

AGENDA

BASIC SCHOOL FOR MAGISTRATES: WEEK II AUGUST 17-21, 2015

MONDAY, August 17

- 9:00 Introductory Lecture on Elements of Crimes** (60m) Room 2401
Jessie Smith, School of Government
- 10:00 Break**
- 10:15 Elements of Crimes (Drugs)** (135m) Room 2401
Jessie Smith, School of Government
- 12:30 Lunch at School of Government**
- 1:30 Elements (Burglary)** (75m) Room 2401
Alyson Grine, School of Government
- 2:45 Break**
- 3:00 Elements (Sexual Assaults)** (120m) Room 2401
Jamie Markham, School of Government
- 5:00 Adjourn**

TUESDAY, August 18

- 9:00 Search Warrants** (90m) Room 2401
Jeff Welty, School of Government
- 10:30 Break**
- 10:45 Search Warrants, cont'd** (90m) Room 2401
Jeff Welty, School of Government
- 12:15 Lunch at School of Government**
- 1:15 Search Warrants, cont'd** (60m) Room 2401
Jeff Welty, School of Government

2:15 Break

2:30 Elements (Theft and Robbery) (105m)
Jeff Welty, School of Government

Room 2401

4:15 Break

4:30 Elements (Trespass) (60m)
Jamie Markham, School of Government

Room 2401

5:30 Adjourn

WEDNESDAY, August 19

9:00 Selecting Process (90m)
Jessie Smith, School of Government

Room 2401

10:30 Break

10:45 Selecting Process, cont'd (90m)
Jessie Smith, School of Government

Room 2401

12:15 Lunch at School of Government

1:15 Selecting Process, cont'd (60m)
Jessie Smith, School of Government

Room 2401

2:15 Break

2:30 Elements (Assaults) (75m)
John Rubin, School of Government

Room 2401

3:30 Break

3:45 Elements (Assaults), cont'd (60m)
John Rubin, School of Government

Room 2401

4:45 Adjourn

THURSDAY, August 20

- 9:00 Elements (Drunk, Weapons, Resisting)** (60m) Room 2401
Jeff Welty, School of Government
- 10:00 Break**
- 10:15 Initial Appearance** (90m) Room 2401
John Rubin, School of Government
- 11:45 Lunch at School of Government**
- 12:45 Initial Appearance, cont'd** (90m) 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, August 21

- 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 at the School of Government**
- 1:15 Complete Evaluations**
- 1:30 Test on Week 2 Material**

Week II Magistrate CLE hours: 1710 = 28.5 hrs
Total available CLEs applied for: 12 hours for two weeks

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, U.S. District Judge for the Eastern District of North Carolina. She is a member of the North Carolina State Bar. Denning earned an AB in journalism and mass communication and a J.D. with high honors, Order of the Coif, from the University of North Carolina at Chapel Hill.

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

Alyson Grine
919.966.4248

agrine@sog.unc.edu

Alyson Grine joined the School of Government in 2006. Prior to that, Grine worked for five years as an assistant public defender representing many non-English speaking Hispanic clients in Orange and Chatham counties. She previously served as a judicial clerk for Chief Justice Henry Frye of the NC Supreme Court in 2000 and Judge Patricia Timmons-Goodson of the NC Court of Appeals in 1999. Grine earned a BA with distinction from UNC-Chapel Hill, a MA in Spanish from the University of Virginia, and a JD with honors from UNC-Chapel Hill.

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. 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.

Jessica Smith
(919) 966-4105

smithj@sog.unc.edu

Jessie Smith joined the SOG in 2000. Before that, she practiced law at Covington & Burling in Washington, D.C. She also clerked for the U.S. District Judge W. Earl Britt in the U.S. District Court for the Eastern District of N.C and for Senior U.S. Circuit Judge J. Dickson Phillips Jr. in the U.S. Court of Appeals for the 4th Circuit. At the SOG, Jessica teaches and consults with judges and other public employees involved in the criminal justice system. Jessica earned a B.A., cum laude, from the University of Pennsylvania and a J.D., magna cum laude, Order of the Coif, from the University of Pennsylvania Law School, where she was managing editor of the Law Review. She was the 2006 recipient of the Albert & Gladys Hall Coates Term Professorship for Teaching Excellence.

Areas of Interest: Criminal law and procedure; evidence

Jeff Welty
(919) 843-8474

welty@sog.unc.edu

Jeff Welty specializes in criminal law and procedure, including search and seizure issues and prosecutor assistance. Prior to joining the School of Government, he practiced law in Durham and was a Lecturing Fellow at Duke Law School. He earned his JD, with highest honors, at Duke, where he served as 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
August 17-21, 2015

EVALUATION

SESSION EVALUATION

Monday, August 17, 2015

Introductory Lecture on Elements of Crimes

Jessie Smith, 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 (Drugs)

Jessie Smith, 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, August 18, 2015

Search Warrants

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:

Elements of Crimes (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:

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 (Trespass)

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:

Wednesday, August 19, 2015

Selecting Process

Jessie Smith, 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:

Elements of Crimes (Assaults)

John Rubin, School of Government

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructors' teaching:					
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, August 20, 2015

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:

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:

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, August 21, 2015

Elements of Crimes (Motor Vehicle Law)

Shea Denning, School of Government

Ashley Confroy, Administrative Office of the Courts

	<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

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate your instructor's teaching:					
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:

	<i>Strongly Disagree</i>			<i>Strongly Agree</i>	
Please rate the session content:					
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 (Drugs)					
Elements of Crimes (Burglary)					
Elements of Crimes (Sexual Assaults)					
Search Warrants					
Elements of Crimes (Theft and Robbery)					
Elements of Crimes (Trespass)					
Selecting Process					
Elements of Crimes (Assaults)					
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.

Strongly Disagree

Strongly Agree

1 2 3 4 5

- | | | | | | |
|---|---|---|---|---|---|
| 2. Before attending the conference, I received appropriate and timely information about conference logistics. | 1 | 2 | 3 | 4 | 5 |
| 3. The room set-up was appropriate for this conference. | 1 | 2 | 3 | 4 | 5 |
| 4. On-site School of Government staff was informed and helpful. | 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:

Criminal
Procedure

CRIMINAL PROCEDURE (AUGUST, 2015)

2014 Legislation Affecting Criminal Law and Procedure Criminal Procedure-Page 1

2014 Legislation Affecting Criminal Law and Procedure

Robert L. Farb, © UNC School of Government

September 2014

Below are summaries of recently enacted 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. (Once there, click on "Session Laws" on the right side of the page and then "2013-2014 Session" under "Browse Session Laws.") Be careful to note the effective date of each piece of legislation.

1. **[S.L. 2014-3 \(H 1050\): Controlled substances excise tax change; vapor products regulated in prisons and jails.](#)** This 48-page session law amends various revenue laws and includes a few changes affecting criminal law. The section numbers and pages of the session law are noted to facilitate locating the provisions.

Effective May 29, 2014, amended G.S. 105-113.107(a) (controlled substances excise tax) adds an excise tax at the rate of \$50.00 for each gram, or fraction thereof, of any "low-street-value drug" (defined in G.S. 105-113.106(4d)) that is sold by weight. Section 14.25 (pages 44-45).

Effective for offenses committed on or after December 1, 2014, G.S. 14-344.1(a)(3) is revised concerning the sales and use tax requirements when reselling admission tickets on the Internet. Section 14.27 (page 45).

Effective July 1, 2014, amended G.S. 148-23.1 prohibits the possession or use of "vapor products" (defined in amended G.S. 148-23.1(d) to include electronic cigarettes, cigars, etc.) at a state correctional facility. The sanctions for violations of G.S. 148-23.1 remain as disciplinary actions against inmates or employees or loss of visitation privileges of visitors as specified in the statute. Section 15.2 (page 47).

Effective for offenses committed on or after December 1, 2014, amended G.S. 14-258.1(c) and (e) prohibit the sale or delivery of vapor products to an inmate in a prison or jail and prohibit a jail inmate from possessing vapor products. A violation of G.S. 14-258.1(c) or (e) remains a Class 1 misdemeanor. Section 15.2 (page 47).

2. **[S.L. 2014-4 \(S 786\): Oil and gas exploration, development, and production.](#)** This lengthy session law contains many provisions concerning oil and gas exploration, development, and production. Some pertinent criminal law provisions are summarized here. New G.S. 113-391.1 (trade secret and confidential information) provides that the knowing and willful disclosure of confidential information to an unauthorized person is a Class 1 misdemeanor. New G.S. 113-395.2 provides that the unlawful subsurface injection of waste in connection with oil and gas exploration is a Class 1 misdemeanor. New G.S. 113-395.4 provides that conducting seismic or geophysical data collection activities through physical entry to land without a landowner's written consent is a Class 1 misdemeanor. These provisions are effective December 1, 2014.
3. **[S.L. 2014-21 \(H 777\): Sex offender prohibited from residing with 1,000 feet of Boys and Girls Clubs of America site.](#)** This session law amends the definition of "child care center" in G.S. 14-208.16(b) to prohibit a registered sex offender or a person who is required to register from residing within 1,000 feet of a permanent location of an organized club of Boys and Girls Clubs of America. The law is applicable to all people registered or required to register as a sex offender on or after June 24, 2014. However, the session law does not apply to a person who has established a residence before June 24, 2014, in accordance with G.S. 14-208.16(d)(1), (2), or (3).

4. **[S.L. 2014-22 \(S 463\)](#): Law expanded statewide that provides that county detention facility may house up to 64 inmates per dormitory under certain conditions.** G.S. 153A-221(d) provides that a dormitory in a county detention facility may house up to 64 inmates as long as the dormitory meets certain conditions. This session law, effective June 18, 2014, makes this statutory subdivision applicable to all counties in the state by deleting the provision that limited its applicability to counties with a population exceeding 300,000 according to the most recent decennial federal census.
5. **[S.L. 2014-27 \(H 698\)](#): Criminal history checks authorized of current members of volunteer or paid fire departments and emergency medical services; urban search and rescue program created.** This session law amends G.S. 114-19.12, effective January 1, 2015, to authorize criminal history checks of current members of volunteer or paid fire departments and emergency medical services. The current statute only authorizes checks of applicants for these positions. The session law also adds a new Article 6 to G.S. Chapter 166A, effective July 1, 2014, to create a statewide urban search and rescue program to be maintained by the Division of Emergency Management of the state Department of Public Safety. The program will provide, among other things, for an urban search and rescue team to assist in the removal of trapped victims during emergencies, including collapsed structures, trench excavations, elevated locations, and in other technical rescue situations. The program must include contract response teams located strategically across the state that are available to provide 24-hour dispatch from the Division of Emergency Management Operations Center. The Secretary of Public Safety may contract with local government units to provide contract response teams to implement the program. Before implementation of the program, the department must study its costs, including the apportionment of costs between State and local government entities, and a report of the results of the study must be provided to a designated legislative committee and the Fiscal Research Division by January 15, 2015.
6. **[S.L. 2014-53 \(H 1220\)](#): Pilot study on safety and efficacy of hemp extract treatment for intractable epilepsy.** This session law authorizes university-based studies of the safety and efficacy of hemp extract treatment for intractable epilepsy. In doing so, it enacts new G.S. 90-94.1 to exempt from criminal penalties the people involved in the study who possess or administer “hemp extract” as defined in the statute, which is effective on the adoption of rules by the state Department of Health and Human Resources. The rules must be adopted by October 1, 2014.
7. **[S.L. 2014-58 \(H 1025\)](#): Ramp meter violation created.** This session law contains several changes involving the state Department of Transportation. Of direct relevance to criminal law, section 10 amends G.S. 20-4.01 to define “ramp meter” as a traffic control device that consists of a circular red and circular green display placed at a point along an interchange entrance ramp. New G.S. 20-158(c)(6), effective for offenses committed on or after December 1, 2014, provides that when a ramp meter is displaying a circular red display, vehicles facing the red light must stop. When displaying green, a vehicle may proceed for each lane of traffic facing the meter. When the display is dark or not red or green, a vehicle may proceed without stopping. A violation of the subdivision is an infraction without assessment of driver’s license points or insurance surcharge.
8. **[S.L. 2014-77 \(S 794\)](#): Presumptive child support guidelines to include retroactive support obligation.** G.S. 50-13.4(c1) requires the Conference of Chief District Court Judges to prescribe statewide presumptive guidelines to compute a parent’s child support obligations and to review them at least once every four years. This session law, effective July 22, 2014, amends the statute to

require the guidelines to include retroactive support obligations.

9. **S.L. 2014-100 (S 744): 2014 Appropriations Act.** This session law makes base budget appropriations for current operations and other changes. Unless otherwise noted, the provisions are effective July 1, 2014. The section numbers and pages of the session law are noted to facilitate locating the provisions.

Medical examiner system. Amended G.S. 130A-382 provides that the Chief Medical Examiner in appointing medical examiners for each county must give preference to physicians but may also appoint physician assistants, nurse practitioners, nurses, coroners, or emergency medical technician paramedics. Studies are authorized of the Office of Chief Medical Examiner and the medical examiner system. Sections 12E.5 and 12E.6 (pages 79-80).

Specified legislative committees are required jointly to study the merger of the State Crime Laboratory and the Office of the State Medical Examiner into a single independent state agency and to report to the 2015 legislative session. Section 17.3 (page 183).

Marine fisheries joint enforcement agreement. Amended G.S. 113-224 authorizes the marine fisheries director or designee to enter an agreement with the National Marine Fisheries Service of the U.S. Department of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the service. Section 14.11 (page 126).

Alcohol Beverage Control (ABC) Commission. Effective October 1, 2014, the ABC Commission is transferred administratively from the Department of Commerce to the Department of Public Safety, but the commission will exercise its powers independently of the Secretary of Public Safety. Section 15.2A (page 137).

Effective for criminal charges brought on or after October 1, 2014, amended G.S. 18B-904 requires the ABC Commission to immediately suspend permits issued by it for 30 days if (1) ALE agents or local ABC Board officers provide advance notice to the commission's legal division staff of an ongoing undercover operation; and (2) after executing a search warrant resulting from the undercover operation, five or more people are criminally charged with violations of gambling, disorderly conduct, prostitution, controlled substance, or felony counterfeit trademark laws. Section 15.2A1 (page 137).

