



Bail Reform in North Carolina Judicial District 21

Evaluation Report

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Executive Summary

Seeking to promote a fair and effective pretrial justice system, North Carolina Judicial District 21 (Forsyth County) adopted a new structured decision-making tool to guide decisions regarding pretrial conditions, effective January 1, 2020. We are conducting an empirical evaluation of implementation and impact of the new tool. The evaluation began in 2020 and will continue through June 30, 2022. This report presents findings for the period ending June 30, 2021. Key findings include:

Magistrate Decision-Making

- Magistrates adhered to the decision-making tool's recommendations in the vast majority of cases (79.21%).
- Magistrates issued a written promise, custody release, or unsecured bond in over half of cases (58.52%). For Class 2 and 3 misdemeanor cases that were the target of reforms, magistrates issued conditions other than secured bonds in 72.71% of cases. For cases where the highest charge was an intermediate-level offense or a Class A–E felony, that percentage was 56.39% and 11.97% respectively.
- When conditions other than secured bond were imposed, magistrates opted for an unsecured bond more frequently than a written promise or custody release, and rarely ordered a custody release.
- Median bond amounts imposed by magistrates decreased as offense charge category decreased. Class A–E felony cases had the largest median secured bond amounts (\$50,000), followed by intermediate-level charge cases (\$2,500), and Class 2 and 3 misdemeanor charges (\$500).
- The prevalence of secured bonds and secured bond amounts were similar for Class A–E felony cases and Class 2 and 3 misdemeanor cases involving Black and White individuals. Intermediate-level cases involving Black individuals were more likely to receive a secured bond than White individuals, but this difference was not statistically significant after accounting for legal risk factors, such as prior conviction and history of failure to appear.
- There was variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the tool's recommendations, especially for intermediate-level and Class 2 and 3 misdemeanor charges.
- Magistrates executed forms without completeness or fidelity issues in the vast majority of cases (76% without any issues; 82.56% without completeness issues; 87.49% without fidelity issues), suggesting that implementation of the new process is successful at the magistrate level.
- Magistrates reported positive perceptions of the reforms and ease in form completion, though some concerns and suggestions for improvement were made.

Judge Decision-Making

- Judges adhered to the decision-making tool's recommendations in the majority of cases (64.64%).
- As expected, judges imposed a condition other than a secured bond in the minority of cases (39.02%). If the tool is working as anticipated, more cases

involving individuals who are likely to succeed pretrial¹ are being screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals less likely to succeed pretrial in the pool of those seen by judges at the first appearance and subject to the most restrictive condition of release (secured bond). Judges imposed conditions other than secured bonds more frequently for Class 2 and 3 misdemeanors charges (83.33%) than for intermediate-level charges (37.77%) and Class A–E felonies (1.72%).

- When they imposed conditions other than secured bond for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (37.78% for magistrates; 81.94% for judges).
- Median bond amounts imposed by judges decreased as offense charge category decreased. Class A–E felony cases had the largest median secured bond amounts (\$32,500), followed by intermediate-level cases (\$2,000), and Class 2 and 3 misdemeanor cases (\$500).
- Cases involving Black and White individuals were equally likely to result in a secured bond for all offense categories. Median secured bond amounts did not significantly differ across race.
- Judges executed the vast majority of forms (76.50%) without fidelity issues. They executed over one-half of forms (56.80%) without completeness issues. 47.12% of forms had no issues.

Pretrial Failures

- Overall, the percent of individuals incurring any new pretrial criminal charges decreased (2.63 percentage points) after implementation of reforms. Within offense subcategories, any statistically significant increases experienced in Forsyth County across offense subcategories also were observed in Forsyth’s largest peer county.
- The percentage of cases with court non-appearances decreased from 19.91% of cases in the pre-implementation period (7496 cases) to 3.53% of cases after reforms were implemented (759 cases).

Pretrial Detention

- Before implementation of reforms, the number of monthly pretrial detentions was declining, and that trend continued post-implementation.
- The average number of monthly detentions fell 29.40% in the post-implementation period. As expected, there was a larger reduction in detentions for misdemeanor bookings as compared to felony bookings. Declines were nearly identical for Black and White individuals.
- Average detention length declined, from 7.4 days before reforms were implemented to 5.5 days post-implementation. More people had shorter detentions and fewer people had longer ones. Additionally, the trendline for the shortest possible detentions began increasing. Examining average detention length by race revealed mixed results.

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

Non-Traffic Misdemeanor Charging & Citation in Lieu of Arrest

- Significant decreases in non-traffic misdemeanor charging and increased use of citations in lieu of arrest due to implementation of the Citation Project may have resulted in a larger proportion of more serious offenses appearing before magistrates. This fact may have artificially deflated the impact 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.² Judicial District 30B became the state's first such pilot project, with reforms effective January 1, 2019. Promising evidence from early reports on the initiatives implemented in Judicial District 30B,³ information distributed through the North Carolina Attorney General's Pretrial Release and Accountability Roundtables, and information about efforts to improve pretrial systems around the nation and in North Carolina interested judicial system leaders in Judicial District 21 (JD 21). In 2019, a group of judicial branch employees, law enforcement leaders, and a representative from the county came together to explore whether reforms were needed in the district and if so, what reforms should be implemented. Out of this meeting came a Bail Reform Working Group (Working Group). Participants included:

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

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

About the District

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

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

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

Table 1. About District 21

| | |
|--|------------------------------|
| Total Population ¹ | 382,295 |
| Racial Composition % White / Black / Am. Indian / Hispanic ² | 56.3% / 27.5% / 0.9% / 13.3% |
| 2020 General Election % Trump / Biden ³ | 42% / 56% |
| Violent Crime Rate / Property Crime Rate 2019 (State Rate: 408 / 2,502) ⁴ | 766 / 3,786 |
| Median Household Income 2019 ⁵ | \$53,054 |
| Poverty Rate 2019 ⁶ | 15.2% |
| Unemployment Rate 2020 ⁷ | 7.4% |

Notes.

¹ United States Census Bureau, *Quick Facts*,

<https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited Aug. 5, 2021).

² *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."

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

⁴ NORTH CAROLINA STATE BUREAU OF INVESTIGATION, CRIME IN NORTH CAROLINA – 2019 (2020) (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>.

⁵ 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.

⁶ *Id.*

⁷ *Id.*

A map of North Carolina showing all 100 counties. The county of Forsyth is highlighted in yellow. All other counties are in a light gray color. The map includes labels for each county, such as Alleghany, Ashe, Surry, Stokes, Rockingham, Caswell, Person, Granville, Warren, Northampton, Gates, Pasquotank, Perquimans, Currituck, and many others. The state's coastline and major water bodies are also depicted.

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

Implemented Reforms

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

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

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

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

- Expressly incorporating the statutory requirement that a judicial official must impose a written promise, custody release or unsecured bond unless the official “determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.”⁹
- Creating a presumption for conditions other than secured bonds for persons charged with Class 2 and 3 misdemeanors.
- Providing an easily implemented checklist to quickly identify additional persons who can be released on conditions other than a secured bond.
- Providing that for individuals charged with the most serious offenses, no presumption or screening applies 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.

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

⁵ *Id.*

⁶ G.S. 15A-534(c).

⁷ G.S. 15A-534(b).

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

⁹ G.S. 15A-534(b).

- Requiring detention bond hearings when a secured detention bond is imposed.
- Providing a maximum bond table.
- Preserving discretion by allowing for deviations from all tool recommendations, provided that deviations are documented.

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

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

Empirical Evaluation & This Report

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

The empirical evaluation began in 2020 and will continue through June 30, 2022.

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

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

¹¹ Also contributing to this report were Professor Troy Payne of the University Alaska Anchorage Justice Center, Criminal Justice Innovation Lab Project Manager Maggie Bailey, UNC School of Government Legal Research Associate Christopher Tyner, and Criminal Justice Innovation Lab Post-Doctoral Fellow Andre Assumpcao.

Findings

Magistrate Decision-Making

In the following sections, we report on magistrate decision-making using data extracted from Magistrate Bail Explanation Forms over a 12-month period, from July 1, 2020 to June 30, 2021.

As discussed in more detail in the sections below, magistrates adhered to the structured decision-making tool's recommendations in the vast majority (79.21%) of cases. Magistrates issued a written promise, custody release, or unsecured bond in over half of the cases (58.52%). For Class 2 and 3 misdemeanor cases that were the target of reforms, magistrates issued conditions other than a secured bond in 72.71% of cases. For cases where the highest charge was an intermediate-level offense or a Class A–E felony, that percentage was 56.39% and 11.97% respectively. For forms where magistrates reported issuing a secured bond, the bond amount decreased as the offense class category became less serious. These results were consistent for Class 2 and 3 misdemeanor and Class A–E felony cases involving Black and White individuals. Any difference by race for intermediate-level cases disappeared after taking into account legal risk factors. Magistrates executed the vast majority of forms without completeness or fidelity issues, suggesting strong implementation. There was variation among magistrates in the use of secured bonds, median secured bond amounts, and deviations from the decision-making tool's recommendations. We discuss these findings in detail below.

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

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

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.

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. Magistrates set conditions in 3,995 forms. 454 forms (11.36%) were removed from analyses because of one or more completeness or fidelity issues deemed

critical to our evaluation.¹² In the remaining 3,541 forms, magistrates adhered to the decision-making tool's recommendations in the vast majority of cases. Specifically, they followed the tool's recommendations in 2,805 forms (79.21% of forms), while deviating from the tool's recommendations in 736 forms (20.79% of forms).¹³

The form captures two types of deviations: (1) deviations from the recommendation to impose a condition other than a secured bond (instead imposing a secured bond); and (2) deviations from the recommendation to impose a secured bond or from the maximum bond table (that is, imposition of *either* a condition other than a secured bond *or* a secured bond in excess of the maximum bond table). Of the 736 forms on which magistrates reported deviating from the tool's recommendations, they reported deviation type (1) in 427 forms (58.01% of deviations) and deviation type (2) in 309 forms (41.98% of deviations).

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

Table 2a shows the percent of conditions of release by highest charge offense class for the 3,541 forms included in these analyses. As shown there, magistrates issued a written promise, custody release, or unsecured bond for the majority of cases. Specifically, they issued conditions other than a secured bond for 58.74% of cases and issued secured bonds in 41.26% of cases. We expected that rates of imposition of secured bond would decrease as offense charge category decreased, and the data show that this

in fact occurred. Magistrates issued a secured bond in 88.03% of Class A–E felony charge cases; in 43.49% of intermediate-level offense charge cases (defined by local policy to include Class F–I felonies and Class A1 and 1 misdemeanors); and in 26.98% of Class 2 and 3 misdemeanor charge cases.

For forms where magistrates reported issuing a secured bond, the bond amount decreased as the offense charge category became less serious. Class A–E felony charges had the highest median secured bond amounts (\$50,000), followed by intermediate-level charges (\$2,500), and Class 2 and 3 misdemeanor charges (\$500). Again, these results are as expected: that bond amounts would decrease as charges decrease in severity from Class A–E felony charges at the high end, to intermediate-level offense charges, and to

¹² Among the 454 forms removed from analyses, magistrates made one or more of the following errors:

- failed to record the final bond type (101 forms or 22.25% of forms with issues);
- recorded that they were imposing both a secured bond and another condition of release (38 forms or 8.37%);
- failed to record whether they were following or deviating from policy recommendations (65 forms or 14.32%);
- recorded that they were both following and deviating from policy (259 forms or 57.05%); or
- did not record offense class or recorded multiple or incorrect offense classes (107 forms or 23.56%).

In this report we updated our analyses to better differentiate between imposing multiple conditions and recording a decision that both followed and deviated from policy. This resulted in some forms being recategorized from recording multiple conditions to recording a decision that both followed and deviated from policy.

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

Class 2 and 3 misdemeanor charges at the low end. However, as noted below, median secured bond amounts imposed by judges for Class A–E felony cases are lower than the median secured bond amounts imposed by magistrates for these cases (\$32,500 for judges versus \$50,000 for magistrates). At a November 2020 stakeholder meeting where we presented early evaluation results, stakeholders suggested that the lower median bond amounts imposed by judges for Class A–E felonies may result from the fact that bonds for those charges are addressed at bond reduction hearings where more information about the case and the individual detained is available to the judge than to the magistrate at the initial appearance held immediately after arrest.¹⁴

We executed a supplemental analysis, removing from the sample 60 cases where the magistrate clearly indicated, either in the offense description or in the deviation explanation, that the mandatory statutory bond doubling rule applied.¹⁵ In those cases, magistrates were required by law to impose a secured bond, and we wanted to explore whether that mandate was impacting results. As shown in Table 2b, when mandatory bond doubling cases are removed from analysis, there is little change in results, suggesting that the statutory bond doubling rule is not impacting secured bond rates at the magistrate level. At a February 2021 stakeholder meeting where we reported early findings regarding this metric, one participant explained this result, noting that district court judges often set a condition other than a secured bond in Orders for Arrest (OFAs) for Failures to Appear (FTAs). When judges do so, the statutory bond doubling rule does not apply; rather, the magistrate sets conditions as specified by the judge.

¹⁴ Stakeholders also noted that existing judge forms do not capture conditions imposed in connection with the county's participation as a pilot site in the Caitlyn's Courage Electronic Monitoring program. That program, funded by S.L. 2020-80, allocates resources for domestic violence prevention pilot programs in at least nine judicial districts. Among other things, judges in pilot sites have the option of using global positioning system (GPS) electronic monitoring devices as a condition of pretrial release for individuals charged with stalking, sexual assault, domestic abuse, and violations of a domestic violence protective orders. Forsyth County was selected as a Caitlyn's Courage pilot site and as a result, judicial officials may specify alternative secured bond amounts: one amount without GPS and a lower amount with GPS. The judge bail explanation forms were developed before the pilot project began and do not capture the alternative lower bond amounts.

