

# Bail Reform in North Carolina Judicial District 21

## Evaluation Report

April 2022

**Jessica Smith**, W.R. Kenan Jr. Distinguished Professor & Director, Criminal Justice Innovation Lab,  
UNC School of Government

**Jamie Vaske**, Professor, Western Carolina University

**C. Ross Hatton**, PhD Student, Johns Hopkins University



SCHOOL OF GOVERNMENT

Criminal Justice Innovation Lab

## Contents

Executive Summary .....	2
Background .....	4
About the District .....	5
Process .....	6
Implemented Reforms .....	6
Empirical Evaluation & This Report .....	7
Findings .....	8
Magistrate Decision-Making .....	8
Data Source .....	8
Process Metrics .....	9
Outcome Metrics .....	11
Magistrate Interview Data .....	16
Judge Decision-Making .....	17
Data Source .....	17
Process Metrics .....	18
Outcome Metrics .....	19
Pretrial Failures .....	22
Time to Disposition .....	22
New Pretrial Criminal Charges .....	23
Court Non-Appearance .....	27
Pretrial Detention .....	30
Number of Pretrial Detentions .....	30
Length of Pretrial Detention .....	33
Changes in Case “Mix” .....	38
Criminal Charging .....	39
Citation in Lieu of Arrest .....	40
Appendix A – New Structured Decision-Making Tool .....	43
Appendix B – Magistrate Bail Explanation Form .....	47
Appendix C – Judge Bail Explanation Form .....	49

Appendix D – Magistrate Decision-Making.....	51
Appendix E – New Criminal Activity in Peer Counties (Additional Detail) .....	55
Appendix F – New Pretrial Criminal Charges (Supplemental Analyses).....	57
Appendix G – New Pretrial Criminal Charges by Race (Supplemental Analyses).....	60
Appendix H – Pretrial Detention (Supplemental Analyses).....	62

# Executive Summary

Seeking to promote a fair and effective pretrial justice system, North Carolina Judicial District 21 (Forsyth County) adopted a new structured decision-making tool to guide decisions regarding pretrial conditions, effective January 1, 2020. We conducted an empirical evaluation of implementation and impact of the new tool. The evaluation began in 2020 and continued through December 31, 2021. Key findings include:

## Magistrate Decision-Making

- Magistrates adhered to the decision-making tool's recommendations in the vast majority of cases (78.94%).
- Magistrates executed forms without completeness or fidelity issues in the vast majority of cases (75.54% without any issues; 83.08% without completeness issues; 86.38% without fidelity issues), suggesting that implementation of the new process is successful at the magistrate level.
- Magistrates issued a written promise, custody release, or unsecured bond in over half of all cases (58.19%). For Class 2 and 3 misdemeanor cases that were the target of reforms, magistrates issued conditions other than secured bonds in 71.96% of cases. For cases where the highest charge was an intermediate-level offense or a Class A–E felony, that percentage was 56.23% and 10.98% respectively.
- When conditions other than secured bond were imposed, magistrates opted for an unsecured bond more frequently than a written promise or custody release, and rarely ordered a custody release.
- Median bond amounts imposed by magistrates decreased as offense charge category decreased. Class A–E felony cases had the largest median secured bond amounts (\$50,000), followed by intermediate-level charge cases (\$2,500), and Class 2 and 3 misdemeanor charges (\$500).
- At the magistrate level, the rate of secured bonds and secured bond amounts were similar for cases involving Black and White individuals. This was true across all offense categories.
- There was variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the tool's recommendations, especially for intermediate-level and Class 2 and 3 misdemeanor charges.
- Magistrates reported positive perceptions of the reforms and ease in form completion, though some concerns and suggestions for improvement were expressed.

## Judge Decision-Making

- Judges adhered to the decision-making tool's recommendations in the majority of cases (62.47%).
- Judges executed the majority of forms (71.88%) without fidelity issues. They executed 48.89% of forms without completeness issues and 40.78% of forms without any issues.
- As expected, judges imposed a condition other than a secured bond in the minority of cases (37.76%). If the tool is working as anticipated, more cases involving individuals who are likely to succeed pretrial are being screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals less likely to succeed pretrial in the pool of those seen by judges at the first appearance and subject

to the most restrictive condition of release (secured bond).<sup>1</sup> Judges imposed conditions other than secured bonds more frequently for Class 2 and 3 misdemeanor charges (82.14%) than for intermediate-level charges (35.52%) and Class A–E felonies (2.82%).

- When they imposed conditions other than secured bond for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (37.03% for magistrates; 78.57% for judges).
- Median bond amounts imposed by judges decreased as offense charge category decreased. Class A–E felony cases had the largest median secured bond amounts (\$25,000), followed by intermediate-level cases (\$1,500), and Class 2 and 3 misdemeanor cases (\$500).
- At the judge level, there were no statistically significant racial differences in likelihood of receiving of secured bond or median secured bond amounts.

### Pretrial Failures

- The percent of individuals incurring any new pretrial criminal charges decreased (0.84 percentage points) after implementation of reforms. Within offense subcategories for violent offenses, any statistically significant increases experienced in Forsyth County were very small and were smaller than those observed in Guilford County, Forsyth's largest peer county.
- The non-appearance rate decreased from 23.60% (11,410 cases) in the pre-implementation period to 6.45% (2,118 cases) in 2020 and to 5.13% (1,424 cases) in 2021. COVID-19-related changes in case processing likely are contributing to these results.
- Likely because of the COVID-19 pandemic, cases are taking longer to resolve in the post-implementation period. This fact may be creating more opportunities for pretrial failures in the post-implementation period.

### Pretrial Detention

- The average number of monthly detentions fell 23.60% in the post-implementation period. As expected, there was a larger reduction in detentions for misdemeanor bookings as compared to felony bookings. Declines were nearly identical for Black and White individuals.
- Average detention length declined, from 6.3 days before reforms were implemented to 5.3 days post-implementation. More people had shorter detentions and fewer people had longer ones. Examining average detention length by race revealed largely similar results for Black and White individuals.

### Changes in Case "Mix"

- As compared to the pre-implementation period, the post-implementation period experienced a decrease in overall charging, a decrease in the percentage of misdemeanor charges, a small decrease in violent felony charges, and small increases in both violent misdemeanor and impaired driving charges. Collectively, these changes would have resulted in a larger share of felonies, violent misdemeanors, and impaired driving charges in the intermediate-level charge category, thus depressing the impact of the policy for that charge category. The decrease in charges likely impacted detention numbers and new pretrial charging rates. We found no change in citation rates between the pre- and post-implementation period.

---

<sup>1</sup> As used in this report, pretrial success and related terms refer to no missed court dates and no new pretrial criminal charges.

# Background

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

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

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

---

<sup>2</sup> NCCALJ CRIMINAL INVESTIGATION AND ADJUDICATION COMMITTEE, PRETRIAL JUSTICE REFORM FOR NORTH CAROLINA (2016) (Report of the North Carolina Commission on the Administration of Law & Justice), [https://nccalj.org/wp-content/uploads/2017/pdf/nccalj\\_criminal\\_investigation\\_and\\_adjudication\\_committee\\_report\\_pretrial\\_justice.pdf](https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_criminal_investigation_and_adjudication_committee_report_pretrial_justice.pdf).

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

## About the District

Judicial District 21 consists of one county in central North Carolina: Forsyth. Several features of the county are displayed in Table 1 below; its geographic location in the state is shown in Figure 1 below.

**Table 1. About District 21**

Total Population <sup>1</sup>	382,590
Racial Composition	
% White / Black / Am. Indian / Hispanic <sup>2</sup>	56.3% / 27.5% / 0.9% / 13.3%
2020 General Election % Trump / Biden <sup>3</sup>	42% / 56%
Violent Crime Rate / Property Crime Rate 2020 (State Rate: 452 / 2,324) <sup>4</sup>	913 / 3,873
Median Household Income 2019 <sup>5</sup>	\$53,054
Poverty Rate 2019 <sup>6</sup>	15.2%
Unemployment Rate 2020 <sup>7</sup>	7.4%

Notes.

<sup>1</sup> United States Census Bureau, *Quick Facts*, <https://www.census.gov/quickfacts/fact/table/forsythcountynorthcarolina,US/PST045221> (last visited Feb. 22, 2022).

<sup>2</sup> *Id.* People of any race may be of Hispanic ethnicity. However, this chart does not include Hispanics in the percentage displayed for whites; the chart displays the percentage for the Census Bureau category "White alone, not Hispanic or Latino."

<sup>3</sup> North Carolina State Board of Elections, *Election Results*, <https://www.ncsbe.gov/Election-Results> (last visited Aug. 5, 2021) (rounded to nearest whole number).

<sup>4</sup> NORTH CAROLINA STATE BUREAU OF INVESTIGATION, CRIME IN NORTH CAROLINA – 2020 (2021) (the crime rate is defined as the number of offenses per 100,000 population; rates have been rounded to nearest whole number), available at <https://www.ncsbi.gov/Services/SBI-Statistics/SBI-Uniform-Crime-Reports/2020-Annual-Summary.aspx>.

<sup>5</sup> North Carolina Department of Commerce, *Economic Development Reports*, <https://www.nccommerce.com/data-tools-reports/economic-development-reports> (last visited Aug. 5, 2021). This chart relies on July 2021 information in the Department's dynamic "Area Demographic Profiles," which are available for download at the link in this citation. Those profiles rely on data from a variety of sources, including the United States Census Bureau's American Community Survey and Small Area Income and Poverty Estimates, as well as Local Area Unemployment Statistics from the United States Bureau of Labor Statistics.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

**Figure 1. Map showing Judicial District 21**



## Process

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

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

## Implemented Reforms

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

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

Additionally, Working Group members wanted to develop a tool to help judicial officials quickly identify those individuals who can be released on conditions *other than secured bond* to reduce the occurrence of wealth-based incarceration of individuals who pose little risk to public safety or of flight. Although they considered empirical risk assessment tools (sometimes referred to as “algorithms”) for that purpose, they did not opt for such a tool. Instead, they adopted a new structured decision-making tool to better inform judicial officials' pretrial decisions and conform to constitutional and statutory requirements.

---

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

<sup>5</sup> *Id.*

<sup>6</sup> G.S. 15A-534(c).

<sup>7</sup> G.S. 15A-534(b).



The new decision-making tool, included in Appendix A, applies in all circumstances except where the statutes or the local bail policy require a different process or result.<sup>8</sup> Key features of the new tool include:

- Expressly incorporating the statutory requirement that a judicial official must impose a written promise, custody release or unsecured bond unless the official “determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.”<sup>9</sup>
- Creating a presumption for conditions other than secured bonds for persons charged with Class 2 and 3 misdemeanors.
- Providing an easily implemented checklist to quickly identify additional persons who can be released on conditions other than a secured bond.
- Providing that, for individuals charged with the most serious offenses, no presumption or screening applies and that decision-makers proceed directly to the required statutory determination.
- Requiring documentation of reasons for imposing a secured bond.
- Requiring that ability to pay be considered when setting a secured appearance bond.
- Requiring detention bond hearings when a secured detention bond is imposed.
- Providing a maximum bond table.
- Preserving discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

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

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

## Empirical Evaluation & This Report

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

The empirical evaluation began in 2020 and continued through December 2021. This is our final report.<sup>11</sup> We circulated a draft of this report to Working Group members in March and they were invited to submit feedback to us. Additionally, we met with Working Group members to discuss the report and receive additional feedback from them. We thank them for their feedback, which we have incorporated into this report.<sup>12</sup>

---

<sup>8</sup> For example, when a secured bond is required by law.

<sup>9</sup> G.S. 15A-534(b).

<sup>10</sup> Online at: [https://www.nccourts.gov/assets/documents/forms/cr226-en.pdf?e1Vg5Goi1xRI3OAVkbvPBdXUyDuK\\_yrV](https://www.nccourts.gov/assets/documents/forms/cr226-en.pdf?e1Vg5Goi1xRI3OAVkbvPBdXUyDuK_yrV).

<sup>11</sup> This report initially was released in April 2022. After that date, minor text edits were made, clarifying that this is the final project report. All findings remain the same.

<sup>12</sup> Also contributing to this report were Professor Troy Payne of the University Alaska Anchorage Justice Center, Criminal Justice Innovation Lab Project Manager Maggie Bailey, former Criminal Justice

# Findings

## Magistrate Decision-Making

In this section, we report on magistrate decision-making using data extracted from Magistrate Bail Explanation Forms completed over an eighteen-month period, from July 1, 2020 to December 31, 2021.

As discussed in more detail below, magistrates adhered to the structured decision-making tool’s recommendations in the vast majority (78.94%) of cases. Magistrates executed the vast majority of forms without completeness or fidelity issues, suggesting strong implementation. Magistrates issued a written promise, custody release, or unsecured bond in over half of the cases (58.19%). For Class 2 and 3 misdemeanor cases that were the target of reforms, magistrates issued conditions other than a secured bond in 71.96% of cases. For cases where the highest charge was an intermediate-level offense or a Class A–E felony, that percentage was 56.23% and 10.98% respectively. For forms where magistrates reported issuing a secured bond, the bond amount decreased as the offense class category became less serious. These results were consistent for all offense categories involving Black and White individuals. There was variation among magistrates in the use of secured bonds, median secured bond amounts, and deviations from the decision-making tool’s recommendations. We discuss these findings in more detail below.

**WHAT DOES IT MEAN FOR A RESULT TO BE “STATISTICALLY SIGNIFICANT”?**

When a result is statistically significant, that means it very likely is not due to chance. Put another way, when a finding is statistically significant, you can feel confident that it is reliable. In this report we present all data. But for this reason, we focus on results that are statistically significant.

## Data Source

Since January 1, 2020, magistrates have determined conditions of pretrial release using the new structured decision-making tool and have documented their decision-making on a new Magistrate Bail Explanation Form (Appendix B). Extracting data from Bail Explanation Forms allows us to report on conditions imposed at the magistrate level. In this report, we present data on the conditions of release imposed by magistrates for the eighteen-month period from July 1, 2020 to December 31, 2021.<sup>13</sup> Since July 1, 2020, magistrates have submitted 6,266 forms.<sup>14</sup> In 1,180 forms, the magistrate documented the condition set by a judge in response to an order for arrest after a failure to appear. This left a total of 5,086 forms where magistrates set conditions. A total of 683 forms were removed from analyses because of one or more completeness, fidelity, or related issues deemed critical to our evaluation, leaving 4,403 forms in our data set.<sup>15</sup>

Innovation Lab Research Assistant Carly Lappas, UNC School of Government Legal Research Associate Christopher Tyner, and former Criminal Justice Innovation Lab Post-Doctoral Fellow Andre Assumpcao. Sarah L. Desmarais, Senior Vice President, Policy Research Associates, served as a research consultant during the earlier phase of this project and her feedback on other reports is incorporated into this one.  
<sup>13</sup> While reforms were implemented in January 2020, we only included forms completed on or after July 1, 2020 in the evaluation of conditions of release (i.e., the outcome metrics). This allowed a transition period for the magistrates to implement the new process in early 2020. Additionally, the adjustments following the onset of the COVID-19 pandemic in March 2020 led us to drop earlier data from the evaluation.

<sup>14</sup> Magistrates did not submit forms for all cases addressed between September 26 and October 9, 2021, resulting in fewer forms during those weeks and some missing data.

<sup>15</sup> Forms that were removed for completeness and fidelity issues deemed critical to our evaluation included one or more of the following errors:

- failed to record the final bond type (137 forms or 20.06% of forms with issues);

## Process Metrics

To assess the quality of implementation at the magistrate level, we examined two process outcomes: adherence to and deviations from recommendations and form completeness and fidelity issues.

### *Adherence to & Deviations from Recommendations*

We began by examining the rate at which magistrates followed or deviated from the decision-making tool's recommendations. If we found that magistrates were deviating from those recommendations in the vast majority of cases, that would suggest that the tool is not providing viable recommendations or that there was resistance to the new policy. In fact, we found the opposite: a high rate of adherence to the tool's recommendations. For the 4,403 forms included in our dataset, magistrates adhered to the decision-making tool's recommendations in the vast majority of cases. Specifically, they followed the tool's recommendations in 3,476 forms (78.94% of forms), while deviating from the tool's recommendations in 927 forms (21.05% of forms).<sup>16</sup>

Magistrates followed the tool's recommendations in the vast majority of cases.

The form captures two types of deviations: (1) deviations from the recommendation to impose a condition other than a secured bond (instead imposing a secured bond); and (2) deviations from the recommendation to impose a secured bond or from the maximum bond table (that is, imposition of *either* a condition other than a secured bond *or* a secured bond in excess of the maximum bond table). Of the 927 forms on which magistrates reported deviating from the tool's recommendations, they reported deviation type (1) in 509 forms (54.91% of deviations) and deviation type (2) in 418 forms (45.09% of deviations).

### *Completeness & Fidelity Issues*

Examining the quality of implementation can help explain why a reform may not have the desired or anticipated effect. To do so, we examined a random sample of 1,300 forms completed for the twenty-one-month period from March 1, 2020 to December 31, 2021 for completeness and fidelity issues.<sup>17, 18</sup> In our analyses, a completeness issue refers to failure to complete some portion of the form. A fidelity issue refers to a failure to follow the process set out in the decision-making tool.

- recorded that they were imposing both a secured bond and another condition of release (45 forms or 6.59%);
- failed to record whether they were following or deviating from policy recommendations (90 forms or 13.18%);
- recorded that they were both following and deviating from policy (318 forms or 46.56%); or
- did not record offense class or recorded multiple or incorrect offense classes (199 forms or 29.14%)

Forty-three forms (6.30%) were removed from analyses because the magistrate set conditions on a charge initiated in another county, and thus the tool did not apply. Twenty-six forms (3.81%) were removed because the magistrate set a bond on a probation violation and the tool does not apply to those cases. Two forms were removed because bail was denied and thus the form should not have been completed.

<sup>16</sup> As discussed in Background; Implemented Reforms above, the new tool preserves necessary discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

<sup>17</sup> The random sample was completed on a bi-weekly basis. All forms submitted for two weeks were randomly assigned a number between 0 and 2000. The forms were then sorted from smallest to largest number and the first twenty-five forms were retained for review for completeness and fidelity issues.

<sup>18</sup> Note that the timeframe for evaluating completeness and fidelity issues (forms completed in March 2020 through December 2021) is different than that for evaluating the conditions set in the forms (forms completed in July 2020 through December 2021). This is consistent with previous reports.

We found that magistrates executed forms without completeness or fidelity issues in the vast majority of cases (75.54% without any issues; 83.08% without completeness issues; 86.38% without fidelity issues), suggesting that implementation of the new process is successful at the magistrate level. Of the 1,300 forms examined, 16.92% (220 forms) had one or more completeness issues and 13.62% (177 forms) had one or more fidelity issues. Among the 220 forms with completeness issues, the majority displayed only one completeness issue (76.36%); smaller percentages of forms exhibited two (15.91%) or three issues (7.73%). Among the 177 forms with fidelity issues, 72.32% had one fidelity issue, while 24.86% had two issues and 2.82% had three issues. Table 2 shows the most common completeness and fidelity issues in the random sample.