All misdemeanants to serve sentences in local confinement facilities. Various statutes are amended to remove all misdemeanants, including impaired driver (DWI) defendants, from the state prison system, expanding on changes made in 2011. All misdemeanor sentences in excess of 90 days and all DWI sentences, regardless of length, are served through the State Misdemeanant Confinement Program. Amended G.S. 15A-1351(a) provides that all terms of special probation imposed at sentencing for misdemeanors, including impaired driving, must be served in a local confinement or treatment facility, not in prison. This section is effective October 1, 2014, and applies to (1) defendants placed on probation or sentenced to imprisonment for impaired driving under G.S. 20-138.1 on or after January 1, 2015; and (2) defendants placed on probation or sentenced to imprisonment for all other misdemeanors other than impaired driving under G.S. 20-138.1 on or after October 1, 2014. Section 16C.1 (pages 155-59).

Confinement in response to violation (CRV) for probationers. Amended G.S. 15A-1344(d2), effective for probation violations occurring on or after October 1, 2014, provides that the 90-day term of confinement ordered for a felony shall not be reduced by credit for time already served in the case; instead, the credit shall be applied to the suspended sentence. The statute is also amended to delete the provision for misdemeanors that confinement awaiting the probation hearing must be first credited to any CRV imposed. For a comprehensive analysis of these credit changes, see Jamie Markham, *Sentencing Legislation Review Part I: New Credit Rules for CRV*, North

Carolina Criminal Law (UNC School of Government, September 8, 2014), <http://nccriminallaw.sog.unc.edu/?p=4921>. The amended statute also makes clear that CRV confinement for felonies will be in a state correctional facility, and misdemeanor CRV will be served where the defendant would have served an active sentence (either the local jail or the Statewide Misdemeanant Confinement program, depending on the length of the sentence). Section 16C.10 (page 161) authorizes the Department of Public Safety to convert closed facilities into “treatment and behavior modification facilities” for probationers serving a CVR period. Section 16C.8 (page 161).

Reorganization of State Bureau of Investigation (SBI), Division of Criminal Information, and Alcohol Law Enforcement Section. The Division of Criminal Information is transferred from the Department of Justice to the Department of Public Safety. The remainder of the State Bureau of Investigation is transferred from the Department of Justice as a new section within the Law Enforcement Division of the Department of Public Safety. However, the SBI will be an independent agency under the direction and supervision of the SBI Director, who will be appointed for an eight-year term by the Governor subject to confirmation by the General Assembly. The Alcohol Law Enforcement Section is relocated as a branch (Alcohol Law Enforcement Branch) under the SBI, but the branch will be separate and discrete. Amended G.S. 18B-500(b) provides that an alcohol law enforcement agent’s primary responsibility is the enforcement of ABC and lottery laws, deleting both the Controlled Substances Act and any duty assigned by the Secretary of Public Safety or the Governor. Section 17.1 (pages 164-83).

Transfer of Private Protective Services Board and Alarm Systems Licensing Board to Department of Public Safety. The Private Protective Services Board and the Alarm Systems Licensing Board are transferred from the Department of Justice to the Department of Public Safety. Section 17.5 (page 185).

Indigent Defense Services fee transparency. The Office of Indigent Defense Services (IDS), in consultation and cooperation with the Office of State Controller and Office of State Budget and Management, is required to develop and implement a plan for making certain information in fee applications by attorneys publicly available online, with guidelines set out in the section. IDS must report by October 1, 2014, to specified legislative subcommittees on its progress in developing the plan. Section 18A.1 (page 186).

Four special superior court judgeships abolished and two new special superior court judgeships requested to be designated by the Chief Justice as business court judgeships. Four special superior court judgeships are abolished as specified in the section, and the Chief Justice of the North Carolina Supreme Court is requested to designate two newly-created special superior court judgeships as business court judgeships, which will involve the Governor appointing the judges subject to confirmation by the General Assembly. Section 18B.6 (page 190).

Determination of allocation of assistant district attorneys to prosecutorial districts to include consideration of National Center for State Courts workload formula. The determination of the allocation of assistant district attorneys to prosecutorial districts to be recommended by the Administrative Office of the Courts to the General Assembly (G.S. 7A-60) and developed by the General Assembly (G.S. 7A-63) must consider the workload formula established by the National Center for State Courts. Section 18B.7 (page 191).

Court costs assessed for private hospital performing toxicological testing for prosecutorial district as well as expert witness fees. Amended G.S. 7A-304(a), applicable to fees assessed on or after December 1, 2014, creates two new court cost provisions for convicted defendants under specified circumstances: (1) for a private hospital performing toxicological testing (bodily fluids for the presence of alcohol or controlled substances) under contract with a prosecutorial district, the sum of \$600 is to be remitted to the State Treasurer for the General Court of Justice; and (2) for an

expert witness employed by a private hospital performing toxicological testing under contract with a prosecutorial district who completes a chemical analysis under G.S. 20-139.1 and testifies at trial, the sum of \$600 is to be remitted to the State Treasurer for the General Court of Justice. Section 18B.14 (pages 191-93).

State Auditor to report criminal misconduct. Amended G.S. 147-64.6(c) provides that whenever the State Auditor believes that information received or collected by the Auditor may be evidence of criminal misconduct, the Auditor must report that information to either the State Bureau of Investigation or the district attorney of the county where the alleged misconduct occurred. Section 25.3 (pages 208-209).

Remote driver's license renewal. Amended G.S. 20-7(f), applicable to driver's licenses renewed on or after the date when the Division of Motor Vehicles (DMV) adopts rules, authorizes the DMV to offer remote renewal of a driver's license by mail, telephone, electronic device, or secure means as specified in the new statutory provision. Section 34.8 (pages 213-14).

Regulation of unmanned aircraft systems (commonly known as drones). New G.S. 15A-300.1 and -300.2, applicable to acts occurring on or after October 1, 2014, generally prohibits using an "unmanned aircraft" (defined as an aircraft operated without the possibility of human intervention from within or on the aircraft and is not a model aircraft) system to: (1) conduct surveillance of a person, an occupied dwelling, or private real property without consent; or (2) photograph a person without consent for the purpose of publishing or otherwise publicly disseminating the photograph. There are five law enforcement exceptions: (i) to counter a high risk of a terrorist attack, (ii) to conduct surveillance within an officer's plain view when the officer has a legal right to be at the location, (iii) execute a search warrant authorizing the use of unmanned aircraft system, (iv) having reasonable suspicion of specified imminent circumstances, and (v) photograph gatherings where the general public is invited. A civil remedy is authorized for statutory violations. Evidence obtained in violation of the statute is inadmissible in a criminal prosecution except when obtained under an objectively reasonable, good-faith belief that the actions were lawful. An unmanned aircraft system may not be launched or recovered from any state or private property without consent. A local government may adopt an ordinance to regulate the use of a local government's property for the launch or recovery of an unmanned aircraft system. Section 34.30 (pages 227-28).

The following new or amended criminal offenses are effective for offenses committed on or after December 1, 2014. New G.S. 14-7.45 provides that all crimes committed by use of an unmanned aircraft system while in flight over the state shall be governed by state laws, which will determine whether the conduct of the unmanned aircraft system while in flight over the state constitutes a crime by the owner. New G.S. 14-280.3 provides that a person who interferes with a manned aircraft by an unmanned aircraft system is guilty of a Class H felony. New G.S. 14-401.24 provides that a person who (1) possesses or uses an unmanned aircraft or aircraft system with an attached weapon is guilty of a Class E felony, or (2) fishes or hunts using an unmanned aircraft system is guilty of a Class 1 misdemeanor. New G.S. 14-401.25 provides that under certain circumstances the unlawful distribution of images taken by an unmanned aircraft system is a Class A1 misdemeanor. Amended G.S. 113-295 provides that the use of an unmanned aircraft system to unlawfully interfere under subsection (a) of the statute with a person taking wildlife resources is a Class 1 misdemeanor. Section 34.30 (pages 228-29).

New Article 10 (G.S. 63-95 and -96) of G.S. Chapter 63 prescribes the training (including a knowledge and skills test) required to operate an unmanned aircraft system and the license required for the commercial operation of such a system. New G.S. 63-96(e) provides that the operation of an unmanned aircraft system for commercial purposes unless otherwise permitted under the statute is a Class 1 misdemeanor. Section 34.30 (pages 229-30).

The ban on the procurement or operation of an unmanned aircraft system by a state or local

government is effectively extended until December 31, 2015, unless the Office of the State Chief Information Officer approves an exception. Section 7.16 (page 26).

10. **[S.L. 2014-103 \(H 366\)](#): **Trespass law changes; periodic inspections by N.C. Housing Finance Agency.** Amended G.S. 14-159.12 (first-degree trespass) adds to the Class A1 misdemeanor in subsection (c) a trespass on the premises of any facility used or operated for agricultural activities as defined in G.S. 106-581.1. Amended G.S. 14-159.3 (trespass to land on motorized all-terrain vehicle) (1) requires that the owner's consent to allow a person to use the vehicle must be in writing; and (2) provides that a landowner who gives a person written consent to operate an all-terrain vehicle on his or her property owes the person the same duty of care that he or she owes a trespasser. Both trespass law changes are effective for offenses committed on or after December 1, 2014.
Amended G.S. 153A-364 (county periodic inspections) and G.S. 160A-424 (city periodic inspections), effective August 6, 2014, provide that a residential building or structure that is subject to periodic inspections by the N.C. Housing Finance Agency shall not be subject to periodic inspections if the agency has issued a finding that the building or structure is in compliance with federal standards.**
11. **[S.L. 2014-107 \(S 773\)](#): **Videoconferencing of inpatient commitment hearing; slayer statute modified.** Amended G.S. 122C-268(g), effective August 6, 2014, provides that an inpatient commitment hearing may be held by interactive videoconferencing between a treatment facility and a courtroom. Amended G.S. 31A-6, effective for property subject to Article 3 of G.S. Chapter 31A for decedents dying on or after October 1, 2014, modifies the slayer statute (barring slayer from inheriting homicide victim's property) to account for property held in joint tenancy in unequal shares.**
12. **[S.L. 2014-108 \(H 272\)](#): **Modification of site of Division of Motor Vehicles (DMV) hearing considering alleged ignition interlock violation; single registration renewal sticker.** Amended G.S. 20-17.8(j), applicable to hearings requested on or after October 1, 2014, provides that the site of a DMV hearing considering an alleged ignition interlock violation may be conducted in the county where the person resides when evidence of the violation is an alcohol concentration report from an ignition interlock system. All ignition interlock violation hearings under this statute were previously required to be conducted in the county where the charge was brought. The act also modifies G.S. 20-66(c), effective January 1, 2015, to provide that a *single* registration renewal sticker issued by DMV must be displayed on the registration plate that it renews in the place prescribed by the Commissioner.**
13. **[S.L. 2014-114 \(H 1145\)](#): **Mopeds required to be registered with Division of Motor Vehicles (DMV).** Effective for offenses committed on or after July 1, 2015 (note the year in this date), new G.S. 20-53.4 provides that mopeds must be registered with the DMV, and the moped owner must pay the same base fee and be issued the same type of registration card and plate as for a motorcycle. To be registered and to operate on a highway or public vehicular area (PVA), (1) a moped must have a manufacturer's certificate of origin; and (2) the moped must be designed and manufactured for use on highways and PVAs. Amended G.S. 20-76 sets out procedures when an applicant for registration of a moped is unable to present a manufacturer's certificate of origin. Effective August 6, 2014, the Joint Legislative Transportation Oversight Committee must study whether additional statutory changes are needed to ensure a moped's safe operation, including whether insurance should be required. The committee must report to the 2015 legislative session.**

14. **[S.L. 2014-115 \(H 1133\): Miscellaneous criminal law changes-1.](#)** This 58-page session law makes miscellaneous changes to a variety of statutes, including criminal provisions, which are effective on August 11, 2014, unless otherwise noted. The section numbers and pages of the session law are noted to facilitate locating the provisions.

Crime Victims' Rights Act changes. Amended G.S. 15A-830(a)(7), involving the Crime Victims' Rights Act, revises the listing of offenses included within the act to reflect reclassifications and repeals, and specifically states that the changes do not adversely affect the rights granted to victims before these changes become effective. Section 2.1 (pages 2-3).

Magistrates' authority to take guilty pleas. Amended G.S. 7A-273(2) (magistrates' authority to accept guilty pleas) includes open burning offenses under Article 78 of G.S. Chapter 106. Section 20 (page 13).

Local jail may sell or give vapor products to inmates. Effective for offenses committed on or after December 1, 2014, amended G.S. 14-258.1 allows local confinement facilities to give or sell vapor products or FDA-approved tobacco cessation products to inmates in their custody. Section 23 (page 13).

Superior court clerk's reporting duties. A clerk of superior court's reporting duties under G.S. 14-404(c1) to the National Instant Criminal Background Check System (NICS) involving pistol permits issued by sheriffs are delayed from beginning on July 1, 2014, to January 1, 2015, and clarifies that the clerk must determine which information can "practicably be transmitted" to NICS. Section 23.5 (pages 13-14).

Transferring seized firearm to law enforcement agency. Amended G.S. 15-11.1(b1)(4) allows a court order transferring a seized firearm to a law enforcement agency to be issued without a written request of the head of the agency. Section 24.5 (page 14).

Motor vehicle law definition of "serious traffic violation." Amended G.S. 20-4.01(41a) includes within the definition of a "serious traffic violation" the unlawful use of a mobile telephone while operating a commercial motor vehicle. Section 28.3 (pages 18-19).

Commercial driver's license law changes. Amended G.S. 20-37.13 provides that the issuance of a commercial driver's learner's permit is a precondition to the initial issuance of a commercial driver's license and also a precondition to the upgrade of a commercial driver's license if the upgrade requires a skills test. Section 28.5 (page 19).

Repeal of local acts governing disposition of deadly weapons. Local acts for five counties (Harnett, Pamlico, Perquimans, Scotland, and Warren) are repealed that had governed the disposition of deadly weapons after a conviction. Disposition in these counties are now governed by G.S. 14-269.1 (confiscation and disposition of deadly weapons) in the same manner as the other 95 counties. Section 61 (page 53).

15. **[S.L. 2014-119 \(H 369\): Miscellaneous criminal law changes-2.](#)** This session law makes miscellaneous changes to a variety of statutes affecting criminal law. The changes are effective September 18, 2014, unless otherwise noted.