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

Table 2a. Percent conditions of release by highest offense class 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 1 – A1 misdemeanors | Class 2 & 3 misdemeanors |
|--|---------------|----------------------|--|--------------------------|
| Written promise, custody release, or unsecured bond | 58.74% | 11.97% | 56.51% | 73.02% |
| Written promise | 23.16% | 1.41% | 20.45% | 34.65% |
| Custody release | 1.81% | 0.00% | 2.36% | 0.47% |
| Unsecured bond | 34.43% | 10.56% | 34.57% | 38.02% |
| Secured bond | 41.26% | 88.03% | 43.49% | 26.98% |
| Median secured bond | \$2,500 | \$50,000 | \$2,500 | \$500 |

Table 2b. Percent conditions of release by highest offense class 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 1 – A1 misdemeanors | Class 2 & 3 misdemeanors |
|--|---------------|----------------------|--|--------------------------|
| Written promise, custody release, or unsecured bond | 58.52% | 11.97% | 56.39% | 72.71% |
| Written promise | 23.13% | 1.41% | 20.49% | 34.56% |
| Custody release | 1.84% | 0.00% | 2.40% | 0.48% |
| Unsecured bond | 34.21% | 10.56% | 34.38% | 37.78% |
| Secured bond | 41.48% | 88.03% | 43.61% | 27.29% |
| Median secured bond | \$2,500 | \$50,000 | \$2,500 | \$500 |

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

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.¹⁶ We found that the use of secured bonds and secured bond amounts were similar for Black and White individuals.

Table 3 shows that there were no significant racial differences in receiving a secured bond for Class A–E felonies or for Class 2 and 3 misdemeanors. Additionally, the median secured bond amounts were the same for cases involving Black and White individuals across all offense categories.

Initial analysis showed statistically significant differences by race in the likelihood of receiving a secured bond for intermediate-level offenses. This analysis showed that the odds of receiving a secured bond for these cases were 1.22 times higher for Black individuals than for White individuals. Table 3 shows that 45.60% of intermediate-level cases involving a Black individual received a secured bond compared to 40.56% of intermediate cases involving a White individual.

Magistrates' use of secured bonds & secured bond amounts were similar across races

Table 3. Percent of secured bonds and median secured bond amounts by race and by highest offense category in magistrate bail forms for JD 21, July 1, 2020 to June 30, 2021

| Percent secured bond | Class A–E felonies | Intermediate-level offenses | Class 2 & 3 misdemeanors |
|----------------------------|--------------------|-----------------------------|--------------------------|
| Black | 88.06% | 45.60%* | 28.25% |
| White | 87.10% | 40.56% | 27.59% |
| Median secured bond amount | Class A–E felonies | Intermediate-level offenses | Class 2 & 3 misdemeanors |
| Black | \$50,000 | \$2,500 | \$500 |
| White | \$50,000 | \$2,500 | \$500 |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. Here, 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 has less than a 5% chance of being observed due to chance.

¹⁶ We restricted our analyses to magistrate bail explanation forms that: (1) were free from fidelity or completeness errors; (2) indicated that the magistrate set the condition of the release, as opposed to the condition being preset by a judge in an OFA; and (3) indicated that the bond doubling statute did not apply.

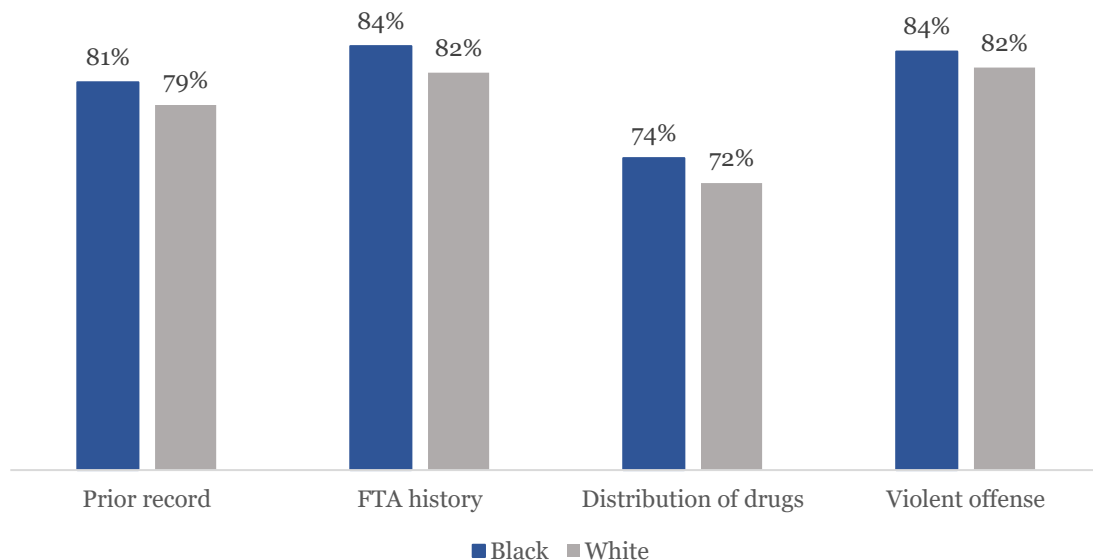
Data for race was obtained by merging ACIS data into our database of recorded magistrate bail form decisions. We were able to match 86.13% of the 3,541 forms in the analytical sample to ACIS data. We restricted our analyses to cases involving Black and White individuals.

However, these initial results for intermediate-level cases do not take into account differences in legal risk factors or the fact that legal factors may be stronger determinants of whether someone gets a secured bond rather than that individual's race. If the tool is working as intended and decision-makers are focusing on legal factors rather than demographic ones, the association between race and secured bond use should become statistically non-significant when we account for legal factors. We executed supplemental analyses to examine this issue. These analyses showed that there was no statistically significant difference between Black and White individuals in the likelihood of receiving a secured bond in intermediate-level cases after taking into account:

- prior conviction record;
- history of failure to appear;
- whether the case involved the distribution of drugs or was a drug trafficking offense; and
- whether the case involved domestic violence, violence or injury to a person, or the use of a firearm or deadly weapon.¹⁷

For instance, Figure 2 shows that 81% of intermediate-level cases involving a Black individual with a prior conviction received a secured bond, compared to 79% of cases involving a White individual with a prior conviction. The difference between these rates was not statistically significant.

Figure 2. Percent of secured bonds for intermediate level cases that had a legal risk factor, by race



¹⁷ These factors are expressly incorporated into the new decision-making tool (Appendix A). See Appendix E for more information about the supplemental analyses.

Conditions of Release: By Magistrate

We also examined whether the general pattern of decision-making across individual magistrates differed from the averages shown in Tables 2a and 2b. We found variation among individual magistrates in the use of secured bonds, median secured bond amounts, and deviations from the recommendations of the decision-making tool, especially for intermediate-level offense charges and Class 2 and 3 misdemeanor charges (Appendix D). Across individual magistrates, the rate of imposition of secured bonds in intermediate-level charge cases ranged from 14% to 66%, and median secured bond amounts ranged from \$1,500 to \$37,750. The rate of imposition of secured bonds in Class 2 and 3 misdemeanor charge cases ranged from 0% to 80.00%, and median secured bond amounts ranged from \$250 to \$2,500. Figure 3 displays the percent of cases issued a secured bond by magistrate, relative to the overall percent of cases issued a secured bond per Table 2a for intermediate-level offense charges (43.49%). Figure 4 illustrates that percent for Class 2 and 3 misdemeanor charges relative to the percent issued a secured bond for the entire group (26.98%). For example, Figure 4 shows that Magistrate #8 issued a secured bond for 80% of Class 2 and 3 misdemeanor charge cases, a rate substantially higher than the group rate for this charge category (26.98%).

Magistrate-specific and case-specific factors may justify these differences in outcomes across magistrates. For instance, magistrates who encounter more cases with failures to appear or a prior record may be more likely to issue a secured bond than magistrates who encounter fewer cases with relevant legal risk factors. As the evaluation continues, we anticipate having a better understanding of these variations across magistrates.

Figure 3. Percent of intermediate-level charges issued a secured bond by magistrate

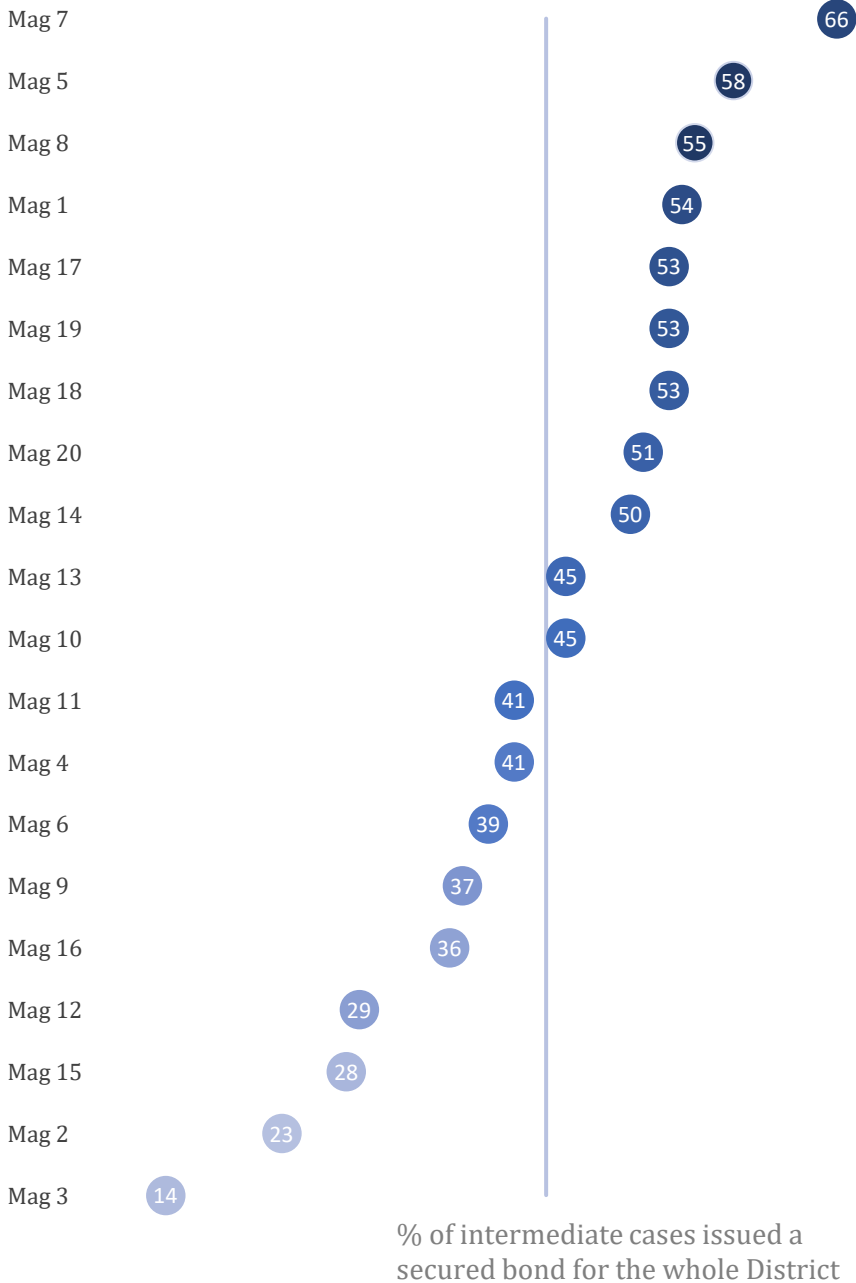


Figure 4. Percent of Class 2 and 3 charges issued a secured bond by magistrate



Completeness & Fidelity Issues

Examining the quality of implementation can help explain why a reform may not have the desired or anticipated effect. To do that, we examined a random sample of 975 forms completed for the 16-month period from March 1, 2020 to June 30, 2021 for completeness and fidelity issues.¹⁸ 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.

We found that magistrates are executing forms without completeness or fidelity issues in the vast majority of cases (76.00% without any issues; 82.56% without completeness issues; 87.49% without fidelity issues), suggesting that implementation of the new process is successful at the magistrate level. Of the 975 forms examined, 17.44% (170 forms) had one or more completeness issues, and 12.51% (122 forms) had one or more fidelity issues. Among the 170 forms with completeness issues, the majority displayed only one completeness issue (78.82%); smaller percentages of forms exhibited two (12.94%) or three issues (8.24%). Out of the 122 forms with fidelity issues, 71.31% had one fidelity issue, while 25.41% had two issues and 3.28% had three issues.

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

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

¹⁸ The random sample was completed on a bi-weekly basis. All forms submitted for two weeks were randomly assigned a number between 0 and 2000. The forms were then sorted from smallest to largest number and the first 25 forms were retained for review for completeness and fidelity issues.