**Magistrates executed forms without completeness or fidelity issues in the vast majority of cases, suggesting successful implementation.**

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

Completeness issues	Fidelity issues
<ul style="list-style-type: none"> <li>• Not checking a redundant box (47.72%)</li> <li>• Not including the case number, individual name, or charge description at the top of the form (2.27%)</li> <li>• Not noting the underlying offense for a failure to appear or probation violation (1.36%)</li> <li>• Not reporting the offense class (7.27%)</li> <li>• Not reporting the final bail condition and/or amount (11.36%)</li> <li>• Not completing Step 1 (35.00%), Step 2 (0.90%), Step 3.5 (0.45%), Step 4 (1.81%), Step 5 (3.63%), Step 6 (3.18%), or Step 7 (13.18%)</li> <li>• Submitting a blank form (0.45%)</li> </ul>	<ul style="list-style-type: none"> <li>• Not following the decision-making process (37.28%)</li> <li>• Checking multiple inconsistent boxes, such as selecting multiple offense classes (15.25%), checking both “Yes” and “No” in Step 1 (2.82%), or setting both a secured bond and an unsecured bond (4.51%)</li> <li>• Both adhering to and deviating from policy in Steps 3.5 and/or 5 (24.85%)</li> <li>• Not reporting a deviation (such as setting a bond amount above the maximum amount) (10.16%)</li> <li>• Not explaining a deviation (21.46%)</li> <li>• Checking the deviation box for a condition that was not a deviation (10.16%)</li> <li>• Selecting the wrong deviation box in Step 6 (0.56%)</li> <li>• Not explaining the reason for setting a secured bond in Step 4 (2.82%)</li> </ul>

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

## Outcome Metrics

### *Conditions of Release: Overall*


Table 3 shows the prevalence of each condition of release by highest charge offense class for the 4,403 forms included in analyses. As shown there, magistrates issued a written promise, custody release, or unsecured bond for the majority of cases.<sup>19</sup> Specifically, they issued conditions other than a secured bond for 58.19% of cases and issued secured bonds in 41.81% of cases.

When magistrates chose a condition other than a secured bond, they opted for an unsecured bond more frequently than a written promise or custody release. In fact, custody release was rarely ordered by magistrates (less than 2% of all cases). This pattern of findings is consistent with previous reporting.

We expected that rates of imposition of secured bond would decrease as offense charge category decreased, and the data show that this in fact occurred. Magistrates issued a secured bond in 89.02% of Class A–E felony charge cases; in 43.77% of intermediate-level offense charge cases (defined by local policy to include Class F–I felonies and Class A1 and 1 misdemeanors); and in 28.04% of Class 2 and 3 misdemeanor charge cases. These findings are consistent with earlier reporting.

For forms where magistrates reported issuing a secured bond, the bond amount decreased as the offense charge category became less serious. Class A–E felony charges had the highest median secured bond amounts (\$50,000), followed by intermediate-level charges (\$2,500), and Class 2 and 3 misdemeanor charges (\$500). Again, these results are as expected: that bond amounts would decrease as charges decrease in severity. However, as noted below, and consistent with earlier reporting, median secured bond amounts imposed by judges for Class A–E felony cases are lower than the median secured bond amounts imposed by magistrates for these cases (\$25,000 for judges versus \$50,000 for magistrates). At a November 2020 stakeholder meeting where we presented early evaluation results, stakeholders suggested that the lower median bond amounts imposed by judges for Class A–E felonies may result from the fact that bonds for those charges are addressed at bond reduction hearings where more information about the case and the individual detained is available to the judge than to the magistrate at the initial appearance held immediately after arrest.<sup>20</sup>

We executed a supplemental analysis, removing from the sample fifty-eight cases where the magistrate clearly indicated, either in the offense description or in the deviation explanation, that the mandatory statutory bond doubling rule applied.<sup>21</sup> In those cases, magistrates were



Magistrates issued conditions other than secured bond in the majority of all cases & in over 70% of target cases.

<sup>19</sup> When magistrates imposed multiple conditions (such as fifteen forms that imposed a written promise to appear and a custody release), we recorded each condition separately in its respective category but counted the forms once in the total number of cases and in the total number of cases issuing a written promise, custody release, or unsecured bond. As such, the percent of forms issuing a bond other than a secured bond for all cases (58.19%) is less than the sum of forms issuing a written promise, custody release, and unsecured bond (23.82% + 1.57% + 33.34% = 58.73%).

<sup>20</sup> Stakeholders also noted that existing judge forms do not capture conditions imposed in connection with the county's participation as a pilot site in the Caitlyn's Courage Electronic Monitoring program. That program, funded by S.L. 2020-80, allocates resources for domestic violence prevention pilot programs in at least nine judicial districts. Among other things, judges in pilot sites have the option of using global positioning system (GPS) electronic monitoring devices as a condition of pretrial release for individuals charged with stalking, sexual assault, domestic abuse, and violations of a domestic violence protective orders. Forsyth County was selected as a Caitlyn's Courage pilot site and as a result, judicial officials may specify alternative secured bond amounts: one amount without GPS and a lower amount with GPS. The judge bail explanation forms were developed before the pilot project began and do not capture the alternative lower bond amounts.

<sup>21</sup> Cases involving an Order for Arrest (OFA) after a Failure to Appear (FTA) with conditions pre-set by a judge already were removed from the data set. The mandatory bond doubling rule is in G.S. 15A-534(d1).

required by law to impose a secured bond, and we wanted to explore whether that mandate was impacting results. When we removed these cases, there was little change in results, suggesting that the statutory bond doubling rule is not impacting secured bond rates at the magistrate level. At a February 2021 stakeholder meeting where we reported early findings regarding this metric, one participant explained this result, noting that district court judges often set a condition other than a secured bond in Orders for Arrest (OFAs) for Failures to Appear (FTAs). When judges do so, the statutory bond doubling rule does not apply; rather, the magistrate sets conditions as specified by the judge.

**Table 3. Percent conditions of release by highest offense class in magistrate bail forms, July 1, 2020 to December 31, 2021**

Type of Condition	All Cases	Class A – E felonies	Class F - I felony & Class 1 – A1 misdemeanors	Class 2 & 3 misdemeanors
<b>Written promise, custody release, or unsecured bond</b>	<b>58.19%</b>	<b>10.98%</b>	<b>56.23%</b>	<b>71.96%</b>
Written promise	23.82%	1.73%	21.51%	34.55%
Custody release	1.57%	0.00%	2.01%	0.48%
Unsecured bond	33.34%	9.25%	33.44%	37.03%
<b>Secured bond</b>	<b>41.81%</b>	<b>89.02%</b>	<b>43.77%</b>	<b>28.04%</b>
Median secured bond	\$2,500	\$50,000	\$2,500	\$500

### *Conditions of Release: By Race*

We also investigated whether there were differences by race in the likelihood of receiving a secured bond and in secured bond amount.<sup>22</sup> We found no racial differences in the use of secured bonds and secured bond amounts for Black and White individuals. As shown in Table 4, although there are some differences by race in receiving a secured bond and median bond amounts across offense classes, none of those differences are statistically significant, meaning that they could be due to chance. Supplemental analyses also showed that magistrates were equally as likely to deviate from the recommended conditions for all offense categories involving Black and White individuals.<sup>23</sup>

That statute provides that if a case is before the magistrate on an OFA after a FTA and conditions have not been specified by a judge, the magistrate must double and secure a prior bond or, if no bond previously was set, impose a \$1,000 minimum secured bond. In our supplemental analysis, we only were able to remove forms clearly indicating that the bond doubling rule applied; since such an indication is not required by the form, some cases involving bond doubling may have remained in the supplemental analysis data set.

<sup>22</sup> From our data set of 4,403 magistrate forms, we removed forms indicating that the bond doubling statute applied. In these scenarios, magistrates do not have discretion regarding the condition.

Data for race were obtained by merging ACIS data into our database of recorded magistrate bail form decisions. We were able to match 90.05% of the 4,403 forms in the analytical sample to ACIS data. We restricted our analyses to cases involving Black and White individuals (2,197 and 1,305 respectively).

<sup>23</sup> Results available upon request.

**Table 4. Percent of secured bonds and median secured bond amounts by race in magistrate bail forms, July 1, 2020 to December 31, 2021**

Percent secured bond	Class A-E felonies	Intermediate-level offenses	Class 2 & 3 misdemeanors
Black	91.11%	45.00%	29.26%
White	86.11%	42.29%	27.76%
Median secured bond amount	Class A-E felonies	Intermediate-level offenses	Class 2 & 3 misdemeanors
Black	\$50,000	\$2,500	\$500
White	\$60,000	\$2,500	\$500

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. Here, none of the findings were statistically significant.

### *Conditions of Release: By Magistrate*

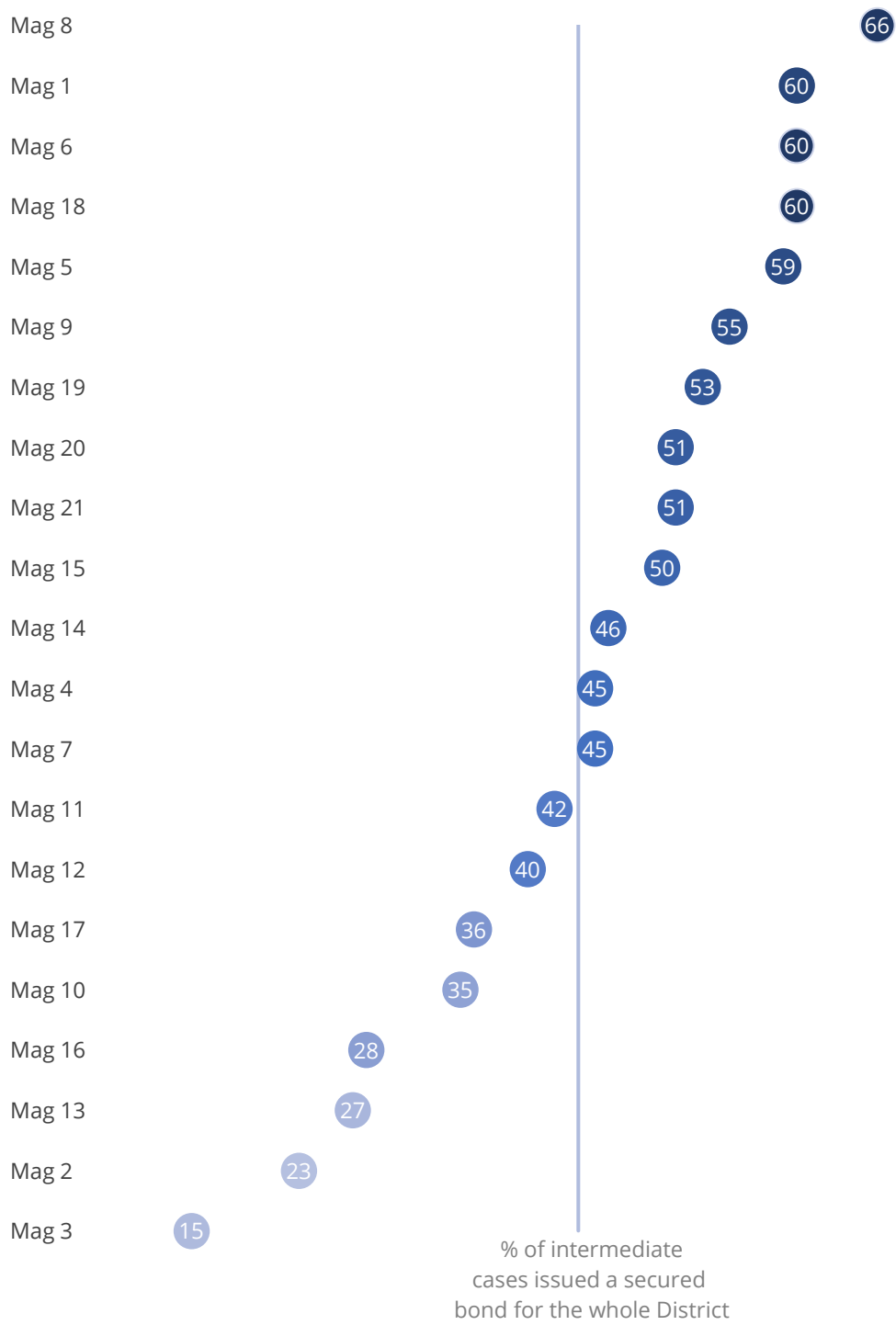
We also examined whether the general pattern of decision-making across individual magistrates differed from the overall results shown in Table 3. We found variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the recommendations of the decision-making tool, especially for intermediate-level offense charges and Class 2 and 3 misdemeanor charges.<sup>24</sup> Across individual magistrates, the rate of imposition of secured bonds in intermediate-level charge cases ranged from 15% to 66%, and median secured bond amounts ranged from \$1,000 to \$37,750. The usage of secured bonds in Class 2 and 3 misdemeanor charge cases ranged from 6% to 80%, and median secured bond amounts ranged from \$250 to \$2,500. These findings are largely consistent with previous reporting.

Figure 2 displays the percent of cases issued a secured bond by magistrate, relative to the overall percent of cases issued a secured bond per Table 3 for intermediate-level offense charges (43.77%). Figure 3 illustrates that percent for Class 2 and 3 misdemeanor charges relative to the percent issued a secured bond for the entire group (28.04%). For example, Figure 3 shows that Magistrate #8 issued a secured bond for 68.00% of Class 2 and 3 misdemeanor charge cases, a rate substantially higher than the group rate for this charge category (28.04%). Results showed that the prevalence of issuing a secured bond for intermediate or Class 2 and 3 misdemeanors significantly varied across magistrates.

Magistrate-specific and case-specific factors may justify these differences in outcomes across magistrates. For instance, magistrates who encounter more cases with failures to appear or a prior record may be more likely to issue a secured bond than magistrates who encounter fewer cases with relevant legal risk factors.

<sup>24</sup> Appendix D includes magistrate level results and technical results demonstrating significant variation in the use of secured bonds across magistrates.

**Figure 2. Percent of intermediate-level charges issued a secured bond by magistrate**





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



## Magistrate Interview Data

We conducted interviews in June and July 2021 with a sample of magistrates to learn about their experiences with the new decision-making tool and provide context to the empirical results presented above.<sup>25</sup> Interview questions covered themes discussed below.

### *Overall Perceptions, Successes & Challenges*

Overall, magistrates reported largely positive views of the implemented reforms and felt that the new process was working well. They felt that this is the general consensus among other magistrates as well. Magistrates indicated that the decision-making tool promotes accountability with respect to setting conditions of release and creates uniformity with respect to the factors used in decision-making and how those factors are documented. While there was an initial adjustment period, magistrates reported that it takes about three to five minutes to complete the form. This timeframe may be slightly longer (about five minutes) if the magistrate sets a secured bond.

Magistrates reported that it takes 3-5 minutes to complete the bail explanation form.

As to challenges, they expressed frustration at having to fill out a second form to record conditions of release, particularly when the office is busy. Also, while the form is simple to use, some felt that it lacks sufficient space to justify decisions. Two magistrates indicated that recommended bond amounts may be too low, particularly for certain felonies such as common law robbery and Class D felonies. One magistrate reported that the lower secured bonds set earlier in the project caused unintended pretrial detention for low-level offenses. In prior reports, the median secured bond for Class 2 and 3 misdemeanors was \$250. According to the magistrate, because bail bondsmen will not write bonds at this amount, individuals ended up being detained for low-level offenses because they could not pay these low bond amounts.<sup>26</sup> To avoid unnecessary detentions, magistrates have increased the dollar amount of secured bonds for lower offense classes, which is reflected in the data in this report: the median secured bond for Class 2 and 3 misdemeanors is \$500.

One magistrate reported increasing bond amounts for low-level misdemeanors because bond amounts were too low to attract a bondsman.

Magistrates reported that law enforcement officers initially expressed concern that individuals would be released despite being repeatedly arrested or having committed certain offenses. However, magistrates feel that these concerns have lessened over time. One magistrate reported that law enforcement officers have adjusted to the reforms and are providing more information about cases to help magistrates make informed decisions.

### *Consequences of Applying the New Process*

Magistrates did not report observing consistent positive or negative consequences as a result of how they are applying the new process. A judge may follow up with them about conditions in a particular case, but this was not seen as a negative consequence. Magistrates indicated that since

<sup>25</sup> In recruiting magistrates for interviews, we generated a sample of magistrates based on how many forms they had filled out, prioritizing recruitment of individuals with more experience with the tool. We began by interviewing three magistrates. Because consistent themes emerged both from these interviews and from interviews we conducted in connection with a parallel evaluation of similar bail reforms in another North Carolina Judicial District, we did not expand our sample of interviewees.

<sup>26</sup> If validated, these scenarios suggest that stakeholders may wish to revisit assessment of ability to pay at the magistrate level.

they are typically operating within the tool’s recommendations, they generally are not concerned about negative ramifications. Two magistrates recalled specific high-profile cases where bond amounts were reported by the media, and they expressed a desire for their cases to stay out of the news. They did, however, acknowledge that these situations are rare.

Two magistrates reported that there is hesitancy among some newer magistrates to deviate from the tool’s recommendations. Specifically, that newer magistrates may be reluctant to deviate from maximum recommended secured bond amounts because they are concerned that a judge will question the decision. There thus appears to be a perception among newer magistrates that negative consequences may occur due to deviations even though more experienced magistrates do not report observing such consequences.

### *Impacts of the COVID-19 Pandemic*

Given the proximity of the onset of the COVID-19 pandemic to the implementation of the reforms, magistrates found it difficult to separate out the impacts of COVID-19 on how they applied the bail process. They reported that the pandemic made it even more urgent to avoid unnecessary detentions.

### *Implementation Feedback*

All magistrates reported that they understood the process and form after an initial adjustment period. They also felt that they were sufficiently supported with training and feedback. They indicated, however, that magistrates may benefit from additional guidance on when and how to deviate from the tool’s recommendations.

## Judge Decision-Making

In this section we report on judge decision-making, using data extracted from Judge Bail Explanation Forms. We find that judges followed the tool’s recommendations in about two-thirds of cases. Judges followed the tool’s decision-making process without fidelity issues in the majority of cases (71.88%); they executed just under half of forms (48.89%) without completeness issues. Unlike magistrates, judges imposed a secured bond in the majority of cases (62.24%). We did, however, expect that judges would impose secured bonds at a higher rate than magistrates. If the tool is working as anticipated, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals who are less likely to succeed pretrial in the pool of those seen by judges at first appearance and subject to the most restrictive condition of release. Judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate-level offense charges than for Class 2 and 3 misdemeanor charges. These results were similar for cases involving both Black and White individuals. We discuss these findings in detail below.

## Data Source

Since January 1, 2020, judges have determined conditions of pretrial release using the structured decision-making tool and have documented their decision-making on a new Judge Bail Explanation Form (Appendix C). Extracting data from the forms allows us to report on conditions imposed at the judge level. In this report, we present data on the conditions of release imposed by judges for the eighteen-month period from July 1, 2020 to December 31, 2021.<sup>27</sup>

---

<sup>27</sup> While reforms were implemented in January 2020, we only included forms completed on or after July 1, 2020 in the evaluation of conditions of release (i.e., the outcome metrics). This allowed a transition period for judges to implement the new process in early 2020. Additionally, the adjustments following the onset of the COVID-19 pandemic in March 2020 also led us to drop earlier data from the evaluation.