Expunction changes. Amended G.S. 15A-145.5 (expunction of certain misdemeanors and felonies; no age limitation) adds to the list of offenses that are not considered a "nonviolent misdemeanor" or "nonviolent felony": (1) an offense under G.S. 14-54(a) (felony breaking or entering), 14-54(a1) (breaking or entering with intent to terrorize), or 14-56 (breaking or entering motor vehicle), and (2) any offense that is an attempt to commit an offense described in G.S. 15A-145.5(a)(1) through (8). This change applies to petitions filed on or after December 1, 2014, but petitions filed before that date are not abated by the change. Amended G.S. 15A-145.5(f), effective September 18, 2014, and applicable to expunctions issued under this statute before, on, or after that date, effectively provides that fingerprint records related to this expunction must be expunged.

New conditional discharge provisions. Amended G.S. 15A-1341 (probation), effective December 1, 2014, provides that when a defendant pleads guilty or is found guilty of a Class H or I felony or a misdemeanor, the court may, on joint motion of the defendant and the prosecutor, defer further proceedings for the possibility of conditional discharge. The court must make certain findings (defendant has not been convicted of a felony or a misdemeanor involving moral turpitude, not previously placed on probation, etc.) without entering a judgment of guilt and place the defendant on probation to allow the defendant to demonstrate good conduct. Another conditional discharge provision provides that when a defendant is eligible for the drug treatment court program under Article 62 of G.S. Chapter 7A, a court may, without entering a judgment of guilt and with the defendant's consent, defer proceedings and place the defendant on probation to allow participation in and completion of the drug treatment court program.

On fulfillment of the terms and conditions of a conditional discharge, a plea or finding of guilt previously entered must be withdrawn and the court must discharge the defendant and dismiss the proceedings. However, if there is a violation of a term or condition of conditional discharge, the court may enter an adjudication of guilt and proceed as otherwise provided.

Reduced punishment if defendant possesses marijuana paraphernalia. New G.S. 90-113.22A creates the Class 3 misdemeanor of possession of marijuana paraphernalia, and marijuana is removed from the current Class 1 misdemeanor of possession of drug paraphernalia in G.S. 90-113.22. Also, the new Class 3 misdemeanor is made a lesser-included offense of the Class 1 misdemeanor. These changes are effective for offenses committed on or after December 1, 2014.

Cell phone offenses in prisons or jails. Effective for offenses committed on or after December 1, 2014, amended G.S. 14-258.1: (1) increases the punishment from a Class 1 misdemeanor to a Class H felony under subsection (d) for giving or selling a cell phone or other device to a state prisoner or local confinement facility inmate; and (2) provides that a state prisoner or local confinement facility inmate who possesses a cell phone or other device commits a Class H felony.

Broaden scope of assault on or threat against legislative, executive, or court officials. The criminal statutes (G.S. 14-16.6 and 14-16.7) punishing assaults on and threats against legislative, executive, and court officials are broadened to include an assault or threat on another person as retaliation against these officials. These changes are effective for offenses committed on or after December 1, 2014.

Course exemption for concealed handgun permit for retired correctional officer. Amended G.S. 14-415.12A(a) adds a "qualified retired correctional officer" (as defined in new G.S. 14-415.10(4c)) to officers who are exempt from the course requirement to obtain a concealed handgun permit.

Remote video testimony by forensic and chemical analysts. New G.S. 15A-1225.3 (forensic analyst's remote testimony involving the results of forensic testing under G.S. 8-58.20 in criminal proceeding or juvenile court) and new G.S. 20-139.1 (chemical analyst's remote testimony involving results of blood or urine analysis in any court or administrative hearing), effective for testimony admitted on or after September 1, 2014, authorizes remote testimony if: (1) the State has provided a copy of the analyst's report to the defendant's attorney or an unrepresented defendant; (2) the State notifies the attorney or an unrepresented defendant at least 15 business days before the proceeding of its intention to use remote testimony; and (3) the defendant's attorney or an unrepresented defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding of the defendant's objection to the introduction of the remote testimony.

Detention officers authorized to carry weapons on educational property. Amended G.S. 14-269.2 (weapons on campus or other educational property), effective for offenses committed on or after December 1, 2014, authorizes detention officers employed by and authorized by the sheriff to carry firearms on campus or educational property when discharging official duties.

Dangerous firearms in G.S. 14-316 (permitting child under 12 to use dangerous firearms only under limited conditions). Subsection (b) of G.S. 14-316 (permitting child under 12 to use dangerous firearms only under limited conditions) provides that air rifles, air pistols, and BB guns are not considered dangerous firearms except in certain listed counties. This session law, effective for offenses committed on or after December 1, 2014, removes Anson, Caswell, Chowan, Cleveland, Cumberland, Harnett, Stanly, and Surry counties from that list of counties.

Punishments for carrying concealed weapon. Amended G.S. 14-269(c), effective for offenses committed on or after December 1, 2014, makes the following changes: (1) the punishment for a second or subsequent offense for a violation of G.S. 14-269(a1) (carrying concealed gun when not otherwise permitted to do so) is increased from a Class I felony to a Class H felony; and (2) provides that a violation of G.S. 14-269(a1) that is punishable under G.S. 14-415.21(a) (infraction for person with concealed handgun permit to carry concealed handgun without permit in one's possession or fails to disclose to officer that person holds permit and is carrying a concealed handgun) is not punishable under G.S. 14-269.

16. **[S.L. 2014-120 \(S 734\): Miscellaneous criminal law changes-3.](#)** This 40-page session law makes miscellaneous changes to a variety of statutes, including criminal provisions, which are effective on September 18, 2014, unless otherwise noted. The section numbers and pages of the session law are noted to facilitate locating the provisions.

Surety may use assistance of other bondsmen and runners to effect arrest or surrender of defendant. Amended G.S. 15A-540 provides that a surety may utilize the services and assistance of any surety bondsman, professional bondsman, or runner licensed under G.S. 58-71-40 to effect the arrest or surrender of a defendant under G.S. 15A-540. Section 12 (page 9).

Euthanasia of venomous reptile clarified. Amended G.S. 14-419(b) clarifies that the final disposition of a venomous reptile for which antivenin approved by the U.S. Food and Drug Administration is not readily available must be euthanized unless the species is protected under federal law. Section 39 (page 28).

Felony taking of Venus flytrap; taking certain wild plants from another's land. New G.S. 14-129.3 provides that the unlawful taking of any Venus flytrap is a Class H felony. Amended G.S. 14-129 increases the Class 3 misdemeanor punishment for taking certain wild plants from another's land from a minimum fine of \$10 to \$75 and from a maximum fine of \$50 to \$175, and specifies that each plant taken constitutes a separate offense. The exemption of various counties from the provisions of this statute is deleted. The clerk of superior where a conviction occurs that involves any species that also appears in the North Carolina Protected Plants list created under Article 19B of G.S. Chapter 106 must report the conviction to the Plant Conservation Board, which may consider a civil penalty. All these provisions are applicable to offenses committed on or after December 1, 2014. Section 52 (pages 36-37).

Tab:

Selecting
Process

SELECTING PROCESS (AUGUST, 2015)

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

PROBLEMS IN SELECTING THE PROPER CHARGE AND ISSUING PROCESS

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:

Initial

Appearance

INITIAL APPEARANCE (AUGUST, 2015)

Exceptions to Pretrial Release Procedures:

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EXCEPTIONS TO PRETRIAL RELEASE PROCEDURES: A GUIDE FOR MAGISTRATES

THE GENERAL RULE: On 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.*

Category	Specific Situation	Response	Statutory Basis	Form to Use
Delay initial appearance altogether	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.
Conduct initial appearance, BUT delay setting pretrial release conditions	Person is charged with domestic violence offense under "48-hour" law	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 Procedure for Magistrates*, ADMINISTRATION OF JUSTICE BULLETIN No. 2009/08 (Dec. 2009), available at www.sog.unc.edu/pubs/electronicversions/pdfs/aolib0908.pdf.

Category	Specific Situation	Response	Statutory Basis	Form to Use
<p>Conduct initial appearance, set pretrial release conditions, BUT delay release</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>Conduct initial appearance, BUT deny any pretrial release conditions if criteria met</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>Conduct initial appearance, BUT deny any pretrial release conditions if criteria met</p>	<ul style="list-style-type: none"> • Capital offense • 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 • Out-of-state probationer arrested for violation of probation if subject to Interstate Compact for Adult Supervision • Offense while person was involuntarily committed or on escape from involuntary commitment if person is still subject to commitment • Certain drug trafficking offenses • Certain gang offenses • Certain offenses with firearm¹ • Violation of certain health control measures if person poses health and safety threat • Certain methamphetamine offenses • Military deserter • Violation of post-release supervision or parole • Violation of probation by person who has pending felony charge or is subject to sex offender registration if danger to public² 	<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"> • 15A-533(c) • 15A-736 • Ch. 148, Art. 4B (Interstate Compact) • 15A-533(a) • 15A-533(d) • 15A-533(e) • 15A-533(f) • 15A-534.5 • 15A-534.6 • Case law • 15A-1368.6, • 15A-1376 • 15A-1345(b1) 	<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. Effective for pretrial release conditions set on or after Dec. 1, 2013.
2. 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
Conduct initial appearance, BUT set certain pretrial release conditions	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. ³ 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	Require secured bond in at least twice the amount of previous bond for the charges. If no previous bond for the charges, set secured bond of at least \$1,000. ⁴	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.

3. For pretrial release conditions set before Dec. 1, 2013, the required minimum was \$500.

4. Effective for pretrial release conditions set on or after Dec. 1, 2013.

Category	Specific Situation	Response	Statutory Basis	Form to Use
Set certain pretrial release conditions (cont'd)	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.
Reasons that initial appearance and/or pretrial release conditions may NOT be delayed or denied	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. See pp. 18–19 of AOJB No. 2009/08 for steps to take.		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. See pp. 18–19 of AOJB No. 2009/08.	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 CRIMES¹

Crime Charged	Relationship Between Defendant and Victim	Only Judge May Set Bond for First 48 Hours After Arrest	Crime Victims' Rights Act (VRA) Applies
Simple assault [G.S 14-33(a)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p style="text-align: center;">Yes</p> <p>[Magistrate must indicate VRA Case on the criminal process]</p>
Assault on a female [G.S. 14-33(c)(2)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p style="text-align: center;">Yes</p> <p>[Magistrate must indicate VRA Case on the criminal process]</p>
Assault with a deadly weapon [G.S. 14-33(c)(1)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p style="text-align: center;">Yes</p> <p>[Magistrate must indicate VRA Case on the criminal process]</p>

¹ This chart lists the most common offenses to which the special 48-hour pretrial release rule applies, but it does not list every felony to which it applies. The rule covers any felony in Articles 7A (Rape and Sexual Offenses), 8 (Assaults), 10 (Kidnapping and Abduction), or 15 (Arson and Other Burnings) of the General Statutes if the relationship between the defendant and the victim is current or former spouse or persons who are living together or have lived together as if married.

Crime Charged	Relationship Between Defendant and Victim	Only Judge May Set Bond for First 48 Hours After Arrest	Crime Victims' Rights Act (VRA) Applies
Assault inflicting serious injury [G.S.14-33(c)(1)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p>Yes</p> <p>[Magistrate must indicate VRA Case on the criminal process]</p>
Assault by pointing a gun [G.S. 14-34]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p>Yes</p> <p>[Magistrate must indicate VRA Case on the criminal process]</p>
Assault with a deadly weapon with intent to kill [G.S. 14-32(c)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p>Yes; because VRA felony no matter what relationship.</p>
Assault with a deadly weapon inflicting serious injury [G.S. 14-32(b)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p>Yes; because VRA felony no matter what relationship.</p>

Crime Charged	Relationship Between Defendant and Victim	Only Judge May Set Bond for First 48 Hours After Arrest	Crime Victims' Rights Act (VRA) Applies
Assault with a deadly weapon with intent to kill inflicting serious injury [GS 14-32(a)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members.. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	Yes; because VRA felony no matter what relationship.
Assault inflicting serious bodily injury [G.S. 14-32.4(a)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	Yes; because VRA felony no matter what relationship.
Assault by strangulation [G.S. 14-32.4(b)]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	No
Habitual misdemeanor assault [G.S. 14-33.2]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	Yes; because VRA felony no matter what relationship.
Communicating a threat [G.S. 14-277.1]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	No

Crime Charged	Relationship Between Defendant and Victim	Only Judge May Set Bond for First 48 Hours After Arrest	Crime Victims' Rights Act (VRA) Applies
Domestic criminal trespass [G.S. 14-134.3]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. (having one of these relationships is an element of this offense) 	Yes	Yes [Magistrate must indicate VRA Case on the criminal process]
Violating a protective order [G.S. 50B-4.1]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	Yes	Yes [Magistrate must indicate VRA Case on the criminal process]
Stalking [G.S. 14-277.3A]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	Yes [Magistrate must indicate VRA Case on the criminal process]
Rape or sexual offense [G.S. 14-27.2 to -27.8]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	Yes; because VRA felony no matter what relationship.

Crime Charged	Relationship Between Defendant and Victim	Only Judge May Set Bond for First 48 Hours After Arrest	Crime Victims' Rights Act (VRA) Applies
Kidnapping [GS. 14-39]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p style="text-align: center;">Yes because VRA felony no matter what relationship.</p>
Harassing telephone calls [G.S. 14-196]	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">No</p>	<p style="text-align: center;">No</p>
Arson	<ul style="list-style-type: none"> • Current or former spouses. • Persons who live or have lived together as if married. <hr/> <ul style="list-style-type: none"> • Child in common. • Persons of the opposite sex in a dating relationship. • Parent and child or grandparent and grandchild. • Current or former household members. 	<p style="text-align: center;">Yes</p> <hr/> <p style="text-align: center;">No</p>	<p style="text-align: center;">Yes because VRA felony no matter what relationship.</p>

PROBLEMS IN DETERMINING THE CONDITIONS OF PRETRIAL RELEASE

[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?