Table 4. Common fidelity & completeness issues—Magistrate bail forms

| Completeness issues | Fidelity issues |
|---|--|
| <ul style="list-style-type: none"> • Not including the case number, individual name, or charge description at the top of the form (2.94%) • Not noting the underlying offense for a FTA or probation violation (0.58%) • Not checking a redundant box (47.05%) • Not reporting the offense class (7.64%) • Not reporting the final bail condition and/or amount (12.35%) • Not completing Step 1 (41.17%), Step 2 (1.17%), Step 3.5 (.58%), Step 4 (1.76%), Step 5 (4.70%), Step 6 (2.35%), or Step 7 (7.64%) | <ul style="list-style-type: none"> • Not following the decision-making process (35.24%) • Checking multiple inconsistent boxes, such as selecting multiple offense classes (9.10%), checking both “Yes” and “No” in Step 1 (4.09%), or setting both a secured bond and an unsecured bond (3.26%) • Both adhering to and deviating from policy in Steps 3.5 and/or 5 (31.96%) • Not reporting a deviation (such as setting a bond amount above the maximum amount) (12.29%) • Not explaining a deviation (18.85%) • Checking the deviation box for a condition that was not a deviation (13.93%) • Selecting the wrong deviation box in Step 6 (.82%) • Not explaining why a secured bond was set in Step 4 (3.27%) |

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

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.¹⁹ Interview questions covered themes discussed below.

Overall Perceptions, Successes & Challenges

Overall, the magistrates reported largely positive views of the implemented reforms and felt that the new process was working well. They feel that this is the general consensus among other magistrates as well. Interviewed magistrates indicate that the decision-making tool promotes accountability with respect to setting conditions of release and creates uniformity with respect to the factors used in decision-making and how those factors are documented. While there was an initial adjustment period, the interviewed magistrates report that it takes about three to five minutes to complete the

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

¹⁹ 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.

form. This timeframe may be slightly longer (about five minutes) if the magistrate sets a secured bond.

As to challenges, they expressed frustration at having to fill out a second form to record conditions of release, particularly when the office is busy. Also, while the form is simple to use, some felt that it lacked sufficient space to justify decisions. Two magistrates indicated that recommended bond amounts may be too low, particularly for certain felonies such as common law robbery and Class D felonies. One magistrate reported that the lower secured bonds set earlier in the project caused unintended pretrial detention for low level offenses. In prior reports, the median secured bond for Class 2 and 3 misdemeanors was \$250. According to the magistrate, because bail bondsmen will not write bonds at this amount, individuals ended up being detained for low-level offenses because they could not pay these low bond amounts.²⁰ To avoid unnecessary detentions, magistrates have increased the dollar amount of secured bonds for lower offense classes, which is reflected in the data for this quarter: the median secured bond for Class 2 and 3 misdemeanors is \$500.

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

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

Consequences of Applying the New Process

The magistrates did not report observing consistent positive or negative consequences as a result of how they are applying the new process. A judge may follow up with them about conditions in a particular case, but this was not seen as a negative consequence. Magistrates indicated that since they are typically operating within the tool's recommendations, they generally are not concerned about negative ramifications. Two magistrates recalled specific high-profile cases where bond amounts were reported by the media, and they expressed a desire for their cases to stay out of the news. They did, however, acknowledge that these situations are rare.

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

Impacts of the COVID-19 Pandemic

Given the proximity of the onset of the COVID-19 pandemic to the implementation of the reforms, magistrates found it difficult to separate out the impacts of COVID-19 on how they apply the bail process. They reported that the pandemic has added another

²⁰ If validated, these scenarios suggest that stakeholders may wish to revisit assessment of ability to pay at the magistrate level.

layer of factors to consider before issuing a secured bond, specifically making it even more urgent to avoid unnecessary detentions.

Implementation Feedback

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

Judge Decision-Making

In the two sections that follow we report on judge decision-making, using data extracted from Judge Bail Explanation Forms. We find that judges followed the tool's recommendations in about two-thirds of cases. Unlike magistrates, judges imposed a secured bond in the majority of cases. We did, however, expect that judges would impose secured bonds at a higher rate than magistrates. If the tool is working as anticipated, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals who are less likely to succeed pretrial in the pool of those seen by judges at first appearance and subject to the most restrictive condition of release. Judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate-level offense charges than for Class 2 and 3 misdemeanor charges. These results were similar for cases involving both Black and White individuals, with no significant differences in outcomes by race. Judges followed the tool's decision-making process without fidelity issues in the vast majority of cases; they executed over half of forms without completeness issues. We discuss these findings in detail below.

Conditions of Release: Overall

Since January 1, 2020, judges have determined conditions of pretrial release using the structured decision-making tool and have documented their decision-making on a new Judge Bail Explanation Form (Appendix C). Extracting data from the forms allows us to report on conditions imposed at the judge level. In this report, we present data on the conditions of release imposed by judges for the 12-month period from July 1, 2020 to June 30, 2021.

Judges completed 1,091 forms between July 1, 2020 and June 30, 2021. A total of 135 forms (12.37%) were removed from the analyses because of completeness and/or fidelity issues deemed critical to this evaluation.²¹ Of the remaining 956 forms, judges followed the tool's recommendations in about two-thirds of cases (64.64%; 618 forms). They deviated from the tool's recommendation in about one-third of cases (35.36%; 338 forms), a rate that was higher than that for magistrates (20.79%).

²¹ Thirty-nine forms (or 28.89% of forms with fidelity and/or completeness issues) were removed because the judge did not note the final bond condition; two forms (or 1.48%) were removed because the judge indicated they were simultaneously setting a secured bond and another condition of release; 46 forms (34.07%) were removed because the judge indicated simultaneously following and deviating from the policy; 23 forms (17.04%) were removed because the judge did not note whether they were following or deviating from policy; 23 forms (17.04%) were removed because the judge did not report the offense class; 35 forms (25.93%) were removed because the judge reported multiple offense classes for one charge; and two forms (1.48%) were removed because the case involved the use of a detention bond.

For cases where judges deviated from the tool's recommendations, 70.41% of deviations were to impose a secured bond above the maximum dollar amount or to impose a written promise, custody release, or unsecured bond instead of a secured bond. In 29.59% of deviations, the judge deviated from the recommendation to impose a written promise, custody release, or unsecured bond, opting instead to impose a secured bond.

Table 5 shows the percent of conditions of release by offense class for the 956 forms included in these analyses. Judges imposed a secured bond in the majority of cases. Specifically, they imposed a secured bond in 60.98% of all offenses, and issued a written promise, custody release, or unsecured bond for 39.02% of cases. Judges did not issue a custody release for any cases and imposed a written promise in only eight cases. As noted above, magistrates issued conditions other than a secured bond in the majority of cases. We expected to see secured bonds imposed in a greater percentage of cases at the judge level than at the magistrate level. If the tool is working as expected, more cases involving individuals who are likely to succeed pretrial would be screened by magistrates for conditions other than secured bond, leaving a larger percentage of cases involving individuals who are less likely to succeed pretrial in the pool of cases seen by judges at first appearance and subject to the most restrictive condition of release. At a February 2021 stakeholder meeting where we presented early evaluation results, a judge reported seeing a higher percentage of more serious cases, such as those involving domestic violence.

Judges were more likely to impose a secured bond and issue higher secured bond amounts for Class A–E felony charges and intermediate-level offense charges than for Class 2 and 3 misdemeanor charges. Judges issued a secured bond in 98.28% of Class A–E felony charge cases, and the median bond amount was \$32,500. They issued a secured bond in 62.23% of intermediate-level offense charge cases, and the median secured bond amount was \$2,000. In cases where individuals were charged with Class 2 and 3 misdemeanors, judges issued a secured bond in 16.67% of cases, and the median secured bond amount was \$500.

This pattern of findings mirrors that found for magistrates, shown in Table 2a. However, while rates of imposition of unsecured bonds for intermediate-level charges were similar for magistrates and judges (34.57% for magistrates; 36.92% for judges), for Class 2 and 3 misdemeanor charges, judges imposed unsecured bonds at a significantly higher rate than magistrates (38.02% for magistrates; 81.94% for judges), an issue we hope to explore with stakeholders as this evaluation continues.

Table 5. Percent conditions of release by highest offense class in judge bail forms, July 1, 2020 to June 30, 2021

| Type of Condition | All Cases | Class A – E felonies | Class F - I felony & Class 1 – A1 misdemeanors | Class 2 & 3 misdemeanors |
|--|---------------|----------------------|--|--------------------------|
| Written promise, custody release, or unsecured bond | 39.02% | 1.72% | 37.77% | 83.33% |
| Written promise | 0.84% | 0.00% | 0.85% | 1.39% |
| Custody release | 0.00% | 0.00% | 0.00% | 0.00% |
| Unsecured bond | 38.18% | 1.72% | 36.92% | 81.94% |
| Secured bond | 60.98% | 98.28% | 62.23% | 16.67% |
| Median secured bond | \$2,000 | \$32,500 | \$2,000 | \$500 |

Conditions of Release: By Race

We also examined whether judges' use of secured bonds differed for cases involving Black and White individuals. Results show there were no statistically significant differences in the prevalence or amount of secured bonds when comparing cases involving Black or White individuals. As shown in Table 6, the prevalence of secured bonds was highest for more serious offenses (Class A-E felonies) for cases involving both Black and White individuals and decreased for intermediate-level and Class 2 and 3 misdemeanor cases for both racial groups. This pattern of results mirrored what was found in the full group analyses in Table 5.

There were no statistically significant differences across races in judges' use of secured bonds & secured bond amounts

Table 6 shows that there was no statistically significant difference in use of secured bonds for cases involving Black and White individuals. For instance, 64.54% of intermediate cases involving Black individuals received a secured bond from a judge, compared to 63.77% of cases involving White individuals. The difference of .77 percentage points was not statistically significant and may be due to chance alone. As discussed above, our analysis of magistrate bail forms found a significant racial difference in the likelihood of receiving a secured bond for intermediate-level cases, but also found that racial differences were eliminated once legal risk factors were considered. The lack of racial differences in the judge bail forms may reflect the screening of cases by legal risk factors at the magistrate stage and the presence of more similarly situated cases (in terms of prior record or history of failure to appear) that are considered by the judge at the first appearance stage.

Table 6 also shows that the median secured bond amount was the same for cases involving Black and White individuals where the highest charge was a Class A-E felony or an intermediate-level charge. For instance, the median secured bond amount for intermediate-level charges was \$2,000 for both Black and White individuals. The median secured bond amount for Class 2 and 3 misdemeanors involving Black individuals (\$500) was double that of similar cases involving White individuals (\$250), but statistical tests showed that the average secured bond amount for these offense classes was not statistically different.

Table 6. Percent of secured bonds and median secured bond amounts by race and by highest offense category in judge bail forms, July 1, 2020 to June 30, 2021

| Percent secured bond | Class A-E felonies | Intermediate-level offenses | Class 2 & 3 misdemeanors |
|----------------------------|--------------------|-----------------------------|--------------------------|
| Black | 100.00% | 64.54% | 21.88% |
| White | 100.00% | 63.77% | 12.50% |
| Median secured bond amount | Class A-E felonies | Intermediate-level offenses | Class 2 & 3 misdemeanors |
| Black | \$25,000 | \$2,000 | \$500 |
| White | \$25,000 | \$2,000 | \$250 |

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

As shown in the Table 6, 21.88% of Class 2 and 3 misdemeanor cases involving Black individuals received a secured bond, while that rate was 12.50% for White individuals. This difference was not statistically significant. Table 6 also shows a higher median secured bond amount for Class 2 and 3 misdemeanor cases involving Black individuals. Again, that difference was not statistically significant.

Completeness & Fidelity Issues

We reviewed a random sample of 868 judge forms for completeness and fidelity issues. Similar to our review of magistrate bail forms, we sampled forms for the 16-month period from March 1, 2020 to June 30, 2021. Judges completed the majority of forms without completeness (56.80%) or fidelity issues (76.50%), and 47.12% of forms had neither completeness nor fidelity issues. Of the 204 forms with fidelity issues, 82.35% had only one such issue, 16.67% had two issues, and 0.98% had three issues. Of the 375 forms with completeness issues, 65.33% had one completeness issue, 26.13% had two issues, 7.73% had three issues, and 0.80% had four or more issues.

Table 7 shows the most common completeness and fidelity issues in the random sample.

Table 7. Common fidelity and completeness issues—Judge bail forms

| Completeness issues | Fidelity issues |
|--|---|
| <ul style="list-style-type: none"> • Not completing Step 1 (55.73%) • Not reporting final bond amount (2.13%) or final bond condition (3.73%) • Not checking a redundant box (25.86%) • Deviating but not explaining the type of deviation (18.13%) • Not recording the type of deviation in Step 6 (21.33%) • Not recording offense class (8.00%) • Not including the case number, individual name, or charge description at the top of the form (2.93%) • Not noting the underlying offense for a FTA or probation violation (2.13%) • Not completing other steps, such as Step 2 (2.13%), Step 4 (1.06%), or Step 5 (.27%) | <ul style="list-style-type: none"> • Deviating but not explaining the reason for the deviation (33.27%)²² • Checking the deviation box for a condition that was not a deviation (17.64%) • Not following the decision-making process (31.37%) • Both adhering to and deviating from policy in Steps 3.5 and/or Step 5 (13.23%) • Setting bond in both Step 3.5 and 5 (3.43%) • Not recording reasons for setting secured bond in Step 4 (1.96%) • Reporting multiple offense classes for highest charge (6.37%) • Checking the wrong deviation type or selecting both deviation types in Step 6 (3.43%) • Not reporting a deviation (such as setting a bond amount above the maximum amount) (4.41%) • Setting both a secured bond and a bond other than secured (0.98%) • Checking both “yes” and “no” in Step 1 (0.98%) • Recording secured bond in wrong location (0.49%) |

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

Pretrial Failures

In an earlier report to stakeholders, we presented data showing that the use of secured bonds decreased in 2020 relative to 2019.²³ And, as discussed below, there was a substantial decrease in the number of pretrial bookings after implementation of reforms. In the past, some have expressed concern that a reduction in the use of secured bonds and in 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 find that both the percent of individuals incurring a new criminal charge during the pretrial period and the rates of court non-appearances decreased after implementation of reforms. We discuss these findings in more detail below.