Judges completed 1,562 forms between July 1, 2020 and December 31, 2021.<sup>28</sup> A total of 267 forms (17.09%) were removed from the analyses because of completeness and/or fidelity issues deemed critical to this evaluation,<sup>29</sup> leaving 1,295 forms for analyses.

## Process Metrics

### *Adherence to & Deviations from Recommendations*

In the 1,295 forms included in analyses, judges followed the tool's recommendations in about two-thirds of cases (62.47%; 809 forms). They deviated from the tool's recommendation in about one-third of cases (37.53%; 486 forms), a rate that was higher than that for magistrates (21.05%).

For cases where judges deviated from the tool's recommendations, 62.75% of deviations were to impose a secured bond above the maximum dollar amount or to impose a written promise, custody release, or unsecured bond instead of a secured bond. In 37.25% of deviations, the judge deviated from the recommendation to impose a written promise, custody release, or unsecured bond, opting instead to impose a secured bond.

Judges adhered to the decision-making tool's recommendations in the about two-thirds of cases.

Judges completed the majority of forms without fidelity issues & about half without completeness issues.

### *Completeness & Fidelity Issues*

We reviewed a random sample of 1,174 judge forms for completeness and fidelity issues. Similar to our review of magistrate bail forms, we sampled forms for the twenty-one-month period from March 1, 2020 to December 31, 2021.<sup>30</sup> Judges completed 48.89% of forms without completeness issues and the majority of forms without fidelity issues (71.88%). A total of 478 forms (40.78%) had neither completeness nor fidelity issues. Of the 329 forms with fidelity issues, 74.47% had only one such issue, 24.33% had two issues, and 4.00% had three issues. Of the 600 forms with completeness issues, 62.00% had one completeness issue, 30.83% had two issues, 6.00% had three issues, and 1.17% had four issues. Table 5 shows the most common completeness and fidelity issues in the random sample.

<sup>28</sup> Judge forms were not completed for all cases between September 26 and October 2, 2021 resulting in fewer forms for that week and some missing data.

<sup>29</sup> Forms were removed for the following reasons (note that forms may have had multiple errors):

- 56 forms (20.97% of forms with fidelity and/or completeness issues); judge failed to note the final bail condition
- 3 forms (1.12%); judge indicated simultaneously setting a secured bond and another condition of release;
- 103 forms (38.57%); judge indicated simultaneously following and deviating from the policy;
- 34 forms (12.73%); judge failed to note whether they were following or deviating from policy;
- 44 forms (16.48%); judge failed to report the offense class;
- 43 forms (16.10%); judge reported multiple offense classes for one charge;
- 12 forms (4.49%); bail was denied;
- 8 forms (3.00%); charges were initiated in another county; and
- 40 forms (14.98%); case involved a probation violation and thus was not subject to the new decision-making process.

<sup>30</sup> Note that the timeframe for evaluating completeness and fidelity issues (forms completed in March 2020 through December 2021) is different than that for evaluating the conditions set in the forms (forms completed in July 2020 through December 2021). This is consistent with previous reports.

To support judges and at their request, the Lab developed and circulated a brief tutorial video on form completion. To further support implementation, the Lab provided individual feedback to address recurring fidelity and completeness issues in judge forms. We welcome suggestions from judges on how we can further support their use of the forms.

**Table 5. Common fidelity and completeness issues—Judge bail forms**

Completeness issues	Fidelity issues
<ul style="list-style-type: none"> <li>• Not completing Step 1 (67.83%)</li> <li>• Not reporting final bond amount (2.33%) or final bond condition (2.83%)</li> <li>• Not checking a redundant box (19.00%)</li> <li>• Not explaining the reasons for deviating in Step 7 (21.50%)</li> <li>• Not recording the type of deviation in Step 6 (15.83%)</li> <li>• Not recording offense class (7.33%)</li> <li>• Not including the case number, individual name, or charge description at the top of the form (2.50%)</li> <li>• Not noting the underlying offense for a FTA or probation violation (5.00%)</li> <li>• Not completing other steps, such as Step 2 (1.33%), Step 4 (0.66%), or Step 5 (0.16%)</li> </ul>	<ul style="list-style-type: none"> <li>• Not explaining the reason for a deviation (41.64%)<sup>31</sup></li> <li>• Checking the deviation box for a condition that was not a deviation (13.37%)</li> <li>• Not following the decision-making process (42.55%)</li> <li>• Both adhering to and deviating from policy in Steps 3.5 and/or Step 5 (11.55%)</li> <li>• Setting bond in both Step 3.5 and 5 (2.12%)</li> <li>• Not recording reasons for setting secured bond in Step 4 (1.21%)</li> <li>• Reporting multiple offense classes for highest charge (5.16%)</li> <li>• Checking the wrong deviation type or selecting both deviation types in Step 6 (3.03%)</li> <li>• Not reporting a deviation (such as setting a bond amount above the maximum amount) (4.25%)</li> <li>• Setting both a secured bond and a bond other than secured (0.91%)</li> <li>• Checking both “yes” and “no” in Step 1 (0.61%)</li> <li>• Recording a secured bond in the wrong location (0.30%)</li> </ul>

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

## Outcome Metrics

### *Conditions of Release: Overall*

Table 6 shows the percent of conditions of release by offense class for the 1,295 forms included in these analyses. Consistent with earlier reporting, judges imposed a secured bond in the majority of cases. Specifically, they imposed a secured bond in 62.24% of all cases. In the 37.76% of cases where judges set a condition other than a secured bond, they imposed an unsecured bond in the vast majority of cases. Judges did not issue a custody release for any cases and imposed a written promise in only twelve cases.



Judges imposed a secured bond in the majority of cases.

We expected to see secured bonds imposed in a greater percentage of cases at the judge level than at the magistrate level. If the tool is working as expected, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than

<sup>31</sup> This issue can be both a completeness and fidelity issue and thus is recorded here as both.

secured bond, leaving more cases involving individuals who are less likely to succeed pretrial in the pool of cases seen by judges at first appearance and subject to the most restrictive condition of release. At a February 2021 stakeholder meeting where we presented early evaluation results, a judge reported seeing a higher percentage of more serious cases, such as those involving domestic violence.

Consistent with findings from previous reports, judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate-level offense charges than for Class 2 and 3 misdemeanor charges. Judges issued a secured bond in 97.18% of Class A–E felony charge cases, and the median bond amount was \$25,000. They issued a secured bond in 64.48% of intermediate-level offense charge cases, and the median secured bond amount was \$1,500. In cases where individuals were charged with Class 2 and 3 misdemeanors, judges issued a secured bond in 17.86% of cases, and the median secured bond amount was \$500.

This pattern of findings mirrors that found for magistrates, shown in Table 3. However, while rates of imposition of unsecured bonds for intermediate-level charges were similar for magistrates and judges (33.44% for magistrates; 34.89% for judges), for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (37.03% for magistrates; 78.57% for judges).

**Table 6. Percent conditions of release in judge bail forms, July 1, 2020 to December 31, 2021**

Type of Condition	All Cases	Class A – E felonies	Class F - I felony & Class 1 – A1 misdemeanors	Class 2 & 3 misdemeanors
<b>Written promise, custody release, or unsecured bond</b>	<b>37.76%</b>	<b>2.82%</b>	<b>35.52%</b>	<b>82.14%</b>
Written promise	0.85%	0.00%	0.63%	3.57%
Custody release	0.00%	0.00%	0.00%	0.00%
Unsecured bond	36.91%	2.82%	34.89%	78.57%
<b>Secured bond</b>	<b>62.24%</b>	<b>97.18%</b>	<b>64.48%</b>	<b>17.86%</b>
Median secured bond	\$2,000	\$25,000	\$1,500	\$500

### Conditions of Release: By Race

We also examined whether judges' use of secured bonds differed for cases involving Black and White individuals. Results show there were no statistically significant differences in the prevalence or amount of secured bonds when comparing cases involving Black or White individuals. As shown in Table 7, the prevalence of secured bonds was highest for more serious offenses (Class A-E felonies) for cases involving both Black and White individuals and decreased for intermediate-level and Class 2 and 3 misdemeanor cases for both racial groups. This pattern of results mirrored what was found in the full group analyses in Table 6.

As shown in Table 7, although there are some differences by race in secured bond rates and median bond amounts, none of those difference is statistically significant. For instance, 66.19% of intermediate cases involving Black individuals received a secured bond, compared to 62.32% of cases involving White individuals. However, the difference of 3.87 percentage points in those rates was not statistically significant and may be due to chance alone. Similarly, Table 7 shows that 24.44% of Black individuals charged with a Class 2 or 3 misdemeanor received a secured bond, compared to 10.26% of White individuals. This 14.18 percentage point difference was not statistically significant. However, we caution readers from drawing definitive conclusions from this last finding. Because the sample size for this offense category is small, a statistically significant difference may exist but may be undetectable.<sup>32</sup>

Table 7 also shows that the median secured bond amount was the same for cases involving Black and White individuals where the highest charge was a Class A-E felony or an intermediate-level charge. For instance, the median secured bond amount for intermediate-level charges was \$2,000 for both Black and White individuals. The median secured bond amount for Class 2 and 3 misdemeanors involving Black individuals (\$500) was double that of similar cases involving White individuals (\$250), but statistical tests showed that the average secured bond amount for these offense classes was not statistically different.

**Table 7. Percent of secured bonds and median secured bond amounts by race and by highest offense category in judge bail forms, July 1, 2020 to December 31, 2021**

Percent secured bond	Class A-E felonies	Intermediate-level offenses	Class 2 & 3 misdemeanors
Black	95.56%	66.19%	24.44%
White	100.00%	62.32%	10.26%
Median secured bond amount	Class A-E felonies	Intermediate-level offenses	Class 2 & 3 misdemeanors
Black	\$25,000	\$2,000	\$500
White	\$25,000	\$2,000	\$250

Notes. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. As shown in the table, 24.44% of Class 2 and 3 misdemeanor cases involving Black individuals received a secured bond, while that rate was 10.26% for White individuals. This difference was not statistically significant. Table 7 also shows a higher median secured bond amount for Class 2 and 3 misdemeanor cases involving Black individuals. Again, that difference was not statistically significant.

<sup>32</sup> Supplemental analyses showed that tests of racial differences in Class 2 and 3 misdemeanors are underpowered (37% statistical power) compared to the standard benchmark (80% statistical power). This means that a statistically significant difference may actually exist, but that the sample size may be too small to detect it. Analyses show that we will need at least 349 forms for Class 2 and 3 misdemeanors to detect a small effect size of .15.

## Pretrial Failures

In an earlier report to stakeholders, we presented data showing that the use of secured bonds decreased after reforms were implemented. And, as discussed below, there was a substantial decrease in the number of pretrial bookings after implementation of reforms. In the past, some have expressed concern that a reduction in the use of secured bonds and pretrial detention may result in substantially higher rates of court non-appearances and pretrial criminal activity. We found no evidence supporting these concerns. In fact, we found large decreases in court non-appearance rates and that, as compared to its peer counties, Forsyth is performing well as to these metrics. We further found that, likely because of the COVID-19 pandemic, case disposition times were longer in the post-implementation period than in the pre-implementation period. Longer disposition times result in longer periods during which people can experience a pretrial failure. Longer case disposition times thus may be a factor contributing to the small increases within case subcategories in our new pretrial criminal activity analyses. We discuss these findings in more detail below.

### PERCENTAGE POINT CHANGE VS. PERCENT CHANGE

In tables presenting pre- and post-implementation data we also present percentage point difference. We use that data point as opposed to percent change because percent change can make very small differences look larger than they are.

## Time to Disposition

Changes in case disposition time can impact pretrial failure rates. The longer a case remains pending, the longer an individual has to experience a pretrial failure. Because of this, and in light of case backlogs caused by the COVID-19 pandemic (which coincided closely with implementation of reforms in January 2020), we examined pending caseloads and disposition times for the pre- and post-implementation periods. Specifically, we examined: (1) the percentage of cases that were initiated in 2019 or 2020 but remained pending by the end of the subsequent year<sup>33</sup> and (2) the median time to disposition for cases disposed of by the end of the subsequent year.

The post-implementation period, which coincides with the COVID-19 pandemic, is experiencing longer case disposition times. This factor could be contributing to pretrial failure rates in the post-implementation period.

As shown in Table 8, the percent of pending cases was significantly higher in the post-implementation period. In 2019, 14.66% of cases were pending at the end of the subsequent year; this number increased to 21.50% for 2020 cases, and the 6.84 percentage point increase was statistically significant. Among disposed cases, the median time to disposition increased from 120 days for 2019 cases to 130 days for 2020 cases. Again, this increase was statistically significant. Although this increase may seem modest, supplemental analysis revealed that the percentage of cases with a disposition time of 366 or more days rose from 7.26% (2,997 cases) in the pre-implementation period to 17.92% (4,619 cases) in the post-implementation period. Additional analyses showed that the higher percentage of cases

<sup>33</sup> If a multi-charge case had a mixture of disposed and pending charges, we considered that case to be pending. In multi-charges cases that had different charge disposition dates, we used the last charge's disposition date as the case disposition date. Cases served in 2021 were excluded from the analyses because we did not have a sufficiently long follow-up period.



pending 366 or more days was being driven by a large increase in the percentage of intermediate level charge cases pending for more than a year.<sup>34</sup> These results indicate that in the post-implementation period, cases are taking longer to resolve, particularly intermediate-level cases, and this fact may be creating more opportunities for pretrial failures in the post-implementation period.

**Table 8. Percent of pending cases and days to disposition among disposed cases for Forsyth County**

	Initiated in 2019 & pending on Dec. 31, 2020	Initiated in 2020 & pending on Dec. 31, 2021	Percentage point difference (or days if noted)
Pending cases	14.66% (7,086 cases)	21.50% (7,057 cases)	6.84***
Median days to disposition among disposed cases	120 days	130 days	10 days***
Cases pending 366 days or more	7.26% (2,997 cases)	17.92% (4,619 cases)	10.66***

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of cases that were still pending by the end of the subsequent year that have \*\*\* listed have less than a 0.1% chance of being observed due to chance.

## New Pretrial Criminal Charges

We used data from the North Carolina Automated Criminal/Infractions System (ACIS) to examine whether individuals had a higher rate of new pretrial criminal charges after implementation of reforms. Specifically, we examined whether individuals whose cases were served in 2020 and closed by December 31, 2021 (post-implementation period) had higher rates of new pretrial criminal charges than individuals whose cases were served in 2019 and closed by December 31, 2020 (pre-implementation period). We limited this analysis to closed cases to ensure that we were capturing the entire pretrial period for included cases.<sup>35</sup> We categorized a case as having a new pretrial criminal charge if the individual was served with a new charge before the first one was disposed.<sup>36,37</sup> Because we know that the type of new criminal charge is

<sup>34</sup> Specifically, in the pre-implementation period 26.92% of intermediate-level cases were pending for more than a year; in the post-implementation period that percentage increased to 47.86%. The percentage of Class 2 and 3 misdemeanor cases pending for more than a year dropped 20.45 percentage points and the percentage of Class A-E felony offenses in that category increased only 0.61 percentage points.

<sup>35</sup> We restricted our analyses to cases where all charges had been disposed of by December 31, 2020 or 2021. If a multi-charge case had a mixture of disposed and pending charges, we excluded it from our analyses. In multi-charges cases that had different charge disposition dates, we used the last charge's disposition date as the case disposition date.

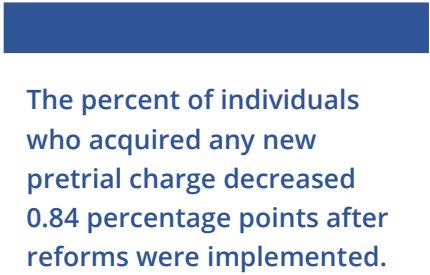
To examine whether the exclusion of pending cases was impacting new pretrial criminal charge rates, we conducted supplemental analyses that included all cases served in 2019 and 2020, including pending cases. As shown in Appendix F, Table F – 2, the inclusion of pending cases did not substantially impact the overall findings displayed in Table 9.

<sup>36</sup> We excluded the following charges from the ACIS data and our calculation of new criminal charges since they are not substantive crimes: civil revocation of driver's license; contempt by probationer; criminal contempt; extradition/fugitive; felony or misdemeanor probation violation; probation revocation appeal; governor's warrant; habitual felon; motions; and show cause.

<sup>37</sup> We used the dtalink record linking program in Stata software to identify individuals based upon their name, phonetic spelling of their name, date of birth, race, and gender. A portion (.60%) of charges were

important to stakeholders, we categorized new pretrial criminal charges as either a felony, traffic misdemeanor, or non-traffic misdemeanor. We further categorized new felony and non-traffic misdemeanors as violent or nonviolent. We calculated the percent of individuals who incurred a new pretrial charge for Forsyth County cases and for cases from three counties identified by Forsyth stakeholders as peer counties: Guilford, Durham, and Buncombe Counties.<sup>38</sup>

Table 9 displays the percent and number of individuals with Forsyth County charges who acquired a new criminal charge during the pretrial period. As shown there, the percent of people who received any new criminal charge during the pretrial period decreased 0.84 percentage points after implementation of the reforms. Specifically, 26.42% of individuals with cases served in 2019 incurred a new pretrial criminal charge, compared to 25.58% of individuals with cases served in 2020. There was a statistically significant 1.46 percentage point increase in new pretrial felony charges, but this number was driven by an increase in non-violent pretrial felony charges (violent felonies increased only 0.28 percentage points).<sup>39</sup> There was a statistically significant 1.91 percentage point increase in new pretrial misdemeanor charges, but as with felonies, this increase was driven by non-violent misdemeanors (violent non-traffic misdemeanors increased less than one percentage point). Finally, there was a statistically significant 2.35 percentage point decrease in traffic misdemeanor charges. Longer disposition times in the post-implementation period may contribute to increases in new pretrial activity rates.



The percent of individuals who acquired any new pretrial charge decreased 0.84 percentage points after reforms were implemented.

---

excluded from the record linking analysis because date of birth was missing or was in an invalid format (e.g., 19000000).

<sup>38</sup> Since we do not have jail data for the comparison counties, we cannot account for whether a defendant was incarcerated during the pretrial period and thus had a limited opportunity to incur a new charge.

<sup>39</sup> Supplemental analyses regarding specific violent felonies are found in Appendix F.

