

# Bail Reform in North Carolina Judicial District 2

## Evaluation Report

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# Executive Summary

Seeking to promote a fair and effective pretrial justice system, North Carolina Judicial District 2 (JD 2) adopted two reforms effective January 1, 2020:

- (1) A new structured decision-making tool to better inform judicial officials' pretrial decisions and ensure compliance with constitutional and statutory requirements.
- (2) New first appearance proceedings for individuals in custody on misdemeanor charges.

We conducted an empirical evaluation of those reforms. The formal evaluation began in 2020 and continued through June 30, 2021. This report presents our findings. Key findings include:

## **Magistrate Decision-Making**

- Magistrates adhered to the decision-making tool's recommendations in the vast majority of cases (74.82%).
- Magistrates imposed secured bonds in just over half of cases (54.22%), with secured bonds most likely to be imposed for Class A–E felony charges (80.00%) and decreasing in use for intermediate-level offense charges (53.84%) and Class 3 misdemeanor charges (36.15%), which were the target of reforms. When mandatory bond doubling cases are removed from analysis, the percent of secured bonds imposed in Class 3 misdemeanor cases fell substantially to 25.00%, a number that better reflects magistrates' discretionary decision-making.
- Median bond amounts imposed by magistrates decreased as the severity of the offense category decreased. Cases involving Class A–E felony charges had the highest median secured bond amounts (\$100,000), followed by intermediate-level offense charges (\$5,000), and then Class 3 misdemeanor charges (\$1,000 for all charges; \$750 when bond doubling cases are removed; \$500 when miscategorized cases are removed).
- When choosing between written promise, custody release, or unsecured bond, magistrates most frequently imposed unsecured bonds (41.31% unsecured bond; 3.28% written promise; 1.77% custody release).
- There were no statistically significant racial differences between individuals who received secured bonds for Class A–E felonies or Class 3 misdemeanors. Intermediate-level cases involving Black individuals were more likely to receive a secured bond than cases involving White individuals, but this difference disappeared when we accounted for case-specific factors, such as prior conviction and history of failure to appear.
- Median secured bond amounts were the same for Black and White individuals whose highest charge was a Class A–E felony or intermediate-level offense. However, median bond amounts for Class 3 misdemeanors were higher for Black individuals (\$1,500) than White individuals (\$400).
- There was variation among the District's five counties in the rate of imposition of secured bonds. Additionally, there was variation among individual magistrates regarding use of secured bonds, median secured bond amounts, and deviations from the decision-making tool's recommendations, especially for intermediate-

level offense charges. Supplemental analyses, however, revealed that differences between magistrates in imposition of secured bond for intermediate-level offense charges was explained by case-specific factors, such as record of prior convictions or history of failure to appear.

- Magistrates were executing forms without completeness or fidelity issues in the vast majority of cases (85.26% without any issues; 89.83% without completeness issues; 93.94% without fidelity issues), suggesting successful implementation of the new tool.

### **First Appearance Proceedings**

- The new first appearances proceedings are affording individuals an opportunity for early release from pretrial detention. 38.10% of the misdemeanor detainees who were afforded a new first appearance were released on a condition other than a secured bond after that proceeding.

### **Pretrial Failures**

- The District experienced a relatively small but statistically significant increase (1.92 percentage points) in new pretrial criminal activity. However, results were not consistent across all five counties. While there was no statistically significant change in Hyde, Martin, and Tyrrell Counties, Beaufort and Washington Counties experienced statistically significant increases of 2.27 and 4.72 percentage points respectively. Although Beaufort and Washington Counties experienced a percentage point increase in this metric, the absolute number of individuals who acquired new pretrial criminal charges decreased in both jurisdictions. Among those who acquired new pretrial criminal charges in Washington County, the largest statistically significant increase was in non-violent misdemeanor charges. Among the same group in Beaufort County, no offense subcategory results were statistically significant.
- There was no statistically significant change in court non-appearance rates in four of the District's five counties (Beaufort, Martin, Hyde and Tyrrell Counties). Washington County, however, experienced a statistically significant 2.73 percentage point increase in this metric, recording 89 instances of non-appearances in the pre-implementation period and 91 in the post-implementation period.
- Changes in new pretrial criminal charges and court non-appearances were the same for Black and White individuals.

### **Pretrial Detention**

- The average number of pretrial bookings per month significantly decreased 33.90% after reforms were implemented.
- Decreases in bookings were comparable for White and Black individuals.
- There was no significant change in detention length after implementation of reforms.

# 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>1</sup> Judicial District 30B became the state's first such pilot project, with reforms effective January 1, 2019. Promising early reports on the initiatives implemented in Judicial District 30B,<sup>2</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 JD 2's judicial system leaders. In 2019, the Senior Resident Superior Court Judge and Chief District Court Judge convened a committee to explore whether reforms were needed in JD 2 and if so, what reforms should be implemented. The committee included:

- Senior Resident Superior Court Judge
- Chief District Court Judge
- Elected District Attorney and office staff
- Public Defender and office staff
- Magistrates
- Clerks of Court and office staff
- Representatives from the Sheriffs' offices
- Representatives from the police departments
- Detention center officers
- Judicial District administrative staff

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.

## About the District

JD 2 consists of five counties in Eastern North Carolina: Beaufort, Hyde, Martin, Tyrrell, and Washington. Several features of the counties are displayed in Table 1 below; their geographic location in the state is shown in Figure 1 below.

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<sup>1</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>2</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://cjil.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://cjil.sog.unc.edu/files/2020/04/March-2020-Final-Report-30B-Project-Part-2.pdf>.

**Table 1. About Judicial District 2**

| County     | Population Total <sup>1</sup> | Racial Composition %<br>White / Black /<br>Am. Indian /<br>Hispanic <sup>2</sup> | 2020 General Election %<br>Trump / Biden <sup>3</sup> | 2018 Violent Crime Rate / Property Crime Rate<br>(State Rate: 358 / 2,413) <sup>4</sup> | Median Household Income 2019 <sup>5</sup> | Poverty Rate 2019 <sup>6</sup> | Unemployment Rate 2020 <sup>7</sup> |
|------------|-------------------------------|--|---|---|---|--------------------------------|-------------------------------------|
| Beaufort   | 46,994                        | 65.9% / 24.8% / 1.0% / 8.0%  | 62% / 37%   | 221 / 2,053   | \$49,410                                  | 17.6%                          | 6.3%                                |
| Hyde       | 4,937                         | 61.8% / 26.7% / 0.8% / 9.8%  | 57% / 42%   | NA / NA   | \$43,112                                  | 19.2%                          | 10.2%                               |
| Martin     | 22,440                        | 52.3% / 42.1% / 0.6% / 4.1%  | 52% / 47%   | 500 / 2,864   | \$39,413                                  | 20.6%                          | 6.9%                                |
| Tyrrell    | 4,016                         | 49.1% / 38.1% / 0.9% / 9.4%  | 57% / 42%   | 139 / 696   | \$37,680                                  | 25.4%                          | 8.9%                                |
| Washington | 11,922                        | 44.2% / 48.9% / 0.9% / 5.6%  | 45% / 55%   | NA / NA   | \$40,157                                  | 21.3%                          | 8.2%                                |

Notes.

<sup>1</sup> United States Census Bureau, *Quick Facts*, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited Aug. 5, 2021).

<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 – 2019 (2020) (2018 data is displayed because it is more complete than available 2019 data; 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://ncsbi.gov/Services/SBI-Statistics/SBI-Uniform-Crime-Reports/2019-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 JD 2**



## Process

The committee met several times in 2019. Committee members were focused primarily on the negative consequences of unnecessary pretrial detentions for individuals charged with lower-level crimes. Specifically, they focused on those individuals 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 the cost of pretrial detentions 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. Committee 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 likely to succeed pretrial undermines public safety and the fairness and effectiveness of the local pretrial justice system. The committee adopted two 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. The two reforms include:

- (1) A new structured decision-making tool to better inform judicial officials' pretrial decisions and ensure compliance with constitutional and statutory requirements.
- (2) New first appearance proceedings for individuals in custody on misdemeanor charges.

The entire committee worked on the first initiative; a subcommittee led by the Chief District Court Judge did preliminary work and prepared a recommendation to the full committee on the second initiative.

After committee members reached consensus on needed reforms, they approved detailed implementation plans. Those plans specified tasks to be completed, and for each task, person(s) responsible, due dates, and other relevant information. Executing the implementation plans 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. Both reforms became effective January 1, 2020.

## Implemented Reforms

### Structured Decision-Making Tool

The District's old Local Bail Policy included a table suggesting bond amounts based on the punishment class of the charged offense. Best practices recommend against the use of such tables.<sup>3</sup> Additionally, stakeholders determined that although the current charge's offense class is relevant to the bail decision, other factors regarding the individual and the circumstances of the offense should be considered in assessing appropriate conditions of pretrial release and that consideration of additional factors is required by state law.<sup>4</sup> Moreover there was some concern that the use of a bond table may push decision-makers towards a presumption of secured bond in contravention of state law, which requires release on a written promise, custody, or unsecured bond unless the decision-maker 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>5</sup>

And finally, stakeholders 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 people 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 with constitutional and statutory requirements.

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>6</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

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<sup>3</sup> AMERICAN BAR ASSOCIATION, ABA STANDARDS FOR CRIMINAL JUSTICE: PRETRIAL RELEASE, Standard 10-5.3(e) (3d ed. 2007) ("Financial conditions should be the result of an individualized decision taking into account the special circumstances of each defendant, the defendant's ability to meet the financial conditions and the defendant's flight risk, and should never be set by reference to a predetermined schedule of amounts fixed according to the nature of the charge."), [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/pretrial\\_release.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/pretrial_release.pdf).

<sup>4</sup> G.S. 15A-534(c).

<sup>5</sup> G.S. 15A-534(b).

<sup>6</sup> For example, when a secured bond is required by law.



“determines that such release will not reasonably assure the appearance of the individual 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>7</sup>

- Creating a presumption of conditions other than a secured bond for individuals charged with Class 3 misdemeanors.
- Providing an easily implemented checklist to quickly identify additional individuals 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, to be used only if the decision-making process allows for imposition of a bond or if a deviation from that process is required.
- Preserving discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

The new tool was incorporated into a new Local Bail Policy issued by the Senior Resident Superior Court Judge. To facilitate adoption of the tool, a new Magistrate Bail Explanation Form was created for use by magistrates (Appendix B).

### First Appearances for Individuals Detained on Misdemeanor Charges

The second reform provides new first appearance proceedings for individuals detained on misdemeanor charges. State law requires a first appearance for individuals detained on felony charges within 96 hours of being taken into custody or at the first regular session of the district court, whichever occurs first. Because state law does not require first appearances for individuals detained on misdemeanor charges, these individuals may sit in jail for weeks or more until their first court date. This can lead to scenarios where individuals charged with misdemeanors are incarcerated pretrial when the charged offense cannot result in a custodial sentence upon conviction or where they are incarcerated pretrial for a longer period than they could receive in a custodial sentence if convicted. Additionally, stakeholders learned of research suggesting that pretrial detention of individuals charged with low-level offenses has negative public safety consequences and negative case outcomes for those individuals. These reasons support providing first appearances for individuals detained on misdemeanor charges to ensure prompt judicial review of the magistrate’s bond determination and a determination that detention is warranted because of pretrial risk as opposed to inability to pay financial conditions.

The new first appearances are held weekly in three of the District’s counties: Washington, Beaufort, and Martin. For the two counties—Hyde and Tyrrell—where district court is held only every other week, the appearances are held on that schedule. To promote judicial efficiency, the new first appearances are held at 2 pm in district court. The District Attorney’s Office makes criminal history records available to the Public Defender’s Office prior to the hearings. Assistant public defenders meet with

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

detained individuals prior to the first appearance, review criminal history records and represent individuals at the first appearance proceedings.

## Empirical Evaluation & This Report

With the support of the Senior Resident, Smith and the UNC School of Government Criminal Justice Innovation Lab applied for grant funding to execute an empirical evaluation of implemented reforms. Funding for the evaluation was provided by the Charles Koch Foundation. The Foundation had no involvement in the committee's work or in the preparation of this report.

The empirical evaluation began in 2020 and ran through June 30, 2021.

A draft of this report was circulated to committee members in September, and they were invited to submit feedback to us. Additionally, we met with committee members to discuss the report and receive additional feedback from them. Additional feedback on the draft report was provided by Sarah L. Desmarais, Senior Vice President of Policy Research Associates, who serves as a research consultant on this project.<sup>8</sup>

## Findings

### Magistrate Decision-Making

#### Conditions of Release: Overall

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 12-month period from July 1, 2020 to June 30, 2021.

#### 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.

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—we found a high rate of adherence to the tool's recommendations.

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<sup>8</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; and UNC School of Government Legal Research Associate Christopher Tyner.

Magistrates set conditions in 2,027 forms. 168 forms (8.28%) were removed from analyses because of one or more completeness or fidelity issue deemed critical to the analysis.<sup>9</sup> In the remaining 1,859 forms, magistrates adhered to the decision-making tool's recommendations in the vast majority of cases. Specifically, they followed the tool's recommendations in 1,391 forms (74.82% of forms), while deviating from the tool's recommendations in 468 forms (25.17% of forms).<sup>10</sup> Of the 468 forms in which magistrates reported deviating from recommendations, they reported deviating from the recommendation to impose an unsecured bond, written promise, or custody release in 220 forms (47.00% of deviations), opting instead to impose a secured bond. In 248 forms (52.99% of deviations), magistrates reported deviating from the recommendation to impose a secured bond within the maximum dollar amount, opting instead to impose a secured bond above the maximum dollar amount or to impose a written promise, custody release, or unsecured bond.

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

Table 2a shows the percent of conditions of release by offense category for the 1,859 forms included in these analyses. Magistrates imposed secured bonds in 54.22% of all cases, with secured bonds most likely to be imposed when individuals were charged with Class A–E felonies and decreasing in use for cases involving “intermediate-level” offense charges (defined by local policy to include Class A1-2 misdemeanors and Class F-I felonies) and Class 3 misdemeanors. Magistrates imposed secured bonds in 80.00% of cases where individuals were charged Class A–E felonies; in 53.84% of cases where individuals were charged with intermediate-level offenses; and in 36.15% of cases where individuals were charged with Class 3 misdemeanors. This general pattern tracks

<sup>9</sup> These issues included forms where magistrates:

- failed to record the final bond type (29 forms or 17.26% of forms with issues);
- recorded multiple conditions (e.g., written promise and secured bond) (8 forms or 4.76%);
- failed to record whether they were following or deviating from policy recommendations (20 forms or 11.90%);
- recorded that they were simultaneously following and deviating from policy (45 forms or 26.79%);
- recorded multiple or incorrect offense classes (59 forms or 35.12%);
- recorded that a secured bond was being set but then checked deviate from recommendation to set a secured bond, which would indicate that they were setting a written promise, unsecured bond, or custody release (19 forms or 11.3%);
- recorded that the judge had set condition in response to a FTA in Step 1 but then completed the form (21 forms or 12.5%);
- completed the form for a juvenile (1 form or .59% of forms).

Additionally, some forms were removed for multiple reasons, such as 20 forms (11.90%) for which magistrates failed to record a final condition and whether they were adhering to or deviating from the decision-making tool's recommendation.

<sup>10</sup> As discussed in Background; Implemented Reforms above, the new tool preserves discretion by allowing for deviations from all tool recommendations, provided that deviations are documented. We treated a magistrate's decision-making as a deviation when (a) the magistrate expressly recorded making a deviation on the form; and (b) when an individual charged with a Class 3 misdemeanor was issued a secured bond, even if the magistrate did not expressly record making a deviation. We treated the latter situation as a deviation because the decision-making tool creates a presumption that Class 3 misdemeanor charges will receive a condition other than secured bond, meaning that a variation from that recommendation is a deviation.

expected results from the new tool: that rates of imposition of secured bonds would decrease as offense categories become less serious.

