at the time of the offense, was under 21 years of age;
5. The above named person has one or more pending offenses in the following jurisdiction(s) \_\_\_\_\_ for which the person's drivers license had been or is revoked under G.S. 20-16.5.

**CAUTION**

It is ORDERED that the above named person's drivers license or privilege to drive be revoked. The above named person is prohibited from operating a motor vehicle on the highways of North Carolina during the period of revocation. The revocation remains in effect at least thirty (30) days from:

1. the date;
2. the date the above named person surrenders his/her drivers license to the Court, or demonstrates that he/she is not currently licensed to drive;
3. the date the above named person surrenders his/her drivers license to the Court, or demonstrates that he/she is not currently licensed to drive and voluntarily until a final judgment including appeals, has been entered for the current offense and/or all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5.

The above named person's privilege to drive in North Carolina is revoked and will remain revoked until the person has actually surrendered his/her license for the period specified above and has paid a \$100 fee to the Clerk of Superior Court.

I ordered the above named person of his/her rights to a hearing and gave her/him a copy of this Order.

Date \_\_\_\_\_ Signature Of Judicial Officer \_\_\_\_\_  
(Name Of Judicial Officer) (Last Or First)

NOTE: See manual for supplemental findings and order, and for disposition of:  
 Appeal  Hearing  Payment  
 Default  Summary  Summary  Clerk Of Superior Court



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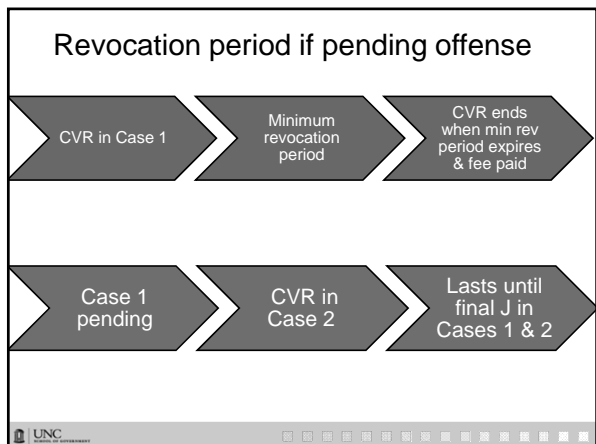
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- Let's take a look at NCAWARE
- UNC

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### What about violation of an ignition interlock restriction?

- DWLR (G.S. 20-17.8(f))
- Revocation under G.S. 20-17.8(f)
  - Lasts until case is resolved
  - AOC-CR-341
- If alcohol consumed, then DWLR for ignition interlock violation *is* implied consent offense
- So CVR also may issue




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### Ignition Interlock and LDP violations

STATE OF NORTH CAROLINA

County: \_\_\_\_\_ In The General Court Of Justice  
District Court Division

STATE VERSUS

Name of Defendant: \_\_\_\_\_

Driver's License No. \_\_\_\_\_ Date \_\_\_\_\_

**ORDER TO SURRENDER LICENSE OR LIMITED DRIVING PRIVILEGE**

G.S. 20-16.1, 20-17.8, 20-21.1, 20-17.3

**FINDINGS FOR PROBABLE CAUSE**

The undersigned judicial official finds probable cause to believe that:

1. A charging officer had reasonable grounds to believe that the above named person committed the offense of driving while license revoked in that the above named person:
  - a. is subject to the restrictions of G.S. 20-17.8 and violated one or more of those restrictions.
  - b. holds a limited driving privilege pursuant to G.S. 20-16.1, 20-20.1, or 20-17.3 and violated one or more of the restrictions included in the limited driving privilege order.
2. The above named person has been charged with driving while license revoked.

**ORDER**

It is ORDERED that the above named person's drivers license or limited driving privilege be suspended, and the above named person is prohibited from operating a motor vehicle on the highways of North Carolina until the case is resolved and the person is authorized to drive by the Division of Motor Vehicles.

It is further ORDERED that the above named person immediately surrender the person's drivers license or limited driving privilege to the court.

I informed the above named person that the person is not entitled to drive until the case is resolved.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**NOTICE**

Your drivers license or limited driving privilege is suspended. Your license or limited driving privilege will remain suspended until the case is resolved.

**It is unlawful for you to drive a motor vehicle in the state of North Carolina until you are authorized to do so.**

**ACKNOWLEDGMENT**

I understand that my drivers license or limited driving privilege is suspended as of the date of this receipt and I also understand that the State of North Carolina will not allow me to receive a restricted license until after I have received my restricted license from the Division of Motor Vehicles.




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### Driving While License Civilly Revoked

- DWLR 20-28
- If minimum revocation period has expired, then **punished** as if convicted of NOL, but offense is still DWLR




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G.S. 20-13.3:  
CVR for 16- and 17-year-olds



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What about Daniel?

- Daniel is 17. He has a full provisional license.
- He is charged with speeding 82 in a 65 mph zone on January 5, 2012.
- Must Daniel be arrested for this offense?
- Is Daniel's license subject to revocation?



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What about Lilly?



- Lilly is 16. She has a limited provisional license.
- She is charged with driving after consuming by a person under 21
- The results of her breath test are 0.02
- Is Lilly's license subject to civil revocation?
- Under what provision?

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### Daniel is back . . .

- Daniel is stopped 14 days after the provisional licensee CVR is issued
- He is charged with DWI and DWLR
- He refuses to provide a breath sample
- Is Daniel's license subject to civil revocation?
- Under what provision?



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### What about Christopher?

- Christopher is 17. He has a full provisional license.
- He is charged with DWI and driving after consuming while under 21.
- He submits to a breath test.
- The result is 0.00.
- He submits to a request for a blood draw.
- Is Christopher subject to a civil license revocation?
- Under what provision?



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### Motor Vehicle Seizure & Impoundment: G.S. 20-28.3



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### Vehicle Seizure & Impoundment: G.S. 20-28.3

- A motor vehicle driven by a person charged with a *an offense involving impaired driving* is subject to seizure if
  - At the time of the violation, the person's license was revoked as a result of a prior impaired driving license revocation, or
  - At the time of the violation, the person was driving without a valid drivers license and was not covered by an automobile insurance policy



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### Offenses involving impaired driving

**III. OFFENSES INVOLVING IMPAIRED DRIVING**

G.S. 20-4-01(24a) defines "offense involving impaired driving" to include the following:

- impaired driving under G.S. 20-138.1;
- any offense set forth under G.S. 20-141.4 based on impaired driving;
- first or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when the charge is based on impaired driving;
- impaired driving in a commercial vehicle under G.S. 20-138.2;
- habitual impaired driving under G.S. 20-138.5.



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### Prior impaired driving license revocation

**IV. IMPAIRED DRIVING LICENSE REVOCATIONS - G.S. 20-28.2(a)**

Under G.S. 20-28.2(a), the revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to any of the following statutes:

- G.S. 20-13.2 - Driving After Consuming Alcohol/Drugs While Less Than 21
- G.S. 20-16(a)(8b) - Military Driving While Impaired
- G.S. 20-16.2 - Refused Chemical Test
- G.S. 20-16.5 - Civil Revocation
- G.S. 20-17(a)(2) - Driving While Impaired
  - Driving While Impaired In Commercial Motor Vehicle
- G.S. 20-138.5 - Habitual Driving While Impaired
- G.S. 20-17(a)(12) - Transporting Open Container - 2nd Or Subsequent
- G.S. 20-16(a)(7) - Out-Of-State Offense Similar To Driving While Impaired Resulting In NC Revocation
- G.S. 20-17(a)(1) - Manslaughter Involving Driving While Impaired
- G.S. 20-17(a)(3) - Any Felony In The Commission Of Which A Motor Vehicle Is Used, If The Offense Involves Impaired Driving
- G.S. 20-17(a)(9) - Any Offense Set Forth Under G.S. 20-141.4 Based On Impaired Driving
- G.S. 20-17(a)(11) - Conviction Of Assault With A Motor Vehicle If Offense Involves Impaired Driving
- G.S. 20-28.2(a)(3) - Laws of another state when the offense for which the person's drivers license is revoked prohibits substantially similar conduct that if committed in this state would result in a revocation based on one of the offenses listed above.



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### Vehicle Seizure & Impoundment: G.S. 20-28.3

- A motor vehicle driven by a person charged with a *an offense involving impaired driving* is subject to seizure if
  - At the time of the violation, the person's license was revoked as a result of a prior impaired driving license revocation, or
  - At the time of the violation, the person was driving without a valid drivers license and was not covered by an automobile insurance policy



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### Driving While Not Covered by an Automobile Liability Policy



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### Exceptions to Seizure

1. Vehicle reported stolen
2. Rental vehicle and driver not listed in contract



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**Affidavit for Seizure and Impoundment**  
AOC-CR-323

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**2009-2010**  
More than 4,000 cars seized

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**Expedited Sales**  
\$1500 or less, may be sold after 90 days  
When towing & storage costs > 85% FMV

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**Net proceeds to county schools**  
~\$340,000 in 2010-2011

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**Purpose?**

“[K]eeping impaired drivers and their cars off the roads”

*State v. Chisholm*, 135 N.C. App. 578, 584 (1999)

Vehicle impoundment for DWI offenders  
“reduces recidivism while the vehicle is in custody and to a lesser extent after the vehicle has been released.”

NHTSA, 2011 Highway Safety Countermeasure Guide at 1-34.

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**Release to innocent owner**

- Did not know/no reason to know
  - Defendant's DL was revoked
  - Defendant did not have DL and Insurance
- Defendant drove without permission
  - Owner filed police report for unauthorized use and agrees to prosecute
- Vehicle reported stolen
- Rents vehicles
  - Defendant not authorized driver
- Leases vehicles, no knowledge of defendant's revocation



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**Release to Lienholder**

- Default
- Lienholder entitled to possession
- Agrees to sell
- Not to defendant or owner
- No previous release of this MV to this lienholder if seizure involved same defendant or owner



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**DWI Seizure and Impoundment**

- No waiver of towing and storage fees!
- G.S. 20-28.3(c): if requirements for seizure not met, the magistrate must order motor vehicle released to owner “upon payment of towing and storage fees”
- G.S. 20-28.3(e1): release to lienholder “conditioned upon payment of all towing and storage costs”
- G.S. 20-28.3(e1): release to innocent owner “conditioned upon payment of all towing and storage charges”

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# Tab 8: Forms

## FORMS TABLE OF CONTENTS (FEBRUARY, 2016)

Arrest Warrant (AOC-CR-100) and Copy.....	Forms – Page 1
Misdemeanor Criminal Summons (AOC-CR-113) and Copy.....	Forms – Page 5
Magistrate’s Order (AOC-CR-116) and Copy .....	Forms – Page 9
Search Warrant (AOC-CR-119) and Copy.....	Forms – Page 13
Conditions of Release and Release Order Form (AOC-CR-200) and Copy.....	Forms – Page 17
Appearance Bond for Pretrial Release (AOC-CR-201).....	Forms – Page 21
Additional Accommodation Bondsmen (AOC-CR-201A).....	Forms – Page 23
Surrender by Surety (AOC-CR-214).....	Forms – Page 25
Order for Arrest (AOC-CR-217) and Copy.....	Forms – Page 27
Order of Assignment or Denial of Counsel (AOC-CR-224) .....	Forms – Page 31
Affidavit of Indigency (AOC-CR-226).....	Forms – Page 33
Transmittal of Out-of-County Process (AOC-CR-236) .....	Forms – Page 35
Out-Of-County Process Verification Recall and Transmission (AOC-CR-241) .....	Forms – Page 37
Conditions of Release Abstinence from Alcohol and Continuous Alcohol Monitoring.....	Forms – Page 39
Detention of Impaired Driver (AOC-CR-270) .....	Forms – Page 41
Detention for Communicable Disease Testing (AOC-CR-270 side 2).....	Forms – Page 42
Implied Consent Offense Notice (AOC-CR-271) .....	Forms – Page 43
Detention of Probationer Arrested for Felony (AOC-CR-272).....	Forms – Page 45
Detention of Defendant Arrested for Probation Violation With Pending Felony or Prior Sex Offense (AOC-CR-272 side 2).....	Forms – Page 46
Citation (AOC-CR-500).....	Forms – Page 47
Conditions of Release for Person Charged With a Crime of Domestic Violence (AOC-CR-630).....	Forms – Page 55
Conditions of Release for Persons Charged With Sex Offense Or Crime of Violence Against Child Victim (AOC-CR-631) and copy .....	Forms – Page 56
Affidavit and Revocation Report of Law Enforcement Officer or Chemical Analyst (AOC-CVR-1A/DHHS 3907).....	Forms – Page 57
Revocation Order When Person Present (AOC-CVR-2).....	Forms – Page 59
Affidavit – No License (AOC-CVR-8) .....	Forms – Page 61

**All Forms Used by the AOC can be found at**

**<http://www.nccourts.org/Forms/FormSearch.asp>**



Law Enforcement Case No.	LID No.	SID No.	FBI No.
<b>STATE OF NORTH CAROLINA</b>			
County _____ In The General Court Of Justice District Court Division			

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

File No.		<b>WARRANT FOR ARREST</b>	
Offense		In The General Court Of Justice District Court Division	
<b>THE STATE OF NORTH CAROLINA VS.</b>			
Name And Address Of Defendant			
Race	Sex	Date Of Birth	Age
Social Security No./Tax ID No.		Drivers License No. & State	
Name Of Defendant's Employer			
Offense Code(s)		Offense In Violation Of G.S.	
Date Of Offense			
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)			
Complainant (Name, Address Or Department)			
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)			
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan		Date Issued	
<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		Signature _____ Location Of Court _____ Court Date _____ Court Time _____ AM <input type="checkbox"/> PM <input type="checkbox"/>	

This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

(Over)

If this Warrant For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by the department in attempting to execute the Warrant and any information obtained about the whereabouts of the defendant.

**RETURN OF SERVICE**

I certify that this Warrant was received and served as follows:

Date Received	Time Served	<input type="checkbox"/> AM	Date Returned
		<input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:  
\_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print) \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**REDELIVERY/REISSUANCE**

Date \_\_\_\_\_ Signature \_\_\_\_\_  Dep. CSC  Assist. CSC  CSC

**RETURN FOLLOWING REDELIVERY/REISSUANCE**

I certify that this Warrant was received and served as follows:

Date Received	Time Served	<input type="checkbox"/> AM	Date Returned
		<input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:  
\_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print) \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**APPEAL ENTRIES**

The defendant, in open court, gives notice of appeal to the Superior Court.

The current pretrial release order is modified as follows:  
\_\_\_\_\_

Date \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**WAIVER OF PROBABLE CAUSE HEARING**

The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.

Date Waived \_\_\_\_\_ Signature Of Defendant \_\_\_\_\_

Signature Of Attorney \_\_\_\_\_

AOC-CR-100, Side Two, Rev. 2/15  
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**District Attorney**  Waived  Not Indigent **Attorney For Defendant**  Appointed  Retained

**PLEA:**  guilty  no contest  guilty  no contest  guilty  no contest  not guilty

**VERDICT:**  guilty  not guilty

M.C.L.  A1  1  2  3  
M.C.L.  A1  1  2  3  
M.C.L.  A1  1  2  3

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict, it is **ORDERED** that the defendant:  pay costs and a fine of \$ \_\_\_\_\_ days in the custody of the  sheriff.  MCP.  DAC.\* Pretrial credit \_\_\_\_\_ days served.  be imprisoned for a term of \_\_\_\_\_ days in the custody of the  sheriff.  MCP.  DAC.\* Pretrial credit \_\_\_\_\_ days served.  Work release  is recommended.  is not recommended.  is ordered. (Use form AOC-CR-602)]  The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d) is necessary.  Execution of the sentence is suspended and the defendant is placed on unsupervised probation\* for \_\_\_\_\_ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and family obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine \_\_\_\_\_ Restitution\*\* \_\_\_\_\_ Attorney's Fee \_\_\_\_\_ Community Service Fee \_\_\_\_\_ Other \_\_\_\_\_

\*\*Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: (Note To Clerk: Record SSN or Tax ID No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance).")

- 6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-708 within \_\_\_\_\_ days.
- 7. not be found in or on the premises of the complainant or \_\_\_\_\_.
- 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_.
- 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319)
- 10. Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  case be consolidated for judgment with \_\_\_\_\_.

sentence is to run at the expiration of the sentence in \_\_\_\_\_.