11. Peter “The Rabbit” Martin has been arrested and charged with misdemeanor breaking and entering. You have known Peter for years and believe that basically he is a good kid. He does not have a criminal record. Recently you have heard that he is being influenced by a group of thugs (who have been charged with break-ins) who hang out at the local pool hall, the Corner Pocket. You release Peter on his written promise to appear and attach a condition that he stay away from the Corner Pocket. Is this condition legally authorized?

- a. Yes
- b. No

Are you required to change his pretrial release conditions if Peter gets mad and demands a secured bond without conditions?

- a. Yes
- b. No

12. L. Winston Vanderbilt has been arrested and charged with second-degree forcible rape. You have placed him under a \$10,000 secured bond. Vanderbilt has lived in the community all his life and certainly will appear for trial. However, he has no friends, is not married, and has no relatives in North Carolina. He is a millionaire, but his assets are frozen in numerous investments. May Vanderbilt be released if he agrees to sign his own secured bond by posting his own cash?

- a. Yes
- b. No

13. Walt Crowell has been arrested and charged with assaulting his wife, Wanda Crowell. Walt Crowell is brought before you after 48 hours have elapsed because a judge was not available to set conditions of pretrial release. You place him under a \$500 secured bond. You also have attached a condition that Walt stay away from Wanda at home and at work. In addition, you have attached a condition that he not harass or assault her. Are these conditions legally authorized?

- a. Yes
- b. No

14. You order a secured cash bond of \$500 and defendant has the cash on him. Aside from the standard boxes on the AOC forms, which sections do you need to complete to set the cash bond?

Now, defendant is released, fails to appear, and is arrested pursuant to an order for arrest. The order for arrest is silent as to conditions. What do you do?

After the failure to appear, you set a \$2,000 secured bond. Now defendant doesn't have the cash on him but his mother comes in with \$2,000. What do you need to know? How do you fill out the forms?

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?

PROBLEMS IN SETTING PRETRIAL RELEASE CONDITIONS

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:

Search

Warrants

SEARCH WARRANTS (AUGUST, 2015)

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

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The University of North Carolina at Chapel Hill
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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.

The constitutional requirements have been clarified in recent years.

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.

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."

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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?

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.

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.

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.

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?

Invalid. Not specific in any way.

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?

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.

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.

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.

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.

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

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.

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.

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?

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.

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.

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.

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.

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

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 _____.

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.

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

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 _____
_____ 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.

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) _____

Signature Of Magistrate _____

Time AM PM
Name Of Magistrate (Type Or Print)

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 _____

Name Of Clerk (Type Or Print)

Signature Of Clerk _____

Time AM PM
Name Of Clerk (Type Or Print)

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 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.*

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

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;

APPLICATION 2: TAYLOR

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

- (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: _____ 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 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:

Elements of Crimes

ELEMENTS (AUGUST, 2015)

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
Review Questions on Conspiracy, Solicitation, Attempts, Principals, Accessories	Elements of Crimes-Page 9
Review Questions on Assaults and Related Offenses	Elements of Crimes-Page 11
Review Questions on Larceny and Robbery	Elements of Crimes-Page 15
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Review Questions on Burglary and Breaking & Entering.....	Elements of Crimes-Page 23
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Review Questions on Drug Offenses	Elements of Crimes-Page 29
Review Questions on Disorderly Conduct, Obstruction of Justice, and Weapons Offenses	Elements of Crimes-Page 31

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] Inflicting serious injury [A1] Inflicting serious bodily injury [F] Inflicting physical injury: strangulation [H]</p>	<p>With a deadly weapon [A1] By pointing a gun [A1] With a deadly weapon with intent to kill [E] With a deadly weapon inflicting serious injury [E] With a deadly weapon with intent to kill inflicting serious injury [C] Discharge of firearm into occupied... - property [E] - dwelling/conveyance in operation [D] - property causing serious bodily injury [C] Discharge of firearm within property to incite fear [F] (12/1/13) Secret assault [E]</p>	<p>On female [A1] On child under 12 [A1] In presence of minor [A1] On handicapped person: - simple [A1] - aggravated (deadly weapon, serious injury, intent to kill) [F] On unborn child : - battery [A1] - inflicting serious bodily injury [F]</p>	<p>On gov't officer/employee; company/campus police officer [A1] With deadly weapon on... - gov't officer or employee or company/campus police [F] With firearm on: - law enforcement officer - probation/parole officer - detention employee [E] Inflicting physical injury on (12/1/11): - law enforcement officer - probation/parole officer - detention employee [I] Inflicting serious injury or serious bodily injury on: - law enforcement officer - probation/parole officer - detention employee [F] Malicious conduct by prisoner [F]</p>	<p>On court officer: - simple [I] - on another person as retaliation [I] (12/1/14) - with deadly weapon or inflicting serious injury [F] On school personnel [A1] On sports official [I] On transit operator [A1] On firefighter or specialized medical personnel: - simple [A1] (until 11/30/11) - physical injury [I] - inflicting serious bodily injury or with deadly weapon other than firearm [I] (until 11/30/11) - inflicting serious bodily injury or with deadly weapon other than firearm inflicting physical injury [H] (12/1/11) - with firearm [F] On emergency personnel in declared emergency/riot: - simple [I] (until 11/30/11) - 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

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

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

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

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

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

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**

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

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 breaks the window to an automobile, opens the door, takes out a CB radio, and leaves.

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**

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

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.

COMMON DRUG OFFENSES

- Sale/Delivery of Controlled Substance
 - **Regular Sale/Delivery (p. 694)**
 - Sale/Delivery to Pregnant Female by Person ≥ 18 (p. 696)
 - Furnishing a Controlled Substance to an Inmate (p. 697)
- **Manufacture of Controlled Substance (p. 698)**
- Possession
 - **Simple Possession of Controlled Substance (p. 700)**
 - Possession of Controlled Substance at Prison or Local Confinement Facility (p. 707)
 - **Possession of Controlled Substance with Intent to Mfg., Sell or Deliver (p. 708)**
 - Possession of Immediate Precursor Chemical With Intent to Manufacture, Sell or Deliver Controlled Substance (p. 710)
 - **Possession of Drug Paraphernalia (p. 747)**
- Counterfeit Controlled Substance Offenses (p. 711-14)
- Controlled Substances & Minors
 - Sale or Delivery to Person < 16 (p. 714)
 - Sale or Delivery Person < 13 (p. 715)
 - Employing/Intentionally Using a Minor to Commit Controlled Substance (p. 716)
 - Promoting Drug Sales by Minor (p. 717)
 - Participating in a Drug Violation by Minor (p. 719)
 - Mfg., Sell/Deliver or Possess w/Intent to Mfg., Sell/Deliver at or near a School, Child Care Center, or Playground by D ≥ 21 (p. 719)
- **Trafficking (p. 725-738)**
- Obtaining a Controlled Substance by Misrepresentation/Fraud/Forgery (p. 742)
- **Maintaining a Dwelling (p. 743)**

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Armed Robbery and Representations about Weapons

April 12th, 2011



By Jeff Welty

Twice each year, the School of Government welcomes newly-appointed magistrates for two weeks of training. Part of the curriculum involves learning the elements of common crimes. When I teach the elements of armed robbery, an exchange like this always ensues:

Me: Imagine that a bad guy comes into a convenience store and tells the clerk “I have a gun, give me all the money in the register or I’ll use it.” The bad guy gets the money, but is apprehended as he leaves the store and doesn’t actually have a gun. Should he be charged with armed robbery?

Magistrate: Of course. The bad guy said he had a gun and the clerk had no reason to doubt that. He was probably scared to death!

Me: Good try. But the bad guy wasn’t actually armed, so he didn’t actually endanger the clerk’s life and so didn’t actually commit armed robbery.

Magistrate: What are you talking about? [G.S. 14-87](#) includes the “threatened use of any firearm.” The bad guy threatened to use a gun, and that’s good enough.

I have always taken the position that armed robbery can’t be charged on the posited facts, but every year, I struggle to convince the group of that. Sometimes I get the same question, or a variant thereof, from a prosecutor. So I thought I’d look into the issue more closely and write a post about it, in the hopes of putting it to bed.

Here’s the statute:

Any person or persons who, having in possession or with the use or threatened use of any firearms or other dangerous weapon, implement or means, whereby the life of a person is endangered or threatened, unlawfully takes or attempts to take personal property from another or from any place of business, residence or banking institution or any other place where there is a person or persons in attendance, at any time, either day or night, or who aids or abets any such person or persons in the commission of such crime, shall be guilty of a Class D felony.

The two elements relevant to this issue are:

- “[H]aving in possession or with the use or threatened use” of a dangerous weapon
- “[W]hereby the life of a person is endangered or threatened”

Looking at the text of the statute and at the elements, the magistrate’s argument is plausible: the bad guy arguably threatened to use a dangerous weapon, and in so doing, threatened the life of the clerk. There’s also some support in the case law for that argument. The best case for the magistrate is *State v. Jarrett*, 167 N.C. App. 336 (2004). There, the court of appeals affirmed two armed robbery convictions where the defendant told each victim that he had a gun, but did not display a gun and was eventually arrested without a gun. The court emphasized the “threatened use” language in the statute and held that the evidence was sufficient because “the defendant represented he had a firearm and . . . circumstances led the victim reasonably to believe the defendant had a firearm and might use it.” *Id.* (internal quotation marks and citations omitted).

But consider *State v. Allen*, 317 N.C. 119 (1986), where the state’s evidence suggested that the defendant used a .22 caliber pistol during a robbery while the defendant’s evidence suggested that it was a cap pistol. Because the trial judge instructed the jury that items that “look like firearms” count as dangerous weapons, the state supreme court reversed the defendant’s armed robbery

conviction. It stated that “the law does not transform [a cap pistol] into a dangerous weapon merely because it appears to be one.” In essence, the court held that the endangerment element is not satisfied when a defendant falsely represents that he has a weapon. And that rationale applies equally to the scenario I discuss with the magistrates. In other words, if a defendant cannot be convicted of armed robbery based on the representation that he has a gun when in fact he has a toy pistol, surely it follows that a defendant cannot be convicted of armed robbery based on the representation that he has a gun when in fact he has *no weapon at all*. Indeed, the court stated, “[i]f all the evidence shows the instrument could not have been a firearm or other dangerous weapon capable of threatening or endangering the life of the victim, the armed robbery charge should not be submitted to the jury.” *Id.* Based on *Allen* – a supreme court decision, unlike *Jarrett* – I believe that my answer to the magistrate in the dialogue above is correct. See also *State v. Williams*, 127 N.C. App. 464 (1997) (“It is reversible error for a trial court to submit an armed robbery charge to the jury where conclusive evidence at trial establishes that no actual gun was used.”)

I’m inclined to view the quoted language in *Jarrett* as dicta. The court was surely correct to affirm the defendant’s convictions, under the rule that “[w]hen a robbery is committed with what appeared to the victim to be a firearm or other dangerous weapon capable of endangering or threatening the life of the victim and there is no evidence to the contrary, there is a mandatory presumption that the weapon was as it appeared to the victim to be.” *Allen, supra*. The fact that the defendant didn’t have a gun on his person when he was arrested hours later doesn’t undercut the presumption, because it is entirely plausible that the defendant had a gun at the time of the robbery, but disposed of it before his arrest. Cf. *State v. Joyner*, 312 N.C. 779 (1985) (the defendant robbed the victim at gunpoint; he was arrested six hours later and led officers to the gun he said he used, an unloaded .22 rifle with no firing pin; sufficient evidence supported his armed robbery conviction because the gun might have been altered in the interim between crime and arrest).

To sum up, when a defendant claims he has a gun but the evidence clearly shows otherwise – as in the scenario I use with new magistrates – he shouldn’t be charged with armed robbery. When a defendant claims he has a gun and there’s no evidence to the contrary, he may be charged and the state is entitled to a mandatory presumption on the deadly weapon element. When a defendant claims he has a gun and there’s only inconclusive evidence to the contrary, he may be charged but there is no mandatory presumption. Of course, some fact patterns will fall in a gray area – for example, when a robber claims he has a gun but doesn’t show it, then is apprehended on foot a few minutes thereafter, and the police find no gun on his person and no gun along his flight path. But making tough decisions like that is why magistrates get paid the big bucks!

Tags: [armed robbery](#), [robbery with a dangerous weapon](#)

This entry was posted on Tuesday, April 12th, 2011 at 12:17 pm and is filed under [Crimes and Elements](#), [Uncategorized](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

7 Responses to “Armed Robbery and Representations about Weapons”

1.  *Michael Casterline* says:
[April 12, 2011 at 5:11 pm](#)

The real problem is the jury instruction which is utterly unclear.

Now, I charge that for you to find the defendant guilty of robbery with a dangerous weapon, the State must prove seven things beyond a reasonable doubt:


...Sixth, the defendant had a dangerous weapon in his possession at the time he obtained the property or that it reasonably appeared to the victim that a dangerous weapon was being used, in which case you may infer, but you are not required to infer, that said instrument was what the defendant’s conduct represented it to be. . .

This seems to say that jury must find D had a gun but that they can infer that from the representation

In *Jarrett* the jury had sought clarification on that point twice.

It doesn’t seem to much to ask that if a jury asks a yes or no question the court should be able to answer it yes or no


[Reply](#)

2.  *Tim Jones* says:
[April 12, 2011 at 8:26 pm](#)

Ok that’s great but how about this. A suspect enters your shop or approaches you. He has a gun in plain site in his belt. He informs you he wants your money & you shoot the suspect. Did you protect property or life. Remember the gun was in plain site but the suspect never touched it. The same can happen during any robbery with the threat of firearm use. So now

where does the victim stand with the use of deadly force? Look like someone will get killed & the victim might go to jail.


[Reply](#)

3.  *Richard McMahon* says:

[April 12, 2011 at 9:23 pm](#)

To Tim Jones: The victim may get charged (I doubt it), he may go to trial (I seriously doubt it), but he will never get convicted and, therefore, will not “go to jail.” The implied threat to use the gun was enough (for most reasonable people and probably all prosecutors) to justify his use of force. Unlike on TV and in the movies, you do not have to wait for the bad guy to point the gun at you before you can shoot. By the time he points the gun at you, it’s too late for you if he is actually going to shoot (and, of course, you don’t know if he is actually going to shoot). Rich.