However, we were surprised to see secured bonds imposed in about one-third of Class 3 misdemeanor cases, the lowest level criminal offense and the target of the reforms. In conversations with magistrates early in our evaluation, they indicated that mandatory bond doubling cases may be influencing the high rate of imposition of secured bonds in Class 3 misdemeanor

In cases where magistrates had discretion, they issued conditions other than secured bond in nearly 50% of all cases & in over 75% of target cases

charge cases.<sup>11</sup> We thus executed a supplemental analysis, removing from the sample cases where the magistrate clearly indicated, either in the offense description or in the deviation explanation, that the mandatory statutory bond doubling rule applied. In those cases, magistrates were required by law to impose a secured bond, and we wanted to explore if that mandate was impacting results for these low-level offense charges. As shown in Table 2b, when mandatory bond doubling cases are removed from analysis, the rate of imposition of secured bonds by magistrates in Class A–E felony and intermediate-level charge cases remained constant. However, the percent of secured bonds imposed in cases involving Class 3 misdemeanor charges fell substantially to 25.00%. These results better reflect magistrates’ discretionary decision-making. Additionally, they highlight the impact of the statutory bond doubling rule.<sup>12</sup>

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Practice Consideration for Stakeholders: Statutory bond doubling only applies when the judge fails to specify conditions in the OFA. If judges wish to avoid mandatory bond doubling in OFAs for certain cases involving Class 3 misdemeanor charges, they could do so by pre-setting conditions in the OFA.

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<sup>11</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). 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 that clearly indicated 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 data set examined in our supplemental analysis.

<sup>12</sup> At a February 2021 stakeholder meeting where we presented early evaluation results, a stakeholder suggested that an increase in criminal summonses may be impacting the rate at which magistrates were imposing secured bonds for misdemeanor charges. When a summons is used to charge a misdemeanor, no arrest is made and thus the individual is not brought before the magistrate for conditions. In this way, increased use of the criminal summons as a charging instrument may change the “mix” of cases before the magistrate. However, the data do not validate this hypothesis. Although we found a substantial increase in use of the criminal summons (as a percentage of cases charged by summons or warrant for arrest) for 4 months of 2020 as compared to 2019, that was not true for the remaining months of 2020.

**Table 2a. Percent conditions of release by highest offense category in magistrate bail forms, July 1, 2020 to June 30, 2021**

| Type of Condition  | All cases     | Class A – E felonies | Class F - I felony & Class 2 – A1 misdemeanors | Class 3 misdemeanors |
|--|---------------|----------------------|--|----------------------|
| <b>Written promise, custody release, or unsecured bond</b> | <b>45.77%</b> | <b>20.00%</b>        | <b>46.16%</b>                                  | <b>63.85%</b>        |
| Written promise  | 3.28%         | 0.00%                | 3.41%  | 4.62%                |
| Custody release  | 1.77%         | 0.00%                | 1.86%  | 1.77%                |
| Unsecured bond   | 41.31%        | 20.00%               | 41.51%   | 57.69%               |
| <b>Secured bond</b>  | <b>54.22%</b> | <b>80.00%</b>        | <b>53.84%</b>                                  | <b>36.15%</b>        |
| Median secured bond  | \$5,000       | \$100,000            | \$5,000  | \$1,000              |

**Table 2b. Percent conditions of release by highest offense category in magistrate bail forms, July 1, 2020 to June 30, 2021—bond doubling cases removed**

| Type of Condition  | All cases     | Class A – E felonies | Class F - I felony & Class 2 – A1 misdemeanors | Class 3 misdemeanors |
|--|---------------|----------------------|--|----------------------|
| <b>Written promise, custody release, or unsecured bond</b> | <b>46.10%</b> | <b>19.09%</b>        | <b>46.62%</b>                                  | <b>75.00%</b>        |
| Written promise  | 3.48%         | 0.00%                | 3.51%  | 7.89%                |
| Custody release  | 1.88%         | 0.00%                | 1.92%  | 2.63%                |
| Unsecured bond   | 41.37%        | 19.09%               | 41.83%   | 64.47%               |
| <b>Secured bond</b>  | <b>53.90%</b> | <b>80.91%</b>        | <b>53.38%</b>                                  | <b>25.00%</b>        |
| Median secured bond  | \$5,000       | \$100,000            | \$5,000  | \$750                |

We expected that bond amounts would increase as cases increased in severity from Class 3 misdemeanor charges at the low end, to intermediate-level offense charges, and to Class A–E felony charges at the high-end. As shown in Table 2a, this in fact occurred. In forms where magistrates recorded imposing a secured bond, bond amounts increased as the offense charge category increased, with Class 3 misdemeanor charges having the smallest median secured bond amounts (\$1,000), followed by intermediate-level offense charges (\$5,000), and with Class A–E felony charges having the highest median secured bond amounts (\$100,000).

As shown in Table 2b, when bond doubling cases are removed from the sample, the median bond amount for Class 3 misdemeanors is \$750. That amount is higher than the maximum bond amounts for Class 2 misdemeanors (\$500) in the bond table shown in Appendix A. When we discussed this issue with stakeholders at a February 2021 meeting, they requested more detail on the nature of the charges at issue in these cases. After that meeting, we examined every charge that was listed as a Class 3 misdemeanor by magistrates and assigned a secured bond. We found that for several offenses with larger bond amounts, magistrates had miscategorized higher level misdemeanors as Class 3 misdemeanors. When those forms are removed from analysis, the median bond amount for Class 3 misdemeanors dropped to \$500, a substantial reduction. We note however that \$500 is the maximum bond amount for more serious Class 2 misdemeanors.

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**Policy Consideration for Stakeholders:** When establishing the new recommended maximum bond tables, District stakeholders intentionally opted not to include a recommended maximum amount for Class 3 misdemeanors. The absence of such a recommended maximum may be resulting in magistrates using the \$500 recommended maximum for Class 2 misdemeanors as the relevant benchmark.

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Table 2a also shows that when choosing between written promise, custody release or unsecured bond, magistrates most frequently chose unsecured bonds (41.31% of all cases). Magistrates very rarely recorded ordering custody releases (in only 1.86% of intermediate-level cases; 1.77% of Class 3 misdemeanor cases). They ordered written promises at a slightly higher rate (3.41% of intermediate-level offense cases; 4.62% of Class 3 misdemeanor cases). These results indicate a heavy reliance on financial conditions.

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**Policy Consideration for Stakeholders:** If stakeholders are interested to reduce reliance on unsecured bonds, one option would be amending local policy to express a preference for non-financial conditions (written promise or custody release) over financial ones.

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## 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>13</sup> As shown in Table 3, we found no statistically significant differences in the use of secured bonds for Class A–E felonies or Class 3 misdemeanors between White and Black individuals. This initial analysis, however, showed significant racial differences in the likelihood of receiving a secured bond for intermediate-level offenses. Specifically, the odds of receiving a secured bond were 1.30 times higher for intermediate-level cases involving Black individuals as compared to cases involving White individuals. Table 3 shows that 55.79% of intermediate-level cases with a Black individual received a secured bond compared to 49.13% of intermediate-level cases where the individual was White.

However, supplemental analyses (see Appendix D) revealed that racial differences in receiving a secured bond in intermediate cases became non-significant when we accounted for relevant legal factors including prior convictions, history of failure to appear, and whether the offense involved violence or was committed while the individual was on pretrial release or supervised probation.<sup>14</sup> For instance, the predicted probability of receiving a secured bond was 90.9% for intermediate-level cases involving a White individual who had a history of failure to appear and prior convictions, compared to 92.9% for intermediate cases involving a Black individual with the same history. Once legal factors were considered, the racial differences in the likelihood of receiving a secured bond for intermediate-level offenses largely disappeared.<sup>15</sup>

There were no statistically significant differences in the use of secured bonds for Class A-E felonies or Class 3 misdemeanors between White and Black individuals. Racial differences in the use of secured bonds for intermediate-level cases became insignificant once we accounted for relevant legal factors.

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<sup>13</sup> We restricted our analyses to forms: (1) that were free from fidelity or completeness errors; (2) where the magistrate set the condition of the release rather than the judge; (3) where magistrates correctly categorized the offense, and (4) where the bond doubling statute did not apply.

Data for race was obtained by merging ACIS data into our database of recorded magistrate bail form decisions. We were able to match 82.16% of the 1,755 forms in our database to ACIS data. We restricted our analyses to cases involving Black and White individuals.

<sup>14</sup> All of these facts are recorded in Step 3 of the Magistrate Bail Explanation Form.

<sup>15</sup> We also found that the odds of deviating from the recommended condition were 45% higher for intermediate-level cases involving Black individuals compared to cases involving White individuals, and this difference was statistically significant ( $p < .001$ ). This difference disappeared after controlling for prior convictions. For instance, the probability of deviating from the recommended condition was .33 for intermediate cases involving Black individuals with a prior conviction compared to .26 for intermediate cases involving White individuals with a prior conviction. No other legal factor helped explain the higher prevalence of deviations for intermediate cases involving Black individuals.

Table 3 also shows that median secured bond amounts were the same for Black and White individuals for all offenses, Class A–E felony charges, and for an intermediate-level charges. For Class 3 misdemeanor charges, Black individuals had a higher median secured bond amount (\$1,500) than White individuals (\$400). The range of secured bond amounts for Class 3 misdemeanors also differed between Black individuals (\$500 - \$20,000)<sup>16</sup> and White individuals (\$300 - \$1,000).<sup>17</sup> When the outlier \$20,000 secured bond is removed, the median secured bond for Black individuals is \$1,000.

Bond amounts were similar across race for all offense categories except Class 3 misdemeanors, where bond amounts were higher for Black individuals

**Table 3. Percent of secured bonds & median secured bond amounts by race & highest offense category, July 1, 2020 to June 30, 2021 – bond doubling cases removed**

| Percent secured bond       | All cases | Class A–E felonies | Intermediate-level offenses | Class 3 misdemeanors |
|----------------------------|-----------|--------------------|-----------------------------|----------------------|
| Black                      | 42.27%    | 81.69%             | 55.79%*                     | 17.50%               |
| White                      | 39.35%    | 78.95%             | 49.13%                      | 18.18%               |
| Median secured bond amount | All cases | Class A–E felonies | Intermediate-level offenses | Class 3 misdemeanors |
| Black                      | \$5,000   | \$100,000          | \$5,000                     | \$1,500              |
| White                      | \$5,000   | \$100,000          | \$5,000                     | \$400                |

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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance. Here, the asterisk indicates that the difference in the likelihood of receiving a secured bond for intermediate-level cases involving Black individuals compared to those involving White individuals was statistically significant.

### Conditions of Release: By County & Magistrate

We also examined whether the general pattern of decision-making varied across counties and across individual magistrates. Table 4a shows that the pattern of decision-making is consistent across counties with the percent of secured bonds decreasing as the seriousness of the highest charged offense decreases; Table 4b shows those results when bond doubling cases are removed. In all counties, Class A–E felony charges are most likely to receive a secured bond, followed by intermediate-level offense charges, and then Class 3 misdemeanor charges. There is, however, considerable variation among counties in the use of secured bonds for each of the three case categories. For instance, when bond doubling cases are removed (Table 4b), Martin County magistrates imposed a secured bond in 22.22% of Class 3 misdemeanor cases, but Tyrrell County magistrates imposed a

<sup>16</sup> The \$20,000 bond was imposed in a misdemeanor marijuana possession case. The magistrate explained the reasons for the deviation by noting that the individual had an “extensive criminal history including drug and assault offenses” and “prior convictions.”

<sup>17</sup> We did not statistically test for differences in the average secured bond amounts for Class 3 misdemeanors given that only 4 cases involving Black individuals were given a secured bond once 3 forms where the offense was miscategorized were removed.



secured bond in only 11.11% of those cases.<sup>18</sup> Additionally, Beaufort County magistrates imposed a secured bond at a higher rate for all offense categories than the District's overall rate.

**Table 4a. Percent of secured bonds by highest offense category in magistrate bail forms, July 1, 2020 to June 30, 2021**

|                 | Class A-E<br>felonies | Intermediate-level<br>offenses | Class 3<br>misdemeanors |
|-----------------|-----------------------|--------------------------------|-------------------------|
| Beaufort        | 87.50%                | 57.21%                         | 43.48%                  |
| Hyde            | 87.50%                | 11.43%                         | N/A                     |
| Martin          | 81.82%                | 60.00%                         | 23.81%                  |
| Tyrrell         | 66.67%                | 21.62%                         | 11.11%                  |
| Washington      | 60.87%                | 46.39%                         | 12.50%                  |
| Entire District | 80.00%                | 53.84%                         | 36.15%                  |

**Table 4b. Percent of secured bonds by highest offense category in magistrate bail forms, July 1, 2020 to June 30, 2021—bond doubling cases removed**

|                 | Class A-E<br>felonies | Intermediate-level<br>offenses | Class 3<br>misdemeanors |
|-----------------|-----------------------|--------------------------------|-------------------------|
| Beaufort        | 88.89%                | 56.80%                         | 29.41%                  |
| Hyde            | 87.50%                | 11.43%                         | N/A                     |
| Martin          | 81.86%                | 59.68%                         | 22.22%                  |
| Tyrrell         | 66.67%                | 20.83%                         | 11.11%                  |
| Washington      | 60.87%                | 46.11%                         | 14.29%                  |
| Entire District | 81.00%                | 53.38%                         | 24.68%                  |

When we examined decision-making at the individual magistrate level, we found variation among magistrates in the use of secured bonds, median secured bond amounts, and deviations from the decision-making tool's recommendations, especially for intermediate-level offense charges. For intermediate-level offenses, magistrates recorded imposing secured bonds in 0% to 76.67% of forms, with median secured bond amounts ranging from \$500 to \$10,000. For Class 3 misdemeanor charges, magistrates reported imposing secured bonds in 0% to 69.70% of forms, with median secured bond amounts ranging from \$1,000 to \$11,500.<sup>19</sup> Figure 2 displays rates of imposing secured bonds for

<sup>18</sup> Martin County magistrates set conditions for nine Class 3 misdemeanor charges (after bond doubling cases were removed). Of the nine forms, four noted that the highest charge was impaired driving (DWI); one form reported driving while license revoked (DWLR), not impaired as the highest charge; two forms reported second-degree trespassing as the highest charge; one form reported possession of marijuana less than ½ ounce as the highest charge; and one form reported reckless driving as the highest charge. Under the new procedure, DWI and reckless driving should be categorized as an intermediate-level offense, not a Class 3 misdemeanor. Concerned that these incorrect categorizations might have artificially inflated the magistrates' rate of imposition of secured bonds for Class 3 misdemeanor cases, we removed the five incorrectly categorized forms and found that magistrates imposed a secured bond in 25% of the remaining Class 3 misdemeanor forms (one form).