**COMMITMENT:** It is **ORDERED** that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

**PROBABLE CAUSE:**  Probable cause is found as to all Counts except \_\_\_\_\_, and the defendant is bound over to Superior Court for action by the grand jury.  No probable cause is found as to Count(s) \_\_\_\_\_ of this Warrant, and the Count(s) is dismissed.

Date \_\_\_\_\_ Name Of District Court Judge (Type Or Print) \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**CERTIFICATION**

I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_

Deputy CSC  Assist. CSC  CSC

\*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.

File No.	LID No.	SID No.	FBI No.
<b>WARRANT FOR ARREST</b>			
Offense			
<b>STATE OF NORTH CAROLINA</b>			
County _____ In The General Court Of Justice District Court Division			

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

<b>THE STATE OF NORTH CAROLINA VS.</b>	
Name And Address Of Defendant	
Race	Age
Sex	Date Of Birth
Social Security No./Tax ID No.	Drivers License No. & State
Name Of Defendant's Employer	
Offense Code(s)	Offense In Violation Of G.S.
Date Of Offense	
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)	
Complainant (Name, Address Or Department)	

This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)	
Signature	Location Of Court
<input type="checkbox"/> Magistrate <input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court
Date Issued	Court Date
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan	Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

(Over)

If this Warrant For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by the department in attempting to execute the Warrant and any information obtained about the whereabouts of the defendant.

**RETURN OF SERVICE**  
 I certify that this Warrant was received and served as follows:  
 Date Received \_\_\_\_\_ Time Served  AM  PM Date Returned \_\_\_\_\_  
 By arresting the defendant and bringing the defendant before:  
 Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:  
 Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print) \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**REDELIVERY/REISSUANCE**  
 Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Assist. CSC  
 CSC

**RETURN FOLLOWING REDELIVERY/REISSUANCE**  
 I certify that this Warrant was received and served as follows:  
 Date Received \_\_\_\_\_ Time Served  AM  PM Date Returned \_\_\_\_\_  
 By arresting the defendant and bringing the defendant before:  
 Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:  
 Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print) \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**APPEAL ENTRIES**  
 The defendant, in open court, gives notice of appeal to the Superior Court.  
 The current pretrial release order is modified as follows:  
 Date \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**WAIVER OF PROBABLE CAUSE HEARING**  
 The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.  
 Date Waived \_\_\_\_\_ Signature Of Defendant \_\_\_\_\_  
 Signature Of Attorney \_\_\_\_\_

**District Attorney**  
 Waived  
 Not Indigent

**Attorney For Defendant**  
 Appointed  
 Retained

**PLEA:**  guilty  no contest  
 guilty  no contest  
 guilty  no contest  
 not guilty

**VERDICT:**  guilty  not guilty  
 guilty  not guilty  
 guilty  not guilty

**Restitution\*\*** \$ \_\_\_\_\_  
**Attorney's Fee** \$ \_\_\_\_\_  
**Community Service Fee** \$ \_\_\_\_\_  
**Other** \$ \_\_\_\_\_

\*\*Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: (Note To Clerk: Record SSN or Tax ID No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance).")

6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-708 within \_\_\_\_\_ days.  
 7. not be found in or on the premises of the complainant or \_\_\_\_\_  
 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_  
 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319)  
 10. Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_.

**COMMITMENT:** It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.  
**PROBABLE CAUSE:**  Probable cause is found as to all Counts except \_\_\_\_\_, and the defendant is bound over to Superior Court for action by the grand jury.  No probable cause is found as to Count(s) \_\_\_\_\_ of this Warrant, and the Count(s) is dismissed.

Date \_\_\_\_\_ Name Of District Court Judge (Type Or Print) \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**CERTIFICATION**  
 I certify that this Judgment is a true and complete copy of the original which is on file in this case.  
 Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_  
 Deputy CSC  
 Assist. CSC  
 CSC

\*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.



Law Enforcement Case No.	LID No.	SID No.	FBI No.
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**STATE OF NORTH CAROLINA**  
 In The General Court Of Justice  
 District Court Division  
 \_\_\_\_\_ County

**MISDEMEANOR CRIMINAL SUMMONS**  
 Offense

**To the defendant:**  
 I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above you unlawfully and willfully did

**THE STATE OF NORTH CAROLINA VS.**  
 Name And Address Of Defendant

Race	Sex	Date Of Birth	Age
------	-----	---------------	-----

Social Security No.	Drivers License No. & State
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Name Of Defendant's Employer

Offense Code(s)      Offense In Violation Of G.S.

Date Of Offense

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

Complainant (Name, Address Or Department)

Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)

This act was in violation of the law referred to in this Criminal Summons. This Summons is issued upon information furnished under oath by the complainant listed. You are ORDERED to appear before the Court at the location, date and time indicated below to answer to the charge. If you fail to appear, an order for your arrest may be issued and you may be held in CONTEMPT OF COURT. Arrest and/or contempt for failure to appear is in addition to any sentence which may be imposed for the crime charged.

The undersigned finds the following cause to set a court date more than one month from the issue of this summons: \_\_\_\_\_

Signature	Location Of Court	Court Date
<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan	Date Issued
---	-------------

If this Criminal Summons is not served within ninety (90) days or by the date the defendant is directed to appear, whichever is earlier, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon.

**RETURN OF SERVICE**  
I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By personally serving this Criminal Summons on the defendant.

This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print)

Department Or Agency Of Officer \_\_\_\_\_

**REDELIVERY/REISSUANCE**  
Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Assist. CSC  
 CSC

The above clerk finds the following cause to set a court date more than one month from reissue:

**RETURN FOLLOWING REDELIVERY/REISSUANCE**  
I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By personally serving this Criminal Summons on the defendant.

This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print)

Department Or Agency Of Officer \_\_\_\_\_

**APPEAL ENTRIES**  
 The defendant, in open court, gives notice of appeal to the Superior Court.  
 The current pretrial release order is modified as follows:

District Attorney \_\_\_\_\_ Attorney For Defendant \_\_\_\_\_  
 Waived  Not Indigent  Denied

**PLEA:**  guilty  no contest **VERDICT:**  guilty \_\_\_\_\_  
 guilty  no contest  guilty \_\_\_\_\_  
 guilty  no contest  guilty \_\_\_\_\_  
 not guilty  not guilty \_\_\_\_\_

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is **ORDERED** that the defendant:  pay costs and a fine of \$ \_\_\_\_\_,  be imprisoned for a term of \_\_\_\_\_ days in the custody of the \_\_\_\_\_ sheriff.  MCP.  DAC.\* Pretrial credit \_\_\_\_\_ days served.  
 Work release  is recommended.  is not recommended.  is ordered. (use form AOC-CR-602)  
 The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.  
 Execution of the sentence is suspended and the defendant is placed on unsupervised probation\* for \_\_\_\_\_ months, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk the costs of court and any additional sums shown below.

Fine \$ \_\_\_\_\_ Restitution\*\* \$ \_\_\_\_\_ Attorney's Fee \$ \_\_\_\_\_ Community Service Fee \$ \_\_\_\_\_ Other \$ \_\_\_\_\_

\*\*Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: **NOTE TO CLERK: Record SSN or Tax ID. No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance)."**

6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within \_\_\_\_\_ days.  
 7. not be found in or on the premises of the complainant or \_\_\_\_\_  
 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_  
 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319)  
 10. Other: \_\_\_\_\_

It is **ORDERED** that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_.

**COMMITMENT:** It is **ORDERED** that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date \_\_\_\_\_ Name Of District Court Judge (Type Or Print) \_\_\_\_\_ Signature Of District Court Judge

**CERTIFICATION**  
I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  Asst. CSC  CSC

\*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.

AOC-CR-113, Side Two, Rev. 4/14  
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Law Enforcement Case No.	LID No.	SID No.	FBI No.
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**STATE OF NORTH CAROLINA**  
 In The General Court Of Justice  
 District Court Division  
 \_\_\_\_\_ County

**MISDEMEANOR CRIMINAL SUMMONS**  
 Offense

**To the defendant:**  
 I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above you unlawfully and willfully did

**THE STATE OF NORTH CAROLINA VS.**  
 Name And Address Of Defendant

Race	Sex	Date Of Birth	Age
------	-----	---------------	-----

Social Security No.	Drivers License No. & State
---------------------	-----------------------------

Name Of Defendant's Employer

Offense Code(s)      Offense In Violation Of G.S.

Date Of Offense

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

Complainant (Name, Address Or Department)

This act was in violation of the law referred to in this Criminal Summons. This Summons is issued upon information furnished under oath by the complainant listed. You are ORDERED to appear before the Court at the location, date and time indicated below to answer to the charge. If you fail to appear, an order for your arrest may be issued and you may be held in CONTEMPT OF COURT. Arrest and/or contempt for failure to appear is in addition to any sentence which may be imposed for the crime charged.

The undersigned finds the following cause to set a court date more than one month from the issue of this summons: \_\_\_\_\_

Signature	Location Of Court	Court Date
<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan	Date Issued
---	-------------

If this Criminal Summons is not served within ninety (90) days or by the date the defendant is directed to appear, whichever is earlier, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon.

**RETURN OF SERVICE**  
I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By personally serving this Criminal Summons on the defendant.

This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print)

Department Or Agency Of Officer \_\_\_\_\_

**REDELIVERY/REISSUANCE**  
Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Assist. CSC  
 CSC

The above clerk finds the following cause to set a court date more than one month from reissue:

**RETURN FOLLOWING REDELIVERY/REISSUANCE**  
I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By personally serving this Criminal Summons on the defendant.

This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_ Name Of Officer (Type Or Print)

Department Or Agency Of Officer \_\_\_\_\_

**APPEAL ENTRIES**  
 The defendant, in open court, gives notice of appeal to the Superior Court.  
 The current pretrial release order is modified as follows:

District Attorney \_\_\_\_\_ Attorney For Defendant \_\_\_\_\_

**PLEA:**  guilty  no contest **VERDICT:**  guilty  not guilty  
 guilty  no contest  guilty  not guilty  
 guilty  no contest  guilty  not guilty  
 not guilty  not guilty

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is **ORDERED** that the defendant:  pay costs and a fine of \$ \_\_\_\_\_,  be imprisoned for a term of \_\_\_\_\_ days in the custody of the \_\_\_\_\_ sheriff.  MCP.  DAC.\* Pretrial credit \_\_\_\_\_ days served.  
 Work release  is recommended.  is not recommended.  is ordered. (use form AOC-CR-602)  
 The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.  
 Execution of the sentence is suspended and the defendant is placed on unsupervised probation\* for \_\_\_\_\_ months, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk the costs of court and any additional sums shown below.

Fine \$ \_\_\_\_\_ Restitution\*\* \$ \_\_\_\_\_ Attorney's Fee \$ \_\_\_\_\_ Community Service Fee \$ \_\_\_\_\_ Other \$ \_\_\_\_\_

\*\*Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: **NOTE TO CLERK: Record SSN or Tax ID. No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance)."**

6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within \_\_\_\_\_ days.  
 7. not be found in or on the premises of the complainant or \_\_\_\_\_  
 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_  
 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319)  
 10. Other: \_\_\_\_\_

It is **ORDERED** that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_.

**COMMITMENT:** It is **ORDERED** that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date \_\_\_\_\_ Name Of District Court Judge (Type Or Print) \_\_\_\_\_ Signature Of District Court Judge

**CERTIFICATION**  
I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  Asst. CSC  CSC

\*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.

<b>File No.</b>	<b>Law Enforcement Case No.</b>	<b>LID No.</b>	<b>SID No.</b>	<b>FBI No.</b>	
<b>MAGISTRATE'S ORDER</b>		<b>STATE OF NORTH CAROLINA</b> In The General Court Of Justice District Court Division _____ County			
<p><b>THE STATE OF NORTH CAROLINA VS.</b> Name And Address Of Defendant</p>					
Race	Sex	Date Of Birth	Age		
Social Security No.		Drivers License No. & State			
Name Of Defendant's Employer					
Offense Code(s)					
Offense In Violation Of G.S.					
Date Of Offense					
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)					
Arresting Officer (Name, Address Or Department)					
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)					
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan		Date Issued			
Signature			Location Of Court		Court Date
<input type="checkbox"/> Magistrate <input type="checkbox"/> Assistant CSC			<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

This act was in violation of the law referred to in this Magistrate's Order. This Magistrate's Order is issued upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.

(Over)

District Attorney <input type="checkbox"/> Waived <input type="checkbox"/> Not Indigent <input type="checkbox"/> Denied	Attorney For Defendant <input type="checkbox"/> Appointed <input type="checkbox"/> Retained	<b>PRIOR CONVICTIONS:</b> No./Level: 0 <input type="checkbox"/> I (0) <input type="checkbox"/> II (1-4) <input type="checkbox"/> III (5+)
<b>PLEA:</b> <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty	<b>VERDICT:</b> <input type="checkbox"/> guilty <input type="checkbox"/> M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> guilty <input type="checkbox"/> M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> guilty <input type="checkbox"/> M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> not guilty	<b>JUDGMENT:</b> The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict, it is <b>ORDERED</b> that the defendant: <input type="checkbox"/> pay costs and a fine of \$ _____ days in the custody of the <input type="checkbox"/> sheriff. <input type="checkbox"/> MCP. <input type="checkbox"/> DAC.* Pretrial credit _____ days served. <input type="checkbox"/> Work release <input type="checkbox"/> is recommended. <input type="checkbox"/> is not recommended. <input type="checkbox"/> is ordered. (Use form AOC-CR-602) <input type="checkbox"/> The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary. <input type="checkbox"/> Execution of the sentence is suspended and the defendant is placed on unsupervised probation* for _____ months, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk the costs of court and any additional sums shown below.
Fine \$ _____ Restitution** \$ _____ Attorney's Fee \$ _____ Community Service Fee \$ _____ Other \$ _____	**Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: <b>NOTE TO CLERK: Record SSN or Tax ID No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance)."</b>	
<b>APPEAL ENTRIES</b> <input type="checkbox"/> The defendant, in open court, gives notice of appeal to the District Superior Court. <input type="checkbox"/> The current pretrial release order is modified as follows:	6. complete _____ hours of community service during the first _____ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within _____ days. 7. not be found in or on the premises of the complainant or _____ 8. not assault, communicate with or be in the presence of the complainant or _____ 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319) 10. Other: _____	
Date _____ Signature Of District Court Judge Or Magistrate _____	It is <b>ORDERED</b> that this: <input type="checkbox"/> Judgment is continued upon payment of costs. <input type="checkbox"/> case be consolidated for judgment with _____ <input type="checkbox"/> sentence is to run at the expiration of the sentence in _____ <input checked="" type="checkbox"/> <b>COMMITMENT:</b> It is <b>ORDERED</b> that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal. <b>PROBABLE CAUSE:</b> <input type="checkbox"/> Probable cause is found as to all Counts except _____, and the defendant is bound over to Superior Court for action by the grand jury. <input type="checkbox"/> No probable cause is found as to Count(s) _____ of this Magistrate's Order and the Count(s) is dismissed.	
Date _____ Signature Of District Court Judge Or Magistrate _____	Name Of District Court Judge Or Magistrate (Type Or Print) _____ Signature Of District Court Judge Or Magistrate _____	<b>CERTIFICATION</b> I certify that this Judgment is a true and complete copy of the original which is on file in this case.
Date _____ Signature Of Attorney _____	Date Delivered To Sheriff _____ Signature _____	<input type="checkbox"/> Dep. CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> CSC

\*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.

<b>File No.</b>	<b>Law Enforcement Case No.</b>	<b>LID No.</b>	<b>SID No.</b>	<b>FBI No.</b>	
<b>MAGISTRATE'S ORDER</b>		<b>STATE OF NORTH CAROLINA</b> In The General Court Of Justice District Court Division			
Offense _____ County _____					
<p><b>THE STATE OF NORTH CAROLINA VS.</b></p> <p>Name And Address Of Defendant _____</p>					
Race	Sex	Date Of Birth	Age		
Social Security No.		Drivers License No. & State			
Name Of Defendant's Employer _____					
Offense Code(s)		Offense In Violation Of G.S.			
Date Of Offense _____					
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card) _____					
Arresting Officer (Name, Address Or Department) _____					
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.) _____					
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan		Date Issued		Signature _____ Location Of Court _____ Court Date _____ Court Time _____	
<input type="checkbox"/> Magistrate <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court		<input type="checkbox"/> AM <input type="checkbox"/> PM			

This act was in violation of the law referred to in this Magistrate's Order. This Magistrate's Order is issued upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.