[Reply](#)

4.  *David Spence* says:

[April 13, 2011 at 1:52 pm](#)

For all the “tinkering” the august legislature engages in to appear they’ve done something, why don’t they simply settle the issues by legislation-A person is guilty of armed robbery if they possess a firearm, whether loaded or not, or represent that they possess a firearm?” It is absurd to be guilty of common-law robbery in some situations when a gun is involved, yet always be guilty of armed robbery when the weapon is a knife or broken bottle.

[Reply](#)

5.  *Tim Jones* says:

[April 13, 2011 at 6:35 pm](#)

To Richard McMahon: Thanks for the reply & I agree with you but there is a but/if. I believe there are people confined to D.O.C who are not guilty of anything. The use of deadly force is confusing & a District Attorney is voted into a Political Office. Add Politics, Federal funding, Confusing of the law & you Sir might enter into D.O.C. I am a retired Law Enforcement Officer who has seen the cost & the fall from grace of people who have done nothing. Getting arrested & being found not guilty is still not fun. It starts with Law Enforcement taking the time to sort the evidence & the facts of the incident. Please read the use of deadly force in NC. I would always retreat if I could to avoid any involvement with the Government. I like the fact that you have implied common judgement in your reply. Tell me Sir where I can go and find some of this so I can inform most people in this business who don’t have none!

[Reply](#)

6.  *GuilfMag* says:

[April 14, 2011 at 4:31 pm](#)

Interesting Post, I remember having this same conversation with you a few years ago. I believe I was on the losing side of the debate.

Side note, while most of this blog deals with subject matter for a higher level of court than the Magistrate’s level, it is both intriguing and helpful and I enjoy reading. Thanks.

[Reply](#)

7.  *Lane P.* says:

[July 17, 2011 at 10:02 am](#)

This is all very tantalizing, but how I am supposed to answer this essay question on the Bar exam?

I think in the past, the Examiners have loved to test on armed robbery.

Any advice would be most appreciated!

[Reply](#)

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Concealment in Plain Sight?

August 23rd, 2011



By Jeff Welty

As I mentioned in a [recent post](#), I really enjoy working with magistrates, in part because of the excellent questions they ask. Here's one that came up recently: if a person goes into a clothing store, cuts the tags off a jacket, and starts wearing the jacket around the store, can the person be charged with shoplifting?

The starting point, of course, is the shoplifting statute, [G.S. 14-72.1](#). The statute makes it a crime to “willfully conceal[] the goods or merchandise of any store, not theretofore purchased . . . while still upon the premises” of the store. The crucial question is whether wearing an item of clothing — openly, in plain sight — can constitute concealment.

I don't think that there's a North Carolina case on point. But there are cases from other jurisdictions:

- *Walters v. J.C. Penney Co., Inc.*, 82 P.3d 578 (Okla. 2003) (a sweater worn in “plain view” was not “concealed” within the meaning of a shoplifting statute)
- *Henry v. Shopper's World*, 490 A.2d 320 (N.J. Super. Ct. 1985) (interpreting a statute allowing a merchant to take a person into custody upon probable cause that the person has “willfully concealed unpurchased merchandise” to encompass “items in plain view but worn or carried as though they had been purchased,” such as a coat in that case)
- *State v. Evans*, 774 A.2d 539 (N.J. Super. Ct. 2001) (following *Henry* in a case where the defendant placed a hair bow in her pocket, then in her hair, before walking out of a store)
- *People v. Cortez*, 326 N.E.2d 232 (Ill. Ct. App. 1975) (stating that although “[t]here are circumstances under which wearing an object out in the open, for example, a piece of jewelry, would be a clever method of concealment,” such was not the case where the defendant was wearing a heavy jacket, with the tags still on, inside a store in warm weather)

Most of the cited cases conclude that there are at least some circumstances under which openly wearing an item of clothing can constitute concealment, and that result strikes me as correct. However, just trying on an item of clothing obviously doesn't constitute shoplifting. I would advise a magistrate to charge shoplifting in such a case only if one or more additional incriminating facts were present, such as the removal of tags, the wearing of the clothing for a protracted period of time, the wearing of the clothing away from the area of the store in which that item is displayed, or an attempt to integrate the item into an existing outfit.

If you know of additional cases on point, have experience with a case involving relevant facts, or have something else to add, please post a comment.

Tags: [concealment of merchandise](#), [shoplifting](#)

This entry was posted on Tuesday, August 23rd, 2011 at 9:58 am and is filed under [Crimes and Elements](#), [Uncategorized](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

4 Responses to “Concealment in Plain Sight?”

1.  *Attorney* says:

[August 23, 2011 at 10:26 am](#)

Criminal statutes must be strictly construed, and it would clearly violate the plain meaning of the word “conceal” to include something that is visible.

I believe the more appropriate charges would be Injury to Personal Property and Larceny. There is strong evidence to prove intent to permanently deprive if the facts are cutting off the tags and putting on the clothes, even if the defendant has not left the store.

[Reply](#)

2.  *Dennis* says:

[August 23, 2011 at 7:46 pm](#)

Well, first let's look at the word "concealment." According to Webster's (c. 2005) the word "conceal" means to keep from disclosure, sight, or knowledge. Simply put, to hide. One does not have to hide something from sight for it to be considered concealed. It could have the illusion of appearing to be something else OR be deceiving as in this case. Even with that said, the shoplifter should not be detained UNTIL he/she bypasses ALL locations where payment could be made (checkout lanes, customer service, etc.) and steps outside the store where it would make for a good case that will stand in court. At best in this case, as long as the subject is in the store, you simply have destruction of property with the propensity for shoplifting, should the person attempt to leave the store without paying. As a former Loss Prevention Manager for a major department store chain I used to teach the store associates, for the 3 stores under my realm of authority, just that. Doing anything else could lead to a lawsuit. If the person takes the price tag off and wears the article of clothing around the store, then takes it off in another department, the best you have is destruction of property, due to the fact that the clothing is not able to be sold. I mean, would you buy clothes that smelled like someone had been wearing them (unless it's a second hand store or rummage sale, of course). The weather is not a factor here. The person could simply say that he/she felt a chill and put on the coat. And, unless the person has a record of larceny or shoplifting, etc. most courts would probably dismiss a shoplifting charge AND possibly concealment. Unless there is some type of action to leave the store, the best case you'd have is destruction of property (unsaleable goods).


[Reply](#)

3.  *James* says:

[August 24, 2011 at 7:14 am](#)

I had this exact issue a couple weeks ago in our district court. The individual was charged with shoplifting by concealment of goods. The goods were a pair of shoes. The individual from her story indicated that she tried the shoes (high heels) on and proceeded to walk around the store to see if they would give her blisters. She left her shoes in the shoe department along with another bag. LP also confirmed all the person did was walk around the store with the shoes on. I think this was the case of an over zealous LP officer and was dismissed.

[Reply](#)

4.  *alex* says:

[September 6, 2011 at 8:07 pm](#)

By cutting the tags off, putting it on and the moving to other areas of the store, might that support attempted larceny (also being a class two misdemeanor)? . . . Just trying to think outside the box.

[Reply](#)

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Extortion or Just Doing Business?

July 27th, 2010



By Jeff Welty

Some recent celebrity news has made me think about our extortion statute.

The statute is G.S. 14-118.4, and it says:

Any person who threatens or communicates a threat or threats to another with the intention thereby wrongfully to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and such person shall be punished as a Class F felon

The recent celebrity news includes the following:

- “Robert Halderman, the man accused of trying to extort \$2 million from David Letterman, pleaded guilty . . . and will serve six months in jail. . . . Mr. Halderman’s lawyer . . . had argued that his client intended only to write a book or a screenplay about Mr. Letterman’s affairs, but that before going forward with the project, Mr. Halderman simply was offering to sell Mr. Letterman the rights to the story for \$2 million.” (New York Times City Room, March 10, 2010.)
- “A Michigan couple was convicted . . . of trying to extort \$680,000 from actor John Stamos by threatening to sell old photos of him with strippers and cocaine to the tabloids unless he paid up.” (AP, July 15, 2010.)
- [This Los Angeles Times article](#) claims that “extortion is a constant threat to the rich and famous.”

What I’ve been thinking about is, where’s the line? What if Mr. Halderman had simply taken his evidence of Letterman’s affairs and sold the evidence to a celebrity magazine? [According to Slate](#), exclusive photographs of celebrities can be worth tens, or even hundreds, of thousands of dollars. Gossip sites such as TMZ also [admit paying for stories](#). So long as Mr. Halderman did not obtain his evidence of Letterman’s affairs illegally, selling that information would not likely be criminal. Why is it different if the buyer of the story is also the object of it? [Media reports claim](#) that Tiger Woods paid Rachel Urchitel \$10 million to remain silent about their affair.

Let’s generalize a little bit. Suppose that A legally obtains information about B. Third parties would be willing to pay for the information, and B would prefer that the third parties not obtain the information. (B might be a celebrity, but might be an elected official, a businessperson, or anyone else.) May A convene an auction to sell the information? I assume so. May A invite B to the auction? Again, I assume so. Then why is it improper for A to approach B and say, in effect, “I’m thinking of selling off this information. Would you like to buy it?”

The most famous case in this area is *United States v. Jackson*, 180 F.3d 55 (2d Cir. 1999). That case arose “out of defendants’ attempts to obtain up to \$40 million from [Bill Cosby], a well-known actor and entertainer, by threatening to cause tabloid newspapers to publish Jackson’s claim to be Cosby’s daughter out-of-wedlock.” Jackson and several acquaintances were arrested and prosecuted for extortion. The trial judge instructed the jury that threatening to damage a person’s reputation in order to obtain money from that person was extortion, and that it “is not a defense that the alleged threats to another’s reputation are based on true facts.” The Second Circuit reversed the defendants’ convictions, holding that only *wrongful* threats to a person’s reputation constituted extortion. As to what constitutes a wrongful threat, the court said: “Where there is no plausible claim of right and the only leverage to force the payment of money resides in the threat, where actual disclosure would be counterproductive, and where compliance with the threatener’s demands provides no assurance against additional demands based on renewed threats of disclosure, we regard a threat to reputation as inherently wrongful.”

The wrongfulness requirement imposed in *Jackson* is, of course, explicitly included in G.S. 14-118.4. But whether our courts would parse the wrongfulness requirement in the same way that the *Jackson* court did is unclear. The closest North Carolina case to this issue is *State v. Greenspan*, 92 N.C. App. 563 (1989), in which the defendant was convicted of extortion after threatening

to have another person charged with making harassing phone calls unless that person paid him. On appeal, the defendant argued that he lacked wrongful intent, because he believed that he was entitled to compensation for being harassed. The court of appeals affirmed the conviction, stating that “[e]ven if the victim were guilty [of making harassing phone calls], this would not entitle defendant to demand money in exchange for refraining from initiating criminal proceedings.” However, the court suggests that it would have been proper for the defendant to demand money in exchange for refraining from filing a *civil* suit, and of course the general practice of settling potential civil actions is well-established. If that’s so, it arguably follows that it would not be wrongful to demand money in exchange for refraining from taking some other perfectly legal action, such as selling embarrassing information about a person.

I’d be interested in others’ thoughts about this, but it seems to me that as long as there is a genuine market for the information, i.e., it is newsworthy, there isn’t a principled and consistent way to interpret the wrongfulness requirement that makes threatening to sell embarrassing information about a person extortion. The situation may be different where the information is *not* newsworthy, as when a defendant threatens to tell a victim’s spouse that the victim — who is not a public figure — is having an affair unless the victim pays the defendant.

Tags: [extortion](#)

This entry was posted on Tuesday, July 27th, 2010 at 10:24 am and is filed under [Crimes and Elements](#), [Uncategorized](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

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[Changes to the Habitual Felon Law](#) »

Air Guns

November 9th, 2011



By Jeff Welty

I've had several questions about BB guns, pellet guns, and airsoft guns, and whether certain criminal offenses can be predicated on the use or possession of such weapons. I'll try to answer them in this far-too-long post.

First, some terminology. Generally, a [BB gun](#) is an air-powered gun designed to shoot round, metal .177 caliber projectiles. BB guns may be powered by an air cartridge or by air that is compressed by pump or lever action. Typical muzzle velocities are below 500 feet per second. Many guns that shoot BBs can also shoot .177 caliber [pellets](#), non-spherical projectiles usually made of lead. (The lack of a bright line between BB guns and pellet guns is a point that will become relevant later.) Some air guns are designed to shoot only pellets, not BBs; these are often higher-end, and often higher-powered, competition and varmint hunting weapons, some with muzzle velocities up to 900 feet per second. Although less common, there are even some pellet guns with calibers larger than .177, such as .20 and .22. Again, these tend to be higher-end products. [Airsoft guns](#) are spring- or air-powered guns designed to fire round *plastic* projectiles, usually at muzzle velocities of approximately 300 feet per second. These guns are sometimes used by military and police forces for training purposes. Many of them are designed to replicate the appearance of genuine firearms.

Broadly speaking, pellet guns are the most dangerous air guns, followed by BB guns (some of which can also shoot pellets), and then airsoft guns. Now let's look at some criminal charges and whether they can be predicated on the possession or use of these weapons.

Firearms Offenses

None of these weapons are firearms, because they do not use gunpowder explosions to propel their projectiles. *See* G.S. 14-409.39(2) (defining a firearm as a weapon that “expels a projectile *by action of an explosion*”); G.S. 14-415.1 (defining a firearm as a weapon that “expel[s] a projectile *by the action of an explosive*”). *See also* G.S. 14-269.2 (prohibiting the possession of weapons on school grounds, and distinguishing between “any gun, rifle, pistol, or other firearm,” a Class I felony under subsection (b), and a “BB gun . . . air rifle, [or] air pistol,” a Class 1 misdemeanor under subsection (d)). Therefore, possession or use of these weapons cannot support charges such as possession of a firearm by a felon, G.S. 14-415.1, or assault by pointing a gun, G.S. 14-34. *See In re N.T.*, ___ N.C. App. ___, 715 S.E.2d 183 (2011) (airsoft gun is not a “gun” for purposes of assault by pointing a gun).