New Criminal Charges During Pretrial Period

We used data from the North Carolina Automated Criminal/Infractions System (ACIS) to examine whether individuals had a higher rate of new pretrial criminal charges after

²² This issue can be both a completeness and fidelity issue and thus is recorded here as both.

²³ We were not able to report on that metric in this report because the NC AOC no longer provides the Conditions of Release Report which supplies this data.

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 cases included in the sample.²⁴ We categorized a case as having a new criminal charge during the pretrial period if the defendant was served with a new charge before the first one was disposed.²⁵ 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. We calculated the percent of individuals who incurred a new charge during the pretrial period, both for Forsyth County cases and for cases from three counties identified by Forsyth stakeholders as peer counties: Guilford, Durham, and Buncombe Counties.²⁶

Table 8 displays the percent and number of individuals with Forsyth County charges who received a new criminal charge during the pretrial period. As shown there, the percent of people who received a new criminal charge during the pretrial period decreased a statistically significant 2.63 percentage points after implementation of reforms. Specifically, 24.18% of individuals with cases served in 2019 incurred a new criminal charge before their case was disposed, compared to 21.55% of individuals with cases served in 2020. Among those with a new criminal charge, there was a statistically significant increase in the prevalence of all offense categories except violent felonies (which did not significantly change) and traffic misdemeanors (which significantly

decreased). These results show that, among those with a new charge during the pretrial period, new criminal charges are not concentrated in one type of offense, but rather are spread across multiple offense types. The increase in new pretrial felony and non-traffic misdemeanor charges was driven by new non-violent charges.²⁷ The overall reduction in new pretrial criminal charges was driven by a reduction in traffic misdemeanor charges.

The percent of individuals who picked up new pretrial charges decreased 2.63 percentage points after reforms were implemented

²⁴ 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-charges cases that had different charge disposition dates, we used the last charge's disposition date as the case disposition date.

²⁵ We excluded the following charges from the ACIS data and our calculation of new criminal charges since they do not represent substantive crimes: civil revocation of drivers 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.

²⁶ Since we do not have jail data for the comparison counties, we cannot account for whether a defendant was incarcerated during the pretrial period and thus had a limited opportunity to incur a new charge. We will however seek to address this issue in future reports.

²⁷ Supplemental analyses regarding specific violent felonies are found in Appendix G.

Table 8. Percent and number of individuals who acquired new criminal charges during the pretrial period for Forsyth County, pre- and post-implementation

| | Pre- implementation period | Post- implementation period | Percentage point difference |
|--|----------------------------------|-----------------------------------|-----------------------------------|
| New criminal charges | 24.18% (6948) | 21.55% (3661) | -2.63*** |
| New felony charges | 14.54% (1010) | 19.12% (700) | 4.58*** |
| New violent felony charges | 2.98% (207) | 3.61% (132) | 0.63 |
| New non-violent felony charges | 12.74% (885) | 17.24% (631) | 4.50*** |
| New non-traffic misdemeanor Charges | 41.52% (2885) | 49.06% (1796) | 7.54*** |
| New violent non-traffic misdemeanor charges | 10.16% (706) | 12.24% (448) | 2.08*** |
| New non-violent non-traffic misdemeanor charges | 34.34% (2386) | 42.09% (1541) | 7.75*** |
| New traffic misdemeanor charges | 77.61% (5392) | 72.03% (2637) | -5.58*** |
| Total number of defendants | 28,732 | 16,992 | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, changes in the percent of individuals who acquired a new pretrial charge that have *** listed have less than a .1% chance of being observed due to chance.

We also examined whether there were racial differences in the prevalence of new criminal charges during the pretrial period and found no statistically significant difference in these rates of change for White and Black individuals.²⁸

Finally, we compared rates of new pretrial charges for Forsyth County charges to those rates for Guilford, Durham, and Buncombe County charges (Table 9). Overall, we found that Forsyth performed well as compared to its peer counties. As noted above, Forsyth experienced a statistically significant 2.63 percentage point decrease in the prevalence of new pretrial criminal charges post-implementation. In this respect, Forsyth outperformed Guilford, which had no statistically significant change, and Durham, which experienced a smaller statistically significant decrease of 1.50 percentage points.

²⁸ See Appendix I for more information.

Interaction tests from logistic regression were used to examine whether the amount or rate of change significantly differed between White and Black individuals. We found that Black individuals (OR = .757, $p < .001$) experienced a greater decrease in the likelihood of receiving a new pretrial charge than White individuals (OR = 1.012, $p = .756$) ($z = -5.70$, $p < .001$). However, among individuals receiving a new pretrial charge, there were no significant racial differences in the rate of change in the offense categories (new felonies, violent felonies, etc.).

Only Buncombe County experienced a larger statistically significant decrease of 3.11 percentage points.

Because Guilford County was the only peer county to have statistically significant results across multiple offense subcategories, our discussion of peer-to-peer results for new pretrial activity at the subcategory level focuses only on that county. When comparing Forsyth and Guilford Counties with respect to new pretrial activity rates at the subcategory level, we found that both counties experienced decreases in new traffic misdemeanor charges and increases across other subcategories. For example, for new pretrial felony charges, Forsyth experienced a statistically significant 4.58 percentage point increase; in Guilford, that rate was a comparable 4.44 percentage point increase. Although these rates are comparable, we note that Guilford had a statistically significant increase in new violent felonies, whereas Forsyth experienced no statistically significant change for that subcategory. Also, while Forsyth had a larger increase in pretrial non-traffic misdemeanor charges than Guilford, Forsyth's increase was driven largely by non-violent misdemeanor charges (2.08 percentage point change in violent non-traffic misdemeanor charges; 7.75 percentage point change in non-violent non-traffic misdemeanor charges). In Guilford by contrast, the growth in non-traffic misdemeanor charges was more evenly split between violent and non-violent offenses (2.89 percentage point change in violent non-traffic misdemeanor charges; 2.93 percentage point change in non-violent non-traffic misdemeanor charges).

Table 9. Percentage point change in individuals who acquired new criminal charges during the pretrial period for peer counties during pre- and post-implementation²⁹

| Forsyth County | | Percentage point difference |
|---|--|-----------------------------|
| New criminal charges | | -2.63*** |
| New felony charges | | 4.58*** |
| New violent felony charges | | 0.63 |
| New non-violent felony charges | | 4.50*** |
| New non-traffic misdemeanor charges | | 7.54*** |
| New violent non-traffic misdemeanor charges | | 2.08*** |
| New non-violent non-traffic misdemeanor charges | | 7.75*** |
| New traffic misdemeanor charges | | -5.58*** |
| Guilford County | | Percentage point difference |
| New criminal charges | | -0.22 |
| New felony charges | | 4.44*** |
| New violent felony charges | | 2.07*** |
| New non-violent felony charges | | 3.52*** |
| New non-traffic misdemeanor charges | | 3.35*** |
| New violent non-traffic misdemeanor charges | | 2.89*** |
| New non-violent non-traffic misdemeanor charges | | 2.93** |
| New traffic misdemeanor charges | | -3.68*** |
| Durham County | | Percentage point difference |
| New criminal charges | | -1.50** |
| New felony charges | | -0.84 |
| New violent felony charges | | 1.33 |
| New non-violent felony charges | | -1.36 |
| New non-traffic misdemeanor charges | | -1.48 |
| New violent non-traffic misdemeanor charges | | 1.23 |
| New non-violent non-traffic misdemeanor charges | | -3.61* |
| New traffic misdemeanor charges | | 1.09 |
| Buncombe County | | Percentage point difference |
| New criminal charges | | -3.11*** |
| New felony charges | | 0.75 |
| New violent felony charges | | 0.28 |
| New non-violent felony charges | | 0.49 |
| New non-traffic misdemeanor charges | | 1.56 |
| New violent non-traffic misdemeanor charges | | 2.51* |
| New non-violent non-traffic misdemeanor charges | | 0.29 |
| New traffic misdemeanor charges | | -5.68*** |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, changes in the percent of individuals who acquired a new pretrial charge that have *** listed have less than a .1% chance of being observed due to chance.

²⁹ For a more detailed breakdown of new pretrial activity data in peer counties, see Appendix F.

Court Non-Appearance

To determine whether there was a change in the rate of court non-appearance before and after implementation of reforms, we examined the 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.³⁰ 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).³¹

The rate of court non-appearances decreased after reforms were implemented

There was a statistically significant decrease in the prevalence of court non-appearances for all cases, cases involving Black individuals, and cases involving White individuals. As shown in Table 10, 19.91% of pre-implementation cases had a court non-appearance, and that rate declined to 3.53% for post-implementation cases. Similarly, the odds of a non-appearance decreased by 21.63 percentage points for cases involving Black individuals in the post-implementation period as compared to the pre-implementation period and decreased by 12.46 percentage points for cases involving White individuals. Results showed that the decrease was statistically greater for cases involving Black individuals than White individuals.³²

Although court non-appearance rates were higher for cases involving Black individuals than White individuals, this remained consistent between pre- and post-implementation. For instance, the odds of court non-appearance were 2.01 times higher for pre-implementation cases involving Black individuals and 1.86 times higher for post-implementation cases, relative to cases served for White individuals for those periods.

³⁰ 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.

³¹ We restricted our analyses to cases where all charges were disposed of by June 30th of the relevant year. Thus, we excluded from our analysis multi-charge cases with a mixture of disposed and pending charges.

³² We estimated separate logistic regression models (with clustered robust standard errors) for cases involving Black and White individuals where court non-appearance was regressed on a pre-post measure. Results showed significant decreases in court non-appearance for Black individuals ($b = -2.07$, $SE = .063$, $p < .001$) and for White individuals ($b = -1.75$, $SE = .078$, $p < .001$). A difference of coefficients test (Clogg, 1995) showed that the $-.326$ difference in slopes was statistically significant ($z = -3.261$, $p = .001$).

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

| | Pre- implementation period | Post- implementation period | Percentage point difference |
|-------------------|----------------------------------|-----------------------------------|--------------------------------|
| All cases | 19.91% 7496 | 3.53% 759 | -16.38*** |
| Black individuals | 25.81% 4798 | 4.18% 451 | -21.63*** |
| White individuals | 14.75% 2032 | 2.29% 220 | -12.46*** |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of cases with a court non-appearance that have *** listed have less than a .1% chance of being observed due to chance.

Finally, we compared court non-appearance rates for Forsyth County to its peer counties of Buncombe, Durham, and Guilford. As shown in Table 11, court non-appearance rates decreased for Forsyth County and all of its peer counties. Forsyth County experienced the greatest decrease (-16.38 percentage points), followed by Guilford County (-12.43 percentage points) and Durham County (-8.12 percentage points). Buncombe County experienced a smaller percentage point change in court non-appearances (-6.11 percentage points) than the other counties, but its level of court non-appearances was substantially lower than the other counties during both pre- and post-implementation.³³

³³ Discussions with stakeholders in Buncombe County provided some reasons why the number and prevalence of court non-appearances in Buncombe are much lower than their peer counties. First, the Chief District Court Judge and Senior Resident Superior Court Judge requested that all called and failed cases in 2020 be automatically rescheduled for a later court date. Second, we examined the median number of days between a called and failed entry and a motor vehicle FTA in ACIS for all cases served in 2019 and 2020 (regardless of disposition). The median number of days between a called and failed and a FTA entry was 77 days in Buncombe County, versus 32 days in Durham, 28 days in Guilford, and 26 days in Forsyth; thus, we would expect that fewer cases that are called and failed would result in a FTA in Buncombe County.

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

| | Pre- implementation period | Post- implementation period | Percentage point difference |
|-----------------|----------------------------------|-----------------------------------|--------------------------------|
| Forsyth County | 19.91% 7496 | 3.53% 759 | -16.38*** |
| Guilford County | 15.96% 6583 | 3.53% 796 | -12.43*** |
| Durham County | 16.29% 2766 | 8.17% 1048 | -8.12*** |
| Buncombe County | 6.48% 1326 | 0.37% 57 | -6.11*** |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the percent of cases with a court non-appearance that have *** listed have less than a .1% chance of being observed due to chance.

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

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

Not all of these matters are being handled consistently across the district but collectively are likely depressing 2020 non-appearance rates. Although offering these explanations for depressed 2020 non-appearance rates, stakeholders expressed confidence in the direction of implemented reforms.

Pretrial Detention

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

Before implementation of reforms, the number of monthly pretrial detentions was declining, and that trend continued post-implementation. The average number of monthly detentions fell a statistically significant 29.4% in the post-implementation period. There was a larger reduction in detentions for misdemeanor bookings (33.9%) compared to felony bookings (12.7%), a result in line with expectations given the project's focus on reducing unnecessary pretrial misdemeanor detentions. Declines were nearly identical for Black and White individuals.