(Over)

District Attorney <input type="checkbox"/> Waived <input type="checkbox"/> Not Indigent <input type="checkbox"/> Denied	Attorney For Defendant <input type="checkbox"/> Appointed <input type="checkbox"/> Retained	<b>PRIOR CONVICTIONS:</b> No./Level: 0 <input type="checkbox"/> I (0) <input type="checkbox"/> II (1-4) <input type="checkbox"/> III (5+)
<b>PLEA:</b> <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty	<b>VERDICT:</b> <input type="checkbox"/> guilty <input type="checkbox"/> not guilty <input type="checkbox"/> guilty <input type="checkbox"/> not guilty <input type="checkbox"/> guilty <input type="checkbox"/> not guilty <input type="checkbox"/> not guilty	M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3
<b>JUDGMENT:</b> The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict, it is <b>ORDERED</b> that the defendant: <input type="checkbox"/> pay costs and a fine of \$ _____ days in the custody of the <input type="checkbox"/> sheriff. <input type="checkbox"/> MCP. <input type="checkbox"/> DAC.* Pretrial credit _____ days served. <input type="checkbox"/> Work release <input type="checkbox"/> is recommended. <input type="checkbox"/> is not recommended. <input type="checkbox"/> is ordered. (Use form AOC-CR-602) <input type="checkbox"/> The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary. <input type="checkbox"/> Execution of the sentence is suspended and the defendant is placed on unsupervised probation* for _____ months, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk the costs of court and any additional sums shown below.		
Fine \$ _____ Restitution** \$ _____ Attorney's Fee \$ _____ Community Service Fee \$ _____ Other \$ _____	<b>NOTE TO CLERK:</b> Record SSN or Tax ID No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance)."	
6. complete _____ hours of community service during the first _____ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within _____ days. 7. not be found in or on the premises of the complainant or _____ 8. not assault, communicate with or be in the presence of the complainant or _____ 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319) 10. Other: _____		
It is <b>ORDERED</b> that this: <input type="checkbox"/> Judgment is continued upon payment of costs. <input type="checkbox"/> case be consolidated for judgment with _____ <input type="checkbox"/> sentence is to run at the expiration of the sentence in _____ <input checked="" type="checkbox"/> <b>COMMITMENT:</b> It is <b>ORDERED</b> that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal. <b>PROBABLE CAUSE:</b> <input type="checkbox"/> Probable cause is found as to all Counts except _____, and the defendant is bound over to Superior Court for action by the grand jury. <input type="checkbox"/> No probable cause is found as to Count(s) _____ of this Magistrate's Order and the Count(s) is dismissed.		
<b>APPEAL ENTRIES</b> <input type="checkbox"/> The defendant, in open court, gives notice of appeal to the District <input type="checkbox"/> Superior Court. <input type="checkbox"/> The current pretrial release order is modified as follows: _____	Date _____ Signature Of District Court Judge Or Magistrate _____	Name Of District Court Judge Or Magistrate (Type Or Print) _____ Signature Of District Court Judge Or Magistrate _____
<b>WAIVER OF PROBABLE CAUSE HEARING</b> The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.		
Date Waived _____ Signature Of Defendant _____	Signature Of Attorney _____	<b>CERTIFICATION</b> I certify that this Judgment is a true and complete copy of the original which is on file in this case. Date _____ Date Delivered To Sheriff _____ Signature _____ <input type="checkbox"/> Dep. CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> CSC
<b>*NOTE:</b> If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.		



File No.

# STATE OF NORTH CAROLINA

In The General Court Of Justice  
District/Superior Court Division

County \_\_\_\_\_

## SEARCH WARRANT

### IN THE MATTER OF

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath or affirmation by the person(s) shown.

Date Issued \_\_\_\_\_ Time Issued \_\_\_\_\_ AM  PM

Name Of Applicant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

### RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received \_\_\_\_\_ Time Received \_\_\_\_\_ AM  PM   
Date Executed \_\_\_\_\_ Time Executed \_\_\_\_\_ AM  PM

I made a search of \_\_\_\_\_  
\_\_\_\_\_ as commanded.

I seized the items listed on the attached inventory.  
 I did not seize any items.  
 This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Name Of Officer Making Return (Type Or Print) \_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

Incident Number \_\_\_\_\_

Date \_\_\_\_\_ Name (Type Or Print) \_\_\_\_\_ Signature \_\_\_\_\_

Deputy CSC  Assistant CSC  CSC  Magistrate  District Ct. Judge  Superior Ct. Judge

This Search Warrant was delivered to me on the date and at the time shown below when the Office of the Clerk of Superior Court is closed for the transaction of business. By signing below, I certify that I will deliver this Search Warrant to the Office of the Clerk of Superior Court as soon as possible on the Clerk's next business day.

Date \_\_\_\_\_ Time \_\_\_\_\_ AM  PM  Name Of Magistrate (Type Or Print) \_\_\_\_\_ Signature Of Magistrate \_\_\_\_\_

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Date \_\_\_\_\_ Time \_\_\_\_\_ AM  PM  Name Of Clerk (Type Or Print) \_\_\_\_\_ Signature Of Clerk \_\_\_\_\_ Dep CSC  Asst CSC  CSC

# APPLICATION FOR SEARCH WARRANT

I, \_\_\_\_\_,   
*(Insert name and address; or if law enforcement officer, name, rank and agency)*   
 being duly sworn, request that the Court issue a warrant to search the person,   
 place, vehicle, and other items described in this application and to find and seize   
 the property and person described in this application. There is probable cause to   
 believe that *(Describe property to be seized; or if search warrant is to be used for searching a   
 place to serve an arrest warrant or other process, name person to be arrested)* \_\_\_\_\_

constitutes evidence of a crime and the identity of a person participating in a   
 crime, *(Name crime)* \_\_\_\_\_

and is located *(Check appropriate box(es) and fill-in specified information)* \_\_\_\_\_

in the following premises *(Give address and, if useful, describe premises)* \_\_\_\_\_

*(and)*   
 on the following person(s) *(Give name(s) and, if useful, describe person(s))* \_\_\_\_\_

*(and)*   
 in the following vehicle(s) *(Describe vehicle(s))* \_\_\_\_\_

*(and)*

*(Name and/or describe other places or items to be searched, if applicable)* \_\_\_\_\_

The applicant swears or affirms to the following facts to establish probable cause   
 for the issuance of a search warrant: \_\_\_\_\_

## SWORN/AFFIRMED AND SUSCRIBED TO BEFORE ME

Date

Name Of Applicant *(Type Or Print)*

Signature

Signature Of Applicant

Magistrate

Dep. CSC

Asst. CSC

Clerk Of Superior Court

Judge

In addition to the affidavit included above, this application is supported by   
 additional affidavits, attached, made by \_\_\_\_\_

In addition to the affidavit included above, this application is supported by   
 sworn testimony, given by \_\_\_\_\_

This testimony has been *(check appropriate box)*  reduced to writing   
 tape recorded and I have filed each with the clerk.

**NOTE:** *If more space is needed for any section, continue the statement on an attached   
 sheet of paper with a notation saying "see attachment." Date the continuation and   
 include on it the signatures of applicant and issuing official.*

File No.

# STATE OF NORTH CAROLINA

In The General Court Of Justice  
District/Superior Court Division

County \_\_\_\_\_

## SEARCH WARRANT

### IN THE MATTER OF

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath or affirmation by the person(s) shown.

Date Issued \_\_\_\_\_ Time Issued  AM  PM

Name Of Applicant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

Name Of Additional Affiant \_\_\_\_\_

### RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received \_\_\_\_\_ Time Received  AM  PM  
Date Executed \_\_\_\_\_ Time Executed  AM  PM

I made a search of \_\_\_\_\_  
\_\_\_\_\_ as commanded.

I seized the items listed on the attached inventory.  
 I did not seize any items.  
 This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Name Of Officer Making Return (Type Or Print) \_\_\_\_\_ Signature Of Magistrate \_\_\_\_\_

Signature Of Officer Making Return \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_ Incident Number \_\_\_\_\_

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Date \_\_\_\_\_ Time  AM  PM Name Of Magistrate (Type Or Print) \_\_\_\_\_ Signature Of Clerk \_\_\_\_\_  
 Dep CSC  Asst CSC  CSC

# APPLICATION FOR SEARCH WARRANT

I, \_\_\_\_\_,  
*(Insert name and address; or if law enforcement officer, name, rank and agency)*  
 being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that *(Describe property to be seized; or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)*

\_\_\_\_\_ constitutes evidence of a crime and the identity of a person participating in a crime, *(Name crime)*

\_\_\_\_\_ and is located *(Check appropriate box(es) and fill-in specified information)*

in the following premises *(Give address and, if useful, describe premises)*

*(and)*  
 on the following person(s) *(Give name(s) and, if useful, describe person(s))*

*(and)*  
 in the following vehicle(s) *(Describe vehicle(s))*

*(and)*

*(Name and/or describe other places or items to be searched, if applicable)*

The applicant swears or affirms to the following facts to establish probable cause for the issuance of a search warrant:

## SWORN/AFFIRMED AND SUSCRIBED TO BEFORE ME

Date

Name Of Applicant *(Type Or Print)*

Signature

Signature Of Applicant

Magistrate

Dep. CSC

Asst. CSC

Clerk Of Superior Court

Judge

In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by \_\_\_\_\_

In addition to the affidavit included above, this application is supported by sworn testimony, given by \_\_\_\_\_

This testimony has been *(check appropriate box)*  reduced to writing  tape recorded and I have filed each with the clerk.

**NOTE:** *If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.*

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

District Superior Court Division

STATE VERSUS

Name And Address Of Defendant

CONDITIONS OF RELEASE AND RELEASE ORDER

# G.S. Chapter 15A, Art. 25, 26

Amount Of Bond

\$

Offenses And Additional File Numbers

See Attachment

Location Of Court

District Superior

Date

Time

AM PM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear. You also may be arrested without a warrant if you violate any condition of release in this Order or in any document incorporated by reference.

The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel and friends.

Your release is authorized upon execution of your: WRITTEN PROMISE to appear UNSECURED BOND in the amount shown above

CUSTODY RELEASE SECURED BOND in the amount shown above

HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) and the SECURED BOND above. You may leave your residence for the purpose(s) of employment counseling course of study vocational training

Your release is not authorized.

The defendant is required to provide (check all that apply) fingerprints under G.S. 15A-502(a1) or (a2). a DNA sample under G.S. 15A-266.3A.

Prior to release, the defendant shall provide his/her (check all that apply) fingerprints. DNA sample.

The defendant has been (i) charged with a felony while on probation (complete AOC-CR-272, Side One). (ii) arrested for violation of probation with a pending felony charge or prior conviction requiring registration under G.S. 14, Article 27A (complete AOC-CR-272, Side Two).

This Order is entered upon defendant's warrantless arrest for violation of conditions of release entered previously for the above-captioned case in the Order dated

The defendant was arrested or surrendered after failing to appear as required under a prior release order.

This was the defendant's second or subsequent failure to appear in this case.

Your release is subject to the conditions as shown on the attached AOC-CR-270. Other:

Additional Information

Date

Signature Of Judicial Official

Magistrate Deputy CSC Assistant CSC

Clerk Of Superior Court District Court Judge Superior Court Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to produce him/her in Court as provided above.

hold him/her as provided on the attached AOC-CR-272. for the following purpose:

[Check in all domestic violence and stalking cases covered by G.S. 15A-534.1(b)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) AM PM produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility

Date

Signature Of Judicial Official

WRITTEN PROMISE TO APPEAR OR CUSTODY RELEASE

I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above.

I understand and agree that this promise is effective until the entry of judgment in the District Court from which no appeal is taken or until the entry of judgment in Superior Court. If I am released to the custody of another person, I agree to be placed in that person's custody, and that person agrees by his/her signature to supervise me.

Date

Signature Of Defendant

Signature Of Person Agreeing To Supervise Defendant

Name Of Person Agreeing To Supervise Defendant (Type Or Print)

Address Of Person Agreeing To Supervise Defendant

DEFENDANT RELEASED ON BAIL

Date

Time

AM PM

Signature Of Jailer



STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name And Address Of Defendant

CONDITIONS OF RELEASE AND RELEASE ORDER

# G.S. Chapter 15A, Art. 25, 26
Amount Of Bond \$

Offenses And Additional File Numbers

See Attachment

Location Of Court

District Superior

Date

Time

AM PM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear. You also may be arrested without a warrant if you violate any condition of release in this Order or in any document incorporated by reference.

The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel and friends.
Your release is authorized upon execution of your: WRITTEN PROMISE to appear UNSECURED BOND in the amount shown above
CUSTODY RELEASE SECURED BOND in the amount shown above
HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) and the SECURED BOND above. You may leave your residence for the purpose(s) of employment counseling course of study vocational training

- Your release is not authorized.
The defendant is required to provide (check all that apply) fingerprints under G.S. 15A-502(a1) or (a2). a DNA sample under G.S. 15A-266.3A.
Prior to release, the defendant shall provide his/her (check all that apply) fingerprints. DNA sample.
The defendant has been (i) charged with a felony while on probation (complete AOC-CR-272, Side One). (ii) arrested for violation of probation with a pending felony charge or prior conviction requiring registration under G.S. 14, Article 27A (complete AOC-CR-272, Side Two).
This Order is entered upon defendant's warrantless arrest for violation of conditions of release entered previously for the above-captioned case in the Order dated
The defendant was arrested or surrendered after failing to appear as required under a prior release order.
This was the defendant's second or subsequent failure to appear in this case.
Your release is subject to the conditions as shown on the attached AOC-CR-270. Other:

Additional Information

Date Signature Of Judicial Official
Magistrate Deputy CSC Assistant CSC
Clerk Of Superior Court District Court Judge Superior Court Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to: produce him/her in Court as provided above.
hold him/her as provided on the attached AOC-CR-272. for the following purpose:
[Check in all domestic violence and stalking cases covered by G.S. 15A-534.1(b)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) AM PM produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility Date Signature Of Judicial Official

WRITTEN PROMISE TO APPEAR OR CUSTODY RELEASE

I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above. I understand and agree that this promise is effective until the entry of judgment in the District Court from which no appeal is taken or until the entry of judgment in Superior Court. If I am released to the custody of another person, I agree to be placed in that person's custody, and that person agrees by his/her signature to supervise me.

Date Signature Of Defendant Signature Of Person Agreeing To Supervise Defendant

Name Of Person Agreeing To Supervise Defendant (Type Or Print) Address Of Person Agreeing To Supervise Defendant

DEFENDANT RELEASED ON BAIL

Date Time AM PM Signature Of Jailer

**CONDITIONS OF RELEASE MODIFICATIONS**

The Conditions of Release on the reverse are modified as follows:

Modification	Date	Signature Of Judicial Official

**SUPPLEMENTAL ORDERS FOR COMMITMENT**

The defendant is next Ordered produced in Court as follows:

Date	Time	Place	Purpose	Signature Of Judicial Official

**DEFENDANT RECEIVED BY DETENTION FACILITY**

Date	Time	Signature Of Jailer

**DEFENDANT RELEASED FOR COURT APPEARANCE**

Date	Time	Signature Of Jailer

**NOTE TO CUSTODIAN:** *This form shall accompany the defendant to court for all appearances.*



STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

APPEARANCE BOND FOR PRETRIAL RELEASE

G.S. 15A-531, 15A-534, 15A-544.2

Name And Mailing Address Of Defendant

Social Security No.

Telephone No. Of Defendant

Total Bond Required

Amount Of This Bond

\$

\$

#

Offenses And Additional File Numbers

See Attachment

- Unsecured Appearance Bond - I, the undersigned defendant, acknowledge that my personal representatives and I are bound to pay the State of North Carolina the sum shown above, subject to the conditions of this Bond stated on the reverse side.
Cash Appearance Bond (See note on reverse side.) - I, the undersigned defendant, acknowledge that I am bound to pay the State of North Carolina the sum shown above, and hereby deposit the cash identified below as security with the understanding that the deposit will be returned upon the Court's determination that the conditions of release have been performed, subject to the conditions of this Bond stated on the reverse side, and that it will be available to satisfy my obligations.
Defendant's Property Appearance Bond - I, the undersigned defendant, acknowledge that I am bound to pay the State of North Carolina the sum shown above, subject to the conditions of this Bond stated on the reverse side, and as security for said Bond have executed a mortgage or deed of trust to real or personal property, payable to the State of North Carolina and with power of sale conditioned upon the breach of any condition of this Bond.
Surety Appearance Bond - We, the undersigned, jointly and severally acknowledge that we and our personal representatives are bound to pay the State of North Carolina the sum shown above, subject to the conditions of this Bond stated on the reverse side.
(Professional bondsman, Bail Agent and Runners) - The "Affidavit" on the reverse side of this Bond is complete and true.
Cash Deposited By Surety (See note on reverse side.) - We have deposited the cash identified below to secure our obligations as sureties on this bond with the understanding that the deposit will be returned to us upon the Court's determination that the conditions of pretrial release have been performed, and that it will NOT be available to satisfy defendant's obligations.