Robbery with a Dangerous Weapon

The appellate courts have stated that armed robbery can be committed using an air gun in the following cases: *State v. Westall*, 116 N.C. App. 534 (1994) (there was sufficient evidence to submit armed robbery to the jury where the defendant pointed a pellet pistol at the kidney of the clerk of a convenience store; the court emphasized that the weapon was a pellet pistol, that it was pointed at a vital organ from a short distance away, and that the state's evidence showed that the pellets were capable of penetrating a quarter inch of plywood; “a pellet gun may be a dangerous weapon per se, or at a minimum . . . such a determination [may] be made upon a consideration of the instrument's use”); *State v. Alston*, 305 N.C. 647 (1982) (the defendant was charged with armed robbery; an accomplice testified variously that the weapon used was a “pellet rifle” and a “BB gun”; the supreme court placed great weight on the difference, holding that the jury was properly permitted to consider armed robbery based on the suggestion that the gun was a pellet rifle, but that common law robbery should also have been submitted based on the possibility that the weapon was a BB gun).

By contrast, the court of appeals vacated an armed robbery conviction in *State v. Fleming*, 148 N.C. App. 16 (2001) (vacating the defendant's armed robbery conviction because the state failed to introduce evidence of the capabilities of the BB gun used by the defendant, and stating that “[w]e decline to hold, as a matter of law, that a BB gun can *never* be a dangerous weapon[, but f]or a

jury to find that a BB gun *is* a dangerous weapon, there must be evidence in the record of the BB gun’s capability to inflict death or great bodily injury”).

The bottom line, for me, is that at the charging stage, evidence that an air gun was used is probably sufficient to provide probable cause to *charge* armed robbery, unless the available evidence conclusively shows that the air gun in question was benign enough to fall below the dangerousness threshold. But the state may not be able to sustain a *conviction* without evidence of the weapon’s destructive capabilities, particularly if it is – or is described as – an airsoft or a BB gun rather than a pellet gun.

Assault with a Deadly Weapon

The situation is similar with respect to assault with a deadly weapon. Consider *In re Lawson*, 2002 WL 31166914 (N.C. Ct. App. Oct. 1, 2002) (unpublished). In *Lawson*, a juvenile was adjudicated delinquent for AWDWISI after he shot someone with a BB gun causing a bleeding wound in the victim’s thigh. The court of appeals found the evidence insufficient to support the adjudication, emphasizing that the weapon was a BB gun; that the shot was not from close range; and that the state introduced little to no evidence “as to the deadly nature of the weapon.” By contrast, in *State v. Pettiford*, 60 N.C. App. 92 (1982), the court of appeals held that it would not have been error to instruct the jury that a pellet pistol was a deadly weapon *per se* in a case in which the defendant shot the victim in the head, at close range, with what the defendant claimed was a .38 caliber pellet pistol, leaving a bullet fragment in the victim’s head. (As an aside, I’m not aware of the existence of .38 caliber air guns, or of air gun ammunition that is likely to fragment, so I’m not sure what was really going on in *Pettiford*.)

Based on the foregoing, my view is that evidence that A assaulted B with an air gun is probably sufficient to charge AWDW, unless there is conclusive evidence that the gun is sufficiently weak that it could not be considered deadly. However, in order to support a conviction, the state may need to introduce evidence of the weapon’s deadliness, including its status as a pellet gun; its muzzle velocity; its penetrating ability; the range at which it was used; the part of the body at which it was fired; and the injury it caused, if any.

Possession of a Concealed Weapon


Possession of an air gun can’t support the charge of possession of a concealed gun under G.S. 14-269(a1) (concerning “any pistol or gun”), because it isn’t a firearm, as discussed above. But can it support the general charge of carrying a concealed weapon under G.S. 14-269(a) (concerning “any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, or other deadly weapon of like kind”)?

There are two issues here. First, while air guns are clearly weapons, are they “deadly”? It’s hard to apply the analysis used in the armed robbery and assault cases, because that analysis depends in part on how the weapon is used, while concealed weapons, as long as they remain concealed, aren’t used at all. But I still think that some variant of that analysis would apply, considering factors such as the type of projectile fired by the weapon, the muzzle velocity, and the like. So I think that at least some air guns could be deadly for purposes of G.S. 14-269(a). Second, what does “of like kind” mean? To be a weapon “of like kind” to the listed items, is it enough that a weapon is deadly and concealable, or must it operate in a similar manner as one of the listed items? If the latter, air guns likely would not fall under the statute, as they are not similar in operation to the weapons listed in the statutory text. I’m not aware of any significant cases on this issue. *Cf. State v. Greene*, 2010 WL 1960723 (N.C. Ct. App. May 18, 2010) (unpublished) (affirming a conviction under G.S. 14-269(a) based on a .357 handgun). My inclination is to say that “of like kind” means that only weapons that function similarly to the listed items fall within the statute, since otherwise the phrase “of like kind” lacks meaning. So I tend to think that air guns fall outside the scope of the concealed weapons statute as presently written. But I can imagine a contrary view, interpreting the statute broadly in keeping with its purposes. If you’ve litigated this issue in the trial courts or have other thoughts about it, please post a comment or send me an email.

Tags: [air guns](#), [airsoft](#), [BB guns](#), [pellet guns](#)

This entry was posted on Wednesday, November 9th, 2011 at 8:08 am and is filed under [Crimes and Elements](#), [Uncategorized](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

4 Responses to “Air Guns”

1.  *Elliot A. Rushing* says:
[November 9, 2011 at 9:56 am](#)

Jeff, thanks for tackling this seemingly “outlier” topic that line officers as a practical matter may encounter fairly frequently, both in the context of “live” on-scene decision moments and in the context of law-abiding citizens seeking practical guidance. In the absence of court precedent or a bright-line statutory rule I agree that officer analysis must focus on the facts of the specific case. For this topic, as in others, officers are well-served by focusing on clearly articulating relevant facts so superiors, attorneys, and judges have the best chance to understand what the officer observed on-scene.

Your analysis and factors list is helpful practical guidance. Thanks for posting it!

[Reply](#)

2.  *EBT* says:


[December 2, 2011 at 4:37 pm](#)

Jeff,

Does your opinion change re BB gun as dangerous weapon for RWDW and CCW change if we know, at the time the offense was committed, that the BB gun was unloaded or didn't have the CO2 cartridge attached?

Similarly, can an unloaded or otherwise inoperable firearm support a RWDW conviction? I tend to disagree with my officers on these issues and would like some clarification if possible.

[Reply](#)

3.  *Donald Qualls* says:

[January 15, 2012 at 9:59 pm](#)

There certainly are air guns with calibers as large as (and significantly larger than) .38 — the largest modern air guns I'm aware of are precompressed air rifles with a .69 bore, though those are usually used with a sabot (allowing a smaller bullet to be fired a higher velocity than would be the case with a full bore sized projectile); generally, these large bore air guns have comparable power to a black powder muzzle loader of the same bore size, and those above .50 caliber are capable of taking game as large as bison, while a .38 could take deer at reasonable range. I've seen air pistols up to .25 caliber, and it wouldn't surprise me in the least if there was a 9 mm or .38 caliber in production, but that size is rather uncommon; it's much more likely the gun involved in State s. Pettiford was a .177 caliber, CO2 powered revolver made to look like a .38 Special revolver (several companies sell models like this).

To EBT, I'm neither a lawyer or a law enforcement officer, but consider this: use of deadly force is commonly exonerated when someone has presented an object that cannot be distinguished from a genuine deadly weapon — say, an air gun built to exactly resemble a firearm. How should an officer be able to tell, from across a room in a “shoot, don't shoot” situation, whether either a firearm or indistinguishable air gun is or isn't loaded? It seems to me that officers have no choice but to treat an object that appears to be a gun, as a gun.

[Reply](#)

4.  *Airsoft Gear Guy* says:

[February 7, 2012 at 10:34 am](#)

Jeff, thanks for highlighting the various distinctions. As an Airsoft player I have often thought about their classification as whether they are “dangerous” or not.

[Reply](#)

Leave a Reply

Name (required)

Mail (will not be published) (required)


Website

Submit Comment



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Tab:

Motor Vehicles

MOTOR VEHICLES (AUGUST, 2015)

Elements of Motor Vehicle Offenses.....Motor Vehicles-Page 1
Think you know Chapter 20-Test YourselfMotor Vehicles-Page 17

Elements of Motor Vehicle
Offenses

Shea Denning
School of Government
Basic School for Magistrates
August 2015

Elements: G.S. 20-138.1

- Drive
- Vehicle
- Street, Highway, PVA
- While Impaired

Elements: G.S. 20-138.1

Drive = Operate

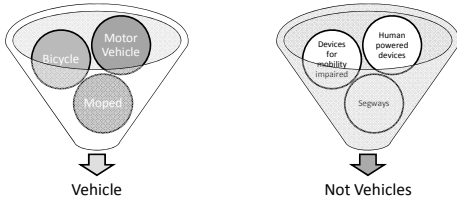
- Actual physical control of vehicle
- That is in motion or has engine running

Elements: G.S. 20-138.1

Vehicle

- Any device that will take people/things down the road
- Other than devices moved by human power
- Exceptions:
 - Segways (not vehicles)
 - Certain devices used by person with mobility impairment (not vehicles)
 - Bicycles (vehicles, even though human-powered)

Vehicle: G.S. 20-4.01(49)



Elements: G.S. 20-138.1

Highway or PVA

- Highway = street
- PVA is an area used by the public for vehicular traffic at any time
 - Includes subdivision roads
 - Parking lots

Elements: G.S. 20-138.1


While Impaired

- Under influence
- 0.08
- Schedule I

While impaired

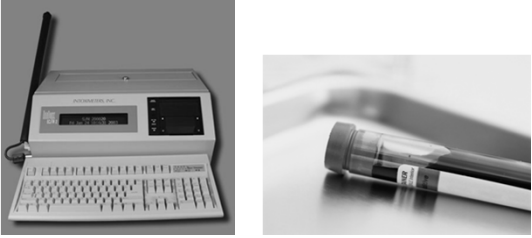
- Under influence of impairing substance

- Physical/mental faculties appreciably impaired by
 - Alcohol
 - Controlled substance
 - Drug
 - Psychoactive substance



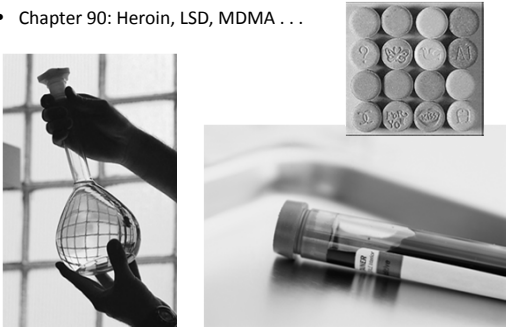
While impaired

- 0.08 at any relevant time after driving




While impaired


- Schedule I controlled substance
- Chapter 90: Heroin, LSD, MDMA . . .



Alcohol Screening Tests
G.S. 20-16.3(d)
Officer may use positive or negative result on an alcohol screening test—**but not the actual alcohol concentration result**—in determining if there are reasonable grounds for believing the driver committed an implied consent offense **other than driving after consuming**



Alcohol Screening Tests
G.S. 20-38.4(a)(2)
In determining PC, magistrate may review all alcohol screening tests



Impaired driving in commercial vehicle

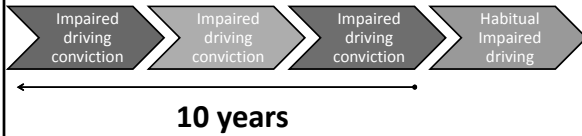
G.S. 20-138.2

- Drives
- Commercial motor vehicle
- Highway or PVA
- While impaired
 - Under influence of impairing substance
 - 0.04 at relevant time after driving
 - Any amount of Schedule I controlled substance in blood or urine



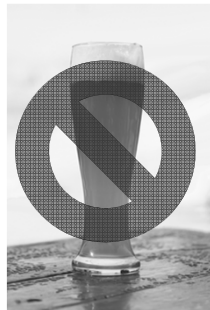
Habitual impaired driving

G.S. 20-138.5



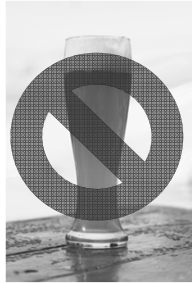
Zero Tolerance Offenses

1. Operating commercial motor vehicle after consuming alcohol
2. Operating school bus or child care vehicle after consuming alcohol
3. Driving by person <21 after consuming alcohol or drugs



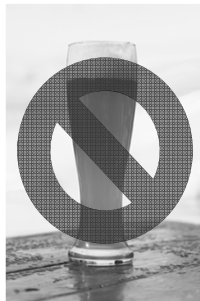
Operating Commercial Vehicle after Consuming
G.S. 20-138.2A

- Lesser included offense of impaired driving in CV
- Alcohol screening tests admissible
- Odor insufficient for conviction unless driver refused roadside test, breath test or blood test
- Class 3 misdemeanor (for first offense -- \$100 fine only)

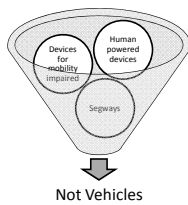
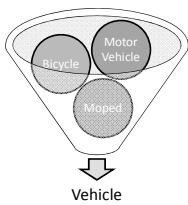


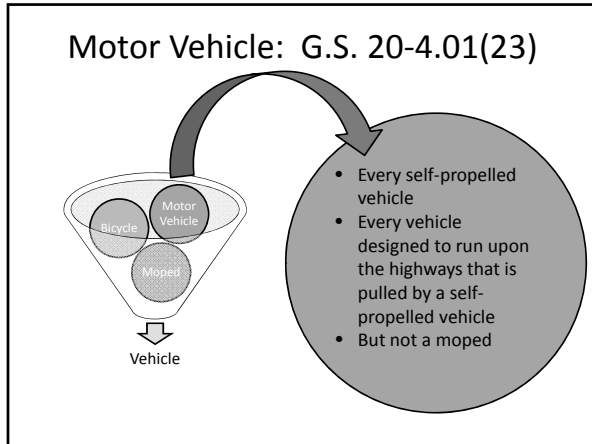
Driving after consuming by person <21
G.S. 20-138.3