Average detention length also declined, falling from 7.4 days before reforms were implemented to 5.5 days after implementation. To help understand what was pushing these declines in detention lengths, we categorized detentions into five stay lengths: 0-day stays; 1-day stays; 2–3-day stays; 4–30-day stays; and 31+ day stays. A 0-day stay occurs when a person is booked and released on the same day. After reforms were implemented, more people had shorter detentions (1-day and 2–3-day stays) and fewer people had longer ones (detentions of 4–30 days or 31+ days). Additionally, there was a change in the trendline for 0-day stays, the shortest possible detention. Before reforms were implemented, the share of individuals detained 0 days was declining by an average of .3 percentage points per month, meaning that the share of individuals detained on 0-day stays was decreasing over time. After reforms were implemented, that trend reversed, with the share of individuals experiencing a 0-day stay growing by an average of .2 percentage points per month. Examining average detention length by race revealed mixed results.

As with prior reporting, we note that the onset of the COVID-19 pandemic coincided closely with implementation of reforms in January 2020. This confluence of events creates challenges in parsing out effects of the pandemic and of implemented reforms. We hope to address those challenges as the evaluation continues.

Number of Pretrial Detentions

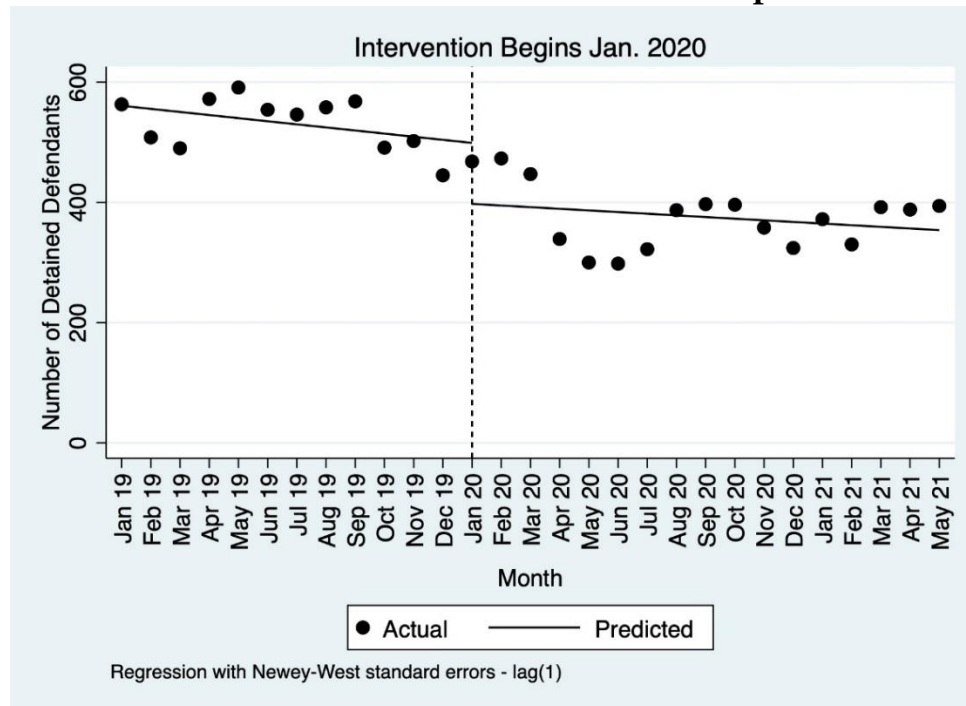
Trends in Monthly Detentions

As shown in Figure 5, the number of pretrial detentions per month was declining before reforms were implemented, and this trend continued in the post-implementation period, notwithstanding the halt in jury trials due to the COVID-19 pandemic. In 2019, the average number of monthly pretrial detentions was declining by 5.1 per month; post-implementation the decline was a slower 2.7 per month. This difference was not statistically significant, meaning that it may be due to chance.



Pretrial detentions were decreasing before reforms were implemented & that trend continued post-implementation

Figure 5. Trends in Pretrial Detention Pre- and Post-Implementation



We also executed this analysis for highest charge misdemeanor and felony bookings.³⁴ Because the reforms were targeted at misdemeanor charges, we expected to see greater declines with respect to those charges. We did in fact find a marginally greater decline in the trendline as to misdemeanor charges, however the change was not statistically significant. Specifically, misdemeanor pretrial detentions were declining at a rate of 2.5 detentions per month before reforms were implemented and at a rate of 2.6 detentions per month post-implementation. Felony pretrial detentions were declining by approximately 1.6 per month pre-implementation, and that rate reduced to a decline of .2 detentions per month after implementation. This difference also was not statistically significant. These consistent results across offense types demonstrate that the trend in monthly pretrial detentions did not change significantly after implementation and continued to decline throughout 2020 and 2021.

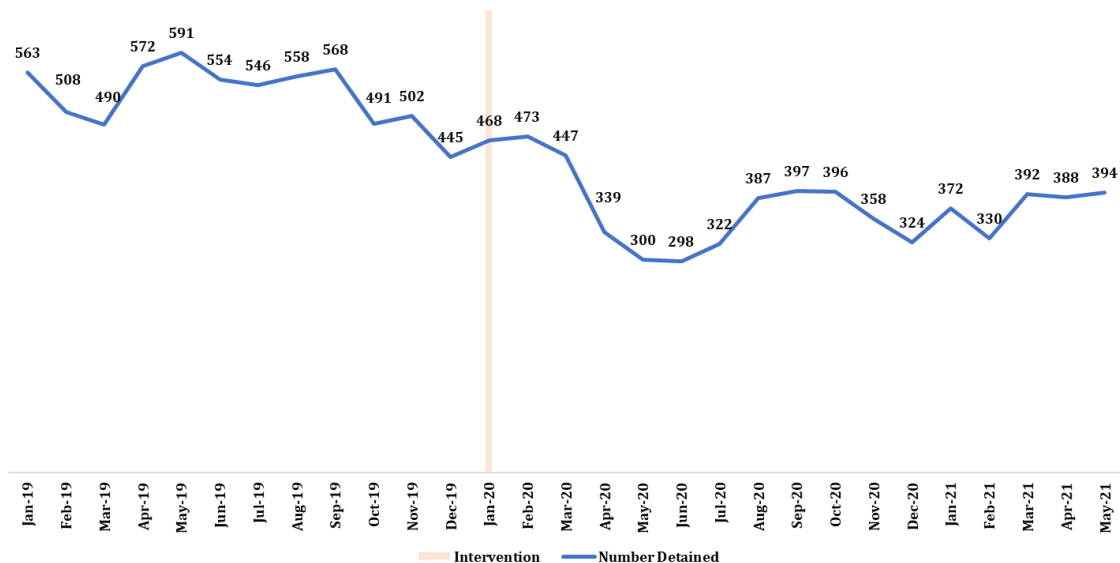
Figure 6 offers another way to show the trend in monthly detentions: a line graph of the number of pretrial detentions from January 2019 through May 2021.³⁵ For every month in the post-implementation period, the number of pretrial detentions was below the same month in the pre-implementation period. For example, the number of pretrial detentions in January 2019 was 563 but dropped to 468 in January 2020 and to 372 in January 2021. We noted above the challenges that COVID-19 creates with respect to analyzing changes in jail detention. The onset of the pandemic did not, however, impact January and February of 2020. As shown in Figure 6, monthly pretrial detentions for those months were below detentions for the same periods in 2019, though we note that

³⁴ See Appendix H, Figures 3 and 4.

³⁵ We identified pretrial bookings using the county detention center's coding of "pretrial" for status. Any booking event with pretrial listed as the status for one or more charges was included for analysis.

there was a downward trend in monthly detentions even prior to implementation of reforms.³⁶

Figure 6. Number of Pretrial Detentions by Month: Jan. 2019 – May 2021



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

Change in Average Monthly Detentions

Overall, the average number of individuals detained per month fell 29.4% from 532 pre-implementation to 376 post-implementation.

We also examined this metric with respect to whether an individual's highest charge was a misdemeanor or felony.³⁷ Because implemented reforms targeted individuals whose highest charge was a lower-level misdemeanor, we expected to see a larger decrease in detentions for people charged with misdemeanors than for felonies. In fact, this

Average monthly detentions fell 29.4% overall & 33.9% for misdemeanor charges

³⁶ An overlay of pretrial bookings by year is presented in Appendix H, Figure 1.

³⁷ Prior to analyzing booking events by highest charge, we coded individual charges as either a misdemeanor or felony based upon the N.C. General Statute recorded in the jail data. We used our coding as the basis for highest-charge analyses because we identified multiple instances where the misdemeanor/felony coding provided by the county did not align with the statute or charge description. However, we also conducted sensitivity analyses of each our analyses by using the coding provided by the county. Where applicable, we report when this sensitivity analysis produced significantly different findings.

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

expectation was realized. For detained individuals whose highest charge was a misdemeanor, the decrease was 33.90% (an average of 362 per month pre-implementation to 239 post-implementation). For detained individuals whose highest charge was a felony, the reduction was only 12.70% (an average of 139 per month pre-implementation to 121 post-implementation). Both declines were statistically significant.³⁸

Detentions Due to Failure to Appear

When examining pretrial detention numbers, it can be helpful to understand what proportion of detentions are due to a non-appearance, as opposed to a public safety threat. We thus explored whether there were any changes, before and after implementation of reforms, in the proportion of bookings that resulted solely from a FTA. As shown in Table 12, in the pre-implementation period 22.2% of all bookings occurred solely because of a FTA; that number fell to 14.9% in the post-implementation period, and the change was statistically significant.

Stakeholders interested in reducing unnecessary pretrial detentions also have been interested to examine the share of FTA detentions attributable to misdemeanor charges. To explore that issue, we used ACIS data to identify whether the highest underlying charges in FTA bookings were felony or misdemeanor charges. Figure 7 shows the share of FTA bookings where the highest underlying charge was a misdemeanor or felony.³⁹ Pre-implementation, pretrial bookings for FTAs were comprised of 89.2% misdemeanors and 10.8% felonies. Post-implementation, FTA bookings in misdemeanor cases fell to 80.0% of FTA bookings. These differences were statistically significant, and show that after implementation of reforms, misdemeanors accounted for a smaller proportion of FTA detentions.

Table 12. Proportion of Pretrial Detentions because of FTA: Pre- and Post-Implementation

| Booking Type | Pre-Implementation | Post-Implementation |
|--------------|--------------------|---------------------|
| FTA | 22.2% | 14.9%*** |

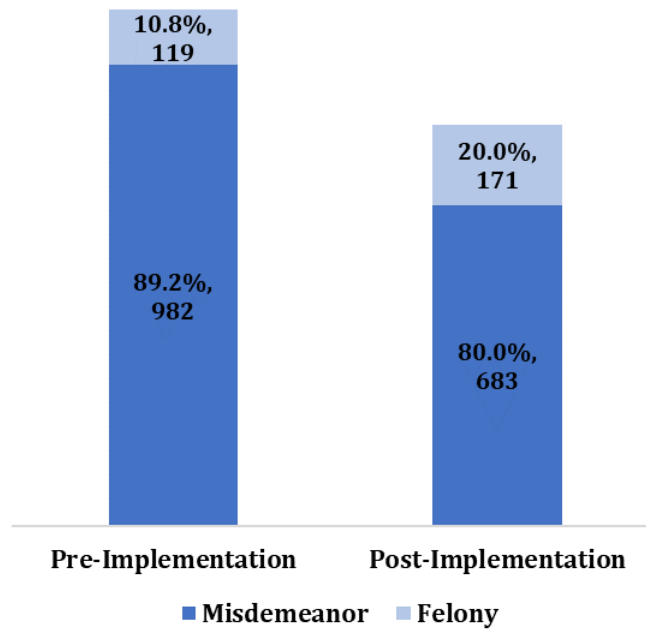
Note. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance. In table, significance indicates that the shares of bookings because of FTA were significantly different between the pre- and post-implementation periods.

³⁸ For month-by-month comparisons (e.g., Jan. 2019 vs. Jan. 2020 vs. Jan 2021) see Appendix H, Figure 2.

Detailed regression results available upon request.

³⁹ The share of FTA bookings that could not be matched to ACIS data declined from 22.2% pre-intervention to 10.5% post-intervention. Because this substantial decline in match rate obscured the trend in misdemeanor/felony bookings, we focused just on those bookings where the underlying charges could be identified.