Date Of Execution Of Bond

Signature Of Defendant

ACCOMMODATION BONDSMAN

See attached AOC-CR-201A for additional accommodation bondsmen executing this bond.

Name And Address Of Accommodation Bondsman

Name And Address Of Accommodation Bondsman

Social Security No.

Telephone No.

Social Security No.

Telephone No.

PROFESSIONAL BONDSMAN

Name Of Bondsman

Name Of Runner, If Applicable

License No. Of Bondsman

License No. Of Runner

INSURANCE COMPANY

Name Of Insurance Company

Name Of Bail Agent

Power Of Appointment No. Of Bail Agent

License No. Of Bail Agent

SIGNATURE

Signature Of Surety

Signature Of Surety

SWORN AND SUBSCRIBED TO BEFORE ME

SWORN AND SUBSCRIBED TO BEFORE ME

Date

Signature

Date

Signature

- Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court
Custodian Of Detention Facility [G.S. 15A-537(c)]

- Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court
Custodian Of Detention Facility [G.S. 15A-537(c)]

COMPLETE IF CASH DEPOSITED

Signature Of Official Accepting Cash

Name Of Official Accepting Cash (Type Or Print)

Receipt No.

NOTE: If cash deposited, see note on reverse side.

**CONDITIONS**

The conditions of this Bond are that the above named defendant shall appear in the above entitled action(s) whenever required and will at all times remain amenable to the orders and processes of the Court. It is agreed and understood that this Bond is effective and binding upon the defendant and each surety throughout all stages of the proceedings in the trial divisions of the General Court of Justice until the entry of judgment in the district court from which no appeal is taken or until the entry of judgment in the superior court. If the defendant appears as ordered and otherwise performs the foregoing conditions of the bond, then the bond is to be void, but if the defendant fails to obey any of these conditions, the Court will forfeit the bond pursuant to Part 2 of Article 26 of Chapter 15A of the General Statutes.

Each accommodation bondsman, by signing on the reverse or on the attached AOC-CR-201A, states: "I have reached the age of 18 years and am a bona fide resident of North Carolina. Aside from love and affection and release of the above named defendant, I have received no consideration for acting as surety. I own sufficient property over and above all liabilities, homestead and other exemptions allowed me by law to enable me to pay this Bond should it be ordered forfeited. I understand that if I sign this Bond without sufficient property, I am guilty of a crime."

**AFFIDAVIT**

**NOTE:** "Professional bondsmen, surety bondsmen [bail agents], and runners shall file with the clerk of court having jurisdiction over the principal an affidavit on a form furnished by the Administrative Office of the Courts." G.S. 58-71-140(d). Check all options that apply.

- 1. I have not, nor has anyone for my use, been promised or received any collateral, security or premium for executing this Bond.
- 2. I have been promised a premium in the amount shown below, which is due on the date shown below.
- 3. I have received a premium in the amount shown below.
- 4. I have been given collateral security by the person named below, of the nature and in the amount shown below.

Amount Of Premium Promised \$	Date Due	Amount Of Premium Received \$
Name Of Person From Whom Collateral Received	Nature Of Collateral	Value

**AFFIX STAMP OR  
POWER OF ATTORNEY  
HERE**

**RETURN OF CUSTODIAN OF DETENTION FACILITY**

The defendant named on the reverse was released from my custody on the date shown below upon the execution of this Appearance Bond.

Date Defendant Released	Name Of Custodian (Type Or Print)	Signature Of Custodian	<input type="checkbox"/> Sheriff <input type="checkbox"/> Deputy Sheriff <input type="checkbox"/> Other _____
-------------------------	-----------------------------------	------------------------	--

**NOTES ON CASH BONDS:**

(1) **To Official Taking The Bond.** Use this form for all cash bonds. Complete this form as follows:

**When Cash Deposited By Defendant Or By Another Person Who Intends For The Cash To Be Used To Satisfy The Defendant's Obligations.** Enter defendant's name, address and SS# at the top of Side One. Check "Cash Appearance Bond." Have defendant sign. Do no more. No other person's name should appear on this form. Enter your name, sign and enter receipt number under "Complete If Cash Deposited." Make receipt out to DEFENDANT, not to any other person.

**When Cash Deposited By Another Person Who Does NOT Intend For The Cash To Be Used To Satisfy The Defendant's Obligations.** Enter defendant's name, address and SS# at the top of Side One. Check "Surety Appearance Bond." Also check "Cash Deposited By Surety." Have defendant sign. Enter name, address and SS# of person depositing cash under "Accommodation Bondsman." Have that person sign under "Signature of Surety." Complete notarization for that person. Enter your name, sign and enter receipt number under "Complete If Cash Deposited." Make receipt out to person depositing the cash.

(2) **To Bookkeeper.** If case disposed without forfeiture, disburse cash as follows: (1) If "Cash Appearance Bond" checked on Side One, disburse to Defendant or apply to defendant's obligations if court so orders. (2) If "Surety Appearance Bond" and "Cash Deposited by Surety" are checked on Side One, disburse only to person named under "Accommodation Bondsman."

(3) **Bond By Insurance Company Or Professional Bondsman As Surety Is Same As Cash Except In Child Support.** G.S. 15A-531(4) provides that an appearance bond executed by an insurance company or a professional bondsman (or a bail agent or runner on behalf of one of those sureties) is considered the same as a cash deposit, except in child support contempt proceedings for which only cash may satisfy a cash bond requirement.

**STATE VERSUS**

File No.

Name Of Defendant

**ADDITIONAL ACCOMMODATION BONDSMAN**

Name And Address Of Accommodation Bondsman

Name And Address Of Accommodation Bondsman

Social Security No.

Telephone No.

Social Security No.

Telephone No.

**SIGNATURE**

Signature Of Surety

Signature Of Surety

**SWORN AND SUBSCRIBED TO BEFORE ME**

**SWORN AND SUBSCRIBED TO BEFORE ME**

Date

Signature

Date

Signature

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]

**ADDITIONAL ACCOMMODATION BONDSMAN**

Name And Address Of Accommodation Bondsman

Name And Address Of Accommodation Bondsman

Social Security No.

Telephone No.

Social Security No.

Telephone No.

**SIGNATURE**

Signature Of Surety

Signature Of Surety

**SWORN AND SUBSCRIBED TO BEFORE ME**

**SWORN AND SUBSCRIBED TO BEFORE ME**

Date

Signature

Date

Signature

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]

**ADDITIONAL ACCOMMODATION BONDSMAN**

Name And Address Of Accommodation Bondsman

Name And Address Of Accommodation Bondsman

Social Security No.

Telephone No.

Social Security No.

Telephone No.

**SIGNATURE**

Signature Of Surety

Signature Of Surety

**SWORN AND SUBSCRIBED TO BEFORE ME**

**SWORN AND SUBSCRIBED TO BEFORE ME**

Date

Signature

Date

Signature

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]

- Magistrate     Deputy CSC     Assistant CSC     Clerk of Superior Court
- Custodian Of Detention Facility [G.S. 15A-537(c)]



# STATE OF NORTH CAROLINA

File No. (lead file no. listed on Appearance Bond)

County Where Case Pending (if different from County Of Surrender)

County Of Surrender

In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

## SURRENDER OF DEFENDANT BY SURETY

Name Of Defendant

Name Of Surrendering Surety(ies) (required)

Name Of Surrendering Agent Of Surety (if applicable)

Date Of Appearance Bond

Amount Of Bond

\$

G.S. 15A-534, 15A-540, 58-71-20

Additional File Nos. And Offenses (listed on Appearance Bond)

The undersigned hereby surrenders the defendant to the Sheriff of the above-captioned County Of Surrender, and in support of said surrender shows the following:

### PRE-BREACH SURRENDER

G.S. 15A-540(a), 58-71-20

### POST-BREACH SURRENDER

G.S. 15A-540(b)

**NOTE TO SURETY:** Complete this section if the surrender occurs before a breach of the bond (i.e., if the defendant has not failed to appear).

**NOTE TO SURETY:** Complete this section if the surrender occurs after a breach of the bond (i.e., after a failure to appear).

This surrender is offered before there has been a breach of the bond obligation. The County Of Surrender shown above is the county where: (check only one)

This surrender is offered after there has been a breach of the bond obligation. The County Of Surrender shown above is the county where: (check only one)

- the defendant is bonded to appear.  
 the defendant was bonded (i.e., where the defendant was in custody when the bond was executed).

- the defendant is bonded to appear.  
 the defendant was bonded (i.e., where the defendant was in custody when the bond was executed).  
 the county where the defendant currently is in custody.

Upon delivery of this surrender form to the court with the custodian's completed receipt below, I hereby apply to the clerk for exoneration from the bond obligation pursuant to G.S. 15A-540(a).

A copy of the bail bond, forfeiture, or release order is attached.

Date

Signature Of Surety/Agent

Date

Signature Of Surety/Agent

### RECEIPT BY CUSTODIAN

The undersigned custodian hereby accepts the surrender by the surety/agent and acknowledges that the defendant now is in custody of the County Of Surrender identified above.

Date

Name Of Custodian/Jailer (Type Or Print)

Signature Of Custodian/Jailer

### NOTES TO CUSTODIAN:

- (1) Surrender by a surety is governed by G.S. 15A-540 and G.S. 58-71-20. You can determine whether or not the person offering the surrender is the surety on the bond or an agent of that surety by reviewing the Appearance Bond form (AOC-CR-201) or a Bond Forfeiture Notice (AOC-CR-213) issued for a forfeiture of that bond. Both forms identify the surety. If you have any questions about whether or not a person offering a defendant for surrender is authorized to do so, you should consult with your supervising authority or agency counsel; judicial officials may not give sheriffs' personnel advice or approval for the surrender process.
- (2) If the surety completed the section for the Pre-Breach Surrender, above, the previous Conditions Of Release And Release Order (AOC-CR-200) for which the appearance bond was executed remains in effect. You must obtain a copy of that release order from the court in order to determine the defendant's current conditions of release.
- (3) If the surety completed the section for Post-Breach Surrender, above, provide the surrendering surety or agent with a copy of this form with the Receipt By Custodian completed. Then without unnecessary delay, take the defendant before a judicial official along with the completed original of this form and all documentation attached by the surety for entry of a new commitment order and conditions of release.

(See **NOTES TO MAGISTRATE** on reverse.)

Original and Attachments-Clerk    Copy-Surety    Copy-Custodian

## NOTES TO MAGISTRATE:

- (1) *A judicial official may not accept or approve a surrender. Surrender is to the Sheriff, only, not to a judicial official. G.S. 15A-540. Sureties who wish to surrender a defendant should be directed to the Sheriff. Custodial personnel with questions about the validity of a proposed surrender should be directed to consult with their supervising authority or agency counsel. You should conduct an appearance for the defendant only if the surety has indicated a Post-Breach Surrender on the reverse and only after the custodian has brought you the original of this form with a completed Receipt By Custodian.*
- (2) *If the defendant was surrendered pursuant to a Pre-Breach Surrender, the previous Conditions Of Release And Release Order (AOC-CR-200) for which the appearance bond was posted remains in effect. You may not enter a new release order for a pre-breach surrender, unless (i) the defendant has had no appearance before the court on any case covered by the bond for which he/she was surrendered, and (ii) you entered the original release order for which the bond was posted. G.S. 15A-534(e). Any court date already scheduled for the defendant remains the same.*
- (3) *If the defendant was surrendered pursuant to a Post-Breach Surrender, G.S. 15A-540(c) requires that a judicial official determine whether the defendant is again entitled to pretrial release and, if so, upon what conditions. If the breach was a failure to appear for any charge(s) covered by the appearance bond for which the defendant was surrendered. G.S. 15A-534(d1) provides that the official shall impose conditions of release as follows:*
  - a. *If an order for arrest (OFA) was issued for the failure to appear and any conditions of release were recommended in that OFA, you must at a minimum impose the conditions of release recommended in the OFA (even if the OFA is recalled pursuant to Note (4), below).*
  - b. *If there were no conditions recommended in an OFA issued for the failure to appear, you must require a secured bond at least double the amount of the most recent secured or unsecured bond.*
  - c. *If there were no conditions recommended in an OFA issued for the failure to appear, and there was no prior monetary condition of release, you must require a secured bond of at least \$1,000.*
- (4) *If an OFA was issued for the defendant's failure to appear, the court date in the new release order should be the same as the court date set in the order for arrest, if any. Arrange to have the OFA served on the defendant as quickly as possible, but do not detain the defendant beyond the time when he or she satisfies the conditions of release imposed in the new release order. If the OFA cannot be served before the defendant satisfies the new conditions of release, arrange to have the OFA recalled as quickly as possible to avoid a duplicate arrest of the defendant.*
- (5) *If the defendant was surrendered in a county other than the county where the defendant is to appear, return the original OFA, if any, with return of service completed, along with all original documentation for the defendant's surrender, conditions of release, and any new bond posted, to the county where the defendant is to appear.*

File No.	<input type="checkbox"/> See Attachment	Law Enforcement Case No.	LID No.	SID No.	FBI No.
<b>ORDER FOR ARREST</b>		<b>STATE OF NORTH CAROLINA</b>			
# Offense		In The General Court Of Justice County <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division			
<b>THE STATE OF NORTH CAROLINA VS.</b>		To any officer with authority and jurisdiction to serve an Order For Arrest: The Court finds that:			
Name, Address & Telephone No. Of Defendant		<input type="checkbox"/> 1. FTA - RELEASE ORDER [G.S. 15A-305(b)(2)] the defendant has been arrested and released from custody and has failed on the date shown to appear as required by the Release Order. <input type="checkbox"/> This is the defendant's second or subsequent failure to appear on these charges.			
Race	Sex	Date Of Birth	Age	<input type="checkbox"/> 2. FTA - CRIMINAL SUMMONS OR CITATION (Do not use for infraction.) [G.S. 15A-305(b)(3)] the defendant has failed on the date shown to appear as required by a duly executed Criminal Summons or by a Citation that charged the defendant with a misdemeanor.	
Social Security No.	Drivers License No. & State		<input type="checkbox"/> 3. TRUE BILL OF INDICTMENT [G.S. 15A-305(b)(1)] a Grand Jury has returned a true bill of indictment against the defendant, a copy of which is attached.		
Name And Address Of Defendant's Employer		<input type="checkbox"/> 4. FTA - SHOW CAUSE AFTER FTC [G.S. 15A-305(b)(8)] the defendant has failed on the date shown to appear as required in a Show Cause Order entered in this criminal proceeding.			
Date Defendant Failed To Appear	Type Of Bond	<input type="checkbox"/> 5. FTA - SHOW CAUSE ORDER IN ORIGINAL CRIMINAL JUDGMENT [G.S. 15A-305(b)(8); -1362(c); -1364(a)] the defendant has failed by the date shown to pay a fine or costs or both as required by a judgment entered in this case and has also failed, as required upon such failure, to appear on that date and show cause why the defendant should not be imprisoned.			
Amount Of Bond \$	<input type="checkbox"/> 6. PROBABLE CAUSE THAT DEFENDANT MAY FAIL TO APPEAR - CRIMINAL CONTEMPT [G.S. 15A-305(b)(9); 5A-16] this Court has initiated plenary proceedings for contempt against the defendant under G.S. 5A-16, has issued a show cause order and finds probable cause to believe that the defendant will not appear as required in response to that order.				
Date Issued		<input type="checkbox"/> 7. PROBATION VIOLATION [G.S. 15A-305(b)(4); -1345(a)] the probation officer has provided the court with a written statement, signed by the probation officer, alleging that the defendant has violated specified conditions of the defendant's probation and a copy of the written statement is attached.			
Date Of Offense		<input type="checkbox"/> 8. Other: (specify)			
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)		You are DIRECTED to take the defendant into custody and bring the defendant before a judicial official for the purpose of:			
Offense Code	Offense In Violation Of G.S.	<input type="checkbox"/> determining conditions of release, and for commitment if the defendant is unable to comply. <input type="checkbox"/> commitment since release of the defendant is not authorized.			
Date Of Offense	Date Issued	Signature	Location Of Court	Court Date	Court Time
					<input type="checkbox"/> AM <input type="checkbox"/> PM

(Over)

If this Order For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by his/her department in attempting to serve the order and any information obtained about the whereabouts of the defendant.