<sup>19</sup> We note that there was a wide range in the number of forms completed by magistrates. For Class A-E felonies, the range was 0 to 23; for intermediate-level offenses it was 5 to 283; for Class 3 misdemeanor charges it was 0 to 33. If a magistrate completed only two forms for an offense category and one required a secured bond, the magistrate's rate of imposing secured bonds would

intermediate-level offense charges across magistrates, relative to rate for the entire group. For example, Figure 2 shows that Magistrate #7 issued a secured bond in 65% of intermediate-level offense charges, a rate that was higher than the percent for the whole District (53.84%). That Figure also shows that 12 out of the District's 19 magistrates issued secured bonds at rate that was lower than the District's overall rate. For detailed information regarding variation among magistrates, see Appendix C.<sup>20</sup>

Figure 2 shows wide variation in the use of secured bonds for intermediate-level offenses across magistrates. We explored whether this variation can be explained by the types of



Variation among magistrates in use of secured bonds is explained by case-specific factors

cases presented to them. For example, a magistrate might issue more secured bonds than their colleagues if that magistrate encounters more cases involving individuals with prior failures to appear or who are on pretrial release at the time of arrest. In fact, supplemental analyses (Appendix D) showed that magistrates' likelihood of issuing a secured bond for intermediate-level offenses was related to the percent of cases presented where the individual was on pretrial release or supervised probation or had a prior failure to appear or conviction. For instance,

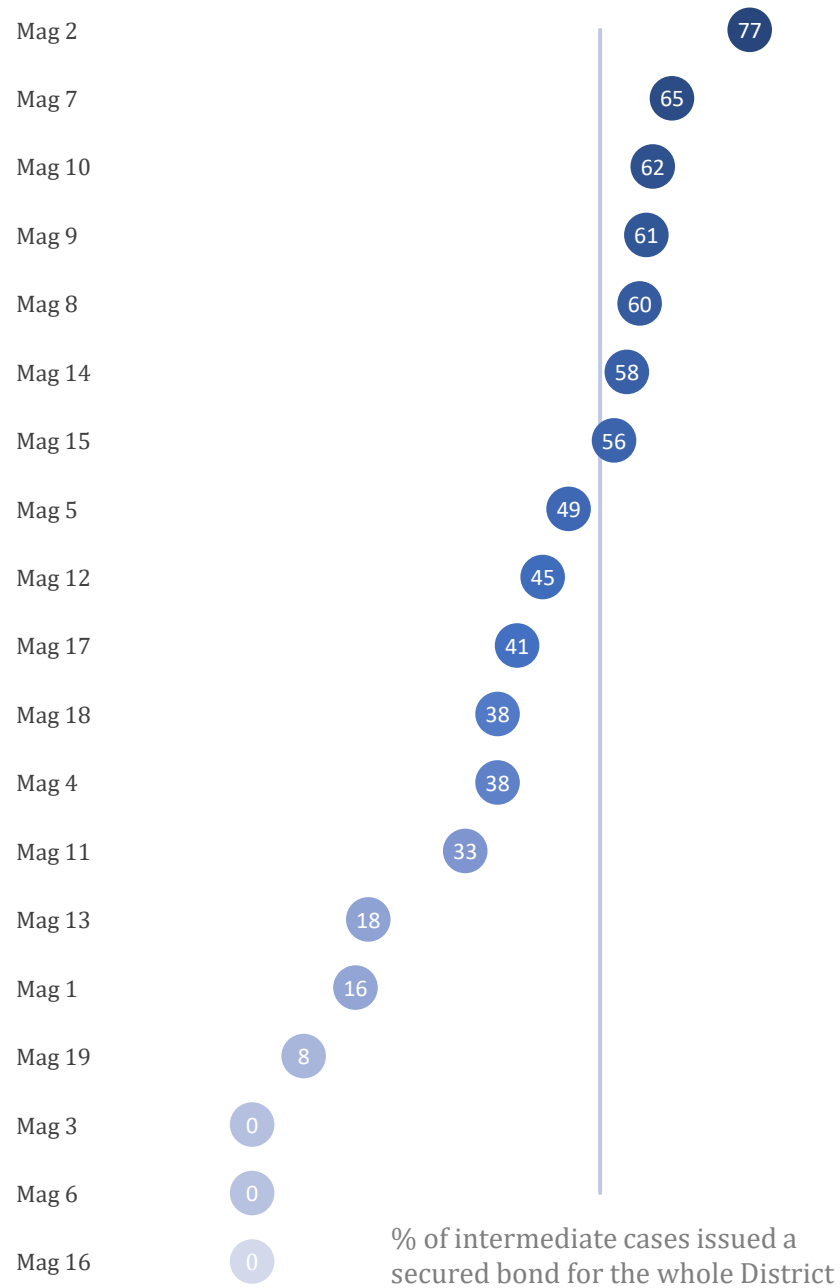
Magistrate #2 reported that 24.00% of intermediate cases had a history of failure to appear and set a secured bond in 76.67% of those cases. In contrast, Magistrate #15 reported that only 9.48% of intermediate cases had a prior failure to appear and set a secured bond in 55.65% of those cases. We found that case-specific factors explained the differences across magistrates in the use of secured bonds. That is, magistrates were more likely to impose a secured bond when the individual had a history of failure to appear, had one or more prior convictions, was on pretrial release when the offense at issue was committed, or was charged with a violent offense. Thus, differences in the use of secured bonds across magistrates were explained by these case-specific factors.

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be 50%, and perhaps not representative of what that magistrate's rate would be across a larger number of cases.

<sup>20</sup> We do not include a figure that displays magistrate decision-making for Class 3 misdemeanor charges because several magistrates did not set conditions for that charge category.

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



## Completeness & Fidelity Issues

Examining the quality of implementation can help explain why a reform may not have the desired or anticipated effect. To assess implementation, we examined a random sample of 875 forms completed for the 18-month period from March 1, 2020 to June 30, 2021 for completeness and fidelity issues.<sup>21</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.

Magistrates are executing forms without completeness or fidelity issues in the vast majority of cases, suggesting successful implementation

We found that magistrates are executing forms without completeness or fidelity issues in the vast majority of cases (85.26% without any issues; 89.83% without completeness issues; 93.94% without fidelity issues) suggesting that implementation of the new process is strong.<sup>22</sup> Table 5 shows the most common completeness and fidelity issues in the random sample.

**Table 5. Common fidelity & completeness issues—Magistrate bail forms**

| Completeness issues  | Fidelity issues   |
|--|---|
| <ul style="list-style-type: none"> <li>Not including the case number, individual name, or charge description at the top of the form (11.23%)</li> <li>Not noting the underlying offense for a FTA or probation violation (5.61%)</li> <li>Not checking a redundant box (43.82%)</li> <li>Not reporting the offense class (5.61%)</li> <li>Not reporting the final bail condition (7.86%) or bond amount (2.24%)</li> <li>Not completing Step 1 (19.10%)</li> <li>Not completing Step 2 (5.61%), Step 5 (4.49%), Step 6 (7.86%), or Step 7 (3.37%)</li> </ul> | <ul style="list-style-type: none"> <li>Not following the decision-making process (24.52%)</li> <li>Checking multiple inconsistent boxes, such as setting both a secured and unsecured bond (1.88%) or checking both “Yes” and “No” in Step 1 (1.88%) or selecting multiple offense classes (7.54%)</li> <li>Both adhering to and deviating from policy in Steps 3.5 and/or 5 (16.98%)</li> <li>Not reporting a deviation (such as setting a bond amount above the maximum amount) (20.75%)</li> <li>Not explaining a deviation (7.54%)</li> <li>Checking the deviation box for a condition that was not a deviation (16.98%)</li> <li>Reusing a form and mixing information for two individuals on the same form (1.88%)</li> <li>Setting bond condition in both Step 1 and in Step 3.5 or 5 (5.66%)</li> <li>Not identifying and explaining legal criteria for secured bond in Step 4 (1.88%)</li> </ul> |

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

<sup>21</sup> The random sample was completed on a bi-weekly basis where all forms submitted for two weeks were randomly assigned a number between 0 and 2000. The forms were sorted by assigned number, from smallest to largest and the first 25 forms were reviewed for completeness and fidelity issues.

<sup>22</sup> Of the 875 forms examined, 10.17% (89 forms) had one or more completeness issues, and 6.06% (53 forms) had fidelity issues. Among the 89 forms with completeness issues, most had only one issue (86.52%), with only few having two (10.11%) or three issues (3.37%). Similarly, 92.45% of forms that had fidelity issues only had one issue, while 7.55% had two issues.

## Magistrate Interview Data

We conducted interviews 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>23</sup> Interview questions covered themes discussed below.

### *Overall Perceptions, Successes & Challenges*

Overall, the magistrates had a positive perception of the reforms, the new decision-making process and the Magistrate Bail Explanation Form. They feel that this is the general consensus among the other magistrates as well. They said that the form is easy to use and does a good job of compiling all factors to be considered when determining conditions of release. Magistrates reported that it takes three to five minutes to complete the Bail Explanation Form. One magistrate reported that the form encourages a more

Magistrates reported being comfortable with the new process & that it takes 3-5 minutes to complete the new bail explanation form

equitable approach to bail, as it requires magistrates to justify and document decision-making. Another reported that some newer magistrates like the structure that the form and process provide. Although noting that the new process requires additional paperwork, magistrates did not report any ongoing issues with the process or form. While the new process and form required some initial adjustments, magistrates reported having worked through initial challenges.

Magistrates indicated that the process also required an adjustment for law enforcement officers. One magistrate reported that initially there were rumors among law enforcement that no one would receive a secured bond under the new procedures. However, as time went on, law enforcement became accustomed to the new process and realized that this was not true. Another magistrate reported that law enforcement officers appreciate that fewer people are being held on secured bond because it reduces time spent driving long distances between the magistrate's office and the jail.

### *Consequences of Applying the New Process*

The magistrates did not report experiencing positive or negative consequences because of how they are applying the new process. They indicated that judges may follow up on a high-profile case or when a law enforcement officer disagrees with the magistrate's decision. The magistrates also said that previous evaluation reports prompted ongoing conversation about how magistrates are applying the process. However, these were not perceived to be negative consequences, and they do not impact how the magistrates feel about the reforms. Magistrates perceive that judges want them to stay within the maximum bond thresholds. However, they also feel comfortable deviating when circumstances warrant that action.

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

Magistrates noted that the pandemic adds another factor for decision-making: urgency with respect to avoiding unnecessary pretrial detentions.

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<sup>23</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.

### *Implementation Feedback*

All magistrates reported that while there was an initial learning curve, they understood the new process from the start. One magistrate however suggested that additional scenario-based training might have been helpful, particularly for newer magistrates.

## **First Appearance Proceedings**

To assess the impact of the new first appearance proceedings on conditions of pretrial release, we examined first appearance minutes and tracked the percent of individuals who had their bonds modified at those proceedings.<sup>24</sup> Under the new procedures, individuals are afforded a first appearance after each arrest. Thus, an individual is afforded a first appearance both after the initial arrest and after any subsequent arrest in the case (e.g., on an Order for Arrest after a failure to appear (FTA) or for new criminal charges). Our analysis examined judges' pretrial decisions only in connection with the first appearance held after the initial arrest. The data show that the new first appearances are affording individuals an opportunity for early release from pretrial detention.

Between January 1, 2020 and June 30, 2021, 105 individuals appeared on the new first appearance calendar after initial arrest for cases that were not resolved at that proceeding.<sup>25</sup> Of those, 63 individuals appeared in connection with a 48-hour domestic violence hold. Because processing of 48-hour cases was not impacted by the District's reforms, we excluded this group from our analysis.<sup>26</sup>

The district's new first appearance proceedings are affording individuals an opportunity for early release from pretrial detention

Among the 42 non-48-hour detainees who appeared for a new first appearance proceeding, 38.10% were released on an unsecured bond, while 61.90% still had a secured bond at the end of the first appearance hearing (Table 6). For the 26 individuals who still had a secured bond at the conclusion of that proceeding, the median secured bond amount was \$1,750. Five individuals (19.23%) had their secured bond amounts reduced at the first appearance, with a median reduction of \$2,500.

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<sup>24</sup> The minutes recorded the following:

- type of case (e.g., 48-hour);
- original bond type and amount;
- final bond type and amount;
- whether the individual pled guilty to any charges or if any charges were dismissed; and
- information about the case such as file number, offense class, and offense description.

Because the policy focused on providing first appearances for individuals whose highest charge was a misdemeanor and did not involve a probation violation, we removed from the analyses cases that involved a mix of felonies and misdemeanors or that involved probation violations.

<sup>25</sup> A total of 127 individuals were on the new misdemeanor first appearance calendar. Of those individuals, 116 appeared after initial arrest. Of that subgroup, 9.48% (11 individuals) pled guilty to one or more charges and thus resolved their cases.

<sup>26</sup> Under state law, only a judge can determine conditions of release for individuals charged with certain domestic violence offenses within the first 48 hours after arrest. These individuals are held without bail by the magistrate, to be seen by a judge within 48 hours or, if no judge is available, returned to the magistrate for conditions of release. We refer to these individuals as "48-hour detainees."

**Table 6. Pretrial outcomes at first appearance proceedings**

|  | Non-48-Hour Detainees<br>(42 individuals) |
|--|---|
| Percent of individuals released on an unsecured bond       | 38.10%<br>(16)                            |
| Percent of individuals with a secured bond                 | 61.90%<br>(26)                            |
| Median secured bond amount                                 | \$1,750                                   |
| Percent of individuals who had secured bond amount reduced | 19.23%<br>(5)                             |
| Median reduction in secured bond amount                    | \$2,500                                   |

At a February 2021 meeting, stakeholders indicated that workload associated with the new proceedings was very manageable. The Public Defender representative reported that issues related to the COVID-19 pandemic have impacted Public Defenders' ability to meet with clients prior to the new proceedings, though that office continues to receive individuals' criminal history information. At a September 2021 meeting where we presented a draft of this report, that representative indicated that this issue had been resolved and that attorneys were meeting with clients at the courthouse before first appearances.

## Pretrial Failures

In an earlier check-in report to stakeholders, we presented data showing that the use of secured bonds decreased in 2020 relative to 2019, and as discussed below there was a substantial decrease in pretrial bookings after reforms were implemented.<sup>27</sup> 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. To address those concerns, we examined whether there was a change, before and after implementation of reforms, in: (1) the prevalence of individuals incurring new criminal charges during the pretrial period; and (2) the prevalence of court non-appearance. We found that for the District as a whole, pretrial criminal activity increased a statistically significant 1.92 percentage points. However, results were not consistent across the District's five counties. While there was no statistically significant change in this metric in Hyde, Martin, and Tyrrell Counties, Beaufort and Washington Counties experienced statistically significant increases of 2.27 and 4.72 percentage points, respectively. Although Beaufort and Washington Counties experienced a percentage point increase in this metric, the absolute number of

<sup>27</sup> We are unable to update that metric here because the North Carolina Administrative Office of the Courts (NC AOC) no longer provides the Conditions of Release Report containing the relevant data set of information.



individuals who acquired new pretrial criminal charges actually decreased in both jurisdictions. Among those who acquired new pretrial criminal charges in Washington County, the largest statistically significant increase was in non-violent misdemeanor charges. Among the same group in Beaufort County, no offense subcategory results were statistically significant.

There was no statistically significant change in new pretrial criminal activity in three of the District's five counties; only two counties saw a statistically significant increase in this rate

We found no statistically significant change in court non-appearance rates in Beaufort, Martin, Hyde and Tyrrell Counties. Washington County, however, experienced a statistically significant 2.73 percentage point increase in this metric, recording 89 instances of non-appearances in the pre-implementation period and 91 in the post-implementation period.

We further found that changes in new pretrial criminal charges and court non-appearances were the same for Black and White individuals.

We discuss all of these findings in more detail below.

### New Pretrial Criminal Charges

We used data from the North Carolina Automated Criminal/Infractions System (ACIS) to examine whether there was a higher rate of new pretrial criminal charges after implementation of reforms. Specifically, we examined whether individuals whose criminal cases were served in 2020 and closed by June 30, 2021 (post-implementation period) had higher rates of new criminal charges during the pretrial period than individuals whose cases were served in 2019 and closed by June 30, 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>28</sup> We categorized a case as having a new criminal charge during the pretrial period if the individual was served with a new charge before the first one was disposed.<sup>29</sup> Because we know that the type of new criminal charge is important to stakeholders, we categorized new 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.

Table 7 shows the number and percent of individuals who acquired a new pretrial charge in the pre- and post-implementation periods. As shown in Table 7, the District as whole experienced a statistically significant increase of 1.92 percentage points in new pretrial criminal activity. Absolute numbers, however, decreased (from 1,804 individuals in the pre-implementation period to 1,499 in the post-implementation period).

Additionally, results were not consistent across the District's five counties. While there was no statistically significant change in this metric in Hyde, Martin, and Tyrrell

<sup>28</sup> We restricted our analyses to cases where all charges had been disposed of by June 30, 2020 or 2021. If a multi-charge case had a mixture of disposed and pending charges, we excluded it from our analyses. In multi-charge cases that had different charge disposition dates, we used the last charge's disposition date as the case disposition date.

<sup>29</sup> We excluded the following charges from our calculation of new criminal charges since they do not represent 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.



Counties, Beaufort and Washington Counties experienced statistically significant increases of 2.27 and 4.72 percentage points respectively. Although Beaufort and Washington Counties experienced a percentage point increase in this metric, the absolute number of individuals who acquired new pretrial criminal charges actually decreased in both jurisdictions (in Beaufort in the pre-implementation period, 924 individuals acquired new pretrial charges whereas that number was 745 in the post-implementation period; in Washington County, those numbers were 242 and 210 respectively). Among those who acquired new pretrial criminal charges in Washington County, the largest statistically significant increase was in non-violent misdemeanor charges. Among the same group in Beaufort County, no offense subcategory results were statistically significant, a result that may be due to a combination of small differences and modest sample size.