Figure 7. Charge Types for FTA-Only Detentions, Pre- and Post-Implementation

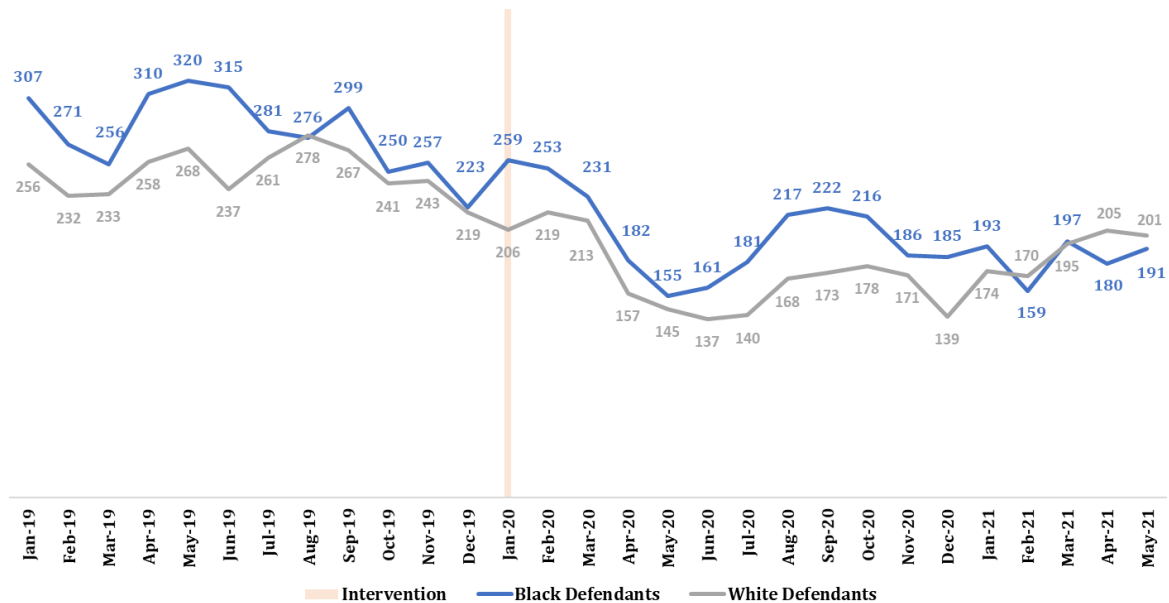


Detentions by Race

Pretrial bookings for Black and White individuals declined at similar rates pre- and post-implementation. As shown in Figure 8, the number of bookings for Black individuals outnumbered that of White individuals for each month of the pre-implementation period except for August 2019. In the post-implementation period, a similar trend was observed until 2021, when the number of bookings for White individuals narrowly outnumbered that of Black individuals in February, April, and May. Pretrial bookings for Black individuals declined 29.3%, from 280 bookings per month pre-implementation to 198 per month post-implementation. For White individuals, the reduction was 29.5%, from 249 bookings per month pre-implementation to 176 per month post-implementation. Both declines were statistically significant.

Pretrial bookings declined at similar rates for Black and White individuals

Figure 8. Number of Pretrial Detentions by Month: Black and White Individuals



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

Length of Pretrial Detention

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

Average Length of Detention & Stay Length

We found that average length of detention declined 25.5%, from 7.4 days in the pre-implementation period to 5.6 days post-implementation. Consistent with this result, more individuals had shorter detentions (1-day and 2–3-day stays) and fewer had longer ones (stays of 4–30 days and 31+ days). Additionally, the trendline for the very shortest detentions (0-day stays) reversed in the post-implementation period. Specifically, in the pre-implementation period, the share of individuals being detained 0 days was declining by an average of .3 percentage points per month; in the post-implementation period that share was growing by an average of .2 percentage points per month.

Average length of detention declined & the trendline for the shortest detentions started increasing

Table 13 presents detention lengths for all booking events. As shown there, the share of individuals detained 1 day or 2–3 days grew significantly after implementation (42.1% and 10.1%, respectively), while the share of individuals detained for longer periods (4–30 days or 31+ days) declined significantly after implementation (-22.2% and -28.1%, respectively). The average length of pretrial detention for all individuals fell from 7.4

days to 5.6 days, and the median detention length fell from 2 days to 1 day. All of these findings are statistically significant.

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

We calculated average detention length in two ways. “Average Days Detained – Raw” is calculated from actual detention lengths in the pre- and post-implementation periods. Because data collection ended in 2021, the longest possible post-implementation detention is 17 months (Jan. 2020 to May 2021). For pre-implementation detentions, however, it is 29 months (Jan. 2019 to May 2021). In the pre-implementation period, 120 detentions (1.3%) were longer than a year, and the longest detention length was 928 days. In the post-implementation period, 50 individuals (.6%) had detention lengths longer than a year, and the longest detention time was 553 days. Recognizing that this might skew the pre-implementation average, we also provide an alternate measure: “Average Days Detained, Capped.” This formulation obscures very long detentions but allows an “apples to apples” comparison of average detention lengths. We used 31+ days as a cut off because, 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. We present both averages in the results but highlight the capped average in our discussion.

Table 13. Pretrial Detention Length: All Charges

| | Net Change (Pre-Post) | Pre-Implementation | Post-Implementation |
|--------------------------------|-----------------------|--------------------|---------------------|
| 0 Days | -1.0% | 32.5% | 32.2% |
| 1 Day | 42.1%*** | 17.1% | 24.3% |
| 2 - 3 Days | 10.1%* | 15.8% | 17.4% |
| 4 - 30 Days | -22.2%*** | 20.7% | 16.1% |
| 31+ Days | -28.1%*** | 13.9% | 10.0% |
| Average Days Detained - Capped | -1.8*** | 7.4 | 5.6 |
| Average Days Detained - Raw | -7.1*** | 21.8 | 14.7 |
| Median Days Detained | -1 | 2 | 1 |

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

Table 14 presents the same results for bookings where the highest charge was a misdemeanor. Like the overall results, there were statistically significant increases in the share of individuals who were detained for 1 day and significant decreases in the share of individuals detained for the longest stays (4–30 days and 31+ days). For misdemeanor cases, average detention length fell significantly from 5.7 days to 3.8 days, and the median detention length remained 1 day pre- and post-implementation.

Table 15 shows the results for bookings where the highest charge was a felony. There were significant increases in the share of individuals detained 1 day and 2–3 days and decreases in the share of individuals detained 4–30 days and 31+ days. The average detention length likewise fell significantly from 12.3 days to 9.2 days, and the median detention length fell from 4 to 2 days.⁴⁰

Table 14. Pretrial Detention Length: Highest Charge Misdemeanor

| | Net Change (Pre-Post) | Pre-Implementation | Post-Implementation |
|--------------------------------|-----------------------|--------------------|---------------------|
| 0 Days | -4.0% | 37.6% | 36.1% |
| 1 Day | 46.0%*** | 18.9% | 27.6% |
| 2 - 3 Days | 5.6% | 17.8% | 18.8% |
| 4 - 30 Days | -28.1%*** | 19.9% | 14.3% |
| 31+ Days | -38.1%*** | 8.4% | 5.2% |
| Average Days Detained - Capped | -1.9*** | 5.7 | 3.8 |
| Average Days Detained - Raw | -2.7*** | 8.8 | 6.1 |
| Median Days Detained | 0 | 1 | 1 |

Table 15. Pretrial Detention Length: Highest Charge Felony

| | Net Change (Pre-Post) | Pre-Implementation | Post-Implementation |
|--------------------------------|-----------------------|--------------------|---------------------|
| 0 Days | 10.7% | 25.2% | 27.9% |
| 1 Day | 43.4%*** | 12.2% | 17.5% |
| 2 - 3 Days | 39.8%*** | 10.3% | 14.4% |
| 4 - 30 Days | -12.7%* | 22.9% | 20.0% |
| 31+ Days | -31.2%*** | 29.5% | 20.3% |
| Average Days Detained - Capped | -3.1*** | 12.3 | 9.2 |
| Average Days Detained - Raw | -26*** | 58.7 | 32.7 |
| Median Days Detained | -2 | 4 | 2 |

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

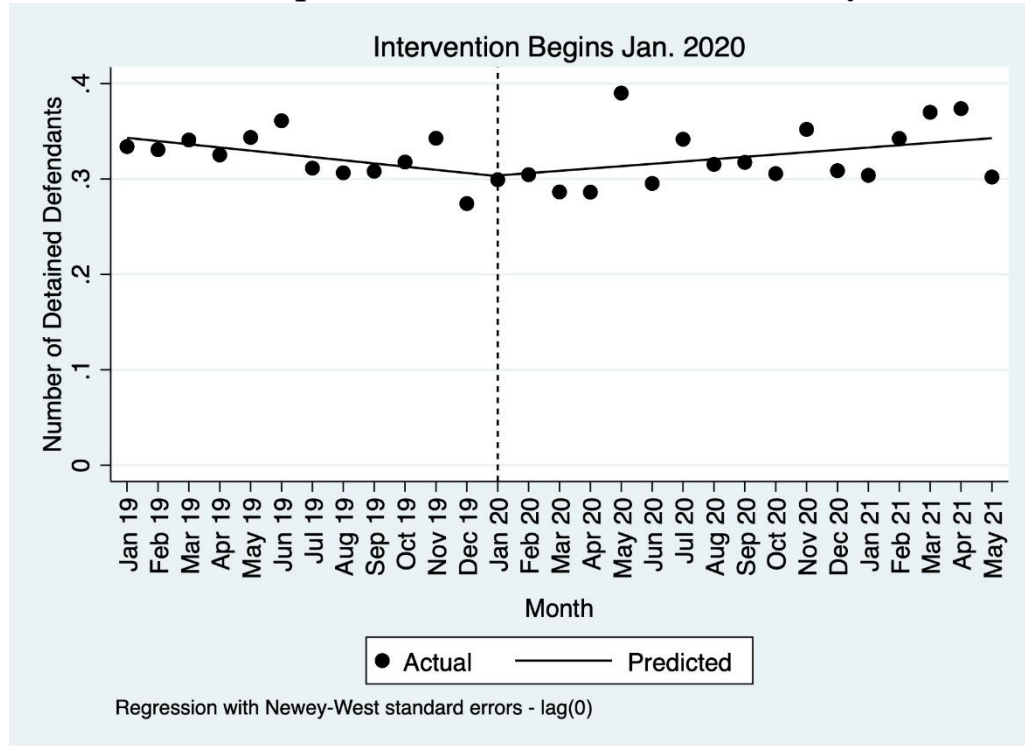
Trends in Detention Lengths

Because detention lengths of 0 days are likely to accrue fewer negative consequences relative to longer detention lengths, we also examined the trend in the share of individuals detained 0 days pre- and post-implementation. Figure 9 illustrates these trends for all individuals and shows that the trendline for 0-day stays reversed post-implementation, from a decrease of .3 percentage points per month pre-implementation to an increase of .2 percentage points per month in the post-implementation period. This

⁴⁰ For additional detail regarding monthly capped and raw detention data, see Appendix H, Figures 5 & 6.

change was statistically significant. Although the share of individuals detained 0 days was not significantly different post-implementation (32.5% vs. 32.2%), Figure 9 and our trendline analysis show that the share of individuals detained 0 days bottomed out at the end of 2019 and has generally been growing since implementation.

Figure 9. Trends in Proportion of Individuals Detained 0 Days: All Offenses



Similar results were observed when examining the data by highest charge. For individuals detained on misdemeanor charges, the share detained 0 days was declining by .5 percentage points per month in the pre-implementation period but growing .1 percentage points per month in the post-implementation period, and this change was statistically significant. For individuals who were detained on felonies, the share detained 0 days was declining an average of .2 percentage points per month in the pre-implementation period but growing .5 percentage points per month in the post-implementation period; however, this change was not statistically significant. Appendix H, Figures 7 and 8 present these trends for highest charge misdemeanor and felony detentions.

Detention Length by Race

Examining the data by race shows both similarities and significant differences in detention length between Black and White individuals. As shown in Tables 16 and 17, Black individuals experienced a greater decline in average detention length post-implementation. Specifically, Black individuals experienced a 29.3% decline in average detention length (7.5 days to 5.3 days), while White individuals experienced a 21.6% decline (7.4 days to 5.8 days). Each of these decreases was statistically significant. Both Black and White individuals also experienced statistically significant increases in the

share of individuals detained for 1 day and statistically significant decreases in the share of individuals with the longest stays (4–30 days and 31+ days).

Table 16. Pretrial Detention Length: Black Individuals, Pre- & Post-Implementation

| | Net Change (Pre-Post) | Pre-Implementation | Post-Implementation |
|--------------------------------|-----------------------|--------------------|---------------------|
| 0 Days | -3.8% | 33.9% | 32.6% |
| 1 Day | 53.1%*** | 16.6% | 25.4% |
| 2 - 3 Days | 11.5%* | 15.9% | 17.7% |
| 4 - 30 Days | -22.4%*** | 18.8% | 14.6% |
| 31+ Days | -34.7%*** | 14.9% | 9.7% |
| Average Days Detained - Capped | -2.2*** | 7.5 | 5.3 |
| Average Days Detained - Raw | -9.3*** | 23.4 | 14.1 |
| Median Days Detained | 0 | 1 | 1 |

Table 17. Pretrial Detention Length: White Individuals, Pre- & Post-Implementation

| | Net Change (Pre-Post) | Pre-Implementation | Post-Implementation |
|--------------------------------|-----------------------|--------------------|---------------------|
| 0 Days | 2.6% | 31.0% | 31.8% |
| 1 Day | 31.9%*** | 17.5% | 23.1% |
| 2 - 3 Days | 8.2% | 15.8% | 17.1% |
| 4 - 30 Days | -22.6%*** | 22.9% | 17.7% |
| 31+ Days | -19.7%** | 12.8% | 10.3% |
| Average Days Detained - Capped | -1.6*** | 7.4 | 5.8 |
| Average Days Detained - Raw | -4.3*** | 19.6 | 15.3 |
| Median Days Detained | -1 | 2 | 1 |

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

Tables 18 and 19 compare differences between Black and White individuals in the pre- and post-implementation periods. As shown in Table 18, Black and White individuals were similar across multiple measures of detention length in the pre-implementation period. However, a greater share of Black individuals experienced 0-day detentions (33.9% vs. 31.0%); a greater share of White individuals experienced 4–30-day detentions (22.9% vs. 18.8%); a greater share of Black individuals experienced 31+ day detentions (14.9% vs. 12.8%); and White individuals had a significantly lower raw average detention length (19.6 days vs. 23.4 days).

In the post-implementation period (Table 19), there were again several similarities between Black and White individuals. Specifically, there were no statistically significant differences in the share of individuals detained 0 days, 2–3 days, or 31+ days. There were also no differences in the median days detained or the average capped detention length. However, there were some statistically significant differences between Black and White individuals. A larger share of Black individuals experienced 1-day detentions (25.4% vs. 23.1%); a greater share of White individuals experienced 4–30-day detentions (17.7% vs. 14.6%); and Black individuals had a lower raw average detention length than White individuals (14.1 days vs. 15.3 days).