RETURN OF SERVICE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official

This Order WAS NOT served for the following reason:  
  
Signature Of Officer Making Return      Name Of Officer (Type Or Print)

Department Or Agency Of Officer

REDELIVERY/REISSUANCE			
Date	Signature	<input type="checkbox"/> Dep. CSC <input type="checkbox"/> Assf. CSC <input type="checkbox"/> CSC	Date Returned

RETURN FOLLOWING REDELIVERY/REISSUANCE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official

This Order WAS NOT served for the following reason:  
  
Signature Of Officer Making Return      Name Of Officer (Type Or Print)

Department Or Agency Of Officer

APPEAL ENTRIES	
<input type="checkbox"/> The defendant, in open court, gives notice of appeal to the Superior Court.	
<input type="checkbox"/> The current pretrial release order is modified as follows:	
Date	Signature Of District Court Judge

WAIVER OF PROBABLE CAUSE HEARING	
The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.	
Date Waived	Signature Of Defendant
	Signature Of Attorney



File No.	<input type="checkbox"/> See Attachment	Law Enforcement Case No.	LID No.	SID No.	FBI No.
<b>ORDER FOR ARREST</b>		<b>STATE OF NORTH CAROLINA</b>			
# Offense		In The General Court Of Justice County <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division			
<b>THE STATE OF NORTH CAROLINA VS.</b>		To any officer with authority and jurisdiction to serve an Order For Arrest: The Court finds that:			
Name, Address & Telephone No. Of Defendant		<input type="checkbox"/> 1. FTA - RELEASE ORDER [G.S. 15A-305(b)(2)] the defendant has been arrested and released from custody and has failed on the date shown to appear as required by the Release Order. <input type="checkbox"/> This is the defendant's second or subsequent failure to appear on these charges.			
Race		<input type="checkbox"/> 2. FTA - CRIMINAL SUMMONS OR CITATION (Do not use for infraction.) [G.S. 15A-305(b)(3)] the defendant has failed on the date shown to appear as required by a duly executed Criminal Summons or by a Citation that charged the defendant with a misdemeanor.			
Sex		<input type="checkbox"/> 3. TRUE BILL OF INDICTMENT [G.S. 15A-305(b)(1)] a Grand Jury has returned a true bill of indictment against the defendant, a copy of which is attached.			
Date Of Birth		<input type="checkbox"/> 4. FTA - SHOW CAUSE AFTER FTC [G.S. 15A-305(b)(8)] the defendant has failed on the date shown to appear as required in a Show Cause Order entered in this criminal proceeding.			
Age		<input type="checkbox"/> 5. FTA - SHOW CAUSE ORDER IN ORIGINAL CRIMINAL JUDGMENT [G.S. 15A-305(b)(8); -1362(c); -1364(a)] the defendant has failed by the date shown to pay a fine or costs or both as required by a judgment entered in this case and has also failed, as required upon such failure, to appear on that date and show cause why the defendant should not be imprisoned.			
Social Security No.		<input type="checkbox"/> 6. PROBABLE CAUSE THAT DEFENDANT MAY FAIL TO APPEAR - CRIMINAL CONTEMPT [G.S. 15A-305(b)(9); 5A-16] this Court has initiated plenary proceedings for contempt against the defendant under G.S. 5A-16, has issued a show cause order and finds probable cause to believe that the defendant will not appear as required in response to that order.			
Drivers License No. & State		<input type="checkbox"/> 7. PROBATION VIOLATION [G.S. 15A-305(b)(4); -1345(a)] the probation officer has provided the court with a written statement, signed by the probation officer, alleging that the defendant has violated specified conditions of the defendant's probation and a copy of the written statement is attached.			
Name And Address Of Defendant's Employer		<input type="checkbox"/> 8. Other: (specify)			
Date Defendant Failed To Appear		You are DIRECTED to take the defendant into custody and bring the defendant before a judicial official for the purpose of:			
Amount Of Bond \$		<input type="checkbox"/> determining conditions of release, and for commitment if the defendant is unable to comply. <input type="checkbox"/> commitment since release of the defendant is not authorized.			
Type Of Bond		Signature _____			
Date Issued		Location Of Court		Court Date	
Offense Code		Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> DC Judge <input type="checkbox"/>		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM	
Offense In Violation Of G.S.		Asst. CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> SC Judge <input type="checkbox"/>			
Date Of Offense					

If this Order For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by his/her department in attempting to serve the order and any information obtained about the whereabouts of the defendant.

RETURN OF SERVICE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official

This Order WAS NOT served for the following reason:  
  
Signature Of Officer Making Return      Name Of Officer (Type Or Print)

Department Or Agency Of Officer

REDELIVERY/REISSUANCE			
Date	Signature	<input type="checkbox"/> Dep. CSC <input type="checkbox"/> Assl. CSC <input type="checkbox"/> CSC	Date Returned

RETURN FOLLOWING REDELIVERY/REISSUANCE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	

By arresting the defendant and bringing the defendant before:  
Name Of Judicial Official

This Order WAS NOT served for the following reason:  
  
Signature Of Officer Making Return      Name Of Officer (Type Or Print)

Department Or Agency Of Officer

APPEAL ENTRIES	
<input type="checkbox"/> The defendant, in open court, gives notice of appeal to the Superior Court.	
<input type="checkbox"/> The current pretrial release order is modified as follows:	

Date      Signature Of District Court Judge

WAIVER OF PROBABLE CAUSE HEARING	
The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.	

Date Waived      Signature Of Defendant  
Signature Of Attorney

(TYPE OR PRINT IN BLACK INK)

File No.

STATE OF NORTH CAROLINA

Additional File Nos.

County

In The General Court Of Justice
District Superior Court Division

Name Of Defendant, Petitioner, Respondent
Street Address Of Defendant, Petitioner, Respondent
Permanent Mailing Address Of Defendant, Petitioner, Respondent (If Different Than Above)
Telephone Number Of Defendant, Petitioner, Respondent
Check here if defendant is in jail
Full Social Security No. Has No Social Security No.

ORDER OF ASSIGNMENT OR DENIAL OF COUNSEL

G.S. 7A-146(11), 7A-292(15), 7A-450, 7A-451(a), 15A-1340.23(d)

Date Of Offense Most Serious Class Of Offense

Offense(s) (List Offense(s) Only If File No. Has Not Been Assigned)

INSTRUCTIONS: The Court should complete Part I. or Part II. of this form. Do not use this form for first-degree murder cases or murder cases where the degree is undesignated, except for cases where the defendant was under 18 years of age at the time of the offense, or for capital post-conviction cases or appeals to the Court of Appeals or Supreme Court.

I. ASSIGNMENT OF COUNSEL

From the petition heard in this matter, the affidavit made by the applicant named above, and the inquiry made by the Court, which is documented in the record, it is determined that the applicant is not financially able to provide the necessary expenses of legal representation, and (check one):

- 1. is charged with a felony, a misdemeanor other than a Class 3, or a Class 3 misdemeanor that was committed before December 1, 2013, or is a petitioner or respondent in a proceeding or action listed in G.S. 7A-451(a); it is ORDERED that the applicant is indigent and is entitled to the services of counsel as contemplated by law; and that the attorney named below or the public defender in this judicial district shall provide representation.
2. is charged with a Class 3 misdemeanor that was committed on or after December 1, 2013, and (check one):
a. the Court has found that the defendant has more than three prior convictions; it is ORDERED that the applicant is indigent and is entitled to the services of counsel as contemplated by law.
b. the Court has not found at this time that the defendant has more than three prior convictions, the defendant is in custody, the Court does not intend at this appearance to modify the defendant's conditions of release to allow the defendant to be released pending trial without posting a secured bond, and the defendant has a constitutional right to meaningful access to the courts; it is ORDERED that the applicant is indigent and is entitled to the services of counsel as contemplated by law; and that the attorney named below or the public defender in this judicial district shall provide representation that is limited pursuant to G.S. 15A-141(3) and 15A-143 to the time period of the applicant's pretrial confinement on the Class 3 misdemeanor charge.

It is further ORDERED that the defendant shall be represented by:

- the attorney named below. the public defender in this judicial district.

Name Of Appointed Attorney (If Applicable) Next Court Date

Date Signature Judge Clerk Of Superior Court Asst. CSC Deputy CSC Magistrate

NOTE: A magistrate may appoint counsel if designated to do so by the Chief District Court Judge. See G.S. 7A-146(11) and G.S. 7A-292(15).

**II. DENIAL OF COUNSEL**

From the petition heard in this matter, the affidavit made by the applicant named above, and the inquiry made by the Court, which is documented in the record, it is determined that the applicant (*check all that apply*):

- 1. is charged with a felony, a misdemeanor higher than a Class 3, or a Class 3 misdemeanor that was committed before December 1, 2013, but will not receive an active or suspended term of imprisonment if he/she is convicted of the offense(s) for which he/she is charged; it is ORDERED that the defendant's petition is denied.
- 2. is charged with a Class 3 misdemeanor that was committed on or after December 1, 2013, the Court has found that the defendant has fewer than four prior convictions, and the case shall proceed as a fine only case; it is ORDERED that the defendant's petition is denied.
- 3. will not receive an active or suspended term of imprisonment if he/she is found in contempt; it is ORDERED that the defendant's petition is denied.
- 4. is financially able to provide the necessary expenses of legal representation; it is ORDERED that the applicant is not indigent and his/her petition is denied.

Date	Signature	<input type="checkbox"/> Judge <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Magistrate
------	-----------	--

**NOTE:** A magistrate may appoint counsel if designated to do so by the Chief District Court Judge. See G.S. 7A-146(11) and G.S. 7A-292(15).

(TYPE OR PRINT IN BLACK INK) In The General Court Of Justice

District  Superior Court Division

File No.

Additional File Nos.

# STATE OF NORTH CAROLINA

County

Name Of Applicant

## AFFIDAVIT OF INDIGENCY

G.S. 7A-450 et seq.

Street Number And Street Name, Including Apartment Or Unit Number If Applicable

Offense(s)

City, State And Zip Code

Full Permanent Mailing Address Of Applicant (If Different Than Above)

**Applicant:** Do you have other pending criminal charge(s) in which a lawyer has been appointed?  Yes  No  
Name Of Lawyer

Telephone Number Of Applicant

Date Of Birth

Full Social Security No. Of Applicant

Has No Social Security No.

Defendant  Parent/Guardian/Trustee

### MONTHLY INCOME (money you make)

### MONTHLY EXPENSES (money you pay out)

Employment - Applicant \$

Number Of Dependents

Name And Address Of Applicant's Employer  
(If not employed, state reason; if self-employed, state trade)

Shelter  Buying  Renting \$

Food (including Food Stamps) \$

Utilities  
(power, water, heating, phone, cable, etc.) \$

Other Income (Welfare, Food Stamps, S/S, Pensions, etc.) \$

Health Care \$

Employment - Spouse \$

Installment Payments  
 Vehicle  Other \$

Name And Address Of Spouse's Employer

Car Expenses  
(gas, insurance, etc.) \$

Support Payments \$

Other: (specify) \$

**Total Monthly Income** \$

**Total Monthly Expenses** \$

### DESCRIPTION OF ASSETS AND LIABILITIES

### ASSETS (things you own)

### LIABILITIES (amounts you owe)

Cash On Hand And In Bank Accounts  
(List Name Of Bank & Account No.)

\$

Money Owed To Or Held For Applicant

\$

Motor Vehicles (List Make, Model, Year)

(Fair Market Value)

(Balance Due)

\$

\$

Real Estate

(Fair Market Value)

(Balance Due)

\$

\$

Personal Property

(Fair Market Value)

(Balance Due)

\$

\$

Other Debts

\$

Last Income Tax Filed 20 \_\_\_\_\_  Refund  Owe

\$

\$

Other

\$

\$

**Total Assets And Liabilities**

\$

\$

Bond Type

Amount

By Whom Posted

\$

**NOTE:** Read the notice on the reverse side before completing this form.

## NOTICE TO PERSONS REQUESTING A COURT-APPOINTED LAWYER

1. When answering the questions on the Affidavit Of Indigency (*reverse side of this form*), please do not discuss your case with the interviewer. The interviewer can be called as a witness to testify about any statements made in his/her presence. Please wait and speak with your lawyer. Do not ask the interviewer for any advice or opinion concerning your case.
  
2. **A court-appointed lawyer is not free. If you are convicted or plead guilty or no contest, you may be required to repay the cost of your lawyer as a part of your sentence. The Court may also enter a civil judgment against you, which will accrue interest at the legal rate set out in G.S. 24-1 from the date of the entry of judgment. Your North Carolina Tax Refund may be taken to pay for the cost of your court-appointed lawyer. In addition, if you are convicted or plead guilty or no contest, the Court must charge you an attorney appointment fee and may enter this fee as a civil judgment against you pursuant to G.S. 7A-455.1.**
  
3. The information you provide may be verified, and your signature below will serve as a release permitting the interviewer to contact your creditors, employers, family members, and others concerning your eligibility for a court-appointed lawyer. A false or dishonest answer concerning your financial status could lead to prosecution for perjury. See G.S. 7A-456(a) ("A false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes a Class I felony.").

Under penalty of perjury, I declare that the information provided on this form is true and correct to the best of my knowledge, and that I am financially unable to employ a lawyer to represent me. I now request the Court to assign a lawyer to represent me in this case. I authorize the Court to contact my creditors, employers, or family members, any governmental agencies or any other entities listed below concerning my eligibility for a court-appointed lawyer.

I further authorize my creditors, employers, or family members, any governmental agencies or any other entities listed below to release financial information concerning my eligibility for a court-appointed lawyer upon request of the Court.

*Governmental Agencies Or Other Entities Authorized To Be Contacted And/Or To Release Information*

<b>SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME</b>		<i>Date</i>
<i>Date</i>	<i>Signature</i>	<i>Signature Of Applicant</i>
<input type="checkbox"/> <i>Deputy CSC</i> <input type="checkbox"/> <i>Assistant CSC</i> <input type="checkbox"/> <i>Clerk Of Superior Court</i> <input type="checkbox"/> <i>Magistrate</i>		<i>Name Of Applicant (Type Or Print)</i>
<input type="checkbox"/> <i>Notary</i>	<i>Date My Commission Expires</i>	<input type="checkbox"/> <i>Defendant</i> <input type="checkbox"/> <i>Parent/Guardian/Trustee</i> <input type="checkbox"/> _____
<b>SEAL</b>	<i>County Where Notarized</i>	

**NOTE:** *If you are less than 18 years old, or if you are at least 18 years old but remain dependent on and live with a parent or guardian, state name and address of parent, guardian or trustee below.*

<i>Name Of Parent/Guardian Or Trustee</i>
<i>Address</i>
<i>City, State, Zip</i>

**STATE OF NORTH CAROLINA**

File No. \_\_\_\_\_

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

**STATE VERSUS**

Name Of Defendant

Name And Address Of Law Enforcement Agency

**TRANSMITTAL OF  
OUT-OF-COUNTY PROCESS**

**TO THE LAW ENFORCEMENT AGENCY NAMED ABOVE:**

Attached please find an  Order For Arrest  Criminal Summons  Warrant For Arrest for execution in your county or city.

The judicial official who issued the process has made the following recommendations for conditions of release:

The judicial official in your county before whom the defendant is brought should set the trial or hearing at the date, time and location shown below.

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Location of Hearing
-----------------	--	---------------------

If the defendant is committed to jail, the person or agency listed below should be contacted for return to this county.

Name Of Person Or Agency	Date
--------------------------	------

Telephone No.	Signature
---------------	-----------

<input type="checkbox"/> Superior Court Judge	<input type="checkbox"/> District Court Judge	<input type="checkbox"/> CSC
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Magistrate

**NOTE TO EXECUTING OFFICER:** Following execution of the attached process, deliver this form to the judicial official before whom defendant is brought.





# STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice

 District  Superior Court Division

Name Of Defendant

## OUT-OF-COUNTY PROCESS VERIFICATION RECALL AND TRANSMISSION (For use when process electronically transmitted to out-of-county agency)

G.S. 15A-101.1; 15A-401; 15A-501

**NOTE:** The county name shown above is the county where the process was originally issued. See instructions on reverse side.