Stakeholders often are most concerned about increases in new violent felony pretrial charges. The District as a whole experienced a statistically significant 1.44 percentage point increase in this metric (from 56 to 68 individuals). Again, however, results were not consistent across all counties. In Beaufort, Hyde and Washington Counties, there was no statistically significant change in this metric, meaning that any changes are likely due to chance. Martin County experienced a statistically significant increase of 2.73 percentage points in this metric (from 8 to 17 individuals); and Tyrrell County experienced a statistically significant increase of 2.86 percentage points (from 0 to 4 individuals).

**Table 7. Percent (and number) of individuals who acquired new pretrial criminal charges in JD 2 & its five counties**

| Entire district                                 | Pre-implementation period | Post-implementation period | Percentage point change |
|---|---------------------------|----------------------------|-------------------------|
| <b>New criminal charges</b>                     | <b>16.36% (1804)</b>      | <b>18.28% (1499)</b>       | <b>1.92***</b>          |
| <b>New felony charges</b>                       | <b>15.85% (286)</b>       | <b>17.81% (267)</b>        | <b>1.96</b>             |
| New violent felony charges                      | 3.10% (56)                | 4.54% (68)                 | 1.44*                   |
| New non-violent felony charges                  | 14.19% (256)              | 14.94% (224)               | 0.75                    |
| <b>New non-traffic misdemeanor charges</b>      | <b>36.20% (653)</b>       | <b>36.89% (553)</b>        | <b>0.69</b>             |
| New violent non-traffic misdemeanor charges     | 11.42% (206)              | 11.74% (176)               | 0.32                    |
| New non-violent non-traffic misdemeanor charges | 29.55% (533)              | 29.95% (449)               | 0.40                    |
| <b>New traffic misdemeanor charges</b>          | <b>77.16% (1392)</b>      | <b>77.65% (1164)</b>       | <b>0.49</b>             |
| <b>Total number of individuals</b>              | <b>11028</b>              | <b>8199</b>                |                         |
| <b>Beaufort</b>                                 |                           |                            |                         |
| <b>New criminal charges</b>                     | <b>19.34% (924)</b>       | <b>21.61% (745)</b>        | <b>2.27*</b>            |
| <b>New felony charges</b>                       | <b>16.77% (155)</b>       | <b>17.99% (134)</b>        | <b>1.22</b>             |
| New violent felony charges                      | 3.35% (31)                | 4.16% (31)                 | 0.81                    |
| New non-violent felony charges                  | 15.04% (139)              | 14.90% (111)               | -0.14                   |
| <b>New non-traffic misdemeanor charges</b>      | <b>39.94% (369)</b>       | <b>36.78% (274)</b>        | <b>-3.16</b>            |
| New violent non-traffic misdemeanor charges     | 12.99% (120)              | 11.01% (82)                | -1.98                   |
| New non-violent non-traffic misdemeanor charges | 33.01% (305)              | 30.87% (230)               | -2.14                   |
| <b>New traffic misdemeanor charges</b>          | <b>77.27% (714)</b>       | <b>79.33% (591)</b>        | <b>2.06</b>             |
| <b>Total number of individuals</b>              | <b>4777</b>               | <b>3447</b>                |                         |
| <b>Hyde</b>                                     |                           |                            |                         |
| <b>New criminal charges</b>                     | <b>13.55% (45)</b>        | <b>14.29% (44)</b>         | <b>0.74</b>             |
| <b>New felony charges</b>                       | <b>15.56% (7)</b>         | <b>9.09% (4)</b>           | <b>-6.47</b>            |
| New violent felony charges                      | 0.00% (0)                 | 2.27% (1)                  | 2.27                    |
| New non-violent felony charges                  | 15.56% (7)                | 6.82% (3)                  | -8.74                   |
| <b>New non-traffic misdemeanor charges</b>      | <b>35.56% (16)</b>        | <b>36.36% (16)</b>         | <b>0.80</b>             |
| New violent non-traffic misdemeanor charges     | 8.89% (4)                 | 11.36% (5)                 | 2.47                    |
| New non-violent non-traffic misdemeanor charges | 24.44% (11)               | 25.00% (11)                | 0.56                    |
| <b>New traffic misdemeanor charges</b>          | <b>77.78% (35)</b>        | <b>86.36% (38)</b>         | <b>8.58</b>             |
| <b>Total number of individuals</b>              | <b>332</b>                | <b>308</b>                 |                         |

**Table 7, continued.**

| <b>Martin</b>                                   | <b>Pre-<br/>implementation<br/>period</b> | <b>Post-<br/>implementation<br/>period</b> | <b>Percentage<br/>point<br/>change</b> |
|---|---|--|--|
| <b>New criminal charges</b>                     | <b>16.18% (403)</b>                       | <b>17.47% (360)</b>                        | <b>1.29</b>                            |
| <b>New felony charges</b>                       | <b>17.12% (69)</b>                        | <b>17.50% (63)</b>                         | <b>0.38</b>                            |
| New violent felony charges                      | 1.99% (8)                                 | 4.72% (17)                                 | 2.73*                                  |
| New non-violent felony charges                  | 16.38% (66)                               | 15.83% (57)                                | -0.55                                  |
| <b>New non-traffic misdemeanor charges</b>      | <b>36.97% (149)</b>                       | <b>37.50% (135)</b>                        | <b>0.53</b>                            |
| New violent non-traffic misdemeanor charges     | 10.17% (41)                               | 13.06% (47)                                | 2.89                                   |
| New non-violent non-traffic misdemeanor charges | 31.27% (126)                              | 29.44% (106)                               | -1.83                                  |
| <b>New traffic misdemeanor charges</b>          | <b>74.19% (299)</b>                       | <b>72.78% (262)</b>                        | <b>-1.41</b>                           |
| <b>Total number of individuals</b>              | <b>2490</b>                               | <b>2061</b>                                |  |
| <b>Tyrrell</b>                                  |   |  |  |
| <b>New criminal charges</b>                     | <b>9.49% (190)</b>                        | <b>9.89% (140)</b>                         | <b>0.40</b>                            |
| <b>New felony charges</b>                       | <b>8.42% (16)</b>                         | <b>14.29% (20)</b>                         | <b>5.87</b>                            |
| New violent felony charges                      | 0.00% (0)                                 | 2.86% (4)                                  | 2.86*                                  |
| New non-violent felony charges                  | 8.42% (16)                                | 11.43% (16)                                | 3.01                                   |
| <b>New non-traffic misdemeanor charges</b>      | <b>25.79% (49)</b>                        | <b>28.57% (40)</b>                         | <b>2.78</b>                            |
| New violent non-traffic misdemeanor charges     | 6.84% (13)                                | 6.43% (9)                                  | -0.41                                  |
| New non-violent non-traffic misdemeanor charges | 21.05% (40)                               | 26.43% (37)                                | 5.38                                   |
| <b>New traffic misdemeanor charges</b>          | <b>83.16% (158)</b>                       | <b>83.57% (117)</b>                        |  |
| <b>Total number of individuals</b>              | <b>2003</b>                               | <b>1415</b>                                |  |
| <b>Washington</b>                               |   |  |  |
| <b>New criminal charges</b>                     | <b>16.97% (242)</b>                       | <b>21.69% (210)</b>                        | <b>4.72**</b>                          |
| <b>New felony charges</b>                       | <b>16.12% (39)</b>                        | <b>21.90% (46)</b>                         | <b>5.78</b>                            |
| New violent felony charges                      | 7.02% (17)                                | 7.14% (15)                                 | 0.12                                   |
| New non-violent felony charges                  | 11.57% (28)                               | 17.62% (37)                                | 6.05                                   |
| <b>New non-traffic misdemeanor charges</b>      | <b>28.93% (70)</b>                        | <b>41.90% (88)</b>                         | <b>12.97**</b>                         |
| New violent non-traffic misdemeanor charges     | 11.57% (28)                               | 15.71% (33)                                | 4.14                                   |
| New non-violent non-traffic misdemeanor charges | 21.07% (51)                               | 30.95% (65)                                | 9.88*                                  |
| <b>New traffic misdemeanor charges</b>          | <b>76.86% (186)</b>                       | <b>74.29% (156)</b>                        | <b>-2.57</b>                           |
| <b>Total number of individuals</b>              | <b>1426</b>                               | <b>968</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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.

We found no statistically significant differences between Black and White individuals in the rates of change in the offense categories (new felonies, violent felonies, etc.) among those who incurred a new charge.<sup>30</sup>

Finally, as a benchmark, we assessed new pretrial criminal activity in JD 2 to those rates for the District's North Carolina peer counties. To identify peer counties, we used the National Center for Health Statistics (NCHS) Urban – Rural classification scheme. That classification scheme organizes counties into six different groups, from large metropolitan (most populous) to noncore (least populous). Under the NCHS scheme, all five of the District's counties are categorized as non-metropolitan. The non-metropolitan category includes two subcategories: micropolitan and noncore, with noncore including the most rural areas. Beaufort and Tyrrell Counties are designated micropolitan; Hyde, Martin, and Washington Counties are classified as noncore.<sup>31</sup> Twenty-eight North Carolina counties are designated as micropolitan; 27 are categorized as noncore.

Table 8 below shows new pretrial criminal activity rates for micropolitan and non-core counties. Although some changes in pretrial criminal activity rates shown there are statistically significant, all are quite small and overall show little change in this metric.

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<sup>30</sup> Additional analyses showed that the prevalence of new pretrial criminal charges was statistically higher among Black individuals than White individuals during both the pre- and post-implementation periods. Results available upon request.

<sup>31</sup> More information about the classification scheme is available in the DHHS publication here: [https://www.cdc.gov/nchs/data/series/sr\\_02/sr02\\_166.pdf](https://www.cdc.gov/nchs/data/series/sr_02/sr02_166.pdf).


**Table 8. Percent & number of individuals who acquired new pretrial criminal charges during in peer counties, pre- and post-implementation**

|   | Pre-<br>implementation<br>period | Post-<br>implementation<br>period | Percentage<br>point<br>change |
|---|----------------------------------|-----------------------------------|-------------------------------|
| <b>Micropolitan counties</b>                    |                                  |                                   |                               |
| <b>New criminal charges</b>                     | <b>19.63% (26821)</b>            | <b>20.14% (21713)</b>             | <b>0.50**</b>                 |
| <b>New felony charges</b>                       | <b>19.95% (5352)</b>             | <b>21.27% (4619)</b>              | <b>1.32***</b>                |
| New violent felony charges                      | 3.61% (969)                      | 3.97% (862)                       | 0.36*                         |
| New non-violent felony charges                  | 17.92% (4806)                    | 18.90% (4103)                     | 0.98**                        |
| <b>New non-traffic misdemeanor charges</b>      | <b>42.45% (11385)</b>            | <b>43.44% (9433)</b>              | <b>0.99*</b>                  |
| New non-traffic violent misdemeanor charges     | 13.31% (3570)                    | 14.01% (3043)                     | 0.70*                         |
| New non-traffic non-violent misdemeanor charges | 35.03% (9395)                    | 35.80% (7774)                     | 0.77                          |
| <b>New traffic misdemeanor charges</b>          | <b>75.19% (20167)</b>            | <b>73.51% (15961)</b>             | <b>-1.68***</b>               |
| <b>Total number of individuals</b>              | <b>136652</b>                    | <b>107870</b>                     |                               |
| <b>Noncore counties</b>                         |                                  |                                   |                               |
| <b>New criminal charges</b>                     | <b>17.28% (10577)</b>            | <b>18.15% (8738)</b>              | <b>0.87***</b>                |
| <b>New felony charges</b>                       | <b>19.59% (2072)</b>             | <b>21.09% (1843)</b>              | <b>1.50**</b>                 |
| New violent felony charges                      | 3.38% (357)                      | 3.85% (336)                       | 0.47                          |
| New non-violent felony charges                  | 17.72% (1874)                    | 19.04% (1664)                     | 1.32*                         |
| <b>New non-traffic misdemeanor charges</b>      | <b>38.75% (4099)</b>             | <b>39.52% (3453)</b>              | <b>0.77</b>                   |
| New non-traffic violent misdemeanor charges     | 12.01% (1270)                    | 14.03% (1266)                     | 2.02***                       |
| New non-traffic non-violent misdemeanor charges | 32.00% (3385)                    | 31.94% (2791)                     | -0.06                         |
| <b>New traffic misdemeanor charges</b>          | <b>75.90% (8028)</b>             | <b>75.34% (6583)</b>              | <b>-0.56</b>                  |
| <b>Total number of individuals</b>              | <b>61208</b>                     | <b>48133</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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.

## Court Non-Appearance

To determine whether there was a change in the rate of court non-appearance after implementation of reforms, we examined the prevalence of non-appearances 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 condition of release. ACIS has two 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>32</sup> Our analyses compare the prevalence of court non-appearance for all criminal cases served in calendar year 2019 and closed by June 30, 2020 (pre-implementation cases) to cases served in calendar year 2020 and closed by June 30, 2021 (post-implementation cases).<sup>33</sup>



Four of the District's five counties saw no statistically significant change in non-appearance rates; only Washington County experienced any increase in non-appearances

As shown in Table 9, Beaufort, Martin, Hyde and Tyrrell Counties experienced no statistically significant changes in court non-appearances. The same is true for the District as a whole. Only Washington County experienced a statistically significant increase in non-appearances (2.73 percentage point increase; from 89 to 91 individuals).

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<sup>32</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>33</sup> We restricted our analyses to cases where all charges were disposed of by June 30<sup>th</sup> of the relevant year. Thus, we excluded from our analysis multi-charge cases with a mixture of disposed and pending charges.

**Table 9. Percent and number of cases with a court non-appearance, pre- and post-implementation**

|                                     | Pre-<br>implementation<br>period | Post-<br>implementation<br>period | Percentage point<br>change |
|-------------------------------------|----------------------------------|-----------------------------------|----------------------------|
| Beaufort<br>( <i>Micropolitan</i> ) | 8.16%<br>(453)                   | 7.26%<br>(290)                    | -0.90                      |
| Hyde<br>( <i>Noncore</i> )          | 5.14%<br>(18)                    | 5.86%<br>(19)                     | 0.72                       |
| Martin<br>( <i>Noncore</i> )        | 8.45%<br>(225)                   | 8.89%<br>(196)                    | 0.44                       |
| Tyrrell<br>( <i>Micropolitan</i> )  | 6.10%<br>(126)                   | 6.67%<br>(98)                     | 0.57                       |
| Washington<br>( <i>Noncore</i> )    | 5.54%<br>(89)                    | 8.27%<br>(91)                     | 2.73**                     |
| Entire District                     | 7.44%<br>(911)                   | 7.63%<br>(694)                    | 0.19                       |

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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.

We also examined the prevalence of non-appearances by race. As shown in Table 10, we found no statistically significant change in the prevalence of court non-appearances for cases involving Black or White individuals in the District as a whole or in Beaufort, Hyde, Martin, and Tyrrell Counties. We found a statistically significant change only as to White individuals in Washington County; specifically, that county experienced a statistically significant increase in non-appearances of 3.42 percentage points for cases involving White individuals (35 to 39 individuals).

We did find, however, that the prevalence of court non-appearance during the pre- and post-implementation periods were significantly higher for Black individuals than for White individuals in Beaufort, Martin, and Tyrrell counties (Figure 3). But we also found that the magnitude of the relationship between race and non-appearance did not significantly change between the pre- and post-implementation periods.<sup>34</sup> This finding suggests that racial differences in non-appearance rates were not exacerbated in the post-implementation period. For instance, in Beaufort County, the odds of court non-appearance were 1.71 times higher for cases involving Black individuals compared to cases involving White individuals during the pre-implementation period; during the post-implementation period the odds of court non-appearance were a comparable 1.68 times higher for Black individuals.

<sup>34</sup> We examined whether racial differences in non-appearances grew during post-implementation by regressing court non-appearances on pre-post, Black, and an interaction term of pre-post\*Black in a logistic regression for Beaufort, Martin, and Tyrrell Counties. None of the interaction terms were significant suggesting that the magnitude of the association between race and court non-appearances did not differ between pre- and post-implementation periods.