Table 18. Pretrial Detention Length: Pre-Implementation, Differences by Race

| | Difference | Black Individuals | White Individuals |
|--------------------------------|------------|-------------------|-------------------|
| 0 Days | -8.7%* | 33.9% | 31.0% |
| 1 Day | 5.8% | 16.6% | 17.5% |
| 2 - 3 Days | -0.6% | 15.9% | 15.8% |
| 4 - 30 Days | 21.9%*** | 18.8% | 22.9% |
| 31+ Days | -13.7%* | 14.9% | 12.8% |
| Average Days Detained - Capped | -0.1 | 7.5 | 7.4 |
| Average Days Detained - Raw | -3.8* | 23.4 | 19.6 |
| Median Days Detained | 1 | 1 | 2 |

Table 19. Pretrial Detention Length: Post-Implementation, Differences by Race

| | Difference | Black Individuals | White Individuals |
|--------------------------------|------------|-------------------|-------------------|
| 0 Days | -2.6% | 32.6% | 31.8% |
| 1 Day | -8.9%* | 25.4% | 23.1% |
| 2 - 3 Days | -3.6% | 17.7% | 17.1% |
| 4 - 30 Days | 21.6%*** | 14.6% | 17.7% |
| 31+ Days | 6.1% | 9.7% | 10.3% |
| Average Days Detained - Capped | 0.5 | 5.3 | 5.8 |
| Average Days Detained - Raw | 1.2* | 14.1 | 15.3 |
| Median Days Detained | 0 | 1 | 1 |

Note to Tables. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance. In the above Tables, significance indicates that the differences in certain pretrial detention lengths between Black and White individuals were statistically significant.

Finally, we explored whether the changes in average detention length between the pre- and post-periods were significantly different between Black and White individuals. Average capped detention length declined 21.6% for White individuals (7.4 to 5.8 days) and 29.3% for Black individuals (7.5 days to 5.3 days), but this difference was not

statistically significant. Average raw detention length fell 39.7% (23.4 to 14.1 days) for Black individuals and 21.9% (19.6 to 15.3 days) for White individuals. This finding was statistically significant. Given that Black individuals experienced a greater decline in the share of individuals detained 31+ days (34.7% vs. 19.7%) post-implementation, this statistically significant difference in raw average detention length appears to be driven by a greater decline in the share of Black individuals with the longest detention times, relative to White individuals.

Non-Traffic Misdemeanor Charging & Citation in Lieu of Arrest

To understand whether there was a change in the “mix” of cases presented to magistrates in the post-implementation period, we used ACIS data to examine whether there was any change in overall charging of non-traffic misdemeanors and/or an increased use of citation in lieu of arrest for these offenses. From conversations with local stakeholders about changes in policing practices, we expected that the COVID-

19 pandemic and public health concerns associated with officer-citizen interactions may have reduced overall charging numbers for lower-level offenses not deemed critical to public safety. Additionally, we identified three reasons why officers may have initiated a larger percentage of charges by citation versus warrantless arrest in the post-implementation period. First, officers may have been more likely to do so after seeing that, as a result of implemented reforms, a larger percent of individuals charged with lower-level offenses were being immediately released by magistrates. Second, the COVID-19 pandemic may have increased the use of citations in lieu of arrest for health and safety reasons. Third, on December 1, 2020, the Winston-Salem Police Department began implementation of a Model Citation in Lieu of Arrest Policy, as part of its participation as a pilot site in North Carolina’s Citation Project. That project, executed by Smith, the UNC School of Government Criminal Justice Innovation Lab, and the North Carolina Association of Chiefs of Police, may impact both the number and types of cases resulting in arrest. If a change in the mix of cases resulted in a higher proportion of more serious misdemeanors being presented to magistrates in the post-implementation period, this may have resulted in more restrictive conditions of pretrial release in that period, thus artificially deflating the impact of reforms on lower-level offenses.

Decreased non-traffic misdemeanor charging & increased use of citations in lieu of arrest may have resulted in a larger proportion of more serious offenses being presented to magistrates & this may have depressed impact of reforms

To examine these issues, we examined data for non-traffic misdemeanor charges initiated on the same date via a citation or warrantless arrest in Forsyth County for January 2019 to June 2021.⁴¹ We separated out and focused on non-traffic misdemeanor charges because, with the exception of impaired driving cases which constitute a relatively small share of traffic offenses, traffic charges typically are initiated by citation and thus not presented to the magistrate.

Consistent with expectations, we found a significant decrease in overall charging of non-traffic misdemeanors in the post-implementation period. Although there was an initial

⁴¹ Some individuals with multiple charges were charged by both a citation and a magistrate order (the process issued after a warrantless arrest). For instance, an individual may have been charged with a non-traffic misdemeanor by a magistrate order and with a traffic misdemeanor by a citation. In these situations, we recorded the case as involving an arrest.

increase of use of citation in lieu of arrest in the earliest months of the pandemic, that increase disappeared by August 2020. However, use of citations again expanded in December 2020 when the Citation Project launched, and elevated use of citations continued for five months before dropping in May and June of 2021.

Figure 10 shows the number of non-traffic misdemeanor cases charged from January 2019 to June 2021, by charge initiation type (citation or warrantless arrest). That figure shows there has been a significant decrease in charging of these offenses since January 2019. In 2019, there were an average of 587 misdemeanor cases initiated by citation. This number decreased 21.12% to an average of 463.5 cases per month in 2020. Similarly, there was a 21.99% percent decrease in the average number of warrantless arrests per month for the entire year of 2020 (average 188 arrests per month) compared to 2019 (241 arrests per month). These results show fewer charges in 2020 relative to 2019, which may reflect fewer interactions with the public on these lower-level offenses during COVID-19. Additional decreases are seen in 2021.

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

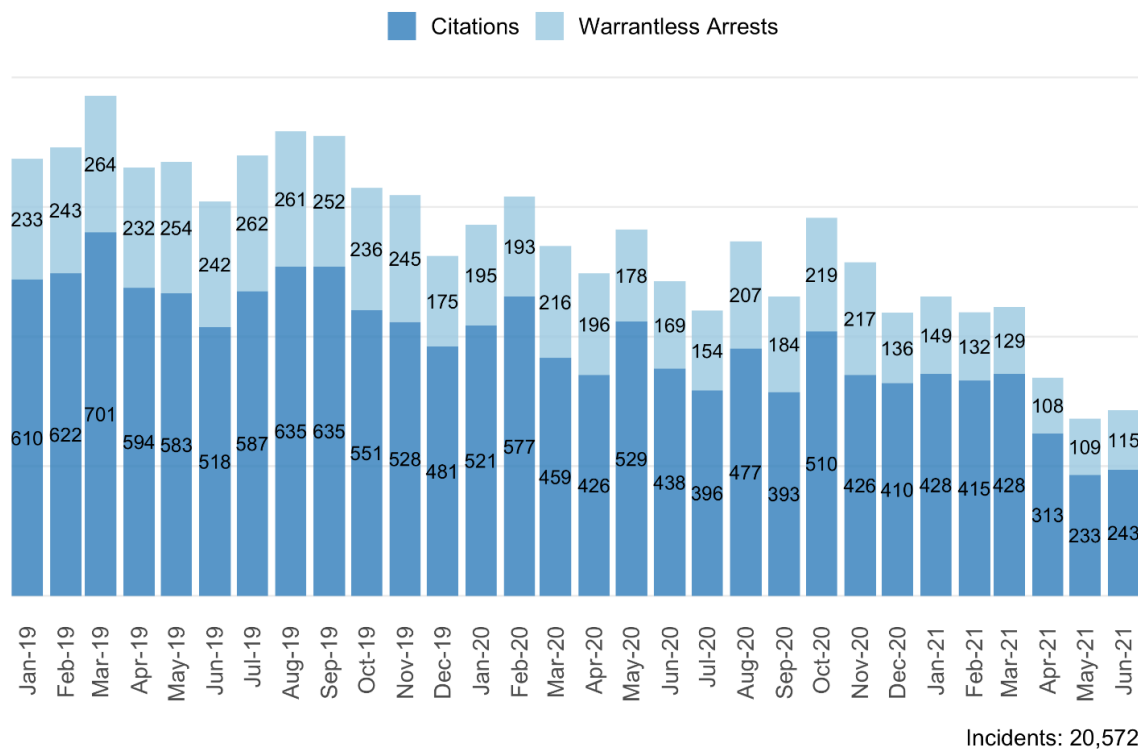
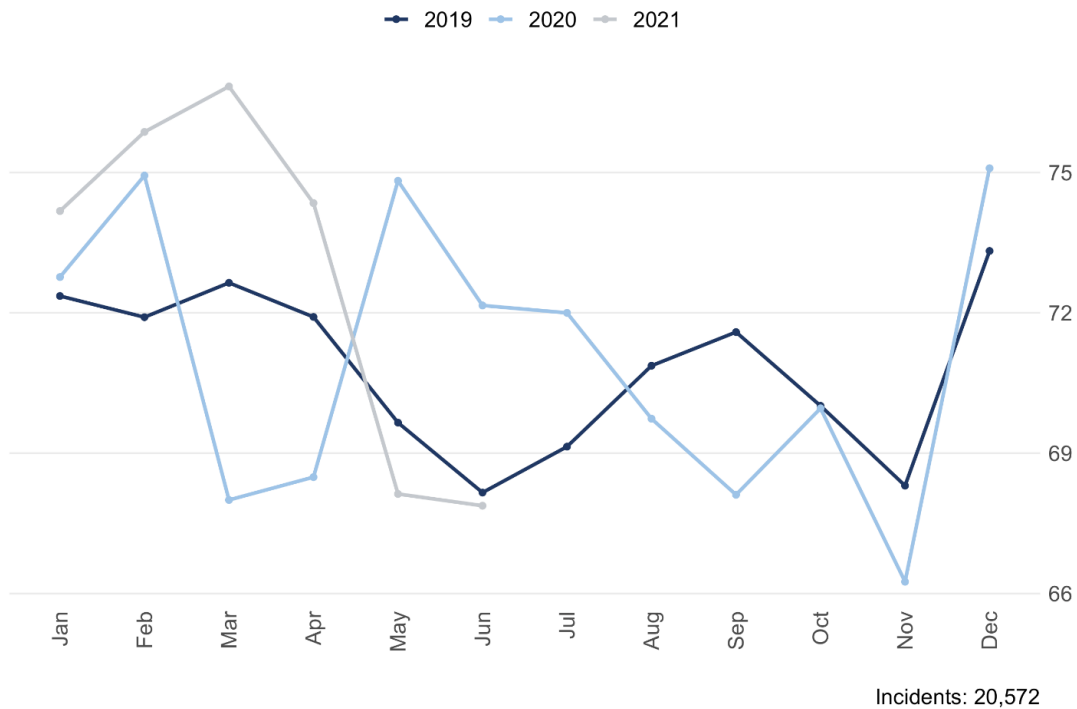


Figure 11 shows the percent of non-traffic misdemeanor cases initiated by citation for the entire evaluation period. The average percent of non-traffic misdemeanor cases initiated by citation in 2020 (71.03%) did not significantly differ from the percent initiated in 2019 (70.82%), suggesting that officers may not have significantly increased the use of citations in lieu of arrest in response to COVID-19. However, there was an increase in use of citations in December 2020, coinciding with implementation of the Citation Project. In December 2020, 75.10% of cases were initiated by citation. Rates of

citation use remained elevated through April 2021, as compared to rates in both 2020 and 2019.