**Table 9. Percent and number of individuals who acquired new criminal charges during the pretrial period for Forsyth County, pre- and post-implementation**

	Pre- implementation period	Post- implementation period	Percentage point difference
<b>New criminal charges</b>	<b>26.42%</b> <b>(8,212)</b>	<b>25.58%</b> <b>(5,076)</b>	<b>-0.84*</b>
<b>New felony charges</b>	<b>4.11%</b> <b>(1,278)</b>	<b>5.57%</b> <b>(1,105)</b>	<b>1.46***</b>
New violent felony charges	0.85% (265)	1.13% (224)	0.28**
New non-violent felony charges	3.67% (1,140)	5.05% (1,003)	1.38***
<b>New non-traffic misdemeanor charges</b>	<b>11.29%</b> <b>(3,511)</b>	<b>13.20%</b> <b>(2,620)</b>	<b>1.91***</b>
New violent non-traffic misdemeanor charges	2.89% (899)	3.81% (757)	0.92***
New non-violent non-traffic misdemeanor charges	10.25% (3,185)	11.91% (2,363)	1.66***
<b>New traffic misdemeanor charges</b>	<b>20.82%</b> <b>(6,472)</b>	<b>18.47%</b> <b>(3,665)</b>	<b>-2.35***</b>

Note. \*. Significant at  $p < .05$ . \*\*. Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, changes in the percent of individuals with a new pretrial charge that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. The pre-implementation period includes 31,088 individuals served with charges in 2019 where the cases were disposed of by December 31, 2020. The post-implementation period includes 19,845 individuals served with charges in 2020 where the cases were disposed of by December 31, 2021. The table above shows the percentage of those people who acquired new pretrial criminal charges while their original charges were pending.

We also examined whether there were racial differences in the prevalence of new pretrial criminal charges. As compared to Black individuals, White individuals had a greater increase in the new pretrial charge rates for all offense categories except violent felony charges and traffic misdemeanors (which showed no significant change for White individuals).<sup>40</sup>

Finally, we compared rates of new pretrial charges for Forsyth County cases to those rates for Guilford, Durham, and Buncombe County cases (Table 10). Overall, we found that Forsyth performed well as compared to its peer counties. As noted above, Forsyth experienced a statistically significant 0.84 percentage point decrease in the prevalence of new pretrial criminal charges post-implementation. In this respect, Forsyth outperformed Guilford, which had a statistically significant 3.87 percentage point increase, and Durham, which had no significant change. Only Buncombe County experienced a larger statistically significant decrease of 2.38 percentage points.

<sup>40</sup> See Appendix G for more information.

Comparing Forsyth and Guilford Counties with respect to new pretrial activity rates within offense subcategories, we found that both counties experienced statistically significant increases across all non-traffic subcategories. Examining the important offense subcategories of violent felonies and violent misdemeanors, the increases in Forsyth County were lower than the increases in Guilford County. For example, violent felonies increased 0.28 percentage points in Forsyth and 0.51 percentage points in Guilford. While Durham and Buncombe Counties experienced no statistically significant changes in the key offense subcategories of violent felonies and violent misdemeanors, we note that the increases in Forsyth County for those subcategories were very small (0.28 and 0.92 percentage points, respectively).

**Table 10. Percentage point change in individuals who acquired new criminal charges during the pretrial period for peer counties during pre- and post-implementation<sup>41</sup>**

<b>Forsyth County</b>		<b>Percentage point difference</b>
<b>New criminal charges</b>		<b>-0.84*</b>
<b>New felony charges</b>		<b>1.46***</b>
New violent felony charges		0.28**
New non-violent felony charges		1.38***
<b>New non-traffic misdemeanor charges</b>		<b>1.91***</b>
New violent non-traffic misdemeanor charges		0.92***
New non-violent non-traffic misdemeanor charges		1.66***
<b>New traffic misdemeanor charges</b>		<b>-2.35***</b>
<b>Guilford County</b>		<b>Percentage point difference</b>
<b>New criminal charges</b>		<b>3.87***</b>
<b>New felony charges</b>		<b>1.52***</b>
New violent felony charges		0.51***
New non-violent felony charges		1.25***
<b>New non-traffic misdemeanor charges</b>		<b>2.69***</b>
New violent non-traffic misdemeanor charges		1.38***
New non-violent non-traffic misdemeanor charges		2.14***
<b>New traffic misdemeanor charges</b>		<b>2.43***</b>
<b>Durham County</b>		<b>Percentage point difference</b>
<b>New criminal charges</b>		<b>-0.81</b>
<b>New felony charges</b>		<b>0.03</b>
New violent felony charges		0.27
New non-violent felony charges		-0.02
<b>New non-traffic misdemeanor charges</b>		<b>-0.41</b>
New violent non-traffic misdemeanor charges		0.06
New non-violent non-traffic misdemeanor charges		-0.66
<b>New traffic misdemeanor charges</b>		<b>-0.61</b>

<sup>41</sup> For a more detailed breakdown of new pretrial activity data in peer counties, see Appendix E.

**Table 10., Continued**

Buncombe County	Percentage point difference
<b>New criminal charges</b>	<b>-2.38***</b>
<b>New felony charges</b>	<b>-0.14</b>
New violent felony charges	0.09
New non-violent felony charges	-0.18
<b>New non-traffic misdemeanor charges</b>	<b>-0.96*</b>
New violent non-traffic misdemeanor charges	0.26
New non-violent non-traffic misdemeanor charges	-1.22***
<b>New traffic misdemeanor charges</b>	<b>-2.43***</b>

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, changes in the percent of individuals who acquired a new pretrial charge that have \*\*\* listed have less than a 0.1% chance of being observed due to chance.

## Court Non-Appearance

To determine whether there was a change in the rate of court non-appearance before and after implementation of reforms, we examined the non-appearance rate for charges that occurred on the same date for each defendant. We used ACIS data for this analysis because criminal justice professionals use that system to check non-appearance history when setting conditions of release. We used two ACIS indicators of court non-appearance: (1) called and failed and (2) motor vehicle failure to appear (FTA). We recorded a case as having a court non-appearance if the system recorded either a called and failed or a FTA. We note that not all called and failed result in entry of a FTA.<sup>42</sup> Our analyses compare the non-appearance rate for all criminal cases served in calendar year 2019 (pre-implementation cases) to cases served in calendar years 2020 and 2021 (post-implementation cases).<sup>43</sup>

**Forsyth County's non-appearance rate decreased after reforms were implemented, & that decrease is larger than what occurred in Forsyth's peer counties.**

There was a statistically significant decrease in the non-appearance rate. As shown in Table 11, 23.60% of pre-implementation cases had a court non-appearance. That rate declined to 6.45% for 2020 cases and to 5.13% for 2021 cases.

Decreases in non-appearance rates occurred for cases involving Black individuals and for those involving White individuals. However, the decrease was statistically greater for cases involving Black individuals.<sup>44</sup>

Although court non-appearance rates were higher for cases involving Black individuals than White individuals during both pre- and post-implementation periods, racial differences were less pronounced during the post-implementation period. For instance, the prevalence of non-

<sup>42</sup> We document that a case has a FTA regardless of whether the individual later complies with the FTA. We explored alternative indicators of court non-appearance, such as order of bond forfeiture and whether an order for arrest was issued in response to a non-appearance. However, the level of missing data in these fields indicated that these variables are not consistently reported in ACIS, and thus we did not use them.

<sup>43</sup> In previous reports we restricted our analyses to disposed cases. In this report our analyses include pending and disposed cases.

<sup>44</sup> Methodological details available upon request.

appearance was 10.68 percentage points higher for Black individuals than White individuals in 2019, and this difference shrank to 1.09 percentage points in 2021.

**Table 11. Percent and number of cases with a court non-appearance for all cases and by race, pre- and post-implementation**

	2019	2020	2021	Percentage point difference 2019 vs. 2020	Percentage point difference 2019 vs. 2021
All cases	23.60% (11,410)	6.45% (2,118)	5.13% (1,424)	-17.15***	-18.47***
Black individuals	29.03% (7,152)	6.99% (1,187)	5.79% (802)	-22.04***	-23.24***
White individuals	18.35% (3,165)	6.02% (681)	4.70% (443)	-12.33***	-13.65***

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of cases with a court non-appearance that have \*\*\* listed have less than a 0.1% chance of being observed due to chance.

Finally, we compared non-appearance rates for Forsyth County to its peer counties of Buncombe, Durham, and Guilford. As shown in Table 12, although non-appearance rates decreased for all of Forsyth’s peer counties, Forsyth County experienced the greatest decreases (-17.15 percentage points in 2020; -18.47 percentage points in 2021).<sup>45</sup> This result suggests that Forsyth County is performing well in comparison to its peers with respect to this metric.

<sup>45</sup> In a previous report, Guilford County had the second highest decrease in court non-appearances after Forsyth County but has the smallest decrease in this report. The previous report restricted analyses to disposed cases, whereas the current one includes non-appearances for both pending and disposed cases. Supplemental analyses showed a high level of non-appearances for pending cases (i.e., where one or more charges was not disposed of) in Guilford County that were served in 2019 (35.77%), 2020 (31.51%), and 2021 (24.28%). The high level of non-appearances for pending cases (which are included in this report) may explain the small amount of change found here for Guilford County.

**Table 12. Percent and number of cases with a court non-appearance pre- and post-implementation for Forsyth County and peer counties**

	2019	2020	2021	Percentage point difference 2019 vs. 2020	Percentage point difference 2019 vs. 2021
Forsyth	23.60% (11,410)	6.45% (2,118)	5.13% (1,424)	-17.15***	-18.47***
Guilford	19.43% (10,460)	17.74% (7,771)	18.28% (6,904)	-1.69***	-1.15***
Durham	19.73% (3,960)	12.60% (1,846)	15.03% (2,109)	-7.14***	-4.70***
Buncombe	11.53% (2,997)	3.87% (777)	2.75% (432)	-7.66***	-8.78***

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of cases with a court non-appearance that have \*\*\* listed have less than a 0.1% chance of being observed due to chance.

The data show very low rates of non-appearances in 2020, whether measured as a called and failed or a FTA. We knew that suspension of court operations in 2020 because of the COVID-19 pandemic likely depressed 2020 non-appearance rates. At a February 2021 stakeholder meeting where we presented early evaluation results, we asked participants for their thoughts on other COVID-related procedural changes may have impacted non-appearance rates. They reported several such changes including that:

- FTAs are not being noted in traffic court;
- only lawyers (and not defendants) are being required to attend certain proceedings in other cases, reducing opportunities for non-appearances;
- for first missed court dates after the initial appearance, some judges simply direct that the individual be marked as not present (as opposed to called and failed) and that a notice of a new court date be sent;
- in other proceedings, a non-appearance may not be noted or may be noted on the shuck and not in electronic data systems; and
- because of public health concerns and the need to socially distance, 2020 calendars were smaller than 2019 calendars, resulting in fewer opportunities for non-appearances.

Not all of these matters are being handled consistently across the district but collectively may be depressing 2020 non-appearance rates. On the other hand, longer disposition times may be having the opposite effect.

## Pretrial Detention

As discussed above, one goal of the implemented reforms was to reduce unnecessary pretrial detentions, particularly with respect to lower-level misdemeanors. Additionally, racial equity was a concern for this evaluation metric.

After implementation of reforms, the average number of individuals detained per month decreased 23.6% (from 446 to 341). The reduction was greater for misdemeanor detentions (22.3%) than for felony detentions (9.3%), a result in line with expectations given the project's focus on reducing unnecessary pretrial misdemeanor detentions and the decreases seen in criminal charging (discussed below). Declines were nearly identical for Black and White individuals.


Average detention length declined, from 6.3 days before reforms were implemented to 5.3 days after implementation. To help understand what was pushing these declines, we categorized detentions into five stay lengths: 0-day stays; 1-day stays, 2–3-day stays; 4–30 days stays; and 31+ day stays. A 0-day stay occurs when a person is booked and released on the same day. After reforms were implemented, more people had shorter detentions (1-day stays) and fewer people had longer ones (detentions of 4–30 days or 31+ days). The one exception to these results is that the share of 0-day stays declined significantly from the pre- to post-implementation period. Notably, although average detention lengths fell overall in the post-implementation period, there was a clear increasing trend in average detention length beginning in 2021. Examining average detention length by race revealed largely similar results for Black and White individuals. This finding differs from our previous report, which found multiple differences in detention length between Black and White individuals.

Each of these findings is discussed in more detail below. As in prior reporting, we note that the onset of the COVID-19 pandemic coincided closely with implementation of reforms in January 2020. This confluence of events creates challenges in parsing out effects of the pandemic and of implemented reforms.

## Number of Pretrial Detentions

### *Change in Average Monthly Detentions*

Figure 4 presents the number of detentions by month in the pre- and post-implementation periods.<sup>46</sup> Overall, the average number of individuals detained per month fell 23.6%, from 446 pre-implementation to 341 post-implementation. This decrease was statistically significant. Although detentions continue to remain below pre-implementation numbers, pretrial detentions overall have started increasing in the post-implementation period. However, detentions for misdemeanor bookings have continued to decline post-implementation.<sup>47,48</sup>



Average monthly detentions fell 23.6% overall, 22.3% for misdemeanors & 9.3% for felonies.

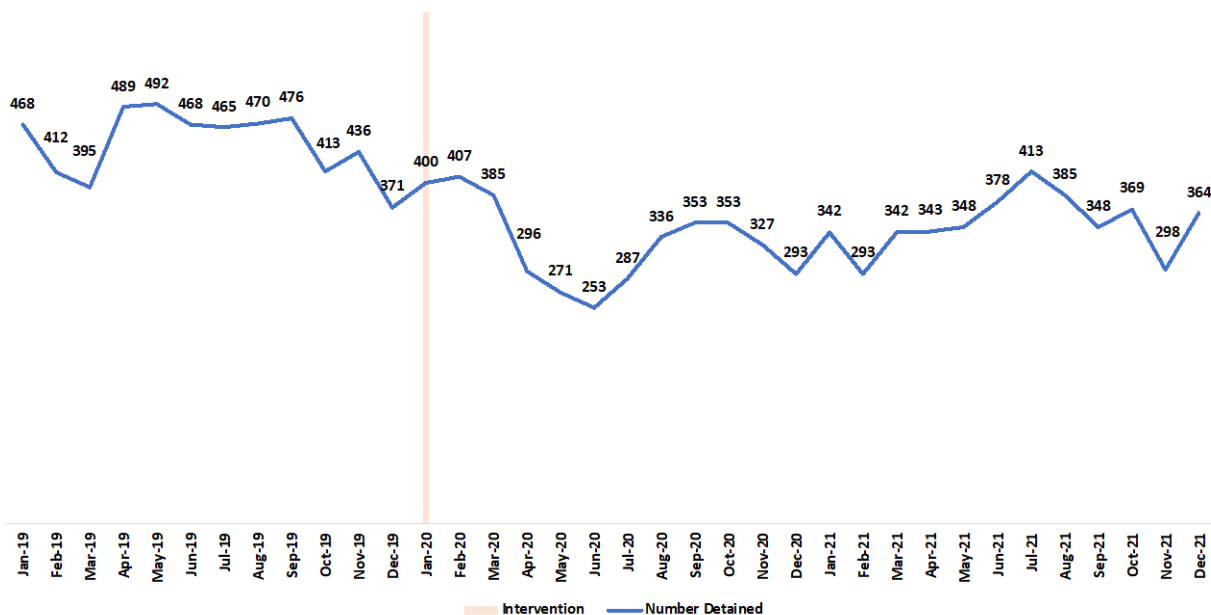
<sup>46</sup> Figures for misdemeanor and felony bookings are available in Appendix H, Figures H-1 and H-2.

<sup>47</sup> We identified pretrial bookings using the county detention center's coding of "pretrial" for status. Any booking event with pretrial listed as the status for one or more charges was included for analysis.

<sup>48</sup> Although we included parole and probation violations in prior reporting, we removed them from these analyses. We did so because the district's structured decision-making tool does not apply to probation violations.



**Figure 4. Number of pretrial detentions by month, January 2019 to December 2021**



We also examined the change in average monthly pretrial detentions separately for highest charge misdemeanor and felony detentions.<sup>49</sup> Because implemented reforms targeted individuals whose highest charge was a lower-level misdemeanor, we expected to see a larger decrease in detentions for people charged with misdemeanors than for felonies. In fact, this expectation was realized. For detained individuals whose highest charge was a misdemeanor, the decrease was 22.3% (211 pre-implementation to 164 post-implementation). For detained individuals whose highest charge was a felony, the reduction was only 9.3% (122 pre-implementation to 111 post-implementation). Both declines were statistically significant.

### *Detentions Due to Failure to Appear*

When examining pretrial detention numbers, it can be helpful to understand what proportion of detentions are due to a non-appearance, as opposed to a public safety threat. We thus explored whether there were any changes, before and after implementation of reforms, in the proportion of bookings that resulted solely from a FTA. As shown in Table 13, in the pre-implementation period (2019) 25.4% of all bookings occurred solely because of a FTA; that number fell to 16.2% in 2020 and rose to 22.6% in 2021. Each of these changes were statistically significant.

<sup>49</sup> Prior to analyzing booking events by highest charge, we coded individual charges as either a misdemeanor or felony based upon the N.C. General Statute recorded in the jail data. We used our coding for these analyses because we identified multiple instances where the misdemeanor/felony coding in jail data did not align with the statute or charge description. However, we also conducted sensitivity analyses of each our analyses by using the coding provided by the county. Where applicable, we report when this sensitivity analysis produced significantly different findings.

Pretrial detention analyses of misdemeanors and felonies exclude individuals who were detained solely because of an Order for Arrest (OFA) after a FTA. We exclude these individuals from the misdemeanor/felony analyses because: (1) there were instances where we could not identify whether the underlying offense was a misdemeanor or a felony from the jail data, and (2) individuals held because of an OFA for an FTA may be substantively different than individuals who are detained on an initial charge. Specifically, those detained because of an OFA for a FTA are detained because of a missed court date as opposed to e.g., an assessment that they pose an unacceptable level of danger to the community. Individuals who were detained because of a FTA are discussed in the section below.

**Table 13. Proportion of pretrial detentions because of FTA, 2019, 2020, & 2021**

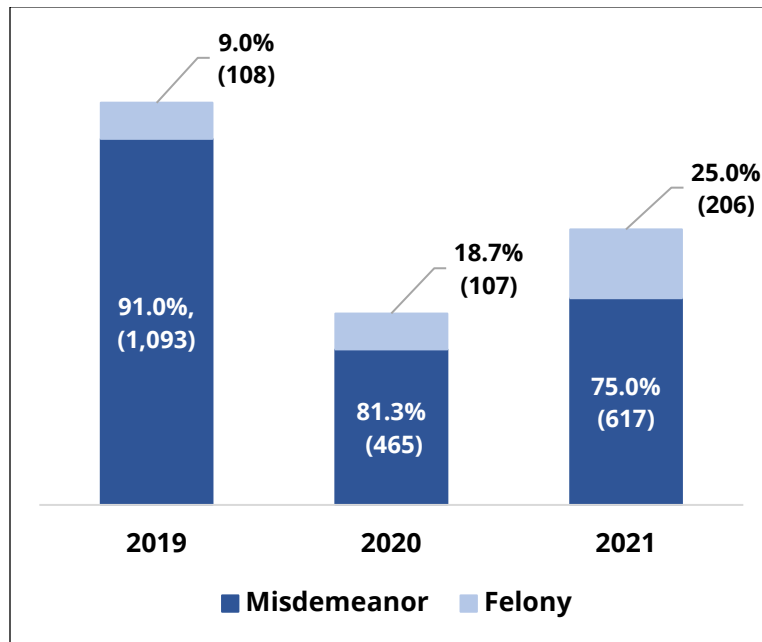
Offenses at booking	2019	2020	2021
FTA Only	24.4%	16.2%***	22.6%***

Note. \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. In Table 13, significance indicates that the shares of bookings because of FTA were significantly different between the pre- and post-implementation periods.