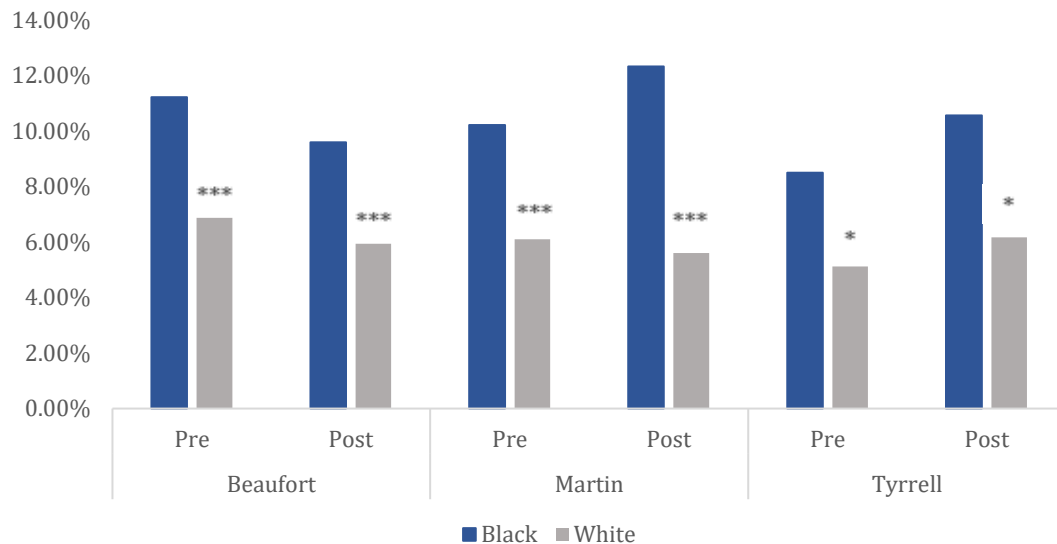
**Table 10. Percent and number of cases with a court non-appearance pre- and post-implementation, by race**

|            | Black pre-<br>implementation<br>period | Black post-<br>implementation<br>period | Percentage<br>point<br>change | White pre-<br>implementation<br>period | White post-<br>implementation<br>period | Percentage<br>point<br>change |
|------------|--|---|-------------------------------|--|---|-------------------------------|
| Beaufort   | 11.23%<br>(219)                        | 9.61%<br>(137)                          | -1.62                         | 6.88%<br>(200)                         | 5.94%<br>(124)                          | -0.93                         |
| Hyde       | 9.20%<br>(8)                           | 7.50%<br>(6)                            | -1.70                         | 4.07%<br>(9)                           | 6.00%<br>(12)                           | 1.93                          |
| Martin     | 10.23%<br>(138)                        | 12.33%<br>(138)                         | 2.10                          | 6.10%<br>(64)                          | 5.61%<br>(50)                           | -0.49                         |
| Tyrrell    | 8.50%<br>(29)                          | 10.57%<br>(26)                          | 2.06                          | 5.12%<br>(75)                          | 6.17%<br>(63)                           | 1.05                          |
| Washington | 6.43%<br>(50)                          | 7.53%<br>(42)                           | 1.10                          | 5.13%<br>(35)                          | 8.55%<br>(39)                           | 3.42*                         |
| District   | 9.83%<br>(444)                         | 10.18%<br>(349)                         | 0.35                          | 6.06%<br>(383)                         | 6.19%<br>(288)                          | 0.13                          |

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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.



**Figure 3. Percent of court non-appearances pre- and post-implementation, by race for Beaufort, Martin, and Tyrrell counties**



Note. Findings flagged with one or more asterisks indicates that there is a significant difference in non-appearances by race for that specific time frame (pre- or post-implementation). \*: 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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance. Results are not displayed for Hyde and Washington Counties because statistical tests showed no statistically significant difference in non-appearance rates between Black and White individuals for either the pre- or post-implementation period for these counties.

We also compared the prevalence of court non-appearances for JD 2 counties to rates in the District's peer North Carolina counties. As for our new pretrial criminal charges analyses, we used the National Center for Health Statistics (NCHS) Urban–Rural classification scheme to identify peer counties. As a reminder, Beaufort and Tyrrell Counties are considered micropolitan counties, while Hyde, Martin, and Washington Counties are noncore. As shown in Table 11, micropolitan counties experienced a 2.23 percentage point decrease in non-appearances. This compares to no statistically significant change in Beaufort and Tyrrell Counties. However, the prevalence of court non-appearances was significantly lower for Beaufort (8.16% in the pre-period; 7.26% in the post-period) and Tyrrell (6.10% in the pre-period; 6.67% in the post-period) relative to other micropolitan peer counties (14.33% in the pre-period; 12.10% in the post-period).

For noncore counties, there was no significant change in court non-appearance rates. This finding was the same for Hyde and Martin counties, but not for Washington County, which experienced a statistically significant increase of 2.73 percentage points (from 89 to 91 individuals).

One factor that may be impacting these results is that JD 2 stakeholders previously informed us that they have been regularly holding court throughout the COVID-19 pandemic. We know from conversations with other stakeholders that court schedules were significantly reduced in other jurisdictions. Where this occurred, it would have reduced opportunities for non-appearances and thus non-appearance rates.

**Table 11. Percent and number of cases with a court non-appearance pre- and post-implementation for peer counties**

|              | Pre-<br>implementation<br>period | Post-<br>implementation<br>period | Percentage point<br>change |
|--------------|----------------------------------|-----------------------------------|----------------------------|
| Micropolitan | 14.33%<br>23,934                 | 12.10%<br>15,697                  | -2.23***                   |
| Noncore      | 9.74%<br>6,973                   | 9.77%<br>5,477                    | 0.03                       |

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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.

## Pretrial Detention

As noted above, we previously presented data showing that the use of secured bonds decreased during the first two quarters of 2020 relative to the same period in 2019. Based on the decrease in secured bonds and the District's new policy providing first appearances for all individuals charged with misdemeanors, we expected to see reductions in pretrial bookings and length of stays. We further expected that COVID-19 would have reduced bookings and length of stays. To analyze pretrial detention, we examined bookings for all charges, misdemeanor charges, and felony charges. We also analyzed these metrics by race. The average number of pretrial bookings decreased 33.90% after implementation of reforms, and this decrease was statistically significant.<sup>35</sup> The reduction in number of pretrial bookings for Black and White individuals was 30.56% and 36.83%, respectively. There were no statistically significant changes in the length of pretrial detention for all offenses, misdemeanors, or felonies. Length of detention did not significantly differ between bookings of Black and White individuals. We note however that the onset of the COVID-19 pandemic in March 2020 makes it challenging to separate whether changes in jail detentions were due to changed local policy or the pandemic. We discuss these findings in detail below.

## Number of Bookings

Our analyses of bookings and length of stay used data supplied by the Beaufort County Detention Center for all pretrial detainees admitted to the facility from January 1, 2019 to May 31, 2021.<sup>36</sup> These data include all individuals who were given a secured bond for a criminal charge and booked into the facility.<sup>37</sup>

<sup>35</sup> Throughout the report, percent decrease is calculated as:  $[(\text{Post number} - \text{Pre number}) / \text{Pre number}] * 100$ .

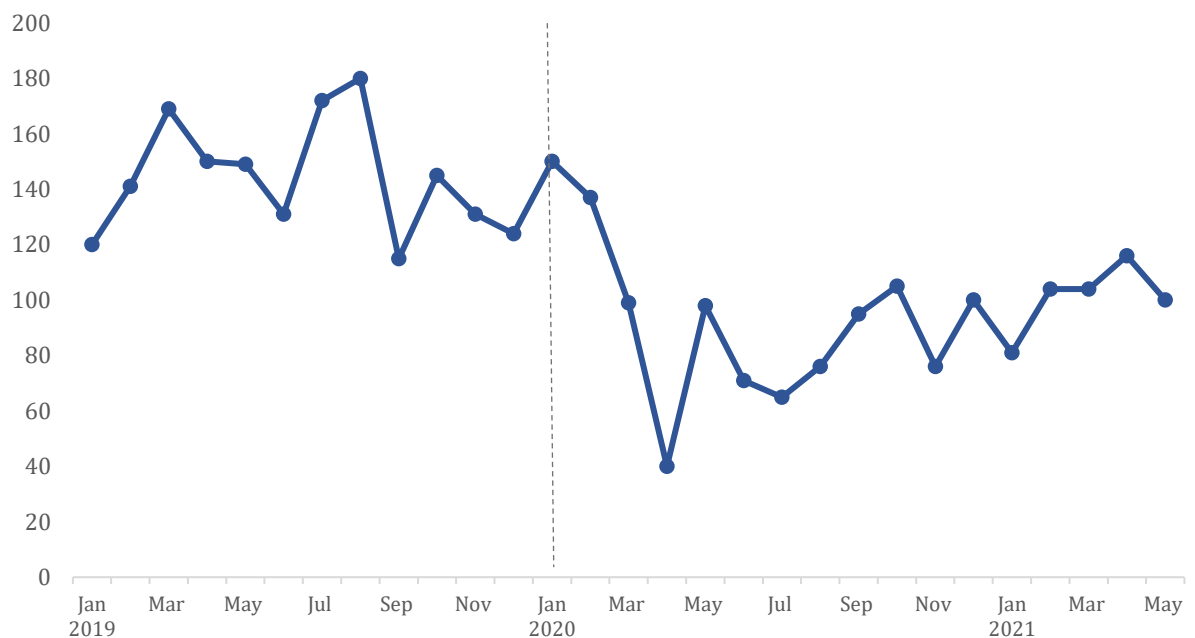
<sup>36</sup> Beaufort County was the only JD 2 county that supplied jail data for use in this analysis.

<sup>37</sup> While the analyses below focus on comparing bookings from January 2019 to December 2019 to those in January 2020 to May 2021, Appendix E includes supplemental analyses examining trends by year and month.

Figure 4 shows pretrial bookings for the period January 1, 2019 to May 31, 2021. The average number of pretrial bookings per month decreased 33.90% in the post-implementation period. From January to December 2019, there were an average of 143 pretrial bookings per month compared to an average of 95.11 bookings per month for January 1, 2020 to May 31, 2021. Given that the reforms targeted lower-level misdemeanor charges, we expected to see larger decreases in bookings for misdemeanor offenses. That did not occur; declines in bookings were similar for both felony and misdemeanor charges. Specifically, in 2019 the average number of misdemeanor bookings per month was 87.41; this average decreased 33.58% to 58.05 bookings during the post-implementation period. The average number of felony bookings per month decreased 33.90%, from 54 to 35 bookings.

Pretrial bookings  
declined 33.90% overall

**Figure 4. Number of pretrial bookings into the Beaufort County Detention Center, January 1, 2019 to May 31, 2021**



Note. Implementation of reforms began January 2020.

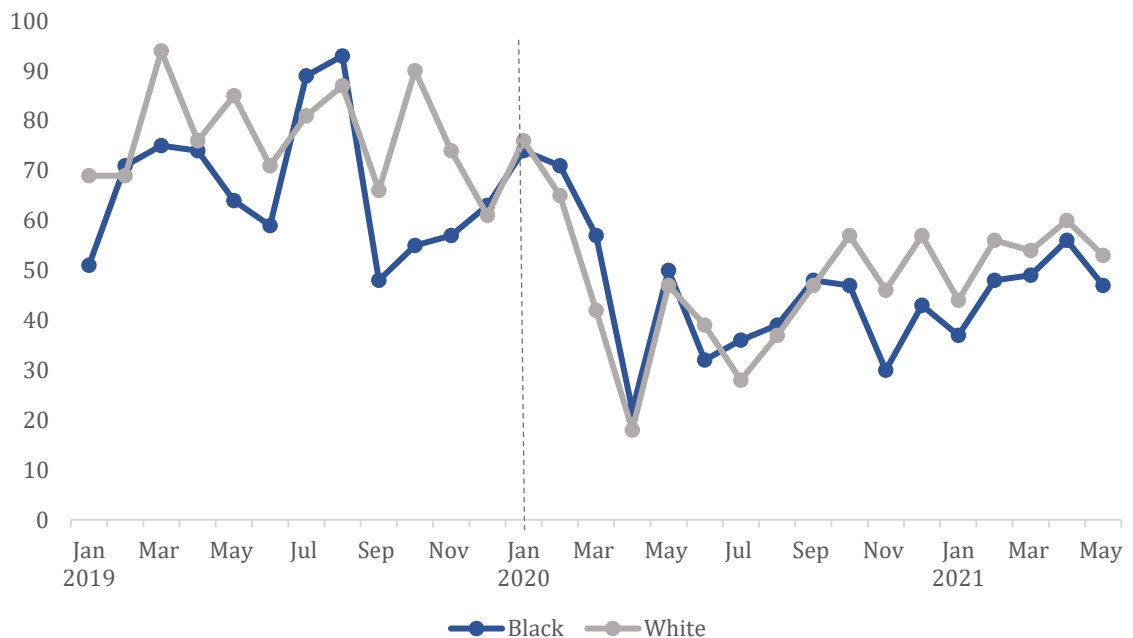
We also examined whether changes in the number of bookings were the same for Black and White individuals.<sup>38</sup> Figure 5 shows that the average number of bookings per month decreased 30.56% for Black individuals and 36.83% for White individuals. In 2019, the average number of bookings of Black individuals per month was 66.58, compared to 46.23 during the post-implementation period. Bookings of White individuals decreased from an average of 76.91 to 48.58.

<sup>38</sup> Race is identified based on the racial designations recorded by detention center staff. The categories in the detention center data include Asian or Pacific Islander, Black, Unknown, and White.

While the number of bookings decreased for all offenses and for Black and White individuals, it is important to note that these results are confounded by the effects of COVID-19. The number of bookings in the post-implementation period may be impacted by the new bail policy as well as by COVID-related changes in policing and case processing. One method to disentangle these effects is to examine the number of pretrial bookings for a jurisdiction that did not implement bail reform. However, we did not have access to jail data for a comparable jurisdiction to execute that analysis. Although we executed supplemental analyses to explore this issue (Appendix E), we caution that decreases in the number of bookings may reflect the impact of COVID-19 rather than the new bail policies.

Pretrial bookings for Black and White individuals reduced 30.56% and 36.83%, respectively.

**Figure 5. Number of pretrial bookings into the Beaufort County Detention Center by race, January 1, 2019 to May 31, 2021**



Note. Implementation of reforms began January 2020.

### Length of Detention

We determined the number of days each booked individual was held in pretrial detention by calculating the difference between admission and release dates. Bookings that did not have a release date (either due to missing data or because the individual was still awaiting trial) were placed in the 31+ days detained category.<sup>39</sup>

<sup>39</sup> Data for the 2019 bookings were provided to researchers on June 25, 2020; thus, the 11 bookings that did not have a release date because they were awaiting trial would have been detained 31+ or more days. The booking data for 2020 to May 2021 were provided to the research team on June 29, 2021. Any booking that was missing a release date in 2020 (n=9) or 2021 (n=16) at the time of data analysis was booked on or before May 27, 2021 (or 31+ days before data transmission on June 29, 2021).

Table 12 includes information on length of stay. A length of stay of “0” indicates that a person was booked into and released by the jail on the same day. We present two measures of average days detained: Average Days Detained, Raw; and Average Days Detained, Capped. 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 17 months (January 2020 to May 2021). For pre-implementation detentions it is 29 months (January 2019 to May 2021). Recognizing that this might skew the pre-implementation average, we provide an alternate measure: Average Days Detained, Capped. Doing so obscures very long detentions but allows an “apples to apples” comparison of average detention lengths. We used 31+ days as a cut off because, as a practical matter, many of the consequences a long jail stay (e.g., job loss, family, housing instability) are likely to accrue by that time.

Table 12 shows that there were no significant changes in the length of detention for all bookings, misdemeanor bookings, or felony bookings. It also shows that the median length of detention remained unchanged at 1 day and that approximately 61% of bookings resulted in detentions of 0 to 1 days in both periods. While these results suggest that the majority of bookings are subject to short periods of detention, we note that 9.22% of bookings have detentions of 31+ days in the post-implementation period, and 1.32% are detained longer than 90 days.

We also analyzed whether changes in detention lengths differed for bookings of Black and White individuals. As shown in Table 13, there were no statistically significant changes in the length of stay for bookings of Black or White individuals for all bookings, misdemeanor bookings, or felony bookings. Supplemental analyses (Appendix E) show that the average length of stay did not significantly differ between bookings of Black and White individuals in the pre- and post-implementation periods for any booking type. Stated differently, there were no racial differences in the length of detention before or after implementation of the policy. Finally, we found no racial differences in the amount of change for length of detention for all offenses, misdemeanors, or felonies.