### I. VERIFICATION

Date Of Issuance Of Process

Type Of Process

 Warrant Order For Arrest

Offense(s) Charged

 Domestic Violence Offense

Name Of Initiating Officer, If Any

Initiating Officer's Court Date(s)

### NOTICE TO THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE DEFENDANT:

The initiating law enforcement agency named below hereby verifies that:

1. The original of the process attached to this verification is in our physical possession.
2. The process is still outstanding and has not already been served on the defendant.
3. The defendant is still wanted for prosecution on these charges.
4. We have entered the following notation in the Return of Service on the original: "Defendant has been arrested in (name of county where defendant arrested) \_\_\_\_\_ County."
5. The initiating officer's next court date(s) are shown above.

Date

Signature

Name Of Initiating Law Enforcement Agency

Name (Type Or Print)

Fax Number of Initiating Law Enforcement Agency

Title (Type Or Print)

### II. RECALL OF PROCESS AND TRANSMISSION TO CLERK

County Of Arrest, As Assigned By The Undersigned

Date Of Arrest

Date Of Service Of Process

Name And Address Of Arresting Agency

Defendant's Next Court Date In Your County

### NOTICE TO THE LAW ENFORCEMENT AGENCY IN VERIFICATION SECTION ABOVE:

The defendant was arrested in the County of Arrest named above. The attached process  has  has not been served on the defendant. The process is hereby recalled. If you have not already done so, immediately return your original to the office of the Clerk of Superior Court of the county in which the charges are pending.

### NOTICE TO THE CLERK OF SUPERIOR COURT OF THE COUNTY WHERE THE PROCESS WAS ISSUED:

The defendant named above has been arrested on the charges specified above and served with a copy of the process in this county. The original process has been recalled. Attached you will find the following:

1. The process served in this county, bearing the officer's return of service.
2. The original release order and appearance bond, if the defendant has been released, or a copy of the release order, if the defendant has not been released.
3. The defendant's next court date in your county is the date shown above, and the defendant has been notified of that court date in the Release Order, of which a copy is attached.

Date

Signature Of Judicial Official

County

Telephone Number

Name Of Judicial Official (Type Or Print)

(Over)

## INSTRUCTIONS

### THE LAW ENFORCEMENT AGENCY IN POSSESSION OF THE ORIGINAL PROCESS SHOULD:

1. Enter the applicable information in the boxes in the top portion and in the Verification on the reverse side.
2. Under "Name Of Initiating Officer, If Any," enter the name of the officer whose name appears as a complaining witness on the warrant in this case, if any. If the process is an order for arrest, refer to the warrant for this information.
3. If the charges are all misdemeanor(s), under "Initiating Officer's Court Date(s)" enter all the dates on which the initiating officer is scheduled to be in district court during the next month. Otherwise do not enter a date in this box.
4. Complete and sign the Verification on the reverse.
5. Fax this form, and the process, to the law enforcement agency that arrested the defendant.
6. Enter the following notation in the Return of Service on the original: "Defendant has been arrested in *(name of county where defendant arrested)* \_\_\_\_\_ County."
7. Immediately return the original, with that notation, to the office of the Clerk of Superior Court of the county where the process was issued, to be filed in the defendant's file.
8. Make no further effort to arrest the defendant on this process.
9. If you entered the defendant and the charges in DCI, update DCI with the arrest information.

### THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE DEFENDANT SHOULD:

1. By fax or other means, obtain the following from the law enforcement agency in possession of the process:
  - a. the original process,
  - b. this form, with the Verification on Side One of this form completed and signed.
2. Make a copy of the process, serve it on the defendant, and make a return of service on the original or duplicate original.
3. Take the defendant, and these papers, to a magistrate for an initial appearance without unnecessary delay.
4. Give the process bearing your return of service and two (2) copies of this form to the magistrate.
5. Notify DCI that the defendant has been arrested on these charges, if the process was entered.

### THE MAGISTRATE SHOULD:

1. Enter the applicable information in the boxes under "RECALL OF PROCESS AND TRANSMISSION TO CLERK."
2. Conduct an initial appearance immediately and set conditions of pretrial release as soon as sufficient information is available.
3. Assign a court date in the county where the charges are pending. Communicate with that county to obtain an appropriate date. Enter this date under "Defendant's Next Court Date In Your County, As Assigned By The Undersigned."
4. Release the defendant upon satisfaction of the conditions of pretrial release.
5. Complete the "Recall Of Process And Transmission To Clerk" on the reverse.
6. Send this form to the Clerk of Superior Court of the issuing county. Attach the following:
  - a. the process bearing the return of service,
  - b. the original release order and appearance bond, if the defendant has been released from jail, or a copy of the release order if the defendant has not been released.
7. Send the above by fax and hard mail in all cases.
8. Send a copy of this form to the law enforcement agency in possession of the original process. Attach a copy of the Release Order.

**STATE OF NORTH CAROLINA**

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

**STATE VERSUS**

Name Of Defendant

**CONDITIONS OF RELEASE  
ABSTINENCE FROM ALCOHOL AND  
CONTINUOUS ALCOHOL MONITORING**

G.S. 15A-534

**NOTE:** Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order, or AOC-CR-922, Release Order For Juvenile Transferred To Superior Court For Trial.

**ORDER**

In addition to the conditions of release imposed on the attached AOC-CR-200 or AOC-CR-922, incorporated herein by reference:

- 1. (for offenses committed on or after December 1, 2011, but before December 1, 2012) The undersigned judicial official finds that the defendant has been charged with an offense involving impaired driving, G.S. 20-4.01(24a), and was convicted of a prior offense involving impaired driving, which prior offense occurred within 7 years before the date of this offense. The defendant therefore is ORDERED to abstain from alcohol consumption as verified by a continuous alcohol monitoring system for the period of pretrial release or until this condition is removed by entry of order of the court. G.S. 15A-534(i).
- 2. (for offenses committed on or after December 1, 2012) The defendant is ORDERED to abstain from alcohol, as verified by a continuous alcohol monitoring system. The monitoring provider shall report any violation of this condition to the district attorney. G.S. 15A-534(a).
- 3. It is further ORDERED that the following conditions related to defendant's release on continuous alcohol monitoring shall apply:

Date

Signature Of Judicial Official

Magistrate  Deputy CSC  Assistant CSC  Clerk Of Superior Court  District Court Judge  Superior Court Judge



# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division**STATE VERSUS**

Name Of Defendant

**DETENTION OF IMPAIRED DRIVER**

Date Of Birth

G.S. 15A-534.2, 20-38.4

**FINDINGS**

The undersigned judicial official conducting an initial appearance for the defendant named above finds the following by clear and convincing evidence:

1. The defendant has been charged with an offense involving impaired driving as defined in G.S. 20-4.01(24a).
2. At the time of the defendant's initial appearance, the impairment of the defendant's physical or mental faculties presents a danger, if the defendant is released, of physical injury to the defendant or others or damage to property in that (*specify reasons*):

**DETENTION ORDER**

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff until an appropriate judicial official determines that

1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released or
2. a sober, responsible adult is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

**RELEASE FROM DETENTION ORDER**

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

1. the defendant's physical and mental faculties are no longer impaired to the extent that the defendant presents a danger of physical injury to the defendant or others or of damage to property if the defendant is released.
2. \_\_\_\_\_ (*name*), a sober, responsible adult, has indicated by signing below that he/she is willing and able to assume responsibility for the defendant until the defendant's physical and mental faculties are no longer impaired.
3. the period of detention has reached twenty-four (24) hours.

By signing immediately below, I certify that I am a sober, responsible person, age 18 or older, who is willing and able to assume responsibility for the defendant until the defendant's physical or mental faculties are no longer impaired.

Date	Signature Of Sober Responsible Adult
------	--------------------------------------

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
Signature Of Judicial Official		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
		<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

**NOTE:** "If there is a finding of probable cause, the magistrate shall consider whether the person is impaired to the extent that the provisions of G.S. 15A-534.2 should be imposed." G.S. 20-38.4(a)(3).

**NOTE:** If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. Use form AOC-CR-271 for this purpose. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

DETENTION FOR COMMUNICABLE DISEASE TESTING

G.S. 15A-534.3

FINDINGS

The undersigned judicial official conducting an initial appearance or first appearance for the defendant named above finds probable cause that an individual had a nonsexual exposure to the defendant in a manner that poses a significant risk of transmission of the AIDS virus or Hepatitis B by the defendant to the individual in that (specify reasons):

[NOTE: Do not include any information indicating that the defendant has or may have a communicable disease. Describe only the nature of the exposure that would pose a significant risk of transmission of the AIDS or Hepatitis B virus if the defendant were infected. Note that mere contact of the defendant's bodily fluids with a subject's clothing or unbroken skin does not pose a significant risk of transmission of either virus. A significant risk of transmission occurs when the defendant's bodily fluids come into contact with the subject's broken skin or mucous membranes. For example, a bite by the defendant that does not break the subject's skin does not pose a significant risk of transmission. Contact that may pose a significant risk includes things like a needlestick or a bite that actually breaks the subject's skin.]

DETENTION ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS that the defendant be detained in the custody of the Sheriff to allow for investigation by public health officials and for testing for AIDS virus infection and Hepatitis B infection if required by public health officials pursuant to G.S. 130A-144 and G.S. 130A-148.

The period of detention under this Order shall not exceed twenty-four (24) hours.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

RELEASE FROM DETENTION ORDER

The undersigned judicial official ORDERS that the defendant be released from the detention order entered above because

- 1. public health officials have completed their investigation and testing, if any, under G.S. 130A-144 and G.S. 130A-148.
2. the period of detention has reached twenty-four (24) hours.

The conditions, if any, of the defendant's pretrial release are contained on form AOC-CR-200.

Date Time AM PM Magistrate Clerk Of Superior Court
Deputy CSC District Court Judge
Assistant CSC Superior Court Judge

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
Before The Magistrate

STATE VERSUS

IMPLIED CONSENT OFFENSE NOTICE

Name Of Defendant

G.S. 20-38.4

OBSERVATION PROCEDURE

TO THE DEFENDANT:

The established local procedure to contact other persons and have other persons appear at the jail to observe your condition or administer an additional chemical analysis to you is provided in writing with this form and incorporated into this form by reference. You are hereby notified of this procedure.

CONTACT PERSONS

TO THE DEFENDANT:

Pursuant to G.S. 20-38.4(a)(4), you are required to list all persons you wish to contact and their telephone numbers: (attach additional sheets if necessary)

Name

Telephone Number

- 1.
2.
3.

I do not wish to contact anyone.

SIGNATURE

By signing below, the defendant indicates that he/she has received notice of the contact and observation procedure and has listed all persons that he/she wishes to contact.

Date

Signature Of Defendant

MAGISTRATE'S CERTIFICATION

The undersigned magistrate certifies that pursuant to Article 24 of Chap. 15A and G.S. 20-38.4 that

- 1. An initial appearance was held and the undersigned found probable cause to believe the defendant committed an implied consent offense.
2. The undersigned reviewed all alcohol screening tests, chemical analyses and testimony from law enforcement officers concerning impairment and the circumstances of the arrest, and observed the defendant.
3. The undersigned considered whether the defendant was impaired to the extent that the provisions of G.S. 15A-534.2 should have been imposed.
4. The undersigned informed the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or to administer an additional chemical analysis.
5. The undersigned required the defendant to list all persons the defendant wishes to contact and telephone numbers on a copy of this form.
The defendant returned this form to the undersigned at the initial appearance.
The defendant failed to return this form at the initial appearance.

Date

Time

AM PM

Signature Of Magistrate

The defendant returned this form to the undersigned after the initial appearance.

Date

Time

AM PM

Signature

Magistrate

Assistant CSC

Deputy CSC

Clerk Of Superior Court

NOTE: If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).





STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

DETENTION OF PROBATIONER
ARRESTED FOR FELONY

G.S. 15A-534(d2)

NOTE: Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order.

FINDINGS AND DETENTION ORDER

The undersigned, having found on the attached AOC-CR-200, incorporated herein by reference, that the defendant has been charged with a felony offense while on probation for a prior offense, hereby finds in addition that (check only one)

- 1. the defendant poses a danger to the public, and therefore a secured bond or electronic house arrest with secured bond is required if release is otherwise authorized.
2. the defendant does not pose a danger to the public, and therefore conditions of release are set on the attached AOC-CR-200 as otherwise provided in G.S. Chapter 15A, Article 26.
3. there is insufficient information to determine whether the defendant poses a danger to the public, and therefore makes the following additional findings and orders below. (NOTE: Nos. 3.a. and 3.b. must be completed when making this finding.)
a. The undersigned finds the following basis for the decision that additional information is needed to determine whether the defendant poses a danger to the public:
b. The undersigned further finds that the following additional information is necessary to make that determination:
c. The custodian of the detention facility named on the attached AOC-CR-200 is ORDERED to detain the defendant pursuant to G.S. 15A-534(d2)(3). The custodian is further ORDERED to bring the defendant before a judge for first appearance at the location, date and time specified on the attached AOC-CR-200, but if the information identified in No. 3.b. becomes available before that time, the custodian is ORDERED to bring the defendant immediately before any judicial official to set conditions of release.

Date Signature Of Judicial Official
Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court District Court Judge Superior Court Judge

RELEASE FROM DETENTION ORDER

NOTE: This order is required only if the defendant was detained pursuant to No. 3, above.

The undersigned judicial official ORDERS that the defendant be released from the Detention Order entered above, because (check one)

- 1. upon receipt and consideration of the additional information described above,
2. upon review of the defendant's eligibility for release at his/her first appearance,
the undersigned finds that the defendant does does not pose a danger to the public, and therefore sets or denies conditions of release accordingly on the attached AOC-CR-200.

Date Signature Of Judicial Official
Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court District Court Judge Superior Court Judge

NOTE TO JUDICIAL OFFICIAL: First appearance must be set for the first regular session of district court in the county or within 96 hours of arrest, whichever occurs first. G.S. 15A-601(c). A lack of information to determine whether the defendant poses a danger to the public does not permit a delay of the first appearance. If the defendant was detained pursuant to No. 3 above, then upon receipt of information identified in No. 3.b., any judicial official before whom the defendant is brought must set conditions of release pursuant to G.S. 15A-534(d2)(3), in accord with the official's further finding concerning danger to the public under Release From Detention Order above.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

DETENTION OF DEFENDANT
ARRESTED FOR PROBATION VIOLATION
WITH PENDING FELONY
OR PRIOR SEX OFFENSE

G.S. 15A-1345(b1)

NOTE: Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order.

FINDINGS AND DETENTION ORDER

The undersigned, having found on the attached AOC-CR-200, incorporated herein by reference, that the defendant has been arrested for a violation of probation with a pending felony charge or a prior conviction requiring registration under G.S. 14, Article 27A, hereby finds in addition that (check only one)

- 1. the defendant poses a danger to the public, and therefore release is denied pending the defendant's probation revocation hearing as ordered on the attached AOC-CR-200 and pursuant to G.S. 15A-1345(b1)(1).
2. the defendant does not pose a danger to the public, and therefore conditions of release are set on the attached AOC-CR-200 as otherwise provided in G.S. Chapter 15A, Article 26.
3. there is insufficient information to determine whether the defendant poses a danger to the public, and therefore enters the following Detention Order. (NOTE: A date and time for production of the defendant must be set in No. 3.b. when making this finding.)
a. The undersigned ORDERS that the custodian of the detention facility named on the attached AOC-CR-200 detain the defendant pursuant to G.S. 15A-1345(b1)(3), in order for the court to obtain sufficient information to determine whether the defendant poses a danger to the public.
b. It is further ORDERED that, if conditions of release have not been set based upon the receipt of additional information by (date) at (time) am/pm (no later than 7 days from arrest), the custodian shall bring the defendant immediately before any judicial official at that time to set conditions of release.

Date

Signature Of Judicial Official

Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court District Court Judge Superior Court Judge

RELEASE FROM DETENTION ORDER

NOTE: This order is required only if the defendant was detained pursuant to No. 3, above.

The undersigned judicial official ORDERS that the defendant be released from the Detention Order entered above, because (check one)

- 1. upon receipt and consideration of additional information,
2. upon review of the defendant's eligibility for release after detention without bail pursuant to G.S. 15A-1345(b1) as specified in No. 3.b. above,

the undersigned finds that the defendant does/does not pose a danger to the public and therefore sets or denies conditions of release accordingly on the attached AOC-CR-200.