Because stakeholders tend to be more concerned about pretrial detentions of individuals charged with misdemeanors and detained solely because of a FTA, we used ACIS data to identify whether the highest underlying charges in FTA bookings were felony or misdemeanor charges. Figure 5 shows the share of FTA bookings where the highest underlying charge was a misdemeanor or felony.<sup>50</sup> In 2019, pretrial bookings for FTAs were comprised of 91.0% misdemeanors and 9.0% felonies. In 2020, FTA bookings in misdemeanor cases fell to 81.3% of FTA bookings. In 2021, FTA bookings for misdemeanor cases fell to 75.0% of FTA bookings. These differences were statistically significant, and show that after implementation of reforms, misdemeanors accounted for a smaller proportion of FTA detentions.

Notably, the overall number of FTA bookings dropped considerably in 2020. Total FTA bookings rose in 2021 but remained below the total 2019 number.

**Figure 5. Charge types for FTA-only detentions, 2019, 2020, and 2021**



<sup>50</sup> The share of FTA bookings that could not be matched to ACIS data was 11.7% in 2019, 10.8% in 2020, and 13.7% in 2021. To better identify the trend in misdemeanor and felony bookings, we focused just on those bookings where we could identify the underlying charges.

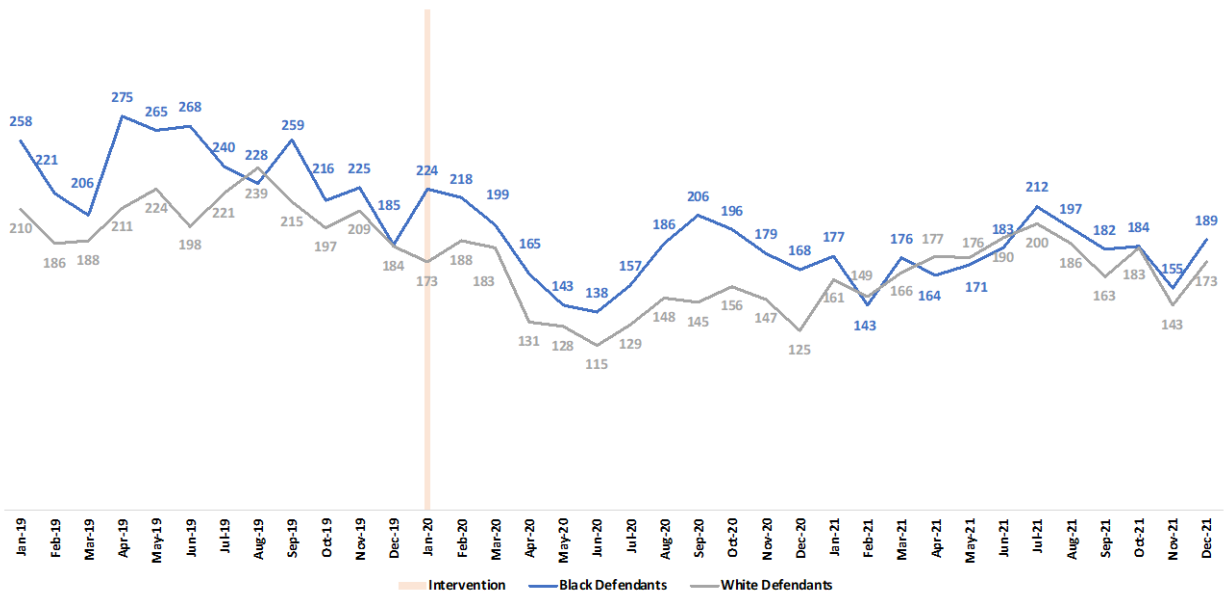
## Detentions by Race

Pretrial bookings for Black and White individuals declined at similar rates pre- and post-implementation. As shown in Figure 6, the number of bookings for Black individuals outnumbered that of White individuals for each month of the pre-implementation period except for August 2019. In the post-implementation period, a similar trend was observed until 2021,

Pretrial bookings declined at similar rates for Black & White individuals.

when the number of bookings for White individuals narrowly outnumbered that of Black individuals across multiple months. In terms of decreases in bookings, pretrial bookings for Black individuals declined from 237 bookings per month pre-implementation to 180 per month post-implementation. For White individuals, they decreased from 207 bookings per month pre-implementation to 160 per month post-implementation. Both declines were statistically significant, and the difference in declines between Black and White individuals was not statistically significant.

Figure 6. Number of Pretrial Detentions by Month: Black and White Individuals



Note. The pink Intervention Line in January 2020 indicates when reforms were implemented.

## Length of Pretrial Detention

Examining changes in the length of pretrial detention is important, in part because decreased detention lengths have obvious implications for jail budgets. Additionally, individuals who are detained pretrial for very short periods may experience fewer adverse collateral consequences of detention, such as housing and job loss, as compared to those who are detained longer.

### *Average Length of Detention & Stay Length*

We found that average length of detention declined from 6.3 days in the pre-implementation period to 5.3 days post-implementation. Consistent with this result, more individuals had shorter detentions (1-day stays) and fewer had longer ones (stays of 4-30 days and 31+ days).<sup>51</sup>

Table 14 presents detention lengths for all booking events. As shown there, the share of individuals detained 1 day grew significantly after implementation (from 18.5% to 25.3%) while the share of individuals detained for longer periods (4-30 days or 31+ days) declined significantly after implementation (from 19.0% to 15.2% and from 11.1% to 9.3%, respectively). The average length of pretrial detention for all individuals fell significantly from 6.3 days to 5.3 days, and the median detention length remained at 1 day.

Average length of detention declined, 1-day detentions increased & longer stays decreased.

#### **Data Note: “Raw” vs. “Capped” Detention Lengths**

We calculated average detention length in two ways. “Average Days Detained – Raw” is calculated from actual detention lengths in the pre- and post-implementation periods. Because data collection ended in 2021, the longest possible post-implementation detention is 23 months (Jan. 2020 to Nov. 2021). For pre-implementation detentions, however, it is 35 months (Jan. 2019 to Nov. 2021). In the pre-implementation period, 51 detentions (1.0%) were longer than a year, and the longest detention length was 1101 days. In the post-implementation period, 41 individuals (.5%) had detention lengths longer than a year, and the longest detention time was 725 days. Recognizing that this might skew the pre-implementation average, we also provide an alternate measure: “Average Days Detained, Capped.” This formulation obscures very long detentions but allows an “apples to apples” comparison of average detention lengths. We used 31+ days as a cut off because many of the consequences a long jail stay (e.g., job loss, family housing instability) are likely to accrue by that time. In order to use this approach, it was necessary to remove Dec. 2021 data, as the timing of our data pull (Jan. 2022) meant that these individuals could not yet be detained our capped maximum detention length of 31 days. We present both averages in the results but highlight the capped average in our discussion.

<sup>51</sup> When examining the trend in the share of individuals detained zero days over time, we found no statistically significant differences between the pre- and post-implementation periods.

**Table 14. Pretrial detention length: All charges**

	Pre- implementation period	Post- implementation period	Percentage point difference
0 Days	35.5%	33.0%	-2.5**
1 Day	18.5%	25.3%	6.8***
2 - 3 Days	16.0%	17.1%	1.1
4 - 30 Days	19.0%	15.2%	-3.8***
31+ Days	11.1%	9.3%	-1.8***
Average Days Detained - Capped	6.3	5.3	-1.0 day***
Average Days Detained - Raw	18.6	14.1	-4.5 days***
Median Days Detained	1	1	0 days

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. In this table, significance indicates that the average detention length and the share of pretrial bookings that were a certain length in the post-implementation period were significantly different from the pre-implementation period (e.g., the share of individuals detained 1 day was significantly higher post-implementation).

Table 15 presents the same results for bookings where the highest charge was a misdemeanor. Like the overall results, there were statistically significant increases in the share of individuals who were detained for 1 day and significant decreases in the share of individuals detained for the longest stays (4-30 days and 31+ days). For misdemeanor cases, average detention length fell significantly from 5.2 days to 3.3 days, and the median detention length remained 1 day pre- and post-implementation.

Table 16 shows the results for bookings where the highest charge was a felony. There were significant increases in the share of individuals detained 1 day and 2-3 days alongside decreases in the share of individuals detained 4-30 days and 31+ days. Average detention length also fell significantly from 11.1 days to 9.2 days, and the median detention length fell from 3 to 2 days.

**Table 15. Pretrial Detention Length: Highest Charge Misdemeanor**

	Pre-implementation period	Post-implementation period	Percentage point difference
0 Days	34.6%	35.1%	0.5
1 Day	22.8%	32.1%	9.3***
2 - 3 Days	18.0%	17.3%	-0.7
4 - 30 Days	17.3%	11.2%	-6.1***
31+ Days	7.4%	4.2%	-3.2***
Average Days Detained - Capped	5.2	3.3	-1.8 days***
Average Days Detained - Raw	7.5	5.1	-2.4 days***
Median Days Detained	1	1	0 days

**Table 16. Pretrial Detention Length: Highest Charge Felony**

	Pre-implementation period	Post-implementation period	Percentage point difference
0 Days	27.3%	28.2%	0.9
1 Day	13.0%	17.9%	4.9***
2 - 3 Days	10.9%	13.9%	3.0**
4 - 30 Days	23.4%	19.9%	-3.5**
31+ Days	25.5%	20.1%	-5.4***
Average Days Detained - Capped	11.1	9.2	-1.9 days***
Average Days Detained - Raw	51.7	32.6	-19.1 days***
Median Days Detained	3	2	-1 day

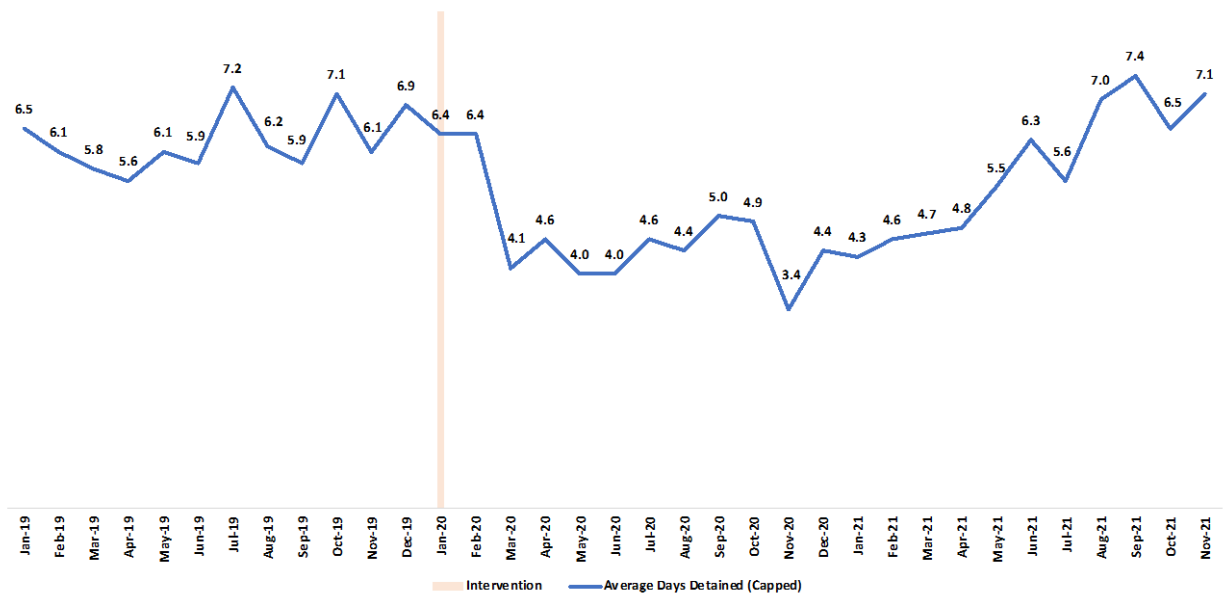
Note to Tables. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. In Tables 15 and 16, significance indicates that the average detention length and the share of pretrial bookings that were a certain length in the post-implementation period were significantly different from the pre-implementation period.

### Trends in Detention Lengths

Because detention lengths of zero days are likely to accrue fewer negative consequences relative to longer detention lengths, we also examined the trend in the share of individuals detained zero days pre- and post-implementation. We found no statistically significant change in zero-day detentions, whether for all detentions or for highest charge misdemeanor or felony bookings.

Figure 7 presents the overall detention length data in the form of a line graph covering January 2019 through November 2021.<sup>52</sup> Pre-implementation, average detention length varied between a low of 5.6 days and a high of 7.2 days, but the overall trend was generally flat. Post-implementation, average detention lengths fell substantially to 4.1 days in March and subsequently stabilized through the remainder of 2020. However, average detention lengths increased throughout 2021, beginning at 4.3 days in January and reaching 7.1 days by November, which is consistent with pre-implementation average detention lengths.

**Figure 7. Average Detention Length by Month: January 2019 to November 2021**



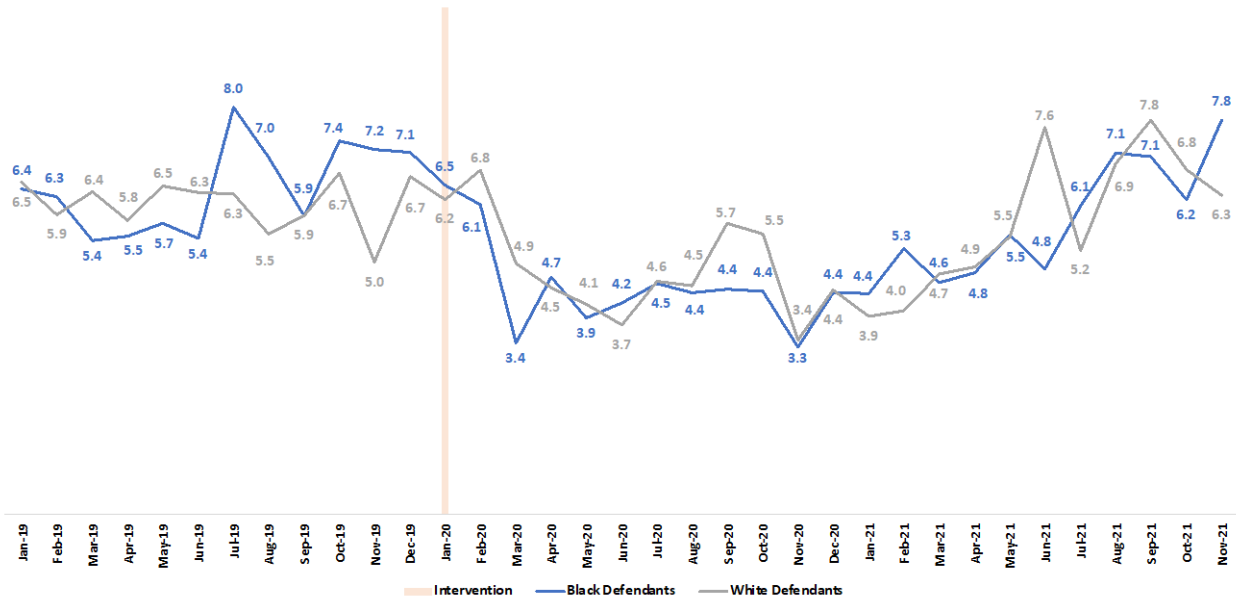
### Detention Length by Race

Figure 8 shows the average monthly detention lengths for Black and White individuals. Outside of three months in 2019, (July, August, and November) average detention length was quite similar for these two populations in 2019. These averages dropped for both Black and White individuals in early 2020 and subsequently began to rise for both groups in early 2021. Black and White individuals also experienced similar declines in average detention lengths post-implementation. Specifically, Black individuals experienced a decline of 1.2 days in average detention length (6.4 days to 5.2 days) while White individuals experienced a decline of 0.9 day (6.1 days to 5.2 days). Both changes were statistically significant.<sup>53</sup>

<sup>52</sup> For average detention length for misdemeanor and felony bookings separately, see Appendix H, Figure H-3 and H-4.

<sup>53</sup> For additional detail regarding our analysis of the change in average detention lengths, see Appendix H, Figure H-5.

**Figure 8. Average Detention Length by Month and Race: January 2019 to November 2021**



We next analyzed whether there were differences between Black and White individuals in the share of individuals detained for the various stay lengths pre- and post-implementation and then whether there were statistically significant differences between pre- and post-implementation changes for those groups. With respect to the latter issue, we found no statistically significant differences when analyzing all bookings.<sup>54</sup>

## Changes in Case “Mix”

To put results in context, it is important to understand whether there was a change in the “mix” of cases presented to judicial officials between the pre- and post-implementation periods. For example, if the mix of cases changed such that judicial officials were seeing a higher percentage of violent cases, we would expect to see an increase in the use of more restrictive conditions. In this way, a change in the case mix can impact on bail conditions, independent of the new policy. Similarly, a drop in overall charges could impact detention numbers independent of the new policy. We thus used ACIS data to examine whether there was a change in criminal charging and/or an increased use of citation in lieu of arrest after implementation of reforms.<sup>55</sup>

<sup>54</sup> The only statistically significant difference we found was for misdemeanor bookings resulting in stays of 2-3 days. There was a 6.5% increase in the share of Black individuals detained 2-3 days, while there was an 18.0% decrease in the share of White individuals detained 2-3 days. For additional detail regarding our analysis of differences between Black and White individuals in the change in detention lengths, see Appendix H, Figure H-5.

<sup>55</sup> We identified three reasons why officers may have initiated a larger percentage of charges by citation versus warrantless arrest in the post-implementation period. First, officers may have been more likely to do so after seeing that, as a result of implemented reforms, a larger percent of individuals charged with lower-level offenses were being immediately released by magistrates. Second, the COVID-19 pandemic may have increased the use of citations in lieu of arrest for health and safety reasons. Third, on December 1, 2020, the Winston-Salem Police Department began implementation of a model citation in lieu of arrest policy as a pilot site in North Carolina’s Citation Project.



As discussed below, the changes in case mix that occurred between the pre- and post-implementation period include a decrease in overall charging, a decrease in the percentage of misdemeanor charges, a small decrease in violent felony charges, and small increases in both violent misdemeanor and impaired driving charges. Collectively, these changes would have resulted in a larger share of felonies, violent misdemeanors, and impaired driving charges in the intermediate-level charge category, thus depressing the impact of the policy for that charge category. The decrease in charges likely impacted detention numbers and new pretrial charging rates. We found no change in citation rates between the pre- and post-implementation period.

## Criminal Charging

Figure 9 shows the percent and number of felony and misdemeanor charges in Forsyth County from 2019 through 2021. As shown there, overall charging decreased in 2020 and 2021 as compared to 2019. However, this decrease is largely due to reductions in misdemeanor charging. As a result, felonies made up a larger share of criminal charges in both 2020 and 2021 than in 2019 (9.61% and 8.50%, respectively, compared to 6.02%), although the number of felony charges decreased in 2021.