There were no significant changes in length of detention overall or by race

**Table 12. Percent of bookings by length of stay in Beaufort County Detention Center for all offenses, highest charge misdemeanor, and highest charge felony offenses: Pre- and post-implementation**

| All Offenses                      | Pre-<br>implementation<br>period | Post-<br>implementation<br>period | Percentage<br>point change |
|-----------------------------------|----------------------------------|-----------------------------------|----------------------------|
| 0 days                            | 48.84%                           | 47.03%                            | -1.81                      |
| 1 day                             | 12.57%                           | 14.05%                            | 1.48                       |
| 2 – 3 days                        | 8.86%                            | 8.91%                             | 0.05                       |
| 4 – 30 days                       | 21.03%                           | 20.79%                            | -0.24                      |
| 31+ days                          | 8.69%                            | 9.22%                             | 0.53                       |
| Avg. days detained, capped        | 5.82                             | 5.84                              |                            |
| Avg. days detained, raw           | 10.06                            | 8.52                              |                            |
| Median days detained              | 1                                | 1                                 |                            |
| <b>Highest charge misdemeanor</b> |                                  |                                   |                            |
| 0 days                            | 55.29%                           | 52.64%                            | -2.65                      |
| 1 day                             | 13.54%                           | 16.43%                            | 2.89                       |
| 2 – 3 days                        | 9.06%                            | 10.24%                            | 1.18                       |
| 4 – 30 days                       | 16.87%                           | 15.11%                            | -1.76                      |
| 31+ days                          | 5.24%                            | 5.58%                             | 0.34                       |
| Avg. days detained, capped        | 4.20                             | 3.93                              |                            |
| Avg. days detained, raw           | 6.07                             | 5.40                              |                            |
| Median days detained              | 0                                | 0                                 |                            |
| <b>Highest charge felony</b>      |                                  |                                   |                            |
| 0 days                            | 38.10%                           | 37.98%                            | -0.12                      |
| 1 day                             | 10.58%                           | 9.78%                             | -0.80                      |
| 2 – 3 days                        | 8.55%                            | 7.13%                             | -1.42                      |
| 4 – 30 days                       | 28.15%                           | 29.52%                            | 1.37                       |
| 31+ days                          | 14.62%                           | 15.59%                            | 0.97                       |
| Avg. days detained, capped        | 8.60                             | 9.07                              |                            |
| Avg. days detained, raw           | 16.95                            | 14.01                             |                            |
| Median days detained              | 2                                | 2                                 |                            |

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

**Table 13. Percent of bookings by length of stay in Beaufort County Detention Center for all offenses, misdemeanors, felonies by race: Pre- and post-implementation**

| All Offenses                      | Black pre-implementation period | Black post-implementation period | Percentage point change | White pre-implementation period | White post-implementation period | Percentage point change |
|-----------------------------------|---------------------------------|----------------------------------|-------------------------|---------------------------------|----------------------------------|-------------------------|
| 0 days                            | 49.56%                          | 48.60%                           | -0.96                   | 47.94%                          | 45.33%                           | -2.61                   |
| 1 day                             | 9.89%                           | 12.85%                           | 2.96                    | 14.97%                          | 15.27%                           | 0.30                    |
| 2 – 3 days                        | 7.76%                           | 8.40%                            | 0.64                    | 9.87%                           | 9.45%                            | -0.42                   |
| 4 – 30 days                       | 23.65%                          | 19.72%                           | -3.93                   | 18.70%                          | 21.82%                           | 2.95                    |
| 31+ days                          | 9.14%                           | 10.43%                           | 1.29                    | 8.35%                           | 8.12%                            | -0.23                   |
| Avg. days detained, capped        | 6.20                            | 5.97                             |                         | 5.53                            | 5.75                             |                         |
| Avg. days detained, raw           | 10.20                           | 8.94                             |                         | 9.99                            | 8.18                             |                         |
| Median days detained              | 1                               | 1                                |                         | 1                               | 1                                |                         |
| <b>Highest charge misdemeanor</b> |                                 |                                  |                         |                                 |                                  |                         |
| 0 days                            | 58.09%                          | 55.06%                           | -3.03                   | 52.89%                          | 50.37%                           | -2.52                   |
| 1 day                             | 10.48%                          | 13.93%                           | 3.45                    | 15.87%                          | 18.59%                           | 2.72                    |
| 2 – 3 days                        | 7.52%                           | 10.34%                           | 2.82                    | 10.25%                          | 10.22%                           | 0.03                    |
| 4 – 30 days                       | 18.22%                          | 13.48%                           | -4.74                   | 16.03%                          | 16.54%                           | 0.51                    |
| 31+ days                          | 5.69%                           | 7.19%                            | 1.50                    | 4.96%                           | 4.28%                            | 0.68                    |
| Avg. days detained, capped        | 4.53                            | 4.22                             |                         | 3.99                            | 3.71                             |                         |
| Avg. days detained, raw           | 5.94                            | 6.15                             |                         | 6.21                            | 4.80                             |                         |
| Median days detained              | 0                               | 0                                |                         | 0                               | 0                                |                         |
| <b>Highest charge felony</b>      |                                 |                                  |                         |                                 |                                  |                         |
| 0 days                            | 38.51%                          | 39.15%                           | 1.00                    | 37.63%                          | 36.03%                           | 1.60                    |
| 1 day                             | 9.20%                           | 11.25%                           | 2.05                    | 12.20%                          | 8.09%                            | -4.11                   |
| 2 – 3 days                        | 7.76%                           | 6.08%                            | -1.68                   | 9.49%                           | 8.46%                            | -1.03                   |
| 4 – 30 days                       | 31.03%                          | 27.96%                           | -3.07                   | 24.75%                          | 31.25%                           | 6.50                    |
| 31+ days                          | 13.51%                          | 15.20%                           | 1.69                    | 15.93%                          | 16.18%                           | 0.25                    |
| Avg. days detained, capped        | 8.41                            | 8.42                             |                         | 8.83                            | 9.92                             |                         |
| Avg. days detained, raw           | 15.76                           | 13.00                            |                         | 18.35                           | 15.33                            |                         |
| Median days detained              | 2                               | 1                                |                         | 1                               | 2                                |                         |

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



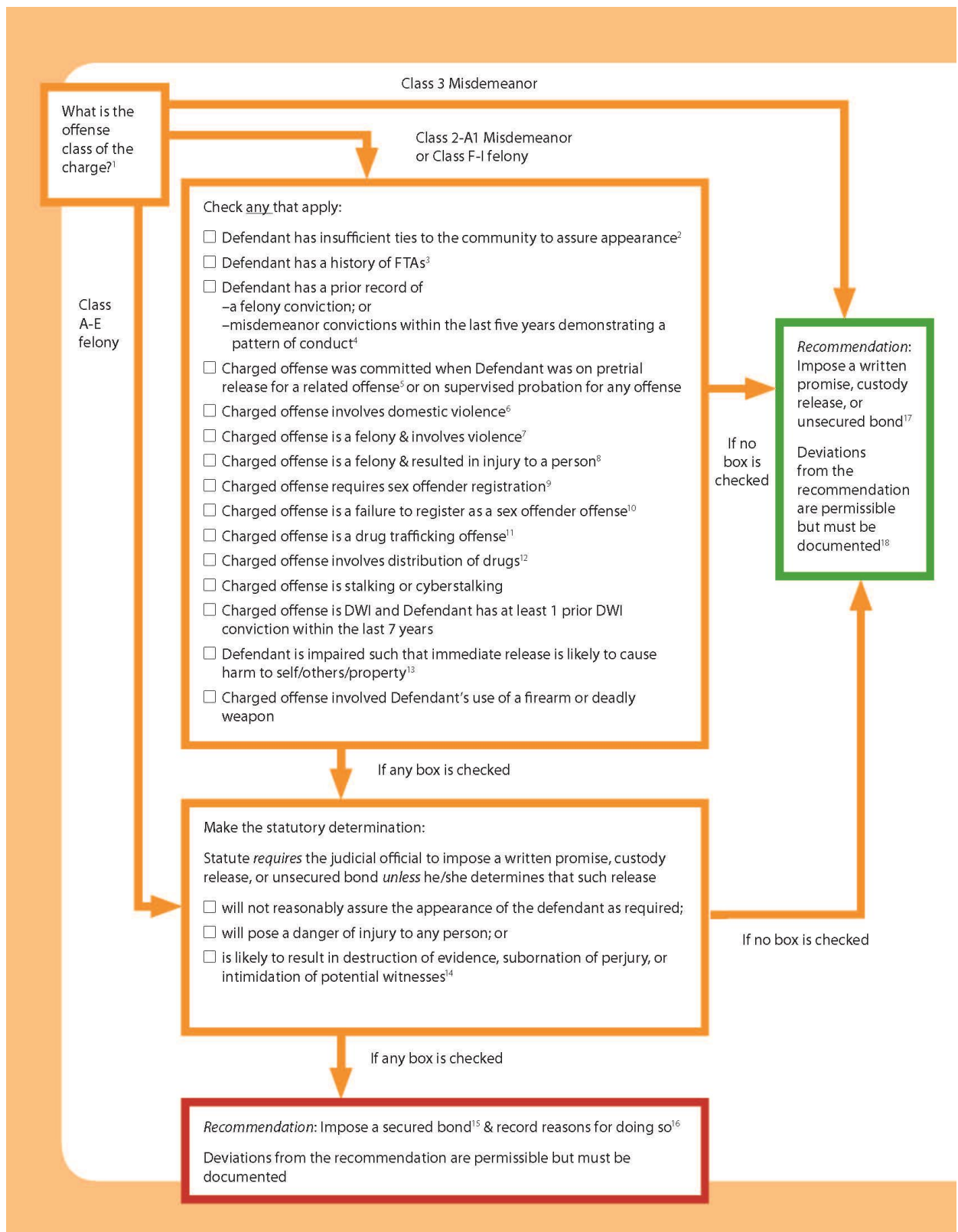
## Next Steps

This report completes our evaluation of implemented reforms. At a September 2021 where we presented a draft of this report for their feedback, stakeholders indicated that they were pleased with the evaluation results, that the District was meeting its pretrial goals, and that they planned to continue with the implemented reforms. They further indicated that there was strong buy-in among local stakeholders for the reforms. We also discussed that with the recent passage of Senate Bill 300, requiring first appearances for detained individuals within 72 hours, some changes to the District's first appearance procedures would be needed. However, stakeholders' proactive work prior to introduction and passage of that legislation positions them well to make needed adjustments.

# Appendix A – New Structured Decision-Making Tool

## JUDICIAL DISTRICT 2: DETERMINING CONDITIONS OF PRETRIAL RELEASE

Pursuant to Judicial District 2'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. FTAs within the last 2 years are most relevant.
4. The pattern of conduct must relate to the present offense. For example: the current charge involves drug possession and the Defendant has 3 priors within the last 5 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.
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 & SHEA DENNING, NORTH CAROLINA SENTENCING HANDBOOK 2017-18 (UNC School of Government, forthcoming 2018).
10. See G.S. 14-208.11(a); JESSICA SMITH, NORTH CAROLINA CRIMES: A GUIDEBOOK ON THE ELEMENTS OF CRIME 268 (7th Ed. 2012) (discussing this offense).
11. See G.S. 90-95(h); NORTH CAROLINA CRIMES *supra* note 10, at 721-739 (discussing trafficking offenses).
12. For example, sale and delivery of a controlled substance and possession with intent to manufacture, sell, or deliver.
13. For defendants in impaired driving cases, follow impaired driving procedures. In all other cases if a secured bond is imposed only because of this factor and the defendant remains detained, conditions must be revised without consideration of this factor when the defendant's impairment no longer presents a danger of physical injury to himself or herself or others or of damage to property, but in any event, no later than 24 hours after secured bond was set.
14. 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).
15. 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.
16. 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").
17. Pretrial restrictions can accompany any pretrial condition. See G.S. 15A-534(a) & note 14 above.
18. A deviation is permissible if there is a risk of continuing felony-level criminal activity.

#### 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   | \$500   |
| Misdemeanor, Class 1   | \$1,000   |
| Misdemeanor, Class A1  | \$3,000   |
| Driving While Impaired | \$5,000   |
| Felony Class I         | \$10,000  |
| Felony Class H         |   |
| Felony Class G         | \$25,000  |
| Felony Class F         |   |
| Felony Class E         | \$50,000  |
| Felony Class D         | \$70,000  |
| Felony Class C         | \$100,000   |
| Felony Class B2        | \$250,000   |
| Felony Class B1        | \$300,000   |
| Felony Class A         | No Bond Unless Set by a Judge                                   |
| Fugitive Warrant       | For Maximum bond amount, see maximum for the underlying offense |
| Governor's Warrant     | No Bond   |
| Parole Warrant         | No 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.

| Punishment Class | Maximum Secured Bond |
|------------------|----------------------|
| H                | \$75,000             |
| G                |                      |
| F                |                      |
| E                |                      |
| D                | \$150,000            |
| C                | \$250,000            |

# Appendix B – Magistrate Bail Explanation Form

## JUDICIAL DISTRICT 2 MAGISTRATE BAIL EXPLANATION FORM

**DIRECTIONS:** This form applies when setting bail for initial offenses, OFAs, fugitive warrants, other warrants (i.e., governor's warrants, interstate compact), and probation violations.

|                   |  |        |  |
|-------------------|--|--------|--|
| Magistrate's Name |  | County |  |
| Defendant's Name  |  | Date   |  |
| Case #s           |  |        |  |

|        |                             |                                      |                              |
|--------|-----------------------------|--------------------------------------|------------------------------|
| Charge | Class A-E Felony (Yes/No)   | Class 2-A1 Misdemeanor or F-1 Felony | Class 3 Misdemeanor (Yes/No) |
|        | No <input type="checkbox"/> | No <input type="checkbox"/>          | No <input type="checkbox"/>  |

### 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 2: Highest Charge

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

### 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 is a felony & involves violence
- ☐ Charged offense is a felony & resulted in injury to a person
- ☐ Charged offense requires sex offender registration
- ☐ Charged offense 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

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

#### 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:

☐ will pose a danger of injury to any person

Explanation:

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

Explanation:

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 \$ (Form is complete)

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

☐ Written Promise

☐ Custody Release

☐ Unsecured Bond \$

☐ Secured Bond \$ (if this box 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:

(Form is complete)