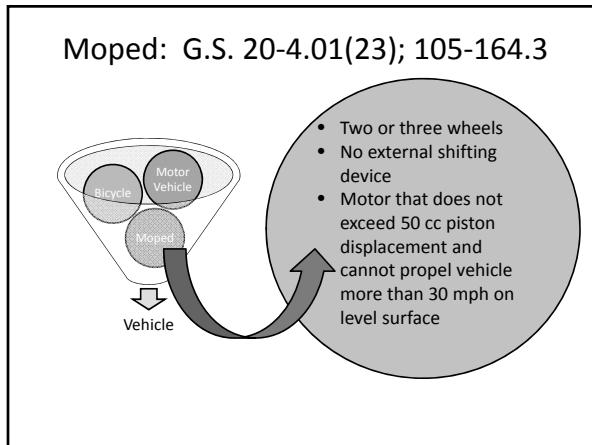
- Driving
- By person under 21
- Motor vehicle
- Highway or PVA
- While consuming alcohol or with alcohol or controlled substance previously consumed remaining in body
 - But not a violation if controlled substance in body was lawfully obtained and taken in appropriate amount



Vehicle: G.S. 20-4.01(49)







**Driving While License Revoked:
G.S. 20-28(a)**

<p>Class 3 misdemeanor</p> <ol style="list-style-type: none"> 1. Drives 2. A motor vehicle 3. On a highway 4. While his or her driver's license or privilege to drive in NC is revoked 5. With knowledge of revocation 	<p>Class 1 misdemeanor</p> <ol style="list-style-type: none"> 1. Drives 2. A motor vehicle 3. On a highway 4. While his or her driver's license or privilege to drive in NC is revoked 5. With knowledge of revocation 6. License originally revoked for an impaired driving revocation
--	---

**“Impaired driving license revocation”:
G.S. 20-28.2(a)**

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

**Originally revoked for
impaired driving
revocation**

**The Forgotten Charge:
G.S. 20-28(a2)(1)**

1. Drive
2. Motor Vehicle
3. On a Highway
4. While Revoked for Impaired Driving
Revocation
5. After DMV Has Sent Notice

No Operator's License (G.S. 20-7)

- Drive
- A motor vehicle
- On a highway
- Without a valid license or without carrying a license

Note: Exemption for **non-residents** who are at least 16 years old and have license from home state or country. (G.S. 20-8)

License Restrictions (G.S. 20-7(e))

- Failure to comply with restriction is the equivalent of operating a motor vehicle without a license

Violation of A/C restriction on license NOT implied consent offense

NOTE TO OFFICER: The officer should review and follow the instructions on Side Two of this form. ATTACH TEST RECORD TICKET HERE

STATE OF _____

NOTE: A "license" means:

Name _____

Address _____

City _____

State _____ Sex _____

CF Justice Person

PORT OF _____

are under 20" whenever (Stat) 20-138.1

The undersigned _____ day of _____ at _____ (a-20) (m), a law enforcement officer _____ to believe the above named person, hereinafter referred to as driver, operated a vehicle _____ in the above named county upon _____ while committing _____ consent offense in that _____

1. I am a law enforcement officer.

2. The driver has a drivers license restriction: alcohol concentration ignition interlock conditional restoration (when: _____)

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.

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. 20-18.5.

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 _____

The driver violated a drivers license restriction by . . .

What about violation of an ignition interlock restriction? (G.S. 20-17.8)

- Violation of ignition interlock restriction is DWLR under G.S. 20-28(a).
- 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

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, 20-20.1, 20-113

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 20-113.3 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.

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 Director 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: _____ Date: _____

Signature of Judicial Official: _____ 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.

ACKNOWLEDGEMENT

I understand that my drivers license or limited driving privilege is suspended as of the date of this report and I also

Speeding: G.S. 20-141

1. Too fast for conditions
2. Exceeding Posted Speed (Infraction)
3. Less than Minimum Posted Speed
4. Over 80 mph or more than 15 mph over (Class 2 misdemeanor)
5. Work Zone
6. School Property or School Zone (G.S. 20-141.1)
7. Failure to reduce speed to avoid accident



Unsafe Movement



G.S. 20-154(a): Before turning from direct line, must give signal if operator of another vehicle may be affected

Reckless Driving: G.S. 20-140(a) *Carelessly and Heedlessly*

- Drive
- Vehicle
- Highway or PVA
- Carelessly and heedlessly and
- In willful or wanton disregard
- Of the rights and safety of others

Reckless Driving: G.S. 20-140(b) *Endangering Persons or Property*

- Drive
- Vehicle
- Highway or PVA
- Without due caution and circumspection
- At a speed or in a manner
- That endangers or is likely to endanger any person or property

Is this culpable negligence?

Failure to Stop, Remain at Scene When Injury Occurs
G.S. 20-166(a1)

- Drive
- Vehicle
- Involved in crash
- Causing injury
- Knows or reasonably should know vehicle involved in crash causing injury
- Willfully
 - Fails to immediately stop
 - Fails to remain at scene
 - Facilitates removal of vehicle

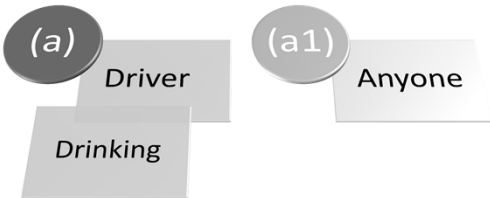
Failure to Stop, Give Information,
Property Damage, Injury Not Apparent
G.S. 20-166(c), (c1)

- Drive
- Vehicle
- Involved in crash
- Causing
 - property damage or
 - injury that is not apparent
- Knows or reasonably should know vehicle involved in crash
- Willfully
 - Fails to immediately stop
 - Fails to remain at scene of *reportable crash*
 - Facilitates removal of vehicle
 - Fails to give information to driver or occupant of any other vehicle or property owner

Speeding to Elude: G.S. 20-141.5(a)

1. Operates
2. Motor vehicle
3. Street, highway, PVA
4. While fleeing or attempting to elude
5. LEO
6. Who is lawfully performing duties

Open Container (G.S. 20-138.7)



Open Container: G.S. 20-138.7(a)

- Drive
- Motor Vehicle
- Highway
- While there is an alcoholic beverage
 - In the passenger area
 - In other than the unopened manufacturer's original container
- While the driver is consuming alcohol or while alcohol remains in the driver's body

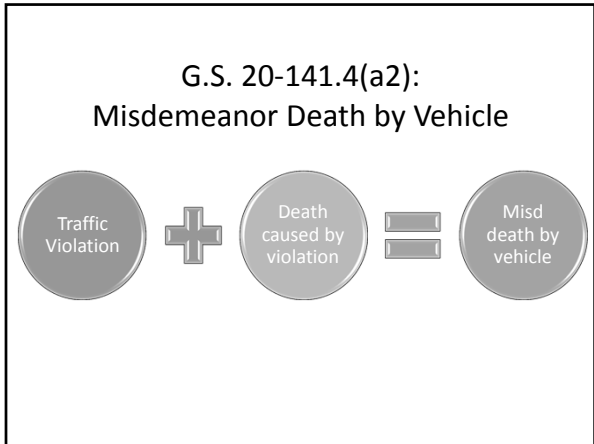
Open Container: G.S. 20-138.7(a1)

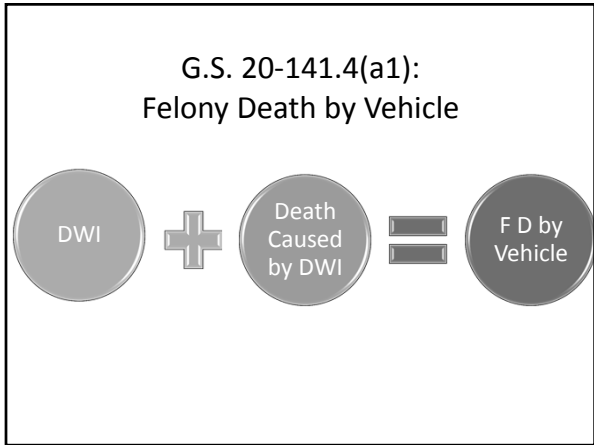
- Possess or Consume
- Alcoholic beverage
 - In the passenger area
 - In other than the unopened manufacturer's original container
- While the motor vehicle is on a highway

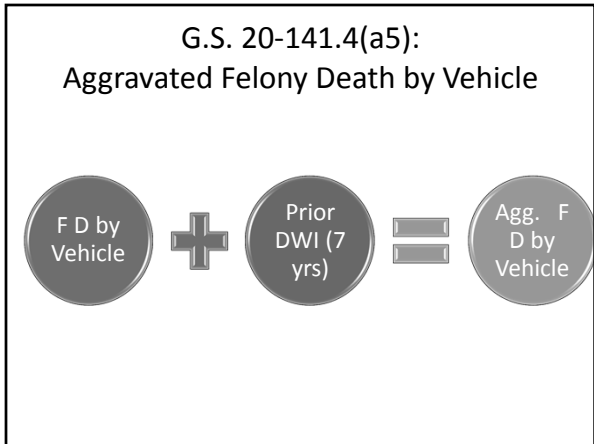


S.L. 2013-348 (S 659)

- Amended G.S. 20-138.7(a3)
- Effective for offenses on or after October 1, 2013
- Motor vehicle means "any vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways and includes mopeds."







Repeat Felony Death By Vehicle
G.S. 20-141.4(a6)

1. Felony Death by Vehicle or Aggravated Felony Death by Vehicle
+
2. Prior Conviction (no time limit) for
 - Felony Death by Vehicle
 - Aggravated Felony Death by Vehicle
 - 1st or 2nd degree murder based on impaired driving
 - Manslaughter based on impaired driving

- Class B2 felony

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:

Implied Consent
Procedures

IMPLIED CONSENT PROCEDURES (AUGUST, 2015)

Impaired Driving: Test Yourself..... Implied Consent - Page 1
Impaired Driving Holds & Implied Consent Offense Notices.....Implied Consent – Page 5
Civil License Revocations & Motor Vehicle SeizuresImplied Consent – Page 15



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

Impaired Driving Holds & Implied Consent Offense Notices

Shea Denning
School of Government
August 2015




Special Rules for Implied Consent Cases

Impaired Driving Holds



Implied Consent Offense Notice






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.



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

The diagram consists of two concentric circles. The larger, outer circle is labeled 'Implied Consent Offenses'. The smaller, inner circle is labeled 'Offenses Involving Impaired Driving', indicating that all offenses involving impaired driving are also implied consent offenses.

UNC

Impaired Driving Holds

§ 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

(3) 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.

(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.)

UNC

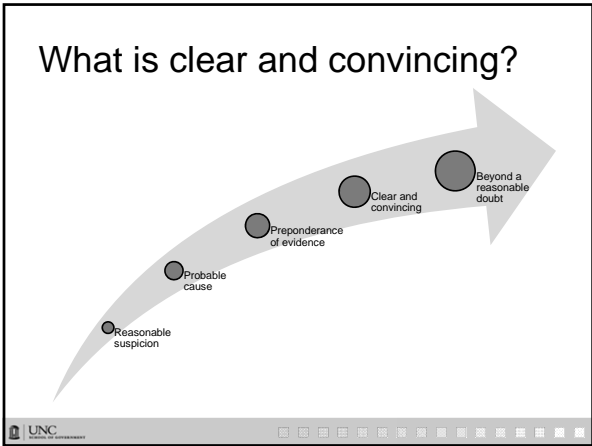
Impaired Driving Holds

§ 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 others appear at the jail to observe his condition or to administer an additional chemical analysis 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.)

UNC



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

UNC

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

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

UNC

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.~~

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 before being released only upon meeting the conditions of pretrial release under this section for a period no longer than 24 hours, a judicial official may determine the appropriate conditions of pretrial release if the defendant is detained for 24 hours.

No longer impaired to extent that he presents danger

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

No longer than 24 hours

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

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.)



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



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



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

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

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

Implied Consent Offense Notice

STATE OF NORTH CAROLINA

County: _____

Case Number: _____

DEFENDANT: _____

CHARGE: _____

IMPLIED CONSENT OFFENSE NOTICE

TO THE DEFENDANT: The undersigned is required to administer an additional chemical analysis if:

1. The defendant 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).

TO THE DEFENDANT: The undersigned is required to administer an additional chemical analysis if:

1. The defendant 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).

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 Deputy CSC Associate 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).



UNC

- Implied consent offense notice form is available in NCAWARE.

UNC

Civil License Revocations & Motor Vehicle Seizures



Shea Denning
School of Government
August 2015



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)




Henry v. Edminston, 315 NC 474 (1986)

Remedial highway safety measure – not punishment

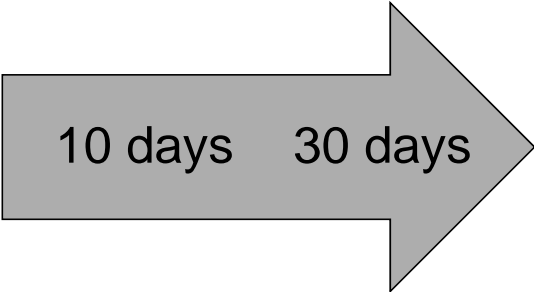


State v. Oliver,
343 NC 202 (1996)
“Any deterrent effect”
“merely incidental to
overriding purpose of
protecting the public’s
safety”



UNC

Minimum CVR period



10 days 30 days

UNC

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”

UNC

**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



**State v. McKenzie,
__ NC __ (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



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



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 driver's license had been or is revoked under G.S. 20-16.5.



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.



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 _____.
- 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 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.