**Figure 9. Percent and number of criminal charges by type of charge, 2019, 2020, 2021**

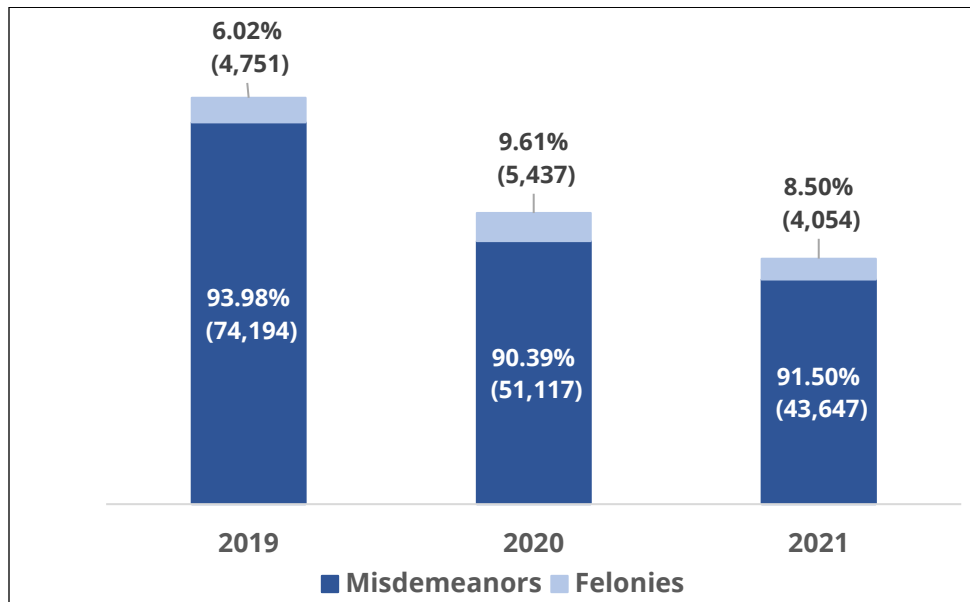


Table 17 shows felony charges for the same three-year period broken out by violent and nonviolent charges. As shown there, violent felony charges decreased in 2021—falling from 13.45% of felony charges in 2019 to 11.64% in 2021. The number of nonviolent charges ticked up slightly in 2020 and decreased in 2021; overall, nonviolent charges made up a larger share of felony charges in 2020 and 2021 than in 2019.

**Table 17. Percent and number of felonies, 2019, 2020, 2021**

	2019	2020	2021
<b>Total number of felonies</b>	<b>4,751</b>	<b>5,437</b>	<b>4,054</b>
Nonviolent	86.55% (4,112)	87.55% (4,760)	88.36% (3,582)
Violent	13.45% (639)	12.45% (677)	11.64% (472)

As shown in Table 18, overall misdemeanor charging dropped sharply in 2020 and continued to decrease in 2021. Across all misdemeanor categories, the number of charges in 2021 was lower than in 2019. However, while the number of charges decreased, violent misdemeanor and DWI charges made up a slightly larger share of overall misdemeanor charges in 2021.

**Table 18. Percent and number of misdemeanors, 2019, 2020, 2021**

	2019	2020	2021
<b>Total number of misdemeanors</b>	<b>74,194</b>	<b>51,117</b>	<b>43,647</b>
Traffic (Non-DWI)	67.86% (50,346)	60.19% (30,769)	67.04% (29,260)
All Other	25.58% (18,977)	31.45% (16,076)	24.47% (10,680)
Violent	4.17% (3,095)	5.80% (2,966)	5.03% (2,194)
DWI	2.39% (1,776)	2.55% (1,306)	3.47% (1,513)

Note: “All Other” category includes ordinance, drug, and all other non-violent misdemeanors.

## Citation in Lieu of Arrest

To assess changes in citation rates across the pre- and post-implementation periods, we examined data for non-traffic misdemeanor charges initiated by citation or warrantless arrest in Forsyth County for January 2019 to December 2021.<sup>56</sup> We focused on non-traffic misdemeanor charges because—with the exception of impaired driving cases which constitute a relatively small share of traffic offenses—traffic charges typically are initiated by citation and thus not presented to the magistrate. Consistent with expectations, we found a significant decrease in overall charging of non-traffic misdemeanors in the post-implementation period. While there were modest changes in the use of citations in lieu of arrest since January 2020, there were no

<sup>56</sup> When an individual was charged by both a citation and a magistrate order (the process issued after a warrantless arrest), we categorized the case as involving an arrest.

statistically significant differences in the percent of non-traffic misdemeanor cases initiated by citation in 2020 and 2021 as compared to 2019. Thus, this issue is unlikely to have impacted results.

Figure 10 shows the number of non-traffic misdemeanor cases processed by citation or warrantless arrest. The figure shows a gradual decline in charging of these offenses since January 2019. In 2019, there was an average of 541 non-traffic misdemeanor cases initiated by citation. This number decreased by 46.84% to 287 in 2021. Similarly, the average number of non-traffic misdemeanor cases initiated by warrantless arrest fell from 223 in 2019 to 122 in 2021, a 45.52% decrease. These trends, together with the misdemeanor charging analyses presented above, suggest that non-traffic misdemeanor charges may have made up a smaller proportion of cases presented to magistrates in 2021 than in 2019.

**Figure 10. Number of non-traffic misdemeanor cases initiated by citation and warrantless arrest, January 2019 to December 2021**

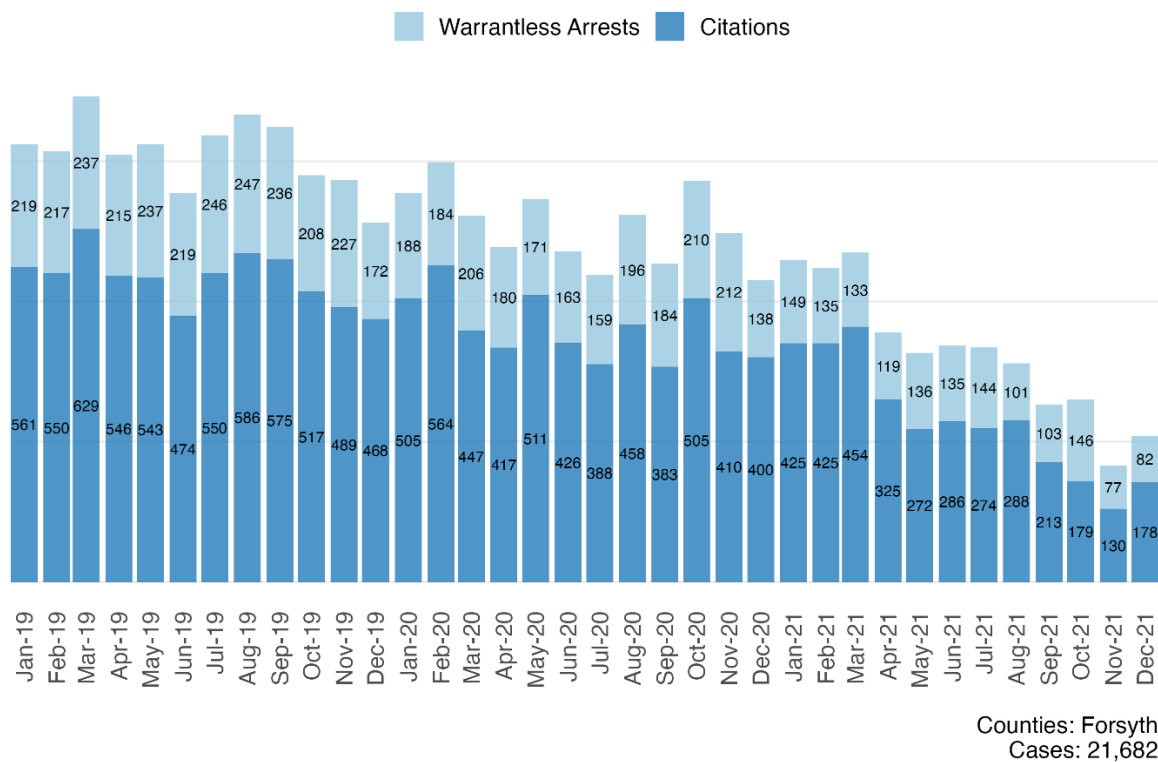
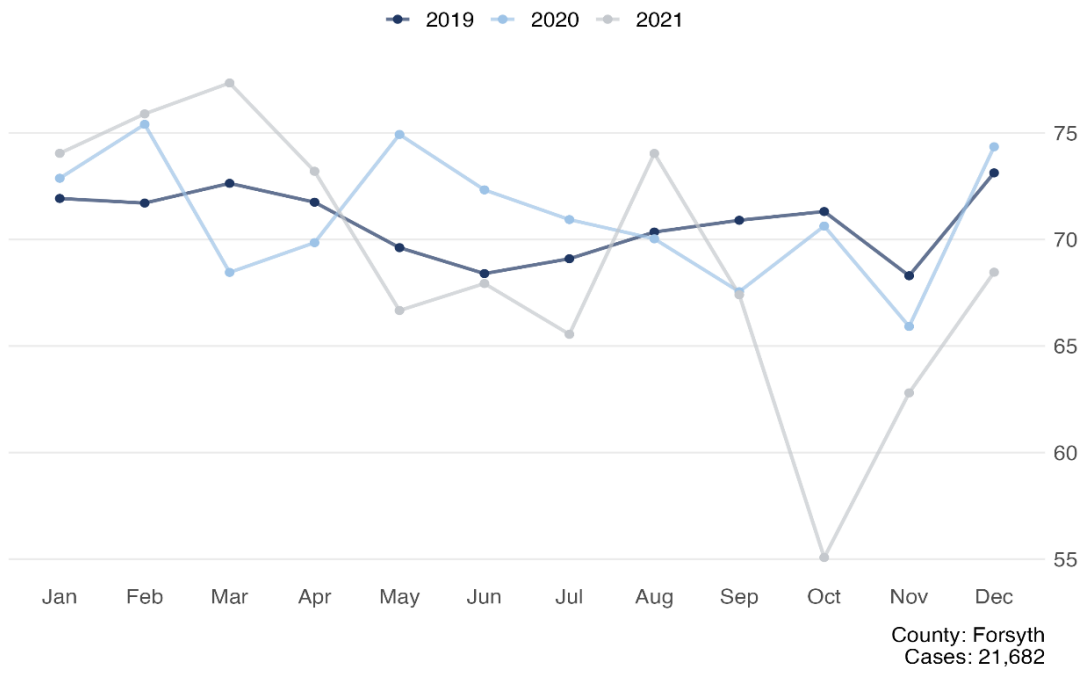


Figure 11 shows the percent of non-traffic misdemeanor cases initiated by citation for the entire evaluation period. The average percent of non-traffic misdemeanor cases initiated by citation in 2020 (71.10%) and 2021 (69.03%) did not significantly differ from the percent initiated in 2019 (70.76%), suggesting that officers may not have significantly increased the use of citations for these offenses. However, there was a non-significant increase in use of citations in December 2020, coinciding with implementation of the Citation Project. In December 2020, 74.35% of cases were initiated by citation.

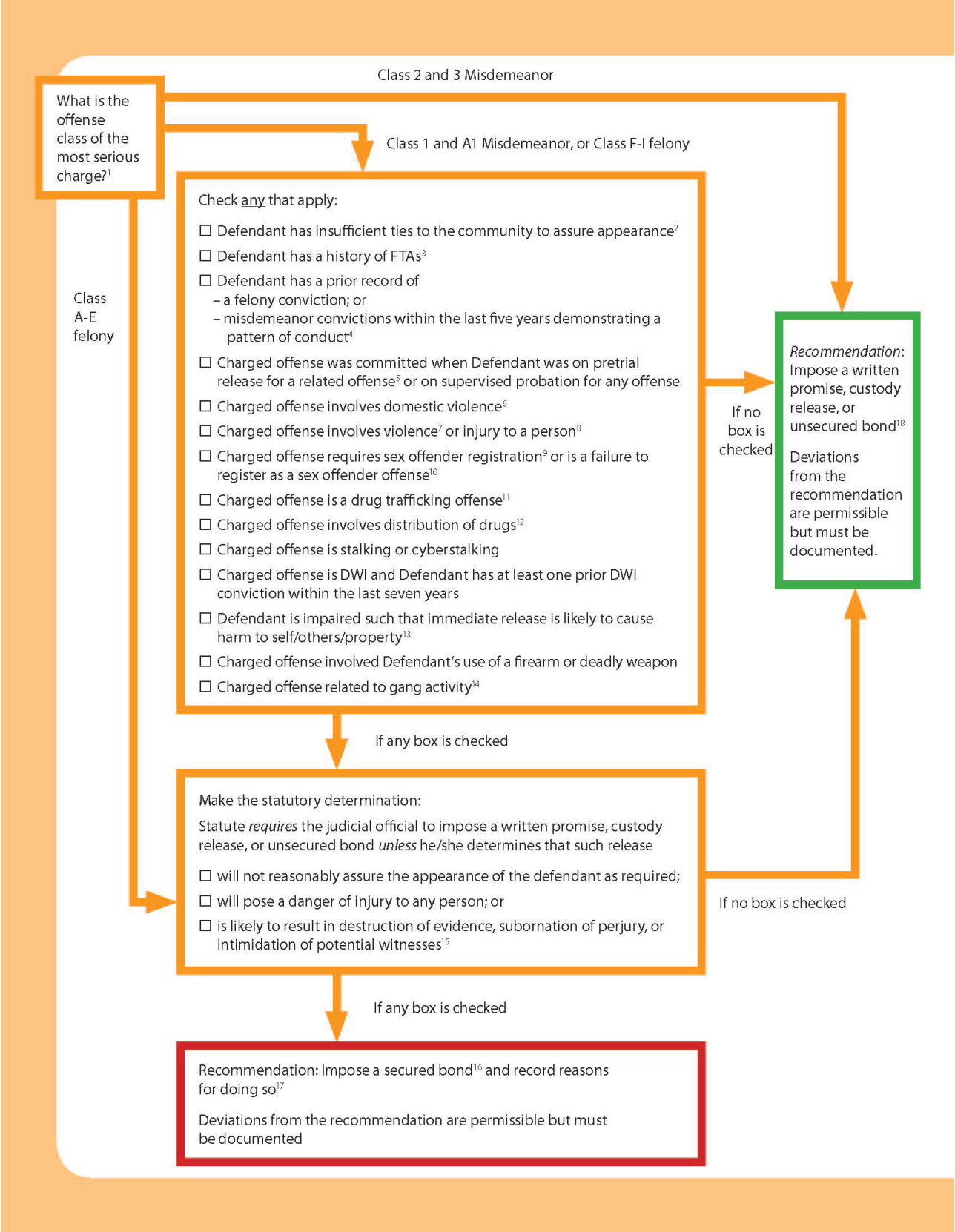
**Figure 11. Percent of non-traffic misdemeanor cases initiated by citation, January 2019 to December 2021**



# Appendix A – New Structured Decision-Making Tool

## JUDICIAL DISTRICT 21: DETERMINING CONDITIONS OF PRETRIAL RELEASE

Pursuant to Judicial District 21's Local Pretrial Release Policy, judicial officials must use the flowchart contained here, with accompanying footnotes and tables, when determining conditions of release in all cases except where the North Carolina General Statutes or local policy prescribe a different process or result.



1. If the matter is before a judge on the State's motion to increase conditions after the return of a habitual felon indictment, the judge should treat the offense at its "habitualized" offense Class level.
2. The mere fact that the Defendant is homeless and does not have a home address does not warrant checking this box; inquiry should be focused on the Defendant's connections to the community.
3. There must be more than one prior FTA for this factor to apply. FTAs within the last two years are most relevant, as are OFAs for FTAs in cases other than minor traffic. Impaired driving is not a minor traffic case.
4. The pattern of conduct must relate to the present offense. For example: the current charge involves drug possession and the Defendant has three priors within the last five years for misdemeanor drug or drug paraphernalia possession.
5. This factor covers situations where the Defendant continues to engage in the same type of conduct (e.g., repeat larceny) or an escalating course of conduct (e.g., the defendant is charged with injury to real property while on pretrial release for communicating threats to the property owner).
6. An offense involves domestic violence when the relationship between the parties is one of the following:
  - o Current or former spouses
  - o Currently or formerly lived together as if married
  - o Currently or formerly in a dating relationship
  - o Have a child in common
  - o Parent (or one in parental role)/child
  - o Grandparent/grandchild
  - o Current or former members of the same household

*Note: this list is drawn from G.S. 15A-534.1, the 48-hour domestic violence hold statute.*
7. For example, robbery, assault, assault by pointing a gun, and assault by strangulation.
8. This factor applies when the offense involved harm to a person (e.g., assaultive conduct). It does not apply to offenses in which property is taken or harmed (e.g., larceny, embezzlement, obtaining property by false pretenses, etc.).
9. For a list of offenses requiring sex offender registration, see Jamie Markham and Shea Denning, *North Carolina Sentencing Handbook 2017–18* (UNC School of Government, forthcoming 2018).
10. See G.S. 14-208.11(a); Jessica Smith, *North Carolina Crimes: A Guidebook On The Elements Of Crime* 268 (7<sup>th</sup> Ed. 2012) (discussing this offense).
11. See G.S. 90-95(h); *NORTH CAROLINA CRIMES supra* note 10, at 721–739 (discussing trafficking offenses).
12. For example, sale and delivery of a controlled substance and possession with intent to manufacture, sell, or deliver.
13. For defendants in impaired driving cases, follow impaired driving procedures. In all other cases if a secured bond is imposed only because of this factor and the defendant remains detained, conditions must be revised without consideration of this factor when the defendant's impairment no longer presents a danger of physical injury to himself or herself or others or of damage to property, but in any event, no later than 24 hours after secured bond was set.
14. Specific evidence of relation to gang activity must be presented (e.g., admission of defendant or social media material). The mere statement that a defendant is a "validated" gang member is insufficient by itself to establish this factor.
15. G.S. 15A-534(b). When making this inquiry, judicial officials should consider whether pretrial restrictions (e.g., restrictions on travel, associations, conduct or place of abode, as well as abstention from alcohol consumption, as verified by the use of an approved continuous alcohol monitoring system), which can be imposed with a written promise, custody release or unsecured bond, can sufficiently mitigate pretrial risk. See G.S. 15A-534(a).
16. If a secured appearance bond is imposed: (1) the judicial official must consider—among other relevant factors—the defendant's ability to pay; and (2) the amount of the secured appearance bond should not exceed the amounts listed the tables shown below; if a secured bond is set in excess of these recommended maximums, reasons for doing so must be documented.
 

If a secured bond is used to detain ("detention bond"), a detention bond hearing that affords the defendant appropriate procedural protections must be held before a judge on motion by the defense.
17. See G.S. 15A-534(b) (when judicial official imposes secured bond instead of written promise, custody release or unsecured bond, the judicial official "must record the reasons for so doing in writing to the extent provided in the policies or requirements issued by the senior resident superior court judge").
18. Pretrial restrictions can accompany any pretrial condition. See G.S. 15A-534(a) and note 14 above.