Date

Signature Of Judicial Official

Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court District Court Judge Superior Court Judge

NOTE TO JUDICIAL OFFICIAL: If the defendant has been held for seven (7) days since arrest pursuant to G.S. 15A-1345(b1) and without a determination of conditions of release, the defendant must be brought before any judicial official, who must record in writing that the defendant has been held for 7 days and impose conditions of release as otherwise provided in G.S. 15A-1345. If the defendant is found to be a danger to the public, whether upon receipt of additional information or after 7 days without additional information, release must be denied pending the probation revocation hearing.

The undersigned officer has probable cause to believe that on or about (a) (p.) m., the day of in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area) MPH in a MPH zone, G.S. 20-141.1.

Form containing personal information: Name Of Defendant, Address, City, State, Zip, Drivers License No., State, CDL, Class, Race, Sex, Date Of Birth, Age, Social Security No., Telephone No., Vehicle License No., State, Vehicle Type, Trailer Type, CMV, Haz. Mat., Make, Year, Name And Telephone No. Of Defendant's Employer, Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

Form containing legal proceedings: NORTH CAROLINA UNIFORM CITATION, Defendant Is To Appear In District Court, Day Of Week, Month, Day, Year, Time, N.C. AM, PM, DL, DCI, Other # Of Chgs, Interpreter Needed, SP, OTS, ASL, Name Of Defendant, Address, City, State, Zip, Drivers License No., State, CDL, Class, Race, Sex, Date Of Birth, Age, Social Security No., Telephone No., Vehicle License No., State, Vehicle Type, Trailer Type, CMV, Haz. Mat., Make, Year, Name And Telephone No. Of Defendant's Employer, Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

NOTE: (If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.)

Form containing court proceedings: MAGISTRATE'S ORDER - MISDEMEANOR ONLY, COURT USE ONLY, VERDICT/FINDING, PLEA, JUDGMENT, COMMITMENT, Date, Signature Of District Court Judge, Signature Of Deputy/Assistant/CSC

ORIGINAL-COURT COPY

**WITNESSES**

Name	Address	Phone
Name	Address	Phone
Name	Address	Phone

The undersigned officer has probable cause to believe that on or about (a) (p.) m, the day of in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area) MPH in a MPH zone, G.S. 20-141.1.

Form with sections: NORTH CAROLINA UNIFORM CITATION, THE STATE OF NORTH CAROLINA VS., Address, City, State, Zip, Drivers License No., State, CDL, Class, Race, Sex, Date Of Birth, Age, Social Security No., Of Defendant, Telephone No., Vehicle License No., State, Vehicle Type, Trailer Type, CMV, Haz. Mat., Make, Year, Name And Telephone No. Of Defendant's Employer, Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict/finding, it is ORDERED that the defendant: PLEA: guilty/resp. no contest. FINDING: guilty/resp. not guilty/resp. VERDICT: guilty/resp. not guilty/resp. not contest. No./Level: 0 I (0) II (1-4) III (5+)

MAGISTRATE'S ORDER - MISDEMEANOR ONLY NOTE: (If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.)

DEFENDANT'S COPY (SEE IMPORTANT NOTICE ON REVERSE)

# NOTICE TO DEFENDANT

If you fail to appear in court at the time and place specified, or to dispose of this case prior to your court date by pleading Guilty/Responsible, **CRIMINAL PROCESS MAY BE ISSUED AGAINST YOU AND SUBSTANTIAL ADDITIONAL FEES MAY BE ASSESSED**. If you are charged with a motor vehicle offense, your failure to appear may result in the revocation of your drivers license until you dispose of this charge, and certain fees may be assessed against you by the North Carolina Division of Motor Vehicles. In addition, if a cash bond is required and posted, it will be forfeited, and your failure to appear will be treated as a "conviction" resulting in "points" against your record or possible license revocation.

## INSTRUCTIONS TO DEFENDANT

*(Only the checked block applies)*

- 1. You must appear** in District Court at the time and place specified on the front side.
- You do not have to appear** in District Court at the time and place specified if you waive your trial, plead Guilty/Responsible and pay the amounts shown below for fine/penalty (which is a standard amount set by the Chief District Court Judges of North Carolina) and for court costs. You may do so online, by mail or in person so long as your payment is received by 5:00 p.m. on the last working day prior to your scheduled court date.

**Payment Online** - Certain offenses that do not require a court appearance may be processed online at [www.payNCticket.org](http://www.payNCticket.org).

**Payment By Mail** - Date and sign this Citation in the space provided below, place your payment and this Citation in an envelope, affix a stamp and mail to: Clerk of Superior Court, \_\_\_\_\_ County Courthouse, \_\_\_\_\_.

**WAIVER OF TRIAL/HEARING - PLEA OF GUILTY/RESPONSIBLE - CONSENT TO ENTRY OF JUDGMENT**  
I acknowledge that I have been charged with the offense/infraction noted herein by the charging officer.

I understand that I am presumed by law to be Not Guilty/Not Responsible until proven Guilty/Responsible beyond a reasonable doubt. Nevertheless, I do hereby waive my constitutional rights to a trial/hearing in open court, to confront the witnesses against me, and to representation by an attorney.

I hereby plead Guilty/Responsible to this offense/infraction and tender to the court the sums listed below as payment of the fine/penalty and costs in this case.

North Carolina \_\_\_\_\_. Payment must be made by **certified check, cashier's check or money order** payable to the Clerk of Superior Court. **Do not mail cash. PERSONAL CHECKS WILL NOT BE ACCEPTED.**

**Payment In Person** - Deliver your payment and this Citation to the office of the Clerk of Superior Court at the above address during regular business hours or to any Magistrate of the above county. Payment must be made by **cash, certified check, cashier's check or money order** payable to the Clerk of Superior Court.

**PERSONAL CHECKS WILL NOT BE ACCEPTED.**

**If you wish to contest the charge** or appear before a judge, you must appear at the time and place specified on the front side.

- 3. You do not have to appear** in District Court at the time and place specified if you waive your trial and plead Guilty. If you wish to do so, **you must**

**appear in person before a Magistrate** of \_\_\_\_\_ County, because of the nature of the charge. Date and sign this Citation in the space provided below, deliver it to the Magistrate, and pay the fine imposed by the Magistrate and the court costs shown below.

Payment must be made by **cash, certified check, cashier's check or money order** payable to the Clerk of Superior Court.

**PERSONAL CHECKS WILL NOT BE ACCEPTED.**

**If you wish to contest the charge** or appear before a judge, you must appear at the time and place specified on the front side.

**WARNING:** If you decide to plead Guilty/Responsible, you should do so **promptly** to minimize your court costs. If you delay in entering your plea and making the specified payment; you may be liable for the costs of serving subpoenas on witnesses plus witness fees.

## WAIVER OF TRIAL/HEARING - PLEA OF GUILTY/RESPONSIBLE - CONSENT TO ENTRY OF JUDGMENT

I request that the court accept my waiver of trial/hearing, plea of Guilty/Responsible and tender of fine/penalty and costs, and that a verdict/finding of Guilty/Responsible be entered. This request is made with the full understanding that a verdict/finding of Guilty/Responsible will be entered against my record, that if this is a motor vehicle offense, the North Carolina Division of Motor Vehicles (or the licensing authority of any other state which issued my license to drive) will be notified of the verdict/finding, that it will have the same legal effect for all purposes as a verdict/finding of Guilty/Responsible after a trial/hearing, and that it may result in the assessment of points on my driving record or the suspension or revocation of my drivers license.

Amount Of Fine/Penalty	Court Costs	Total
\$ _____	\$ _____	\$ _____

Date	Signature Of Defendant

The undersigned officer has probable cause to believe that on or about (a) (p.) m., the day of in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area) MPH in a MPH zone, G.S. 20-141.1.

Form with sections: NORTH CAROLINA UNIFORM CITATION, THE STATE OF NORTH CAROLINA VS., Drivers License No., Date Of Arrest & Check Digit No., DEPARTMENTAL USE ONLY, and WIT.

JUDGMENT section containing checkboxes for 'The defendant in open court, gives notice of appeal to the Superior Court.', 'The Court finds just cause to waive costs as ordered on attached AOC-CR-618.', etc.

NOTE: (If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.)

The undersigned officer has probable cause to believe that on or about \_\_\_\_\_ (a.) (p.) m., the \_\_\_\_\_ day of \_\_\_\_\_ in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area) \_\_\_\_\_ MPH in a \_\_\_\_\_ MPH zone, G.S. 20-141.1.  1. At a speed of \_\_\_\_\_ MPH in a \_\_\_\_\_ MPH zone, G.S. 20-141.1.  2. In forward motion without having the provided seat belt properly fastened about the defendant's body, G.S. 20-135.2A.  3. By transporting a passenger of less than 16 years of age without having the passenger in a (weight appropriate child passenger restraint system) (seat belt), G.S. 20-137.1.  4. By transporting a child of less than five years of age and less than 40 pounds in weight without the child being secured in the rear seat, when the vehicle was equipped with an active passenger-side front air bag and the vehicle had a rear seat, G.S. 20-137.1(a1).  5. While subject to an impairing substance, G.S. 20-138.1.  6. Without being licensed as a driver by the Division of Motor Vehicles of North Carolina, G.S. 20-7(a).  7. While the defendant's drivers license  was revoked, G.S. 20-28(a).  33.  was revoked and was originally revoked for an impaired driving revocation, G.S. 20-28(a), be expired, G.S. 20-111(2).  8. While displaying an expired registration plate on the vehicle knowing the same to be expired, G.S. 20-111(2).  9. Without (displaying thereon a current approved inspection certificate) (having a current electronic inspection authorization for the vehicle), such vehicle requiring inspection in North Carolina, G.S. 20-183.8. Month Expired: \_\_\_\_\_  10. By failing to see before (starting) (stopping) (turning from a direct line) that such movement could be made in safety, G.S. 20-154.  11. By failing to stop at a duly erected (stop sign) (flashing red light).  12. By entering an intersection while a traffic signal was emitting a steady red circular light for traffic in defendant's direction of travel, G.S. 20-156(b)(2).  13. Without having in full force and effect the financial responsibility required by G.S. 20-313. The defendant was the owner of the motor vehicle that was (registered) (required to be registered) in this State, G.S. 20-313.  14. (Possess an open container of) (Consume) an alcoholic beverage in the passenger area of a motor vehicle, G.S. 20-136.7(a1). [NOTE: Strike "operate a (motor) vehicle" and "(public vehicular area)" above.]  15. Without decreasing speed as necessary to avoid colliding with a (vehicle) (person), G.S. 20-141(m).  16. \_\_\_\_\_

File No. \_\_\_\_\_

**NORTH CAROLINA UNIFORM CITATION**  
*Defendant Is To Appear In District Court*

Day Of Week \_\_\_\_\_ Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_ Time \_\_\_\_\_ AM  PM  N.C.

DL  DCI  Other # Of Chgs \_\_\_\_\_ Interpreter Needed  SP  OTS  ASL

**THE STATE OF NORTH CAROLINA VS.**

Name Of Defendant \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Drivers License No. \_\_\_\_\_ State \_\_\_\_\_ CDL \_\_\_\_\_ Class \_\_\_\_\_

Race \_\_\_\_\_ Sex \_\_\_\_\_ Date Of Birth \_\_\_\_\_ Age \_\_\_\_\_

Social Security No. Of Defendant \_\_\_\_\_ Telephone No. \_\_\_\_\_

Vehicle License No. \_\_\_\_\_ State \_\_\_\_\_

Vehicle Type \_\_\_\_\_ Trailer Type \_\_\_\_\_ CMV \_\_\_\_\_ Haz. Mat. \_\_\_\_\_ Make \_\_\_\_\_ Year \_\_\_\_\_

Name And Telephone No. Of Defendant's Employer \_\_\_\_\_

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card) \_\_\_\_\_

**ACKNOWLEDGMENT/RESIDENT PERSONAL RECOGNIZANCE FOR APPEARANCE**  
 I acknowledge receipt of this Citation  and I promise to appear in the named court at the time and place designated herein to answer the charge(s). I understand that my failure to appear or to dispose of this Citation by other acceptable legal means, such as a waiver, will result in my operator's license issued by my state of residence being suspended until I have done so. Also, I may go before a magistrate and make bail in lieu of my personal recognizance.

Date \_\_\_\_\_ Signature Of Defendant \_\_\_\_\_

**DEPARTMENTAL USE ONLY**

Officer \_\_\_\_\_ No. \_\_\_\_\_ Troop \_\_\_\_\_ District \_\_\_\_\_

SHP Code  N.C. Patrol  Police/Sheriff \_\_\_\_\_

Area Wea. \_\_\_\_\_ Vis. \_\_\_\_\_ Traffic \_\_\_\_\_ Accident \_\_\_\_\_ Speed \_\_\_\_\_

On Highway No./Street \_\_\_\_\_ Injury Or Serious Injury  Passenger(s) Under 18

In Vicinity/City Of \_\_\_\_\_ At/Near Intersection \_\_\_\_\_

Wit. \_\_\_\_\_ Chemical Analyst  AC  Refused

**MAGISTRATE'S ORDER - MISDEMEANOR ONLY**

The named defendant has been arrested without a warrant and there is probable cause for the defendant's detention on the stated charges. This Magistrate's Order is issued upon information furnished under oath by the named officer. A copy of this Order has been delivered to the defendant.

Signature Of Magistrate/Deputy/Assistant/CSC \_\_\_\_\_ Date \_\_\_\_\_

**OFFICER'S NOTES**

OFFICER'S COPY







STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

CONDITIONS OF RELEASE FOR PERSON CHARGED WITH A CRIME OF DOMESTIC VIOLENCE

#

G.S. 15A-534.1

NOTE: Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order.

FINDINGS

The undersigned judicial official finds that the defendant named above is charged with assault on, stalking, communicating a threat to, or committing a felony provided in former Article 7A or Articles 7B, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or (for offenses committed on or after December 1, 2015, only) a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes.

The undersigned judicial official has considered the defendant's criminal history as shown on a criminal history report provided by a law enforcement officer or a district attorney. has not considered the defendant's criminal history as shown on a criminal history report because no report could be obtained within a reasonable time.

ORDER

Based upon the foregoing findings, the undersigned judicial official ORDERS the following conditions of release IN ADDITION TO the conditions of release set out on the attached form AOC-CR-200:

- 1. The defendant shall stay away from the home, school, business or place of employment of the alleged victim.
2. The defendant shall refrain from assaulting, beating, molesting, or wounding the alleged victim.
3. The defendant shall refrain from removing, damaging or injuring the property listed below:
4. The defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.
5. (for offenses committed on or after December 1, 2012) The defendant shall abstain from alcohol, as verified by a continuous alcohol monitoring system. The monitoring provider shall report any violation of this condition to the district attorney.
6. Other restrictions:
a. The defendant shall have no contact with the alleged victim.
b. The defendant shall comply with any valid domestic violence protective order in effect.
c. The defendant shall not possess any firearms.
d. Other:

Date

Signature Of Judicial Official

- Magistrate
District Court Judge
Superior Court Judge

NOTE TO JUDICIAL OFFICIAL: The law enforcement officer or district attorney who provided the defendant's criminal history report shall dispose of the report in accordance with DCI regulations. The report shall NOT be placed in the case file.

**STATE OF NORTH CAROLINA**

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

**STATE VERSUS**

Name Of Defendant

**CONDITIONS OF RELEASE FOR PERSON  
CHARGED WITH SEX OFFENSE OR CRIME OF  
VIOLENCE AGAINST CHILD VICTIM**

G.S. 15A-534.4

**NOTE:** Use this form in conjunction with form AOC-CR-200, Conditions Of Release And Release Order.

**FINDINGS**

The undersigned judicial official finds that the defendant named above is charged with felonious or misdemeanor child abuse, with taking indecent liberties with a minor in violation of G.S. 14-202.1, with rape or any other sex offense in violation of Article 7B or former Article 7A of Chapter 14 of the General Statutes against a minor victim, with incest with a minor in violation of G.S. 14-178, with kidnapping, abduction, or felonious restraint involving a minor victim, with a violation of G.S. 14-320.1, with assault or any other crime of violence against a minor victim, or with communicating a threat against a minor victim.