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

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

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 mandatory 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 complied with the provisions of G.S. 20-16.2 and 20-138.1 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 an alcohol concentration of 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) _____ in which the person's driver's license had been or is revoked under G.S. 20-16.5

ORDER

It is ORDERED that the above named person's driver's license 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:

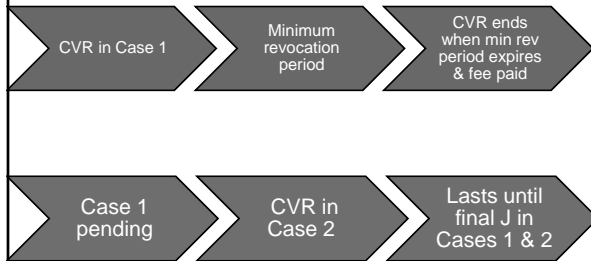
1. this date,
2. the date which the person surrenders his/her driver's license to the Court, or demonstrates that he/she is not currently licensed to drive,
3. unless the person files the Petition for Probable Cause No. 1, unless a check of the state's motor vehicle driver's license to the Court, or demonstrates that he/she is not currently licensed to drive and otherwise, until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her driver's license had been or is revoked under G.S. 20-16.5

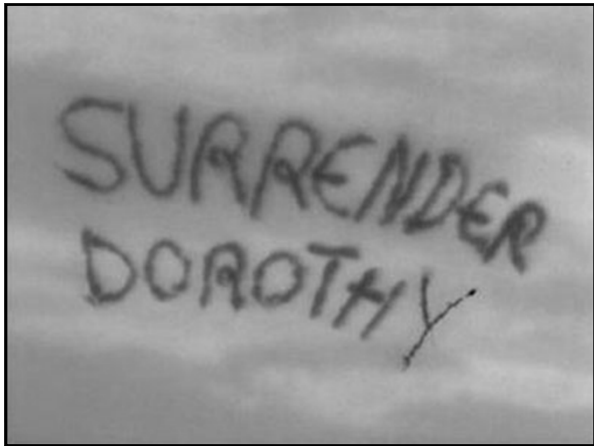
The above named person's privilege to drive in North Carolina is revoked and will remain revoked until the person has actually surrendered his/her license for the period specified above and has paid a \$50 fee to the Clerk of Superior Court.

I informed the above named person of his/her rights to a hearing and gave him/her a copy of this Order.
Date: _____ Signature of judicial official: _____

NOTE: See invoice for supplemental findings and order, and for disposition of:
 Appeal Revoke
 Denial CSC Assessor CSC Clerk Of Superior Court

Revocation period if pending offense





- Let's take a look at NCAWARE

UNC
UNIVERSITY OF NORTH CAROLINA

Affidavit - No License
AOC-CVR-8

STATE OF NORTH CAROLINA

County _____

In the General Court of Justice
District Court Division

Name and Address: _____

IN THE MATTER OF _____

AFFIDAVIT - NO LICENSE

County of Residence _____ State of Residence _____ S.S. 20-163

NORTH CAROLINA RESIDENTS

I, the undersigned, being first duly sworn, depose 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, depose 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 _____ Special Order

Date: _____

UNC
UNIVERSITY OF NORTH CAROLINA

Multiple Offenses

Danielle Driver is charged with driving while impaired (G.S. 20-138.1) and driving after consuming by a person under 21 (G.S. 20-138.3). All of the requirements for civil license revocation under G.S. 20-16.5 are satisfied.



Do you order one revocation or two?



Violation of A/C restriction on license NOT implied consent offense

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

NOTE: A statement of the driver's consent to a chemical test is required for the collection of a specimen for testing.

Name _____ City _____ State _____

Address _____

City _____

Place _____ Sex _____

The undersigned _____, a law enforcement officer, believes the above named person, hereinafter referred to as driver, operated a vehicle _____ in the above named county upon _____ while committing _____ consent offense in that _____

NOTE: A/C Restriction is Implied Consent Offense

2. The driver has a drivers license restriction: alcohol concentration ignition interlock conditional restoration (when applicable)

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

4. The driver was charged with the implied consent offense of _____ G.S. 20-138.1, _____ 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 _____

The driver violated a drivers license restriction by . . .



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



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?



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?



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?



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?




Motor Vehicle Seizure & Impoundment: G.S. 20-28.3



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



Other words and phrases are defined in bold type when used.

D. **"Bodily injury"** means bodily harm or disease, including death that results from any cause.


E. **"Business"** includes trade, profession, occupation, or service.

Driving While Not Covered by an Automobile Liability Policy

Exceptions to Seizure

1. Vehicle reported stolen
2. Rental vehicle and driver not listed in contract

Affidavit for Seizure and Impoundment AOC-CR-323



STATE OF NORTH CAROLINA
In the General Court of Justice
Special Court Division

OFFICER'S AFFIDAVIT FOR SEIZURE AND IMPOUNDMENT AND MAGISTRATE'S ORDER

1. OFFICER'S AFFIDAVIT

2. MAGISTRATE'S ORDER

NOTE TO OFFICER: This form is to be completed by the officer who has probable cause to believe that the defendant named above should be seized and impounded. It is to be filed with the clerk of court in the county where the vehicle is located.

NOTE TO CLERK: This form is to be filed with the clerk of court in the county where the vehicle is located.



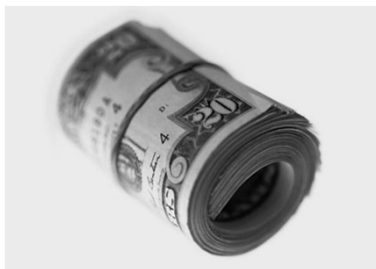
2009-2010
More than 4,000 cars seized





Expedited Sales
\$1500 or less, may be sold after 90 days
When towing & storage costs > 85% FMV





Net proceeds to county schools
~\$340,000 in 2010-2011



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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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.
STATE OF NORTH CAROLINA			
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.	WARRANT FOR ARREST		
Offense	THE STATE OF NORTH CAROLINA VS.		
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

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

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	Date Served	Time Served	AM	Date Returned
			<input type="checkbox"/>	
			<input type="checkbox"/>	

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
		<input type="checkbox"/>
		Assist. CSC
		<input type="checkbox"/>
		CSC
		<input type="checkbox"/>

RETURN FOLLOWING REDELIVERY/REISSUANCE

I certify that this Warrant was received and served as follows:

Date Received	Date Served	Time Served	AM	Date Returned
			<input type="checkbox"/>	
			<input type="checkbox"/>	

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 _____ Attorney For Defendant _____

Waived Not Indigent

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.
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WARRANT FOR ARREST

Offense

STATE OF NORTH CAROLINA
 _____ County
 In The General Court Of Justice
 District Court Division

THE STATE OF NORTH CAROLINA VS.

Name And Address Of Defendant

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

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.)
--

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.

<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

(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 _____

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
 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.

File No.	LID No.	SID No.	FBI No.
----------	---------	---------	---------

MISDEMEANOR CRIMINAL SUMMONS
Offense

STATE OF NORTH CAROLINA
 In The General Court Of Justice
 District Court Division

_____ County

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)			
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)			

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

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"/> Assistant CSC	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court	Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

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:

Date _____ Signature Of District Court Judge _____

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 _____

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.

File No.	LID No.	SID No.	FBI No.
----------	---------	---------	---------

MISDEMEANOR CRIMINAL SUMMONS
 Offense

STATE OF NORTH CAROLINA
 In The General Court Of Justice
 District Court Division

_____ County

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)			
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)			

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

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"/> Assistant CSC	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court	Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM

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.

File No.	Law Enforcement Case No.	LID No.	SID No.	FBI No.	
MAGISTRATE'S ORDER		STATE OF NORTH CAROLINA In The General Court Of Justice District Court Division			
Offense _____ County _____					
<p>THE STATE OF NORTH CAROLINA VS.</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		Location Of Court Court Date Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM	
Signature _____				<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court	

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)

<p>District Attorney</p> <p><input type="checkbox"/> Waived <input type="checkbox"/> Not Indigent <input type="checkbox"/> Denied</p>	<p>Attorney For Defendant</p> <p><input type="checkbox"/> Appointed <input type="checkbox"/> Retained</p>	<p>PRIOR CONVICTIONS:</p> <p>No./Level: 0 <input type="checkbox"/> I (0) <input type="checkbox"/> II (1-4) <input type="checkbox"/> III (5+)</p>
<p>PLEA: <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</p>	<p>VERDICT: <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</p>	<p>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</p>
<p>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: <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.</p>		
<p>Fine</p> <p>\$ _____</p>	<p>Restitution**</p> <p>\$ _____</p>	<p>Attorney's Fee</p> <p>\$ _____</p>
<p>Community Service Fee</p> <p>\$ _____</p>		
<p>Other</p> <p>\$ _____</p>		
<p>**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)."</p>		
<p>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: _____</p>		
<p>APPEAL ENTRIES</p> <p><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:</p>		
<p>Date</p>	<p>Signature Of District Court Judge Or Magistrate</p>	
<p>WAIVER OF PROBABLE CAUSE HEARING</p> <p>The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.</p>		
<p>Date Waived</p>	<p>Signature Of Defendant</p>	
<p>Date</p>	<p>Signature Of Attorney</p>	
<p>I certify that this Judgment is a true and complete copy of the original which is on file in this case.</p>		
<p>Date</p>	<p>Date Delivered To Sheriff</p>	<p>Signature</p>
<p>CERTIFICATION</p>		
<p>Date</p>	<p>Name Of District Court Judge Or Magistrate (Type Or Print)</p>	<p>Signature Of District Court Judge Or Magistrate</p>

*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.	Law Enforcement Case No.	LID No.	SID No.	FBI No.	
MAGISTRATE'S ORDER		STATE OF NORTH CAROLINA In The General Court Of Justice District Court Division			
Offense _____ County _____					
<p>THE STATE OF NORTH CAROLINA VS.</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"/> Deputy CSC <input type="checkbox"/> Assistant 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	PLEA: <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	VERDICT: <input type="checkbox"/> guilty <input type="checkbox"/> guilty <input type="checkbox"/> 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	PRIOR CONVICTIONS: No./Level: 0 <input type="checkbox"/> I (0) <input type="checkbox"/> II (1-4) <input type="checkbox"/> III (5+)				
<p>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: <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.</p> <p><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)</p> <p><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.</p> <p><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.</p>									
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: <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 type="checkbox"/> 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: <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			
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		<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.

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 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.*

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.

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

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.

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

Name And Mailing Address Of Defendant

APPEARANCE BOND FOR PRETRIAL RELEASE

G.S. 15A-531, 15A-534, 15A-544.2

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

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

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)]

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 _____
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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

G.S. 15A-534, 15A-540, 58-71-20

Name Of Defendant

Name Of Surrendering Surety(ies) (required)

Name Of Surrendering Agent Of Surety (if applicable)

Date Of Appearance Bond

Amount Of Bond

\$

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)

- the defendant is bonded to appear.
 the defendant was bonded (i.e., where the defendant was in custody when the bond was executed).

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).

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 county where the defendant currently is in custody.

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.	LID No.	SID No.	FBI No.
STATE OF NORTH CAROLINA In The General Court Of Justice County <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division			

ORDER FOR ARREST

Offense

THE STATE OF NORTH CAROLINA VS.

Name, Address & Telephone No. Of Defendant

Race	Sex	Date Of Birth	Age
Social Security No.	Drivers License No. & State		
Name And Address Of Defendant's Employer			

Date Defendant Failed To Appear

Amount Of Bond \$

Type Of Bond

TRUE BILL OF INDICTMENT ONLY
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

Offense Code

Offense In Violation Of G.S.

Date Of Offense

Date Issued

Signature

Location Of Court

Court Date

Court Time AM PM

Law Enforcement Case No.

To any officer with authority and jurisdiction to serve an Order For Arrest:
The Court finds that:

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. This is the defendant's second or subsequent failure to appear on these charges.

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.

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.
[Note To Arresting Officer: If this option is checked, defendant must be fingerprinted. G.S. 15A-502(a).]

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.

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.

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.

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.

8. Other: (specify)

You are DIRECTED to take the defendant into custody and bring the defendant before a judicial official for the purpose of:

determining conditions of release, and for commitment if the defendant is unable to comply.
 commitment since release of the defendant is not authorized.

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

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.
ORDER FOR ARREST		STATE OF NORTH CAROLINA			
# Offense		In The General Court Of Justice County <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division			
THE STATE OF NORTH CAROLINA VS.		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 _____ Location Of Court _____ Court Date _____			
TRUE BILL OF INDICTMENT ONLY		<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> DC Judge <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> SC Judge			
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM			
Offense Code		Offense In Violation Of G.S.			
Date Of Offense		Date Issued			

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

(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.

Date Of Offense _____ Most Serious Class Of Offense _____

Offense(s) (List Offense(s) Only If File No. Has Not Been Assigned)

ORDER OF ASSIGNMENT OR DENIAL OF COUNSEL

G.S. 7A-146(11), 7A-292(15), 7A-450, 7A-451(a), 15A-1340.23(d)

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. For adult first-degree murder cases or murder cases where the degree is undesignated at the trial level, the Office of Indigent Defense Services will use form AOC-CR-624. For capital post-conviction cases, the Office of Indigent Defense Services will use form AOC-CR-625. For appellate cases, the Court will use form AOC-CR-350.

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 who is a duly licensed attorney 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 who is a duly licensed attorney 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

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<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"/> _____
SEAL	<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

Name Of Defendant

Date Of Birth

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.

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., DEPARTMENTAL USE ONLY, and WIT. Includes fields for Name, Address, Date, and Signature.

Form with sections: MAGISTRATE'S ORDER - MISDEMEANOR ONLY, COURT USE ONLY, and JUDGMENT. Includes fields for Date, Signature, and various legal checkboxes.

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.

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.

Form with sections: MAGISTRATE'S ORDER - MISDEMEANOR ONLY, COURT USE ONLY, JUDGMENT, and COMMITMENT.

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).
- 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. _____

17. And on or about the date and time shown above in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area)

Signature Of Officer

Date

C

File No.		NORTH CAROLINA UNIFORM CITATION	
Defendant Is To Appear In District Court		N.C.	
Day Of Week	Month	Day	Year
		Time	
<input type="checkbox"/> AM	<input type="checkbox"/> PM		
<input type="checkbox"/> DL <input type="checkbox"/> DCI <input type="checkbox"/> Other # Of Chgs	Interpreter Needed <input type="checkbox"/> SP <input type="checkbox"/> OTS <input type="checkbox"/> 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 <input type="checkbox"/> 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 <input type="checkbox"/> N.C. Patrol <input type="checkbox"/> Police/Sheriff			
Area	Wea.	Vis.	Traffic Accident
			Speed
On Highway No./Street		<input type="checkbox"/> Injury Or Serious Injury	
In Vicinity/City Of		<input type="checkbox"/> Passenger(s) Under 18	
At/Near Intersection			
Wit.	Chemical Analyst		<input type="checkbox"/> AC <input type="checkbox"/> Refused

OFFICER'S COPY

MAGISTRATE'S ORDER - MISDEMEANOR ONLY	OFFICER'S NOTES			
Signature Of Magistrate/Deputy/Assistant/CSC	Date	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.		

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 Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, 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 7A, 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 |

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 7A, 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 ___

(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[†]
 - 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