20190633



## Appendix C – Magistrate Bail Explanation Form Results by Magistrate

|  | Total # of forms magistrates completed | Median # of forms by magistrate |
|--|--|---------------------------------|
| Class A-E felonies                               | 112                                    | 3                               |
| Class F – I felonies & Class A1 – 2 misdemeanors | 1613                                   | 38                              |
| Class 3 misdemeanors                             | 130                                    | 1                               |

|   | Magistrate #1 | Magistrate #2 | Magistrate #3 | Magistrate #4 | Magistrate #5 | Magistrate #6 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|
| % issued secured bonds                        | 100.00%       | 100.00%       | 100.00%       | 100.00%       | N/A           | N/A           |
|   | 15.79%        | 76.67%        | 0.00%         | 38.10%        | 48.98%        | 0.00%         |
|   | 0.00%         | 0.00%         | N/A           | N/A           | 0.00%         | N/A           |
| Median secured bond amounts                   | \$61,000      | \$20,000      | \$10,000      | \$250,000     | N/A           | N/A           |
|   | \$4,500       | \$2,000       | N/A           | \$1,500       | \$5,000       | N/A           |
|   | N/A           | N/A           | N/A           | N/A           | N/A           | \$1,000       |
| % of forms w/deviations                       | 0.00%         | 100.00%       | 100.00%       | 0.00%         | N/A           | 16.67%        |
|   | 7.89%         | 33.33%        | 0.00%         | 33.33%        | 6.12%         | 0.00%         |
|   | 0.00%         | 0.00%         | N/A           | N/A           | 0.00%         | N/A           |
| % of forms removed from analysis due to error | 6.98%         | 42.86%        | 20.00%        | 17.86%        | 18.70%        | 33.33%        |

|  | <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%              | 63.64%               | 88.89%                | N/A                   | 60.87%                |
|  | 64.66%               | 60.00%               | 61.22%               | 62.12%                | 33.33%                | 45.33%                |
|  | 69.70%               | 0.00%                | 23.08%               | 23.08%                | N/A                   | 16.67%                |
| <b>Median secured bond amounts</b>                   | \$60,000             | \$100,000            | \$100,000            | \$87,500              | N/A                   | \$192,500             |
|  | \$5,000              | \$2,000              | \$5,000              | \$10,000              | \$6,500               | \$5,000               |
|  | \$1,000              | N/A                  | \$1,000              | \$11,500              | N/A                   | \$1,500               |
| <b>% of forms w/deviations</b>                       | 12.50%               | 50.00%               | 18.18%               | 55.56%                | N/A                   | 8.70%                 |
|  | 25.44%               | 32.31%               | 30.61%               | 29.92%                | 33.33%                | 5.33%                 |
|  | 69.70%               | 0.00%                | 23.08%               | 42.86%                | N/A                   | 16.67%                |
| <b>% of forms removed from analysis due to error</b> | 0.59%                | 9.09%                | 3.94%                | 8.20%                 | 14.29%                | 3.70%                 |

|  | <b>Magistrate<br/>#13</b> | <b>Magistrate<br/>#14</b> | <b>Magistrate<br/>#15</b> | <b>Magistrate<br/>#16</b> | <b>Magistrate<br/>#17</b> | <b>Magistrate<br/>#18</b> |
|--|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| <b>% issued<br/>secured<br/>bonds</b>                                | 100.00%                   | 90.91%                    | 100.00%                   | N/A                       | N/A                       | 50.00%                    |
|  | 18.18%                    | 57.78%                    | 55.65%                    | 0.00%                     | 41.01%                    | 37.50%                    |
|  | N/A                       | 20.00%                    | 33.33%                    | N/A                       | 37.04%                    | N/A                       |
| <b>Median<br/>secured<br/>bond<br/>amounts</b>                       | \$50,000                  | \$32,500                  | \$500,000                 | \$25,000                  | \$50,000                  | N/A                       |
|  | \$8,000                   | \$3,000                   | \$8,750                   | N/A                       | \$6,000                   | \$500                     |
|  | N/A                       | \$1,000                   | \$2,250                   | N/A                       | \$1,000                   | N/A                       |
| <b>% of forms<br/>w/deviations</b>                                   | 33.33%                    | 18.18%                    | 60.00%                    | 0.00%                     | 20.00%                    | N/A                       |
|  | 18.18%                    | 35.11%                    | 25.81%                    | 0.00%                     | 17.97%                    | 16.67%                    |
|  | N/A                       | 20.00%                    | 33.33%                    | N/A                       | 37.04%                    | N/A                       |
| <b>% of forms<br/>removed<br/>from<br/>analysis due<br/>to error</b> | 6.67%                     | 4.01%                     | 10.60%                    | 35.71%                    | 6.05%                     | 11.11%                    |

|  |                           |
|--|---------------------------|
|  | <b>Magistrate<br/>#19</b> |
| <b>% issued<br/>secured<br/>bonds</b>                                | 50.00%                    |
|  | 8.33%                     |
|  | 12.50%                    |
| <b>Median<br/>secured<br/>bond<br/>amounts</b>                       | \$400,000                 |
|  | \$3,000                   |
|  | \$500                     |
| <b>% of forms<br/>w/deviations</b>                                   | 0.00%                     |
|  | 8.33%                     |
|  | 12.50%                    |
| <b>% of forms<br/>removed<br/>from<br/>analysis due<br/>to error</b> | 33.33%                    |

# Appendix D – Secured Bonds in Intermediate-Level Cases (Supplemental Analyses)

**Note: This is a technical appendix, primarily for researchers**

As discussed in the main report, we found wide variation in the use of secured bonds among magistrates for intermediate-level offenses. In this section we assess:

1. Are there significant differences in magistrates' use of secured bonds for intermediate-level offenses?
2. Why are some magistrates more likely to issue secured bonds for intermediate-level offenses than others? Do caseload characteristics explain why some magistrates are more likely to issue a secured bond for intermediate-level offenses than others? That is, are some magistrates more likely to issue more secured bonds because they encounter more individuals who have a prior record or history of failing to appear in court, have committed a new offense while on pretrial release, or are charged with a violent offense?
3. Are individual or case-specific characteristics related to the use of secured bonds for intermediate-level offenses?

To examine these questions, we restricted our sample to cases where the highest charge was an intermediate-level offense; that did not have fidelity or completeness errors; and where the magistrate was setting conditions (as opposed to following a judge's directive in an OFA for a FTA). Additionally, we restricted the analyses to include only one form per individual to remove clustering of forms at the individual level. Failure to remove individuals who were represented multiple times may inflate the percent of cases issued a secured bond and increase the likelihood that subsequent results would be statistically significant when, in reality, they are not (due to a downward bias on standard error estimates). An individual could have been represented in the data multiple times due to receiving multiple charges on the same date or on different dates. We removed 217 forms where the individual appeared multiple times by: (1) creating a variable to identify where an individual's name was represented more than once in the data; (2) randomly assigning a value between 0 and 1 to individuals who were flagged as being in the data more than once; and (3) manually removing the form from the dataset. This resulted in an analytical data set of 1,397 intermediate-level cases that were assessed by 19 magistrates between July 1, 2020 and June 30, 2021.

We estimated a Bernoulli multi-level model in the HLM software to examine the probability of issuing a secured bond (0=bond other than secured, 1=secured bond) for intermediate-level offenses across magistrates. We used the restricted maximum likelihood estimator due to the small number of units at level 2 (19 magistrates). Level 1 units were the forms for intermediate-level cases, and level 2 units were the magistrates. Level 1 characteristics include individual race, individual gender, form was completed on a Friday or Saturday, and whether the case included an individual who was more likely to have a prior record of felony or misdemeanor convictions within the past 5 years, had a

history of failing to appear in court, had insufficient ties to the community, committed a new offense while on pretrial release, or who was charged with a violent offense. Individual race and gender were retrieved by merging ACIS data into our bail data set. Seventeen percent of cases could not be matched to ACIS because: (1) the form was missing a case number, (2) the case number was entered incorrectly, or (3) the form did not note that the case was from a different county (which is needed to associate a specific case number with a specific county). Case-level characteristics (i.e., prior FTA, prior record, on pretrial release, violent offense, and impairment) were captured from Step 3 of the Magistrate Bail Form. Level 2 characteristics or magistrate-level characteristics included the total number of forms completed, percent of forms with a prior record, percent of forms with prior FTA, percent of forms where individual was on pretrial release, percent of cases with a violent offense, and percent of cases where the individual was too impaired to be safely released. These variables were recorded for all 19 magistrates in the data.

### ***Are there significant differences or variation in magistrates' use of secured bonds for intermediate-level offenses?***

The estimated average log odds of issuing a secured bond was -.402, which corresponds to a probability of .40 ( $1/(1+e^{(-.402)}) = 1/(1+1.494) = .40$ ). Stated differently, the *estimated* average probability of issuing a secured bond was 40% across all 19 magistrates. Results showed that there was significant variation in the likelihood of issuing a secured bond for intermediate-level offenses across magistrates ( $\tau_{00} = .614, p < .001$ ), and that 15.58% of the variance in the likelihood of receiving a secured bond is between magistrates ( $\rho = \frac{\tau_{00}}{\tau_{00} + (\pi^2 + 3)} = .614 / (.614 + 3.290) = .1558$ ). These findings suggest that while (on average) the estimated likelihood of issuing a secured bond was 40% for intermediate-level offenses across all magistrates, some magistrates were much more likely to issue a secured bond than others for this offense category.

### ***Why are some magistrates more likely to issue secured bonds for intermediate-level cases than other magistrates?***

To examine this question, we assessed whether magistrate “caseload” characteristics (% forms with prior FTA, % prior convictions, % on pretrial release, % violent) were related to the probability of issuing a secured bond for each magistrate. Given the small number of level 2 units in our analyses, we estimated separate equations for each of the level 2 predictors. All level 2 predictors are grand mean centered so that we can examine how “deviations” from the average or typical magistrate “caseload” (in terms of % cases with “risky” characteristics) are related to magistrates’ use of secured bonds.

Table D – 1 shows that, on average, percent of cases with a violent charge ( $\gamma = .007, p = .866$ ) did not explain variation in the likelihood of issuing a secured bond for intermediate-level offenses across magistrates. However, magistrates that had a higher percent of cases with prior failure to appear ( $\gamma = .086, p < .001$ ), prior records of misdemeanor or felony convictions ( $\gamma = .024, p = .038$ ), or a higher percent of cases on pretrial release ( $\gamma = .046, p = .009$ )—relative to the average for their peers—had a greater likelihood of issuing a secured bond for intermediate-level offenses than magistrates with caseloads that included fewer of these factors. Comparisons of the effects show that history of FTAs explains the largest amount of variation (57.98%) in the use of secured bonds between magistrates ( $PRV = (.614 - .258) / .614 = .5798$ ), followed by percent of cases on pretrial release (32.08%), and percent of cases with a prior record (6.35%). Stated differently, when examining differences in the use of secured bonds across

magistrates, the most important factor was percent of cases with a prior FTA (as noted by the magistrate), followed by percent of cases on pretrial release, and percent of cases with a prior record.

***Are individual or case-level characteristics related to the use of secured bonds for intermediate-level offenses?***

The main report showed that there was a bivariate relationship between individual race and the likelihood of receiving a secured bond for intermediate-level offenses. We also found that intermediate cases involving Black individuals were more likely to receive a secured bond than intermediate cases involving White individuals at the bivariate level using a multi-level model ( $\gamma_{10} = .303$ , OR = 1.354,  $p = .038$ ;  $\tau_{00} = .612$ ,  $p < .001$ ).

In this section we examine whether the relationship between race and the use of secured bonds for intermediate-level offenses remains significant after controlling for relevant legal case-based factors. Given the dichotomous nature of the variables, all predictors were entered uncentered. Table D – 2 shows that the effects of race on the use of secured bonds becomes statistically non-significant once legal case-based factors are considered. Additionally, review of the odds ratios shows that legal case-based factors have a much stronger effect on the use of secured bonds in this sample than demographic factors. For instance, the odds of receiving a secured bond were 7.053 times higher for intermediate-level cases where the individual was on pretrial release or was on supervision, compared to individuals who were not on pretrial release or supervised probation. Variation in the intercept also became non-significant after the inclusion of legal and extralegal variables in the model ( $\tau_{00} = .234$ ,  $p = .328$ ), suggesting that case-based factors explained between-magistrate differences in the use of secured bonds. It is important to note that there were no significant differences in the legal factors by race, suggesting the racial effects became non-significant because they were weaker in nature than the legal or case-based factors. Together, these results provide additional evidence that the policy was implemented as intended since the policy emphasized the use of legal factors (over extralegal factors) in bail decision-making.



**Table D - 1. Multi-level models with single predictors of secured bonds**

| Single predictor models                    | Estimate | Odds ratio | S.E. | p     |
|--|----------|------------|------|-------|
| <i>Fixed effects - % prior FTA</i>         |          |            |      |       |
| Intercept $\gamma_{00}$                    | -.440    | .643       | .154 | .011  |
| % prior FTA $\gamma_{01}$                  | .086     | 1.090      | .021 | <.001 |
| <i>Random effects - % prior FTA</i>        |          |            |      |       |
| Intercept variance $\tau_{00}$             | .258     |            |      | <.001 |
| <i>Fixed effects - % priors</i>            |          |            |      |       |
| Intercept $\gamma_{00}$                    | -.493    | .610       | .209 | .031  |
| % priors $\gamma_{01}$                     | .024     | 1.025      | .011 | .038  |
| <i>Random effects - % priors</i>           |          |            |      |       |
| Intercept variance $\tau_{00}$             | .575     |            |      | <.001 |
| <i>Fixed effects - % pretrial release</i>  |          |            |      |       |
| Intercept $\gamma_{00}$                    | -.471    | .624       | .184 | .021  |
| % pretrial release $\gamma_{01}$           | .046     | 1.047      | .015 | .009  |
| <i>Random effects - % pretrial release</i> |          |            |      |       |
| Intercept variance $\tau_{00}$             | .417     |            |      | <.001 |
| <i>Fixed effects - % violent charge</i>    |          |            |      |       |
| Intercept $\gamma_{00}$                    | -.415    | .659       | .216 | .071  |
| % violent charge $\gamma_{01}$             | .024     | 1.024      | .040 | .556  |
| <i>Random effects - % violent charge</i>   |          |            |      |       |
| Intercept variance $\tau_{00}$             | .673     |            |      | <.001 |

**Table D – 2. Fixed effects from multi-level model of individual and case-based characteristics on secured bond for intermediate-level offenses**

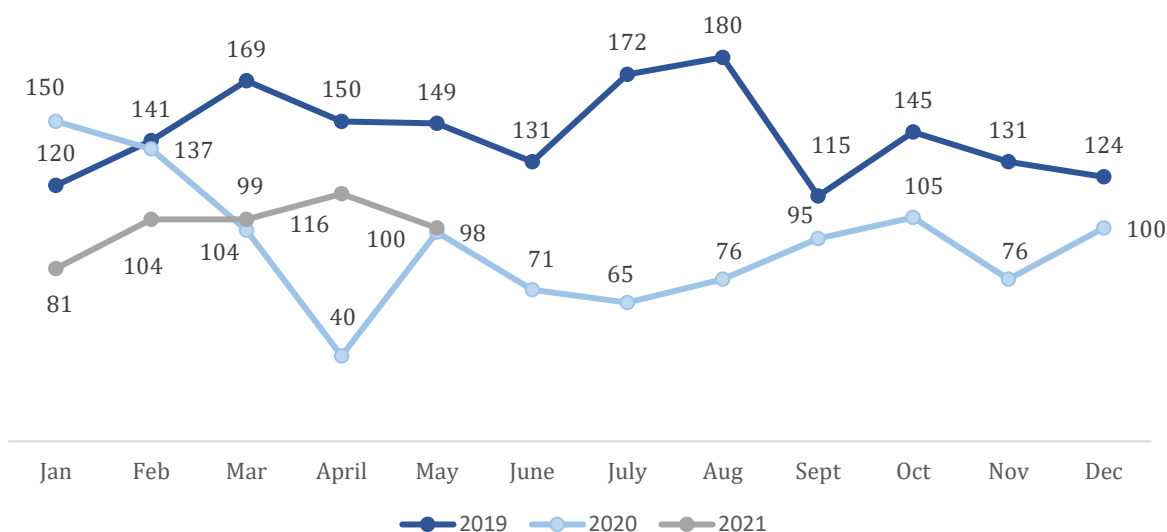
|                      | <b>Odds Ratio</b> | <b>Coefficient</b> | <b>S.E.</b> | <b>p</b> |
|----------------------|-------------------|--------------------|-------------|----------|
| <i>Fixed Effects</i> |                   |                    |             |          |
| Black                | 1.311             | .271               | .187        | .165     |
| Hispanic             | 1.007             | .007               | .465        | .987     |
| Other                | 1.118             | .112               | .520        | .832     |
| Male                 | 0.963             | -.037              | .213        | .862     |
| Prior conviction     | 6.272             | 1.836              | .456        | <.001    |
| FTA history          | 6.593             | 1.886              | .402        | <.001    |
| Pretrial release     | 7.053             | 1.953              | .339        | <.001    |
| Violent offense      | 5.642             | 1.730              | .330        | <.001    |
| Intercept            | 0.244             | -1.391             | .219        | <.001    |

# Appendix E – Pretrial Detention (Supplemental Analyses)

## Number of Defendants Detained Pretrial

As shown in Figure E – 1, except for January 2020, the number of pretrial bookings were lower for every month of the post implementation period, relative to the pre-implementation period.