The undersigned judicial official, upon request of the defendant, has waived one or more of the conditions required by No. 2 or No. 3 below based on the following findings that imposing the condition(s) on the defendant would not be in the best interest of the alleged victim: *(specify reasons)*

**ORDER**

Based upon the foregoing findings, the undersigned judicial official ORDERS the following conditions of release IN ADDITION TO the conditions of release set out on the attached form AOC-CR-200:

1. The defendant shall refrain from assaulting, beating, intimidating, stalking, threatening, or harming the alleged victim.
2. The defendant shall stay away from the home, temporary residence, school, business, or place of employment of the alleged victim. *(Strike through and initial any waived conditions if block is checked, but not all conditions apply.)*
3. The defendant shall refrain from communicating or attempting to communicate, directly or indirectly, with the victim, except under circumstances specified in an order entered by a judge with knowledge of the pending charges. *(Strike through and initial any waived conditions if block is checked, but not all conditions apply.)*

Date

Signature Of Judicial Official

<input type="checkbox"/> Magistrate	<input type="checkbox"/> Clerk Of Superior Court
<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> District Court Judge
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Superior Court Judge

NOTE TO OFFICER: The officer should review and follow the instructions on Side Two of this form.

ATTACH TEST RECORD TICKET HERE

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

NOTE: A "commercial motor vehicle" is as defined in G.S. 20-4.01(3d).

In The General Court Of Justice  
District Court Division

## IN THE MATTER OF:

## AFFIDAVIT AND REVOCATION REPORT OF

LAW ENFORCEMENT OFFICER

CHEMICAL ANALYST

The charged offense is impaired supervision or instruction under G.S. 20-12.1. Accordingly, substitute "supervisor/instructor" wherever "driver" appears below.  
G.S. 20-16.2, 20-16.5, 20-17.8, 20-19(c3), 20-139.1

Name				
Address				
City		State	Zip	
Race	Sex	Date Of Birth	Drivers License No.	State

Vehicle Type	CMV	Haz. Mat.	Citation No.
--------------	-----	-----------	--------------

The undersigned being first duly sworn says:

1. I am a law enforcement officer. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.)(p.)m., a law enforcement officer had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle ( commercial motor vehicle) in the above named county upon \_\_\_\_\_ while committing an implied-consent offense in that \_\_\_\_\_  
*(Give Street, Highway, Or Public Vehicular Area)*

*(List Sufficient Facts To Establish Probable Cause)*

- 2. The driver has a drivers license restriction:  alcohol concentration.  ignition interlock.  conditional restoration (Restr: \*9).
- 3. The driver violated a drivers license restriction by:  refusing to be transported for testing.  not having an operable ignition interlock on the vehicle being driven.  failing to personally activate the ignition interlock on the vehicle being driven.  exceeding the driver's alcohol concentration limitation.  refusing a chemical analysis (if refusal, also complete item no. 14 below).
- 4. The driver was charged with the implied-consent offense of:  G.S. 20-138.1;  Other Implied-Consent Offense: \_\_\_\_\_;  and the driver has one or more pending offenses in the following county(ies) \_\_\_\_\_ for which the drivers license had been or is revoked under G.S. 20-16.5.
- 5. After the driver was charged, I took the driver before \_\_\_\_\_, a chemical analyst authorized to administer a test of the driver's breath.
- 6. I am a chemical analyst and possess a current permit issued by the Department of Health and Human Services authorizing me to conduct chemical analyses of the breath utilizing the Intox EC/IR II.
- 7. I informed the driver orally and also gave notice in writing of the rights specified in G.S. 20-16.2(a). I completed informing the driver of the rights as indicated on the attached DHHS 4081.
- 8. I began observing the driver for the purpose of complying with the observation period requirements for a breath analysis in accordance with the methods/rules approved by the Department of Health and Human Services at \_\_\_\_\_ (a.)(p.)m. on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.
- 9. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.)(p.)m., I requested the driver to submit to a chemical analysis of his/her breath or blood or urine. For blood or urine, I directed the taking of a blood or urine sample by a person qualified under G.S. 20-139.1.
- 10. The driver was unconscious or otherwise incapable of refusal and therefore the notification of rights and request to submit to a chemical analysis were not made. I directed the taking of a blood sample by a person qualified under G.S. 20-139.1.
- 11. The driver submitted to a chemical analysis of his/her breath. I administered the chemical analysis to the driver in accordance with the methods/rules approved by the Department of Health and Human Services using an Intox EC/IR II, and it printed the results of the driver's chemical analysis on the attached test record, DHHS 4082, which is made part of this Affidavit. The most recent preventive maintenance was performed on this Intox EC/IR II on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as shown on the preventive maintenance record. I provided the driver with a copy of the attached test record before any trial or proceeding in which the results of the chemical analysis may be used.
- 12. The chemical analysis of the driver's breath indicated an alcohol concentration of 0.15 or more.
- 13. A sample of the driver's blood or urine was collected for a chemical analysis as indicated on the attached DHHS 4081.
- 14. The driver willfully refused to submit to a chemical analysis as indicated on the attached  DHHS 4082.  DHHS 4081.  The willful refusal occurred in an implied-consent offense involving death or critical injury to another person.

### SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_ DHHS Permit No. \_\_\_\_\_

Date \_\_\_\_\_ Signature Of Official Authorized To Administer Oaths \_\_\_\_\_

Print Name Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_

Magistrate  Deputy CSC  Assistant CSC  CSC

Notary Date My Commission Expires \_\_\_\_\_ County Where Notarized \_\_\_\_\_

Agency Name \_\_\_\_\_

SEAL

Law Enforcement Officer/Analyst Copy

## NOTES TO LAW ENFORCEMENT OFFICER/CHEMICAL ANALYST

### NOTE TO LAW ENFORCEMENT OFFICER WHO IS NOT GOING TO administer breath test or read the implied-consent rights:

1. Complete the identifying information at the top,
2. Check the "Law Enforcement Officer" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-5 (and if the driver is unconscious or incapable of refusing so that the implied-consent rights need not be read, also review and check as appropriate paragraph 10), and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### NOTE TO LAW ENFORCEMENT OFFICER WHO CHARGES DRIVER AND IS CHEMICAL ANALYST who administers the breath test or reads the implied-consent rights for a blood test:

1. Complete the identifying information at the top,
2. Check both the "Law Enforcement Officer" and "Chemical Analyst" blocks under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-14, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### NOTE TO CHEMICAL ANALYST WHO IS NOT THE CHARGING OFFICER:

1. Complete the identifying information at the top,
2. Check the "Chemical Analyst" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 6-14, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

## INSTRUCTIONS

1. This form should be used in District Court to prove alcohol concentration in implied-consent criminal cases.
2. This form should be used before the Magistrate for the pretrial civil revocation (CVR) when the driver is charged with DWI or another implied-consent offense and the driver
  - a. has an alcohol concentration of 0.08 or more;
  - b. has an alcohol concentration of 0.04 or more and was operating a commercial motor vehicle;
  - c. is under age 21 and has an alcohol concentration of 0.01 or more; or
  - d. refuses the breath test and/or a blood or urine test.
3. This form should be used to notify DMV of (i) an alcohol concentration of 0.15 or more or (ii) a refusal to submit to a breath test and/or a blood or urine test.
4. This form should be used to notify DMV of violations of the following drivers license restrictions<sup>†</sup>
  - a. \*9= the driver has a Conditional Restoration of his or her drivers license
  - b. 19= alcohol concentration (A/C) of 0.04
  - c. 20= A/C 0.04+ignition interlock
  - d. 21= A/C 0.00
  - e. 22= A/C 0.00+ignition interlock
  - f. 23= ignition interlock only

+ When a driver has violated a restriction and Paragraphs 2 and 3 on Side One are completed, ALL sections in these paragraphs that apply must be checked. For example, if the driver had a restriction 20 and violated both the alcohol concentration and the ignition interlock provisions, both the "alcohol concentration" and the "ignition interlock" blocks should be checked in Paragraph 2. The same applies to Paragraph 3.
5. File the original and copies of this form, with a copy of the test record ticket attached, as follows:
  - a. Original - To the Magistrate for the pretrial civil revocation (CVR).
  - b. Second copy - To the Court for the criminal case.
  - c. Yellow copy - To DMV for violation of any alcohol or ignition interlock restriction on drivers license, alcohol concentration of 0.15 or more, or for refusal to submit to a breath test and/or a blood or urine test. DMV's address is: DMV, Information Processing Services, 3120 Mail Service Center, Raleigh, NC 27699-3120.
  - d. Pink copy - To the Law Enforcement Officer/Chemical Analyst.
  - e. Green copy - To the driver.

\_\_\_\_\_ County

**IN THE MATTER OF**

Name And Address

**REVOCATION ORDER  
WHEN PERSON PRESENT**

G.S. 20-16.5

**FINDINGS FOR PROBABLE CAUSE**

The undersigned judicial official finds probable cause to believe that:

1. A law enforcement officer had reasonable grounds to believe that the above-named person committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
2. The above-named person has been charged with that offense as provided in G.S. 20-16.2(a);
3. Both the law enforcement officer and the chemical analyst(s) complied with the provisions of G.S. 20-16.2 and 20-139.1 in requiring the above-named person's submission to or procuring a chemical analysis; and
4. The above-named person:
  - a. willfully refused to submit to a chemical analysis.
  - b. had an alcohol concentration of 0.08 or more at any relevant time after the driving.
  - c. had an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle.
  - d. had any alcohol concentration at any relevant time after the driving, and at the time of the offense, was under 21 years of age.
5. The above-named person has one or more pending offenses in the following county(ies) \_\_\_\_\_ for which the person's drivers license had been or is revoked under G.S. 20-16.5.

**ORDER**

It is ORDERED that the above-named person's **drivers license or privilege to drive be revoked**. The above-named person is prohibited from operating a motor vehicle on the highways of North Carolina during the period of revocation. The revocation remains in effect **at least thirty (30) days** from:

1. this date
2. the date he/she surrenders his/her drivers license or privilege to drive to the Court, or demonstrates that he/she is not currently licensed to drive.
3. (check this option if Findings For Probable Cause No. 5 above is checked) the date he/she surrenders his/her drivers license or privilege to drive to the Court, or demonstrates that he/she is not currently licensed to drive **and** indefinitely until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license or privilege to drive had been or is revoked under G.S. 20-16.5.

**The above-named person's privilege to drive in North Carolina is revoked and will remain revoked until the person has actually surrendered his/her license for the period specified above and has paid a \$100 fee to the Clerk of Superior Court.**

I informed the above-named person of his/her rights to a hearing and gave him/her a copy of this Order.

Date	Name Of Judicial Official (Type Or Print)	Signature Of Judicial Official
------	---	--------------------------------

**NOTE:** See reverse for supplemental findings and order, and for disposition of license.

- Judge                       Magistrate                       Deputy CSC  
 Assistant CSC                       Clerk Of Superior Court

**NOTICE**

If at the time of this Order you have only a temporary driving certificate, you must surrender the certificate, and then you also must surrender your license card immediately when you later receive it in the mail from DMV.

If at the time of this Revocation you were not licensed to drive by the North Carolina Division of Motor Vehicles and did not have a valid drivers license from another state, an additional \$50 restoration fee must be paid to the Division of Motor Vehicles before you can drive again in North Carolina. This fee must be paid even though you are a resident of another state.

You have a right to a hearing to contest the validity of this Revocation before a magistrate or judge. To do so, a written request must be made within ten (10) days of the effective date of the revocation. A hearing request form is available from the office of the Clerk of Superior Court or magistrate. Your license will remain revoked and you are not authorized to drive pending the hearing. If you do request a hearing but fail to appear, you forfeit the right to a hearing.

If your license is revoked under Paragraph 1 or 2 of this Order, at the end of the revocation period you are still prohibited from driving until you have paid a fee of \$100 to the Clerk of Superior Court.

If your license is revoked under Paragraph 3 of this Order, that revocation remains in effect at least thirty (30) days and until a final judgment, including appeals, is entered for this current offense and for all pending offenses for which your license has been or is revoked under G.S. 20-16.5. At the end of the revocation period you are still prohibited from driving until you have paid a fee of \$100 to the Clerk of Superior Court. This fee is in addition to any fee you have paid or are to pay in connection with any other pending offense for which your drivers license has been revoked under G.S. 20-16.5.

The \$100 fee may be paid at any time, **even prior to the end of the period of revocation**, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Payment in person must be made in cash or by certified check, cashier's check or money order. Payment by mail must be made by certified check, cashier's check or money order, payable to the Clerk of Superior Court. If you wish to have your drivers license returned to you by mail, please enclose a stamped, self-addressed envelope with your payment.

**IT IS UNLAWFUL FOR YOU TO DRIVE A MOTOR VEHICLE IN THE STATE OF NORTH CAROLINA UNTIL YOU ARE AUTHORIZED TO DO SO. THE DIVISION OF MOTOR VEHICLES MAY ALSO DISQUALIFY YOU FROM OPERATING A COMMERCIAL MOTOR VEHICLE UNDER G.S. 20-17.4.**

**SUPPLEMENTAL FINDINGS AND ORDER**

It is further found that the person named herein appeared before the undersigned judicial official at \_\_\_\_\_  AM  PM on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and,

- 1. surrendered his/her drivers license to the Court.
- 2. was validly licensed but unable to locate his/her license card and filed an affidavit which constituted surrender of the drivers license.
- 3. demonstrated he/she was not currently authorized to drive in North Carolina.

It is ORDERED that this Revocation of the drivers license of the person named herein:

- 1. remains in effect for at least thirty (30) days from the above date and until payment of a \$100 fee has been made to the Clerk of Superior Court.
- 2. (check this option if Findings For Probable Cause No. 5 on reverse side is checked) is indefinite and remains in effect for at least thirty (30) days from the above date and until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5, and until payment of a \$100 fee to the Clerk of Superior Court.

Date	Signature Of Judicial Official
Name Of Judicial Official (Type Or Print)	<input type="checkbox"/> Judge <input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

It is further found that a Pick-Up Order was issued for the license of the person named herein, and the person on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

- 1. surrendered his/her license to the officer serving the Pick-Up Order.
- 2. demonstrated to the officer serving the Pick-Up Order that he/she was not currently authorized to drive in North Carolina.

It is ORDERED that this Revocation:

- 1. remains in effect for at least thirty (30) days from the above date and until payment of a \$100 fee to the Clerk of Superior Court.
- 2. (check this option if Findings For Probable Cause No. 5 on reverse side is checked) is indefinite and remains in effect for at least thirty (30) days from the above date and until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5, and until payment of a \$100 fee to the Clerk of Superior Court.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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**DISPOSITION OF LICENSE OR PRIVILEGE**

- 1. Drivers license of person named herein returned to him/her, and receipt by him/her is acknowledged below.
- 2. At the licensee's request, license returned to him/her by mail. License mailed on the date shown below.
- 3. License mailed to Division of Motor Vehicles on date shown below, since the person named herein is not eligible to use the license for the following reason:

- 4. Limited driving privilege withheld and record forwarded to \_\_\_\_\_ County.
- 5. Other: \_\_\_\_\_

Date	Signature
Date License Mailed	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

**ACKNOWLEDGMENT OF RECEIPT**

I acknowledge receipt of my license.

Date	Signature Of Licensee
Date \$100 Fee Paid	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court



**STATE OF NORTH CAROLINA**

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

**IN THE MATTER OF**

Name And Address

**AFFIDAVIT - NO LICENSE**

G.S. 20-16.5

County Of Residence

State Of Residence

**NORTH CAROLINA RESIDENTS**

I, the undersigned, being first duly sworn, say that I am a resident of the county and state named above, and at the time of this charge:

I am not currently licensed to drive in the State of North Carolina because:

my license is revoked.

my license has expired.

I have never had a license.

other: \_\_\_\_\_.

I am validly licensed to drive in North Carolina but am unable to locate my license card. The circumstances of the loss and the efforts I have made to find the license card are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**OUT-OF-STATE RESIDENTS**

I, the undersigned, being first duly sworn, say that I am a resident of the county and state named above, and at the time of this charge:

I am not currently licensed to drive in the State of North Carolina and do not have a valid drivers license from another state because:

my license is revoked.

my license has expired.

I have never had a license.

other: \_\_\_\_\_.

I am validly licensed to drive by the State of \_\_\_\_\_, but am unable to locate my license card. The circumstances of the loss and the efforts I have made to find the license card are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**

Signature Of Affiant

Date

Signature

Deputy CSC

Assistant CSC

Magistrate

Clerk Of Superior Court

Notary

Date Commission Expires

**SEAL**

County Where Notarized