**Maximum secured appearance bond amounts—offenses other than drug trafficking**

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

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

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

**Maximum Secured Appearance Bond Amounts—Drug Trafficking\***

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

Drug	Amount	Class	Maximum Secured Bond
Marijuana	>10 lbs – 49 lbs.	H	\$5,000
	50-1,999	G	\$25,000
	2,000-9,999	F	\$50,000
Methaqualone	10,000 or more	D	\$200,000
	1,000 – 4,999 dosage units	G	\$25,000
	5,000 – 9,999	F	\$50,000
Cocaine	10,000 or more	D	\$200,000
	28-199 grams	G	\$50,000
	200-399	F	\$100,000
Methamphetamine	400 or more	D	\$250,000
	28-199 grams	F	\$50,000
	200-399 grams	E	\$100,000
Amphetamine	400 or more	C	\$250,000
	28-199 grams	H	\$5,000
	200-399	G	\$25,000
Opium/Opiate/Opioid/Heroin	400 or more	E	\$100,000
	4-13 grams	F	\$50,000
	14-27	E	\$100,000
LSD	28 or more	C	\$500,000
	100-499 dosage units	G	\$25,000
	500-999	F	\$50,000
MDA/MDMA	1,000 or more	D	\$200,000
	100-499 units/28-199 grams	G	\$25,000
	500-999 units/200-399 grams	F	\$50,000
Substituted Cathinones	1,000 units/400 grams or more	D	\$250,000
	28-199 grams	F	\$50,000
	200-399	E	\$100,000
Synthetic Cannabinoids	400 or more	C	\$250,000
	In excess of 50-249 dosage units**	H	\$5,000
	250-1,249	G	\$25,000
	1,250-3,749	F	\$50,000
	3,750 or more	D	\$200,000

\* The maximum secured bonds included in this table are taken from the minimum fines required for the respective offenses.

\*\*A "dosage unit" is 3 grams of synthetic cannabinoid or any mixture containing such substance



# Appendix B – Magistrate Bail Explanation Form

## FORSYTH COUNTY MAGISTRATE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

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

### STEP 1: OFA after FTA with conditions set by judge

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

### STEP 3: (check all that apply)

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

### STEP 2: Highest Charge

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

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

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

### STEP 3.5:

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

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

### STEP 4: Make the statutory determination

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

- will not reasonably assure the appearance of the defendant as required

Explanation:

[Redacted explanation text]

- will pose a danger of injury to any person

Explanation:

[Redacted explanation text]

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

Explanation:

[Redacted explanation text]

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

### STEP 5:

- Follow bond policy recommendation and impose a secured bond consistent with maximum bond tables (*if this box is checked, make sure that reason is stated in STEP 4 and once that is done, form is complete* \$ [Redacted])
- Deviate from bond policy recommendation to impose a secured bond within maximum bond table amount and impose:
  - Written promise
  - Custody release
  - Unsecured bond \$ [Redacted]
  - Secured bond \$ [Redacted]

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

### STEP 6: Type of Deviation (check one)

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

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

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

[Redacted text area]

(Form is complete)

20190634

# Appendix C – Judge Bail Explanation Form

## FORSYTH COUNTY JUDGE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

Judge's Name		Date	
Defendant's Name			
Case #s			
Highest charge	Class A-E Felony	Class 1-A1 Misdemeanor or F-I Felony	Class 2 or 3 Misdemeanor
	No	No	No

### STEP 1: OFA after FTA with conditions set by judge

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

### STEP 3: (check all that apply)

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

### STEP 2: Highest Charge

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

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

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

### STEP 3.5:

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

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

**STEP 4: Make the statutory determination**

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

will not reasonably assure the appearance of the defendant as required

Explanation: [Redacted]

will pose a danger of injury to any person

Explanation: [Redacted]

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

Explanation: [Redacted]

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

**STEP 5:**

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

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

Written promise

Custody release

Unsecured bond \$ [Redacted]

Secured bond \$ [Redacted]

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

**STEP 6: Type of Deviation (check one)**

From recommendation to impose secured bond

From maximum bond table

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

NC General Statute 15A-534(d3) - Bond is doubled because an offender already is released on bond for a related crime.

NC General Statute 15a-534(d2) - Probationer is charged with a new felony and is deemed to pose a danger to the public.

NC General Statute 15A-534.6 - Offender is charged with manufacturing methamphetamine or has a pattern or regular use of methamphetamine

Other:

[Redacted]

(Form is complete)

# Appendix D – Magistrate Decision-Making

**Table D-1. Individual Magistrate Decision-Making**

	Total # of forms magistrates completed	Median # of forms by magistrate
Class A-E felonies	173	6
Class F – I felonies & Class A1 – 1 misdemeanors	3184	99
Class 2 – 3 misdemeanors	1043	40

	Magistrate 1	Magistrate 2	Magistrate 3	Magistrate 4	Magistrate 5	Magistrate 6
<b>% issued secured bonds</b>	100.00%	100.00%	66.67%	100.00%	100.00%	100.00%
	59.57%	23.08%	14.72%	45.00%	58.95%	60.00%
	10.00%	30.77%	6.45%	21.43%	48.89%	36.36%
<b>Median secured bond amounts</b>	\$50,000	\$7,500	\$50,000	\$100,000	\$100,000	\$25,000
	\$5,000	\$1,000	\$5,000	\$5,000	\$4,000	\$5,000
	\$500	\$1,500	\$2,000	\$250	\$250	\$1,250
<b>% of forms w/deviations</b>	0.00%	0.00%	33.33%	100.00%	44.44%	100.00%
	2.13%	15.38%	15.95%	35.00%	14.74%	70.00%
	0.00%	30.77%	6.45%	14.29%	48.89%	36.36%
<b>% of forms removed from analyses<sup>1</sup></b>	29.41%	12.90%	38.24%	30.00%	8.59%	26.67%

<sup>1</sup> Note that forms can be removed from analyses because of: (1) fidelity errors, (2) the charge was a probation violation, which is not subject to the structured decision-making tool, and (3) the case involved an out of county charge.

	<b>Magistrate 7</b>	<b>Magistrate 8</b>	<b>Magistrate 9</b>	<b>Magistrate 10</b>	<b>Magistrate 11</b>	<b>Magistrate 12</b>
<b>% issued secured bonds</b>	100.00%	100.00%	N/A	100.00%	100.00%	100.00%
	44.77%	66.25%	54.55%	35.35%	42.42%	40.10%
	25.88%	67.50%	80.00%	32.14%	24.62%	11.05%
<b>Median secured bond amounts</b>	\$100,000	\$5,000	N/A	\$325,000	\$25,000	\$100,000
	\$5,000	\$2,500	\$3,000	\$2,000	\$5,000	\$2,500
	\$750	\$500	\$2,500	\$500	\$1,500	\$500
<b>% of forms w/deviations</b>	66.67%	100.00%	N/A	100.00%	25.00%	52.17%
	22.18%	66.25%	54.55%	30.30%	23.65%	11.05%
	25.88%	67.50%	80.00%	28.57%	23.08%	11.05%
<b>% of forms removed from analyses</b>	2.79%	38.27%	0.00%	28.33%	18.59%	3.47%

	<b>Magistrate 13</b>	<b>Magistrate 14</b>	<b>Magistrate 15</b>	<b>Magistrate 16</b>	<b>Magistrate 17</b>	<b>Magistrate 18</b>
<b>% issued secured bonds</b>	100.00%	77.78%	0.00%	50.00%	85.00%	75.00%
	27.27%	46.10%	50.00%	27.78%	35.54%	60.00%
	42.86%	17.50%	33.33%	18.60%	32.00%	53.85%
<b>Median secured bond amounts</b>	\$30,000	\$25,000	N/A	\$25,000	\$50,000	\$75,000
	\$5,000	\$2,500	\$37,750	\$2,500	\$2,500	\$7,500
	\$500	\$250	\$250	\$375	\$500	\$500
<b>% of forms w/deviations</b>	33.33%	22.22%	0.00%	33.33%	35.00%	50.00%
	27.27%	9.22%	25.00%	19.84%	11.57%	33.33%
	42.86%	7.50%	33.33%	16.28%	32.00%	38.46%
<b>% of forms removed from analyses</b>	38.20%	8.21%	11.11%	7.89%	1.17%	13.56%

	<b>Magistrate 19</b>	<b>Magistrate 20</b>	<b>Magistrate 21</b>
% issued secured bonds	83.33%	84.62%	89.47%
	53.22%	50.75%	50.82%
	19.84%	37.25%	37.27%
Median secured bond amounts	\$50,000	\$60,000	\$50,000
	\$2,000	\$2,000	\$2,500
	\$250	\$250	\$500
% of forms w/deviations	11.11%	53.85%	21.05%
	6.86%	24.88%	19.67%
	16.67%	37.25%	36.36%
% of forms removed from analyses	6.16%	12.25%	0.91%

## Technical Results: Variation in Use of Secured Bonds Across Magistrates

Multi-level models estimated in the HLM software with a Bernoulli distribution showed that the weighted average prevalence of issuing a secured bond for Class 2 and 3 misdemeanors across twenty-one magistrates was 30.21% ( $1/(1+e^{(-.84)}) = .3021$ ), and the prevalence of issuing a secured bond significantly varied across magistrates ( $\tau_{00} = .493, p < .001$ ). Using the formula from Snijders & Bosker (2011),<sup>57</sup> the intraclass coefficient showed that 13.04% of the variance in receiving a secured bond for a Class 2 or 3 misdemeanor was between magistrates:

$$\rho = \frac{\tau_{00}}{\tau_{00}+(\pi^2/3)} = .493/ (.493+3.286) = .1304$$

Similarly, the prevalence of issuing a secured bond for an intermediate level offense ( $\gamma_{00} = -.248$ ) significantly varied across the twenty-one magistrates ( $\tau_{00} = .297, p < .001$ ), with 8.20% of the variance in the prevalence of secured bonds being between magistrates ( $\rho = \frac{\tau_{00}}{\tau_{00}+(\pi^2/3)} = .297/ (.297+3.286) = .082$ ).

---

<sup>57</sup> Snijders, T. A., & Bosker, R. J. (2011). *Multilevel analysis: An introduction to basic and advanced multilevel modeling*. SAGE.



# Appendix E – New Criminal Activity in Peer Counties (Additional Detail)

**Table E – 1. Percent and number of individuals who acquired new pretrial criminal charges for peer counties during pre- and post-implementation**

<b>Guilford County</b>	<b>Pre-implementation period</b>	<b>Post-implementation period</b>	<b>Percentage point difference</b>
<b>New criminal charges</b>	<b>23.15%</b> <b>(8,694)</b>	<b>27.02%</b> <b>(7,353)</b>	<b>3.87***</b>
<b>New felony charges</b>	<b>5.22%</b> <b>(1,959)</b>	<b>6.74%</b> <b>(1,834)</b>	<b>1.52***</b>
New violent felony charges	1.40% (526)	1.91% (519)	0.51***
New non-violent felony charges	4.52% (1,696)	5.77% (1,571)	1.25***
<b>New non-traffic misdemeanor charges</b>	<b>10.18%</b> <b>(3,825)</b>	<b>12.87%</b> <b>(3,502)</b>	<b>2.69***</b>
New violent non-traffic misdemeanor charges	3.35% (1,259)	4.73% (1,287)	1.38***
New non-violent non-traffic misdemeanor charges	8.70% (3,268)	10.84% (2,949)	2.14***
<b>New traffic misdemeanor charges</b>	<b>17.19%</b> <b>(6,456)</b>	<b>19.62%</b> <b>(5,341)</b>	<b>2.43***</b>

**Table E – 1, continued**

<b>Durham County</b>	<b>Pre-implementation period</b>	<b>Post-implementation period</b>	<b>Percentage point difference</b>
<b>New criminal charges</b>	<b>20.95%</b> <b>(2,681)</b>	<b>20.14%</b> <b>(1,938)</b>	<b>-0.81</b>
<b>New felony charges</b>	<b>6.08%</b> <b>(927)</b>	<b>6.11%</b> <b>(740)</b>	<b>0.03</b>
New violent felony charges	1.69% (257)	1.96% (237)	0.27
New non-violent felony charges	5.13% (782)	5.11% (618)	-0.02
<b>New non-traffic misdemeanor charges</b>	<b>10.21%</b> <b>(1,557)</b>	<b>9.80%</b> <b>(1,186)</b>	<b>-0.41</b>
New violent non-traffic misdemeanor charges	3.67% (559)	3.73% (451)	0.06
New non-violent non-traffic misdemeanor charges	8.77% (1,337)	8.11% (982)	-0.66
<b>New traffic misdemeanor charges</b>	<b>13.73%</b> <b>(2,093)</b>	<b>13.12%</b> <b>(1,588)</b>	<b>-0.61</b>
<b>Buncombe County</b>	<b>Pre-implementation period</b>	<b>Post-implementation period</b>	<b>Percentage point difference</b>
<b>New criminal charges</b>	<b>22.60%</b> <b>(3,870)</b>	<b>20.22%</b> <b>(2,685)</b>	<b>-2.38***</b>
<b>New felony charges</b>	<b>6.23%</b> <b>(1,067)</b>	<b>6.09%</b> <b>(809)</b>	<b>-0.14</b>
New violent felony charges	1.09% (186)	1.18% (157)	0.09
New non-violent felony charges	5.62% (963)	5.44% (722)	-0.18
<b>New non-traffic misdemeanor charges</b>	<b>12.48%</b> <b>(2,137)</b>	<b>11.52%</b> <b>(1,530)</b>	<b>-0.96*</b>
New violent non-traffic misdemeanor charges	3.40% (582)	3.66% (486)	0.26
New non-violent non-traffic misdemeanor charges	11.28% (1,931)	10.06% (1,336)	-1.22***
<b>New traffic misdemeanor charges</b>	<b>14.65%</b> <b>(2,509)</b>	<b>12.22%</b> <b>(1,623)</b>	<b>-2.43***</b>

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percentage of individuals that acquire a new pretrial charge that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. In the pre-implementation period, Guilford County had 37,561 people with charges served in 2019 where the cases were disposed of by December 31, 2020. Those numbers were 15,248 in Durham County and 17,124 in Buncombe County. The post-implementation period includes individuals with charges served in 2020 where the cases were disposed of by December 31, 2021. Those numbers were 27,216 (Guilford County); 12,105 (Durham County); and 13,279 (Buncombe County). The table above shows the percentages of those people who acquired new pretrial criminal charges while their original charges were pending.

# Appendix F – New Pretrial Criminal Charges (Supplemental Analyses)

## Specific Pretrial Charges

In the body of our report, we discuss new pretrial criminal activity rates, including a breakdown by new felony charges, violent and non-violent. A Forsyth County stakeholder asked us to specifically examine whether there was an increase in the following pretrial charges:

- Assault with a deadly weapon (for this category we included the following offenses in ACIS: Assault with a deadly weapon inflicting serious injury; Assault with a deadly weapon intent to kill inflicting serious injury; Assault with a deadly weapon intent to kill)
- Robbery (for this category we included the following offenses in ACIS: Attempted robbery – dangerous weapon; Robbery with a dangerous weapon; Aid and abet armed robbery; Common law robbery; Attempted common law robbery; Robbery)
- Assault inflicting serious bodily injury (for this category we included the following offenses in ACIS: Assault inflicting serious bodily injury unborn child; Assault serious bodily injury)
- Assault on law enforcement officer (for this category we included the following offenses in ACIS: Assault on law enforcement officer/probation officer/other with firearm; Assault with a deadly weapon government official; Assault physical injury of law enforcement/probation/parole officer; Assault physical injury detention employee; Assault physical injury National Guard; Assault law enforcement/probation officer serious injury; Assault National Guard serious injury; Assault on a detention employee serious injury)
- Possession of a firearm by felon
- Discharging a weapon (for this category we included the following offenses in ACIS: Discharging a weapon into an occupied dwelling/moving vehicle; Discharging a weapon into an occupied dwelling/moving vehicle serious injury; Discharging firearm to incite fear; Discharging firearm from within an enclosure)
- Murder (for this category we included the following offenses in ACIS: Attempted first-degree murder; Murder of an unborn child; First- or second-degree murder; Second-degree murder without regard for human life/social duty and deliberately bent on mischief; Second-degree murder caused by unlawful distribution of drugs)
- First-degree burglary

As shown in Table F – 1, we found that among those with new charges during the pretrial period, there was a statistically significant 0.32 percentage point increase in the prevalence of these felonies during the post-implementation period. 0.90% of the 31,088 individuals who had their cases served in 2019 were charged with one or more of these offenses, compared to 1.22% of the 19,845 individuals during the post-implementation period. Absolute numbers of individuals who acquired these new pretrial charges, however, decreased. As shown in the table below, 280 individuals with cases served in 2019 incurred one or more of these charges during the pretrial period, compared to 243 individuals in 2020.

We also found that the prevalence of these pretrial offenses increased a statistically significant 0.44 percentage points during post-implementation in Guilford County, Forsyth's peer county. Among the 37,561 Guilford individuals with cases served in 2019, 1.23% (461 individuals) were charged with one or more of these felonies during the pretrial period compared to 1.67% (454 individuals) in 2020. Statistical tests showed that the amount of change was not statistically different for Forsyth County relative to Guilford County, suggesting that both counties are experiencing an equal amount of change in this metric. Similarly, Durham County also

experienced a statistically significant 0.40 percentage point increase in these pretrial offenses. Buncombe County had a smaller increase in these pretrial offenses (0.18 percentage points), but it was not statistically significant.

Based on these findings, we conclude that similarities in these pretrial charges for Forsyth County and for their peers may reflect broader crime trends in these offenses that are occurring in Forsyth and similar counties rather than being attributed to changes in criminal justice policies.

**Table F – 1. Percent and number of individuals who acquired specified new pretrial charges, Forsyth County and peer counties**

	Pre- implementation period	Post- implementation period	Percentage point difference
Forsyth County	0.90% (280)	1.22% (243)	0.32***
Guilford County	1.23% (461)	1.67% (454)	0.44***
Durham County	1.42% (217)	1.82% (220)	0.40**
Buncombe County	0.93% (159)	1.11% (147)	0.18

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percentage of individuals who acquired a new pretrial charge that have \*\*\* listed have less than a 0.1% chance of being observed due to chance.

### New Pretrial Criminal Charges: Pending Cases & All Cases

In the body of the report, we presented analyses comparing rates of pretrial criminal charges in the pre-implementation and post-implementation periods. This analysis was limited to cases that were opened and closed within the evaluation period (i.e., cases served in 2019 and disposed of by December 31, 2020 in the pre-implementation period versus cases served in 2020 and disposed of by December 31, 2021 in the post-implementation period). We conducted supplemental analyses to determine if including pending cases would impact the results.

Table F – 2 shows the percent and number of individuals who incurred a new pretrial charge regardless of disposition date (i.e., whether the case was disposed or pending by December of the subsequent year). As shown there, the results are similar to the results presented in Table 9 in the body of the report.