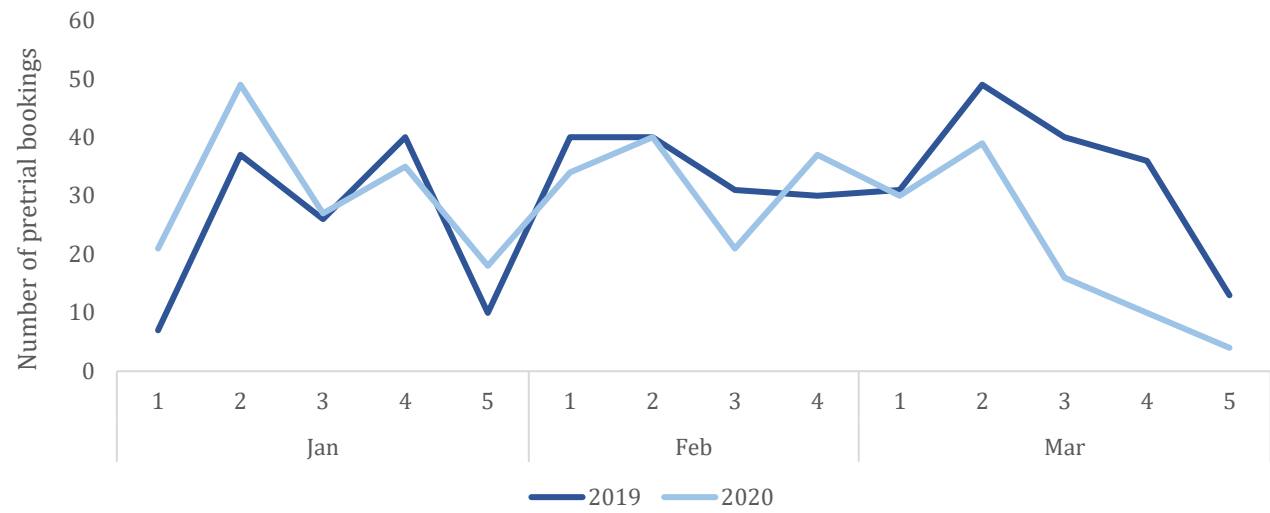
**Figure E – 1. Number of pretrial bookings into the Beaufort County Detention Center for all offenses by month and by year**



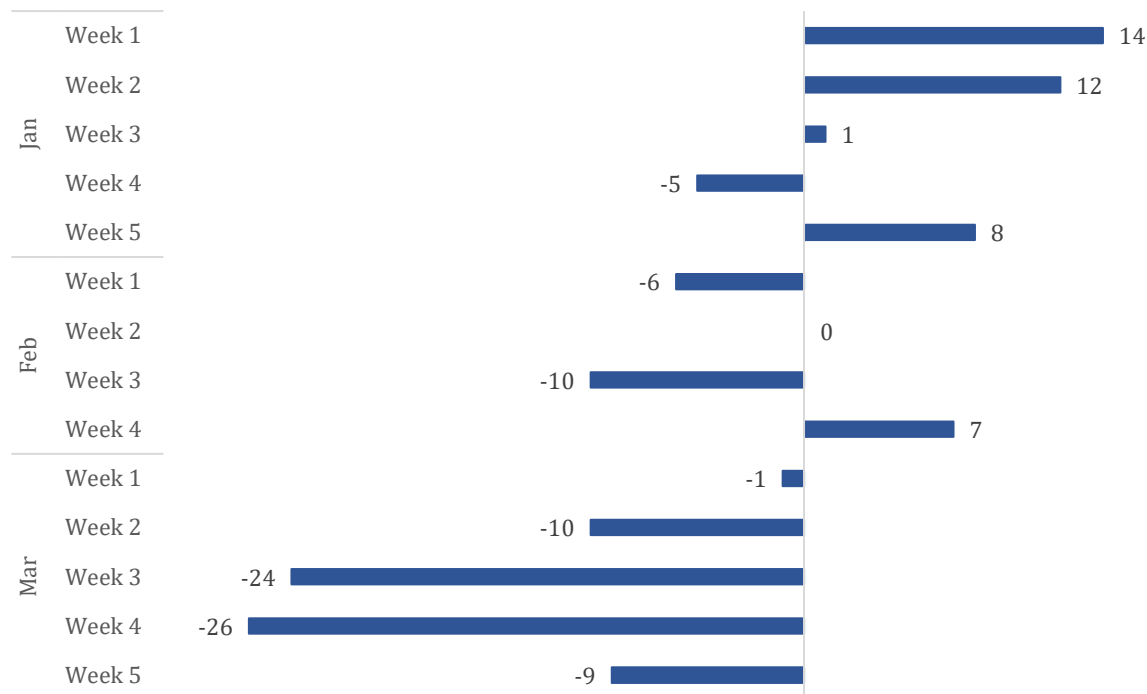
Despite the fewer number of bookings beginning in February 2020, the onset of the COVID-19 pandemic in mid-March 2020 creates uncertainty regarding whether the changes in bookings are due to implemented reforms. To explore this issue, we compared weekly detentions for January, February, and March of 2019 and 2020.

Figure E – 2 displays the number of bookings per week for these periods. Figure E – 3 shows the amount of change in the number of bookings by week for the time periods under consideration. Weeks were operationalized as: Week 1 = Days 1 – 7, Week 2 = Days 8 – 14, Week 3 = Days 15 – 21, Week 4 = Days 22 – 28, Week 5 (if applicable) = Days 29 – 31. As shown in both figures, there is no clear pattern of greater or fewer bookings during the early part of 2020 relative to 2019. Figure E – 3 shows that the number of bookings was higher for four out of five weeks in January 2020 compared to January 2019. In February, however, the number of bookings either remained the same (week 2) or decreased (weeks 1 and 3). For instance, during week 3 of February (Feb 15 – 21), there were 10 fewer pretrial bookings in 2020 than the same time period in 2019. The number of bookings continued to decrease in weeks 1 and 2 of March, with the rate of decline escalating in week 3 (Mar 15 – 21) after Chief Justice Cheri Beasley issued the COVID-19 emergency order on March 13, 2020 suspending all non-emergency, in person court proceedings.

**Figure E – 2. Number of pretrial bookings into the Beaufort County Detention Center for all offenses by week for January – March 2019 and 2020**



**Figure E – 3. Changes in the number of pretrial bookings per week into the Beaufort County Detention Center by week for January – March 2019 and 2020**



We conclude that it is unclear whether the policy had an impact on the number of pretrial bookings given: (1) the short time period of implementation before the onset of COVID-19; (2) the lack of access to pretrial booking data for a comparable comparison jurisdiction that did not implement bail reform; and (3) the inconsistency in results when examining changes in weekly bookings for pre-COVID 2020 months as compared to the same periods in 2019.

### Length of Detention

In the main report, we concluded that there were no significant changes in detention length between the overall pre- and post-implementation periods. To address whether the aggregation of post-implementation months (January 2020 to May 2021) may be obscuring changes in length of stay that are important to the evaluation, we executed supplemental analyses to determine whether the average detention length varied by month for all bookings. We again found no significant change in detention length between the pre- and post-implementation periods.

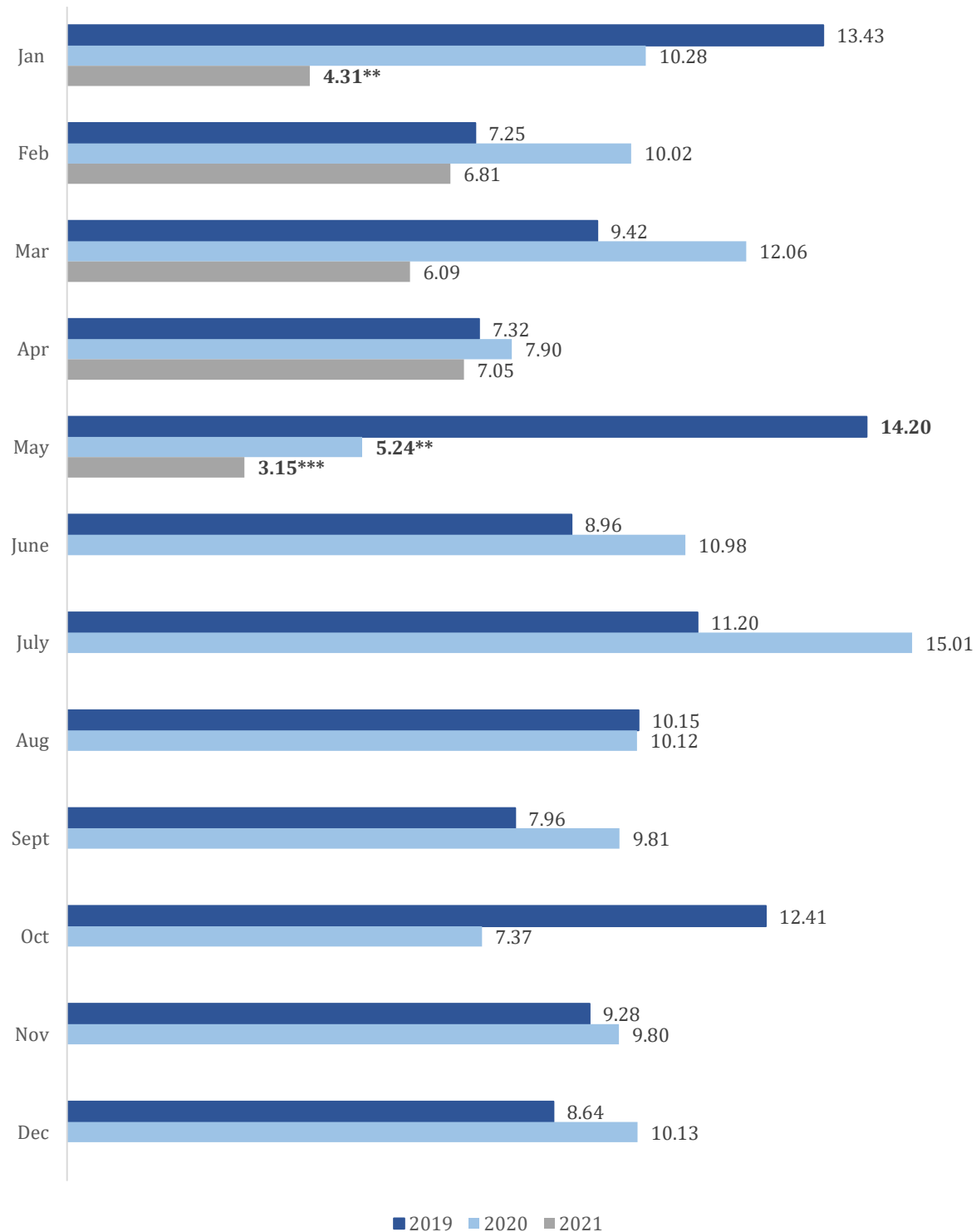
To examine this issue, we estimated 12 negative binomial regressions (for each month) where the raw number of days detained were regressed on two dummy variables: (1) 2020, which compared the average number of days detained in 2020 for month “X” to the average number of days detained in 2019 for month “X”; and (2) 2021 which compared the average number of days detained in 2021 for month “X” to the average number of days detained in 2019 for month “X.” We estimated robust standard errors to account for individuals who may have been repeatedly booked into the detention center for a particular month.

The average length of detention by month and year is displayed in Figure E – 4. In line with the conclusion from the main report, there was no significant change in the length of stay between the pre- and post-implementation periods. The average length of detention was not significantly

different in 2020 or 2021 (relative to 2019) for the months of February, March, April, June, July, August, September, October, November, or December. There were significant differences in the average length of detention when comparing: (1) January 2021 to January 2019 ( $b = -1.135, p = .005$ ), (2) May 2020 to May 2019 ( $b = -.996, p = .005$ ), and (3) May 2021 to May 2019 ( $b = -1.503, p < .001$ ). Defendants who were booked into the detention center in January spent, on average, 9.12 fewer days detained in 2021 (4.31 days) when compared to 2019 (13.43 days). It is important to note that two January 2021 bookings (out of 81 bookings) were still detained in June 2021 and did not have a release date recorded; thus, the average number of days detained for January 2021 may be lower than if those release dates were available.

Relative to May 2019, the average number of days detained was 63% lower for bookings in May 2020 and 77% lower in May 2021. The average number of days detained was 5.24 days for bookings in May 2020 compared to 14.20 days in May 2019. None of the bookings in May 2019 or May 2020 were missing a release date, while five bookings in May 2021 were still detained (which may artificially decrease the average number of days detained for May 2021). While these findings show a significant change for three out of 24 statistical tests, overall results indicate that length of stay did not significantly change during the post-implementation period.

**Figure E – 4. Average days detained for pretrial bookings into Beaufort County Detention Center for all offenses by month and year**



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. Differences listed with \*, \*\*, or \*\*\* have less than a 5%, 1%, and .1% chance, respectively, of being observed due to chance.



## Length of Detention by Race

In the main report we primarily examined whether the length of stay changed between pre- and post-implementation *within* race. Here, we examine *between* race differences to investigate whether: (1) there are racial differences in the average length of stay, and (2) changes between pre- and post-implementation were greater for one racial group versus the other. Results show that there were no racial differences in: (1) length of stay during the pre-implementation period; (2) length of stay during the post-implementation period; and (3) rate of change in the number of days detained when comparing Black and White individuals. Thus, neither race was disadvantaged in terms of length of stay before or after reforms.

## Racial differences in average length of detention

We estimated negative binomial regressions where days detained raw and days detained capped were regressed onto a dummy variable of Black (White = 0, Black = 1). Robust standard errors were estimated to account for multiple bookings for the same individual within the pre- or post-implementation period. As shown in Table E – 1, differences in the average length of detention did not significantly differ between bookings of Black and White individuals during pre- or post-implementation periods for all offenses, offenses where the highest charge was a misdemeanor, or where the highest charge was a felony. Results were consistent whether we used the raw number of days detained or the capped version of the variable. Thus, the length of detention did not significantly differ between bookings of Black or White individuals.

**Table E – 1. Main effects of race on days detained for bookings into the Beaufort County Detention Center: Pre- and post-implementation**

| All offenses - Pre             | Days detained raw |          | Days detained capped |          |
|--------------------------------|-------------------|----------|----------------------|----------|
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | .026 (.151)       | .861     | .120 (.091)          | .185     |
| All offenses - Post            | Days detained raw |          | Days detained capped |          |
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | .094 (.151)       | .488     | .044 (.090)          | .625     |
| High charge misdemeanor - Pre  | Days detained raw |          | Days detained capped |          |
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | -.037 (.220)      | .864     | .135 (.141)          | .338     |
| High charge misdemeanor - Post | Days detained raw |          | Days detained capped |          |
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | .252 (.186)       | .174     | .134 (.141)          | .341     |
| High charge felony - Pre       | Days detained raw |          | Days detained capped |          |
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | -.152 (.198)      | .445     | -.049 (.110)         | .656     |
| High charge felony - Post      | Days detained raw |          | Days detained capped |          |
|                                | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Black                          | -.158 (.184)      | .390     | -.158 (.108)         | .143     |

## Racial differences in changes of average length of detention

For this set of analyses, we created an interaction term between post\*Black to examine whether the amount of change in days detained (from pre- to post-implementation) was greater for Black or White individuals. Table E – 2 shows that none of the interaction effects were statistically significant, suggesting that the policy did not unequally impact one race versus the other.

**Table E – 2. Interaction effects of race on days detained for bookings into the Beaufort County Detention Center**

| All offenses          | Days detained raw |          | Days detained capped |          |
|-----------------------|-------------------|----------|----------------------|----------|
|                       | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Post                  | -.199 (.143)      | .163     | .039 (.086)          | .649     |
| Black                 | .026 (.151)       | .861     | .120 (.091)          | .185     |
| Post*Black            | .067 (.196)       | .731     | -.076 (.123)         | .535     |
| Highest charge misd.  | Days detained raw |          | Days detained capped |          |
|                       | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Post                  | -.254 (.207)      | .219     | -.069 (.130)         | .596     |
| Black                 | -.037 (.220)      | .864     | .135 (.141)          | .228     |
| Post*Black            | .290 (.286)       | .310     | -.001 (.196)         | .994     |
| Highest charge felony | Days detained raw |          | Days detained capped |          |
|                       | <i>b</i> (S.E.)   | <i>p</i> | <i>b</i> (S.E.)      | <i>p</i> |
| Post                  | -.186 (.188)      | .323     | .110 (.104)          | .293     |
| Black                 | -.152 (.198)      | .444     | -.049 (.110)         | .656     |
| Post*Black            | -.006 (.269)      | .981     | -.109 (.150)         | .468     |

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