**Table F – 2. Percent and number of individuals who acquired new criminal charges for all cases (regardless of disposition date or status) during the pretrial period for Forsyth County, pre- and post-implementation**

	Cases served in 2019	Cases served in 2020	Percentage point difference
<b>New criminal charges</b>	<b>30.16%</b> <b>(10,423)</b>	<b>30.20%</b> <b>(7,233)</b>	<b>0.04</b>
<b>New felony charges</b>	<b>5.45%</b> <b>(1,884)</b>	<b>6.71%</b> <b>(1,608)</b>	<b>1.26***</b>
New violent felony charges	1.16% (400)	1.42% (339)	0.26**
New non-violent felony charges	4.91% (1,698)	6.07% (1,454)	1.16***
<b>New non-traffic misdemeanor charges</b>	<b>13.64%</b> <b>(4,715)</b>	<b>15.78%</b> <b>(3,779)</b>	<b>2.14***</b>
New violent non-traffic misdemeanor charges	3.76% (1,298)	4.68% (1,120)	0.92***
New non-violent non-traffic misdemeanor charges	12.45% (4,301)	14.23% (3,409)	1.78***
<b>New traffic misdemeanor charges</b>	<b>24.06%</b> <b>(8,315)</b>	<b>22.48%</b> <b>(5,383)</b>	<b>-1.58***</b>

Note: \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, changes in the percent of individuals who acquired a new pretrial charge that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. There were 34,559 individuals served with charges in 2019; in 2020, that number was 23,590. The table above shows the percentage of those people who acquired new pretrial criminal charges while their original charges were pending.

# Appendix G – New Pretrial Criminal Charges by Race (Supplemental Analyses)

As shown in Table G - 1, the prevalence of new criminal charges during the pretrial period decreased 3.88 percentage points for Black individuals. There was a significant increase for all offense categories, except traffic misdemeanors (statically significant 5.25 percentage point decrease). The largest increases were for non-traffic misdemeanors, where the prevalence of incurring these charges increased 1.19 percentage points in the post-implementation period.

**Table G - 1. Percent and number of Black individuals who acquired new pretrial criminal charges**

	Pre-implementation period	Post-implementation period	Percentage point difference
<b>New criminal charges</b>	<b>34.82%</b> <b>(4,893)</b>	<b>30.94%</b> <b>(2,884)</b>	<b>-3.88***</b>
<b>New felony charges</b>	<b>5.08%</b> <b>(714)</b>	<b>6.09%</b> <b>(568)</b>	<b>1.01***</b>
New violent felony charges	1.20% (168)	1.47% (137)	0.27*
New non-violent felony charges	4.50% (632)	5.43% (506)	0.93***
<b>New non-traffic misdemeanor charges</b>	<b>14.25%</b> <b>(2,002)</b>	<b>15.44%</b> <b>(1,439)</b>	<b>1.19*</b>
New violent non-traffic misdemeanor charges	3.97% (558)	4.80% (447)	0.83**
New non-violent non-traffic misdemeanor charges	12.82% (1,802)	13.90% (1,296)	1.08*
<b>New traffic misdemeanor charges</b>	<b>28.00%</b> <b>(3,935)</b>	<b>22.75%</b> <b>(2,121)</b>	<b>-5.25***</b>

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of individuals with new pretrial charges that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. The pre-implementation period includes 14,054 Black individuals served with charges in 2019 where the cases were disposed of by December 31, 2020. The post-implementation period includes 9,322 Black individuals served with charges in 2020 where the cases were disposed of by December 31, 2021. The table above shows the percentages of those people who acquired new pretrial criminal charges while their original charges were pending.

Table G - 2 displays the same results for White individuals. There were significant increases for all charge categories except traffic misdemeanors. Supplemental analyses showed that the amount of increase was statistically greater for cases involving White individuals than for Black individuals for all offense categories. For instance, White individuals experienced a 1.29 percentage point increase in the likelihood of incurring a new violent misdemeanor during the pretrial period, compared to Black individuals who experienced a 0.83 percentage point increase in these pretrial charges.

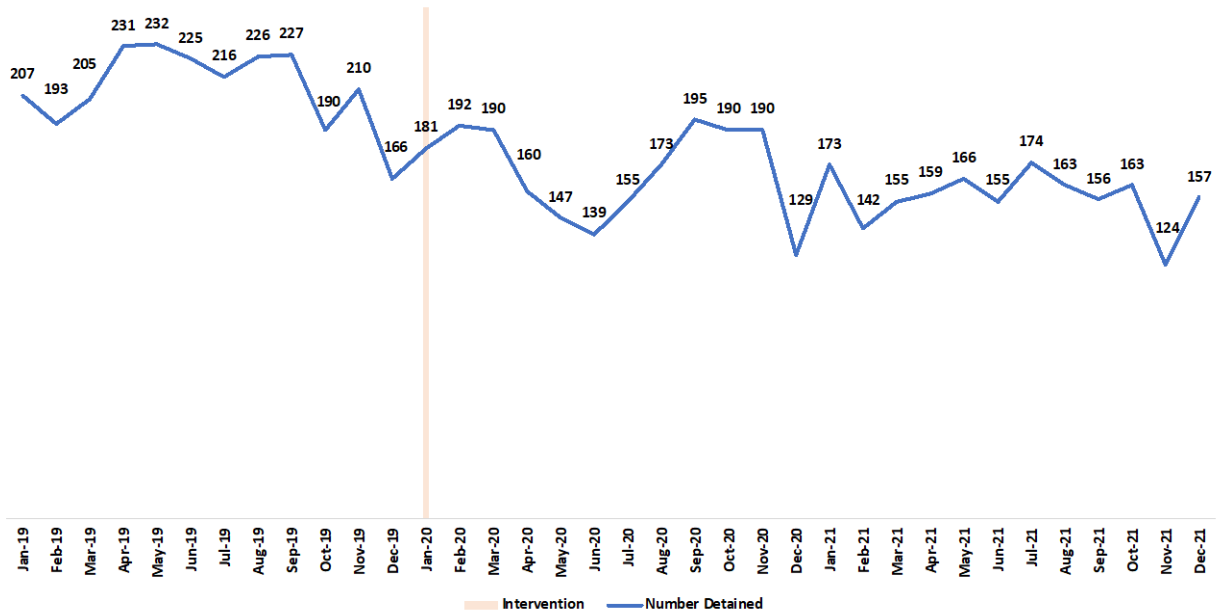
**Table G - 2. Percent and number of White individuals who acquired new pretrial criminal charges**

	Pre- implementation period	Post- implementation period	Percentage point difference
<b>New criminal charges</b>	<b>21.31%</b> <b>(2,565)</b>	<b>23.63%</b> <b>(1,718)</b>	<b>2.32***</b>
<b>New felony charges</b>	<b>4.15%</b> <b>(500)</b>	<b>6.48%</b> <b>(471)</b>	<b>2.33***</b>
New violent felony charges	0.65% (78)	0.96% (70)	0.31*
New non-violent felony charges	3.83% (461)	6.09% (443)	2.26***
<b>New non-traffic misdemeanor charges</b>	<b>10.56%</b> <b>(1,271)</b>	<b>13.62%</b> <b>(990)</b>	<b>3.06***</b>
New violent non-traffic misdemeanor charges	2.31% (278)	3.60% (262)	1.29***
New non-violent non-traffic misdemeanor charges	9.73% (1,171)	12.31% (895)	2.58***
<b>New traffic misdemeanor charges</b>	<b>15.76%</b> <b>(1,897)</b>	<b>15.97%</b> <b>(1,161)</b>	<b>0.21</b>

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of individuals with new pretrial charges that have \*\*\* listed have less than a .1% chance of being observed due to chance. The pre-implementation period includes 12,039 White served with charges in 2019 where the cases were disposed of by December 31, 2020. The post-implementation period includes 7,269 White individuals served with charges in 2020 where the cases were disposed of by December 31, 2021. The table above shows the percentages of those people who acquired new pretrial criminal charges while their original charges were pending.

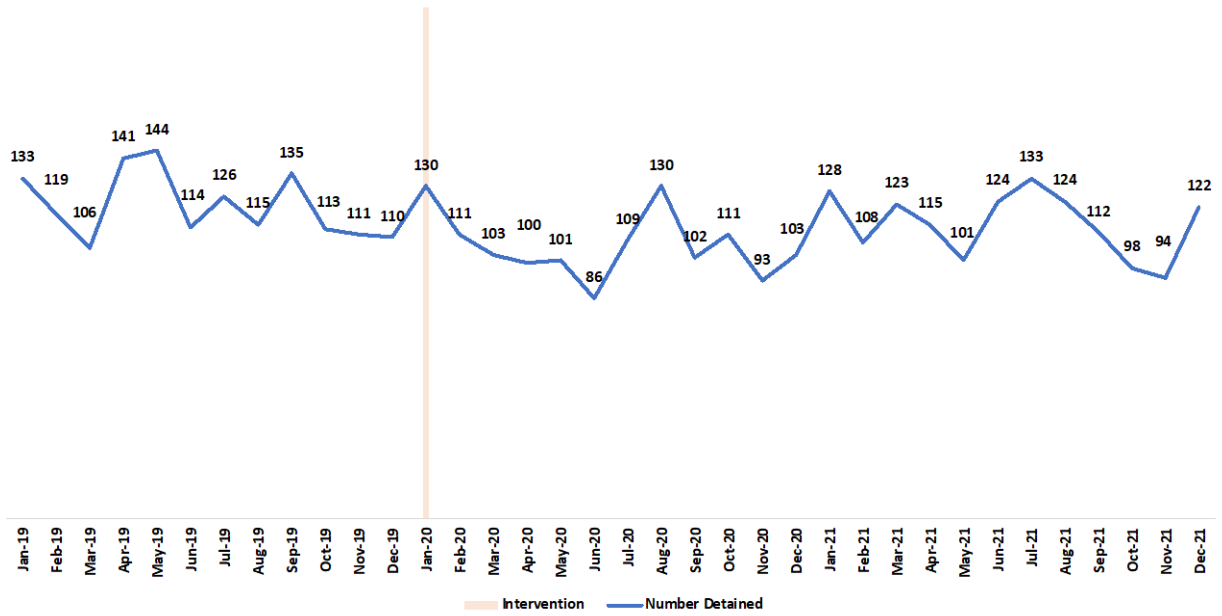
# Appendix H – Pretrial Detention (Supplemental Analyses)

Figure H – 1. Number of misdemeanor pretrial detentions by month, January 2019 to December 2021

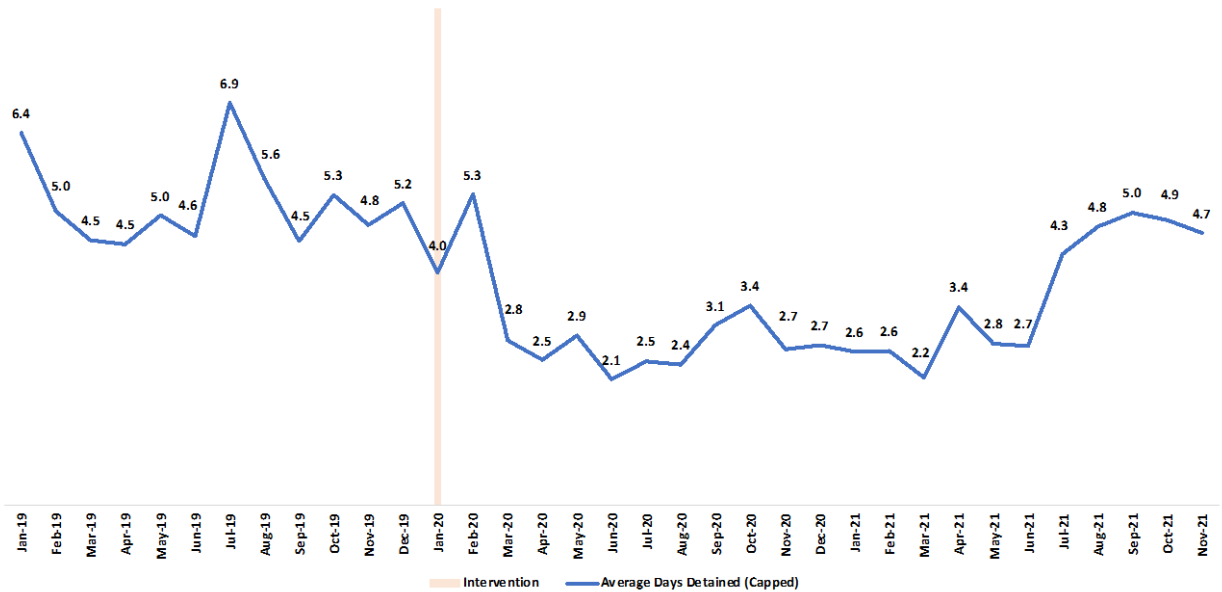




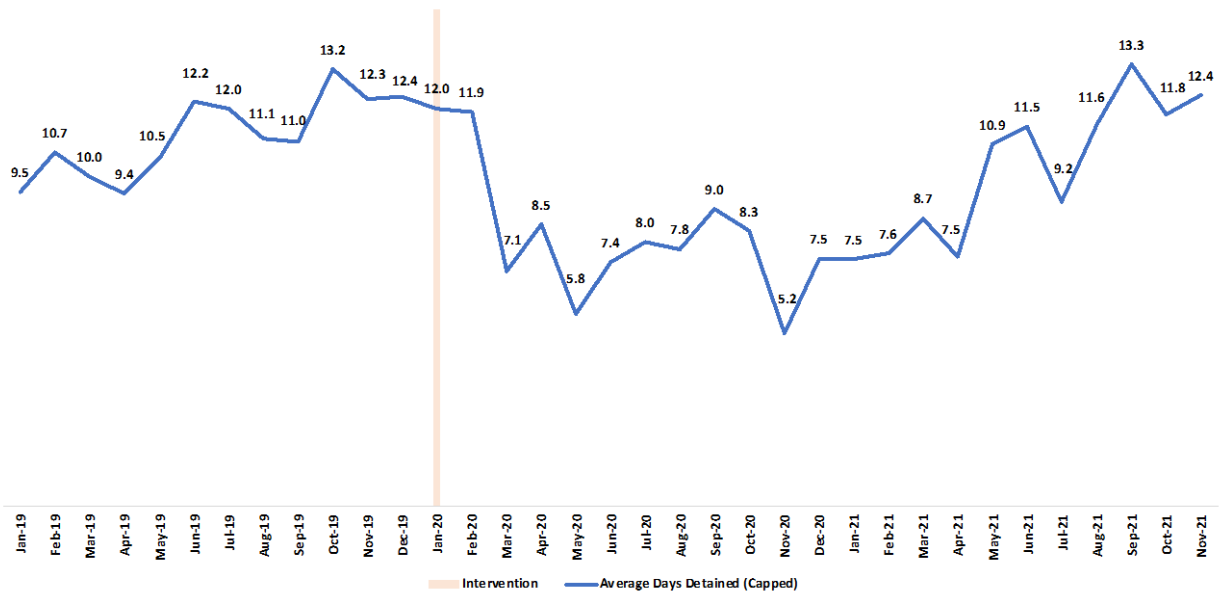
**Figure H - 2. Number of felony pretrial detentions by month, January 2019 to December 2021**



**Figure H - 3. Average misdemeanor detention length by month, January 2019 to November 2021**



**Figure H – 4. Average felony detention length by month, January 2019 to November 2021**



**Table H – 1. Changes in detention length by race and highest charge**

<b>All bookings</b>							
	<b>Pre-implementation (Black individuals)</b>	<b>Post-implementation (Black individuals)</b>	<b>Percentage point change (Black individuals)</b>	<b>Pre-implementation (White individuals)</b>	<b>Post-implementation (White individuals)</b>	<b>Percentage point change (White individuals)</b>	<b>Amount of change differs by race?</b>
0 Days	36.7%	33.4%	-3.3**	34.1%	32.8%	-1.3	No
1 Days	18.0%	25.9%	4.9***	19.0%	24.6%	5.6***	No
2 – 3 Days	15.9%	17.4%	1.5	16.2%	16.7%	0.5	No
4 – 30 Days	17.3%	13.8%	-3.5***	20.9%	16.8%	-4.1**	No
31+ Days	12.2%	9.5%	-2.7***	9.8%	9.1%	-0.7	No
Average days detained – Capped	6.4	5.2	-1.2 days***	6.1	5.4	-0.7 day**	No
Average days detained – Raw	19.6	14.1	-5.5 days***	17.5	14.0	-3.5 days*	No
Median days detained	1	1	0 days	1	1	0 days	No
<b>Misdemeanor bookings</b>							
0 Days	31.7%	32.0%	0.3	37.8%	39.1%	1.3	No
1 Days	22.4%	32.4%	10.0***	23.1%	31.8%	8.7***	No
2 – 3 Days	18.4%	19.6%	1.2	17.6%	14.4%	-3.2*	Yes
4 – 30 Days	18.1%	10.9%	-7.2***	16.5%	11.4%	-5.1***	No
31+ Days	9.4%	5.1%	-4.3***	5.0%	3.2%	-1.8*	No
Average days detained – Capped	5.9	3.6	-2.3 days***	4.4	3.0	-1.4 days***	No
Average days detained – Raw	8.8	5.9	-2.9 days***	6.1	4.1	-2.0 days***	No
Median days detained	1	1	0 days	1	1	0 days	No
<b>Felony bookings</b>							
0 Days	31.1%	31.3%	0.2	22.9%	25.0%	2.1	No
1 Days	13.8%	19.2%	5.4***	12.0%	16.5%	4.5**	No
2 – 3 Days	10.2%	13.4%	3.2*	11.9%	14.4%	2.5	No
4 – 30 Days	19.2%	17.4%	-1.8	28.2%	22.7%	-5.5**	No
31+ Days	25.7%	18.7%	-7.0***	25.1%	21.5%	-3.6	No
Average days detained – Capped	10.7	8.4	-2.3 days***	11.6	10.1	-1.5 days***	No
Average days detained – Raw	53.0	31.3	21.7 days***	48.8	34.2	-14.6 days**	No
Median days detained	2	1	-1 day	4	2	-2 days	No

Note. \*: Significant at  $p < .05$ . \*\*: Significant at  $p < .01$ . \*\*\*: Significant at  $p < .001$ . P-values represent the probability that the observed differences are the result of chance. For example, differences in average detention length that have \*\*\* listed have less than a 0.1% chance of being observed due to chance. In the above graph, significance (asterisks) indicates, depending upon the metric, that either the share of individuals detained a given length of time (e.g., 31+ days) was significantly different in the post-treatment period or that the average detention length was significantly different in the post-treatment period.

The Amount of Change Differs by Race column shows whether there were significant differences between Black and White individuals in changes in detention length between the pre- and post-implementation periods. For example, the share of Black individuals detained 0 days fell a statistically significant 3.3 percentage points, and the share of White individuals detained 0 days fell a not statistically significant 1.3 percentage points. However, the difference between these two declines is not significant, suggesting that the observed difference in these declines may be due to chance and not because they are significantly different from one another. The only statistically significant difference in changes in detention lengths for Black and White individuals was for stays of 2-3 days for misdemeanor bookings, which indicates that changes in stays of 2-3 days between the pre- and post-implementation periods were significantly different between Black and White individuals.

© 2022

School of Government

The University of North Carolina at Chapel Hill

Use of this publication for commercial purposes or without acknowledgment of its source is prohibited. Reproducing, distributing, or otherwise making available to a non-purchaser the entire publication, or a substantial portion of it, without express permission, is prohibited. For permissions questions or requests, email the School of Government at [copyright\\_permissions@sog.unc.edu](mailto:copyright_permissions@sog.unc.edu). Other School reports can be accessed on the Publications page of our website: [sog.unc.edu/publications](http://sog.unc.edu/publications).