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



Next Steps

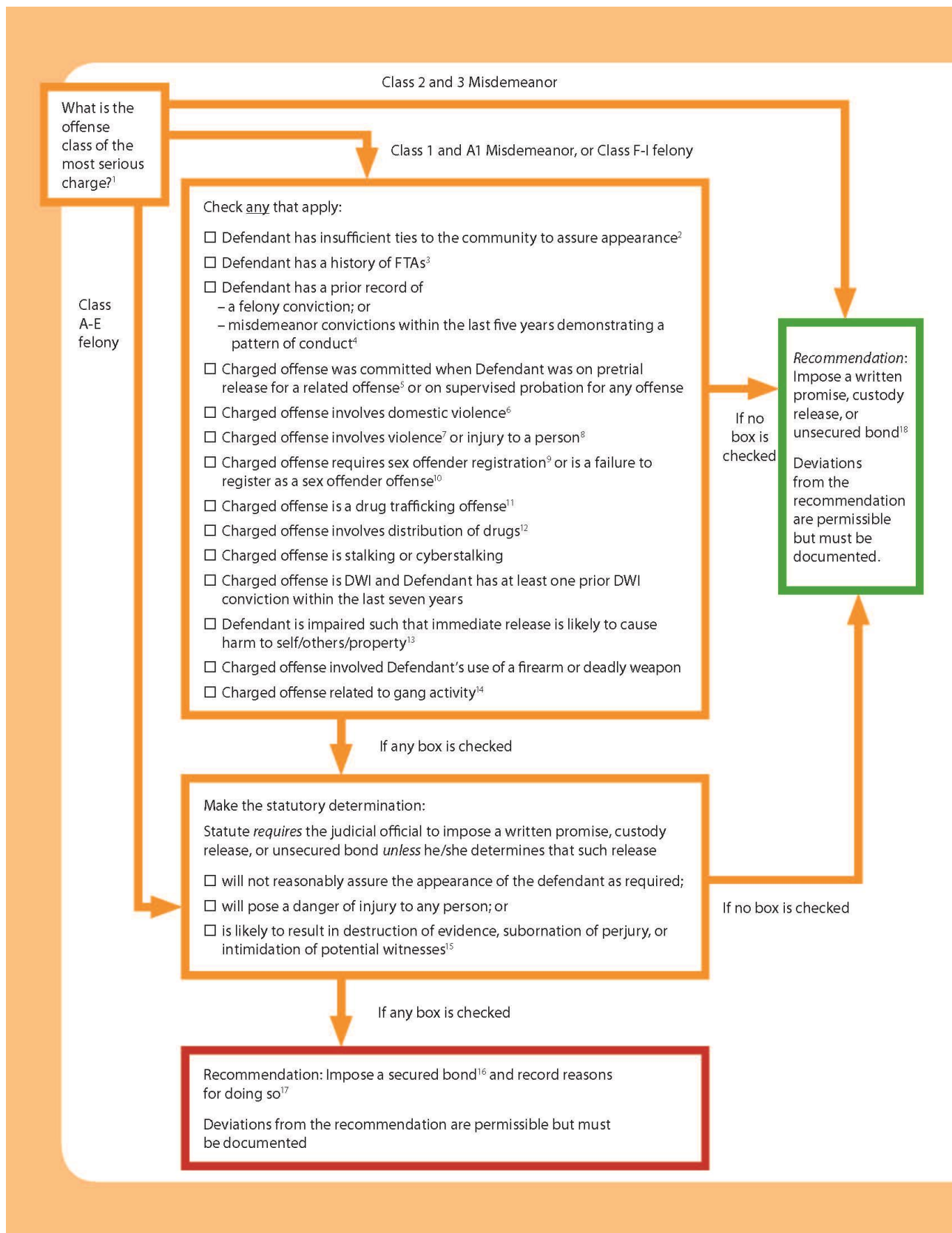
At the September 2021 meeting where we presented a draft of this report, stakeholders mentioned several actions that would support and complement implemented reforms: (1) a training or “cheat sheet” for conducting detention bond hearings; (2) a review of recommended maximum bond amounts for Class A–E felonies; and (3) a short video tutorial on completing Judge Bail Explanation forms.

This evaluation continues through June 30, 2022. Our next evaluation report will encompass data through December 2021. As requested by stakeholders at the September 2021 meeting, we will seek to include data regarding changes in criminal charging pre- and post-implementation in our next report. Additionally at the request of stakeholders, we will explore whether changes in policy in Durham warrant revisiting using that county as a peer county.

Appendix A – New Structured Decision-Making Tool

JUDICIAL DISTRICT 21: DETERMINING CONDITIONS OF PRETRIAL RELEASE

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



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

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

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

Maximum secured appearance bond amounts—offenses other than drug trafficking

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

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

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

Maximum Secured Appearance Bond Amounts—Drug Trafficking*

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

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

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

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

Appendix B – Magistrate Bail Explanation Form

FORSYTH COUNTY MAGISTRATE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

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

| | | | |
|----------------|------------------|--------------------------------------|--------------------------|
| Highest charge | Class A-E Felony | Class 1-A1 Misdemeanor or F-I Felony | Class 2 or 3 Misdemeanor |
| | | | |

STEP 1: OFA after FTA with conditions set by judge

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



STEP 2: Highest Charge

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



STEP 3: (check all that apply)

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

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

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

STEP 3.5:

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

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

STEP 4: Make the statutory determination

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

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

Explanation:

- ☐ 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 and once that is done, 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 Deviate is checked, proceed to **STEP 6**)

STEP 6: Type of Deviation (check one)

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

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

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

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

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

- ☐ Other:

(Form is complete)

20190634

Appendix C – Judge Bail Explanation Form

FORSYTH COUNTY JUDGE BAIL EXPLANATION FORM

DIRECTIONS: This form applies when setting bail.

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

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

STEP 1: OFA after FTA with conditions set by judge

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

STEP 3: (check all that apply)

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

STEP 2: Highest Charge

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

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

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

STEP 3.5:

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

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

STEP 4: Make the statutory determination

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

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

Explanation:

- ☐ 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 and once that is done, 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 Deviate is checked, proceed to **STEP 6**)

STEP 6: Type of Deviation (check one)

- ☐ From recommendation to impose secured bond

- ☐ From maximum bond table

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

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

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

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

- ☐ Other:

(Form is complete)

20190634

Appendix D – Magistrate Bail Form Results by Magistrate

| | Total # of forms magistrates completed | Median # of forms by magistrate |
|--|--|---------------------------------|
| Class A-E felonies | 132 | 4 |
| Class F – I felonies & Class A1 – 1 misdemeanors | 2542 | 109 |
| Class 2 – 3 misdemeanors | 859 | 39.5 |

| | Magistrate 1 | Magistrate 2 | Magistrate 3 | Magistrate 4 | Magistrate 5 | Magistrate 6 |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| % issued secured bonds | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |
| | 53.85% | 23.08% | 14.17% | 40.91% | 57.58% | 39.18% |
| | 7.69% | 30.77% | 8.70% | 16.67% | 46.81% | 25.00% |
| Median secured bond amounts | \$75,000 | \$7,500 | \$50,000 | \$37,500 | \$87,500 | \$75,000 |
| | \$5,000 | \$1,000 | \$2,500 | \$5,000 | \$3,000 | \$5,000 |
| | \$500 | \$1,500 | \$2,000 | \$250 | \$250 | \$1,000 |
| % of forms w/deviations | 0.00% | 0.00% | 50.00% | 25.00% | 40.00% | 56.25% |
| | 1.92% | 15.38% | 13.33% | 31.82% | 14.14% | 16.49% |
| | 0.00% | 30.77% | 8.70% | 11.11% | 46.81% | 25.00% |
| % of forms removed from analysis due to error | 16.87% | 12.90% | 24.87% | 12.00% | 4.29% | 2.39% |

| | Magistrate 7 | Magistrate 8 | Magistrate 9 | Magistrate 10 | Magistrate 11 | Magistrate 12 |
|--|---------------------|---------------------|---------------------|----------------------|----------------------|----------------------|
| % issued secured bonds | 50.00% | N/A | 100.00% | 100.00% | 100.00% | 100.00% |
| | 66.15% | 54.55% | 36.67% | 44.83% | 41.82% | 29.00% |
| | 64.29% | 80.00% | 30.77% | 6.98% | 13.22% | 42.62% |
| Median secured bond amounts | \$200,000 | N/A | \$500,000 | \$37,500 | \$75,000 | \$30,000 |
| | \$2,500 | \$3,000 | \$2,000 | \$5,000 | \$2,000 | \$5,000 |
| | \$500 | \$2,500 | \$750 | \$750 | \$250 | \$500 |
| % of forms w/deviations | 50.00% | N/A | 100.00% | 25.00% | 43.75% | 33.33% |
| | 66.15% | 54.55% | 31.11% | 25.29% | 13.09% | 29.00% |
| | 64.29% | 80.00% | 26.92% | 4.65% | 13.22% | 42.62% |
| % of forms removed from analysis due to error | 28.91% | 0.00% | 27.33% | 20.62% | 4.19% | 36.68% |

| | Magistrate 13 | Magistrate 14 | Magistrate 15 | Magistrate 16 | Magistrate 17 | Magistrate 18 |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| % issued secured bonds | 87.50% | 0.00% | 50.00% | 83.33% | 75.00% | 80.00% |
| | 44.93% | 50.00% | 27.97% | 36.00% | 53.33% | 52.58% |
| | 17.50% | 33.33% | 12.82% | 32.00% | 45.45% | 23.26% |
| Median secured bond amounts | \$25,000 | N/A | \$25,000 | \$50,000 | \$75,000 | \$50,000 |
| | \$2,500 | \$37,750 | \$2,000 | \$2,500 | \$10,000 | \$2,000 |
| | \$250 | \$250 | \$250 | \$500 | \$500 | \$250 |
| % of forms w/deviations | 25.00% | 0.00% | 33.33% | 33.33% | 50.00% | 13.33% |
| | 7.97% | 25.00% | 19.49% | 12.00% | 30.00% | 7.29% |
| | 7.50% | 33.33% | 12.82% | 32.00% | 45.45% | 20.93% |
| % of forms removed from analysis due to error | 8.37% | 11.11% | 7.39% | 1.24% | 10.91% | 5.91% |

| | Magistrate 19 | Magistrate 20 |
|--|----------------------|----------------------|
| % issued secured bonds | 83.33% | 90.91% |
| | 53.33% | 50.93% |
| | 36.73% | 31.71% |
| Median secured bond amounts | \$55,000 | \$50,000 |
| | \$2,000 | \$2,500 |
| | \$250 | \$275 |
| % of forms w/deviations | 50.00% | 18.18% |
| | 25.56% | 21.30% |
| | 36.73% | 30.49% |
| % of forms removed from analysis due to error | 9.74% | 0.00% |

Appendix E – Conditions by Race (Supplemental Analyses)

Note: This appendix details the methods and results of the supplemental analyses of the impacts of race and certain legal risk factors on an individual's likelihood of receiving a secured bond. It is a technical discussion that may be of most interest to researchers.

In the body of our report, we note that intermediate cases involving Black individuals were more likely to result in issuance of a secured bond than intermediate-level cases involving White individuals. This bivariate relationship, however, does not take into account other factors that may be relevant to the decision to issue a secured bond. Research has shown that the relationship between race and secured bonds may become nonsignificant after inclusion of relevant legal and extralegal factors (Wooldredge, 2012). There are two possible reasons why the association between race and use of secured bonds disappears after inclusion of other variables. First, there may be significant racial differences in legal factors used in determining conditions of release. For instance, Black individuals may be more likely to receive a secured bond because they are more likely to have a history of failure to appear or have engaged in a violent offense. Second, the association between race and the use of secured bonds may disappear after inclusion of relevant factors because those legal factors are a better determinate of the use of secured bonds than race.

Table E – 1 displays the zero order Pearson correlations between: (1) race and other risk factors that may increase the likelihood of receiving a secured bond, and (2) the use of secured bond and legal or extralegal risk factors. We utilize Pearson correlations (r) because use of this statistic with binary variables will return the phi coefficient (ϕ), and the value of ϕ can be squared to determine the amount of variation in one variable that is attributable to the other variables. We restrict our analyses to cases: (1) where the individual is either Black or White, (2) where the highest charge is an intermediate-level offense, and (3) that do not involve bond doubling.

Similar to analyses in the body of the report, we restrict our analyses here to cases involving only Black and White individuals. Relative to cases involving White individuals, cases involving Black individuals were more likely to have a prior record ($r = .050$), involve drug trafficking or the distribution of drugs ($r = .125$), or involve domestic violence, violence or injury to a person, or the use of a firearm or deadly weapon ($r = .087$). Cases involving Black individuals, however, were less likely to involve an individual who was impaired such that immediate release was likely to result in harm to self/others/property ($r = -.044$). These results show that there are between race differences in prior convictions and severity of charges, and that both of these factors are strongly related to the use of secured bonds.

The second column of Table E – 1 shows the association between secured bond, race, and other factors related to pretrial decisions. The table shows that there is a significant bivariate relationship between race and use of secured bonds ($r = .049$), but it is considered a weak relationship. Stated differently, race only accounts for .24% of the variation in use of secured bonds across cases. A review of the correlations shows that the strongest influences on the use of secured bonds were whether the individual had a prior conviction ($r = .542$), was on pretrial release ($r = .513$), or had a history of failing to appear ($r = .298$). Not having ties to the

community ($r = .157$) and being too impaired to be safely release ($r = .085$) were also related to the use of secured bonds, but their effects were more moderate.

Table E – 1. Zero order Pearson correlations between race, use of secured bonds, legal factors, and extralegal factors for intermediate-level cases

| | Race | Secured bond |
|--|---------|--------------|
| Race (White = 0, Black = 1) | | .049* |
| Prior convictions | .050* | .542*** |
| Insufficient ties to community | -.029 | .157*** |
| History of failure to appear | .036 | .298*** |
| On pretrial release | -.029 | .513*** |
| Offense involved distribution of drugs | .125*** | .179*** |
| Violent offense | .087*** | .297*** |
| Too impaired to be released | -.044* | .085*** |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance.

Table E – 2 shows the results from separate logistic regression results where each legal or extralegal (e.g., no ties to community) factor is entered into the model to examine the association between race and the use of secured bonds. For instance, model 1 examines the association between race and use of secured bonds once prior convictions is taken into account. Model 2 reports the logistic regression results of secured bonds regressed on race and whether the individual had insufficient ties to the community. Odds ratios are presented in the table to help facilitate interpretation. Results from Models 1 – 7 were used to produce the probabilities reported in the main report. We estimate robust clustered standard errors based upon the individual's name in ACIS to account for multiple conditions (either during the same continuous transactions or different incidents) per individual.

As shown in the table, the bivariate association between race and use of secured bonds for intermediate-level offenses became nonsignificant once we controlled for: (1) prior record (race OR = 1.13, $p = .901$; prior OR = 12.93, $p < .001$); (2) history of FTA (race OR = 1.19, $p = .096$; FTA OR = 8.19, $p < .001$); (3) offense involved distribution of drugs (race OR = 1.12, $p = .255$; distribution OR = 3.90, $p < .001$); and (4) offense involved violence or firearm (race OR = 1.11, $p = .312$; violence OR = 8.08, $p < .001$). Additionally, results show that prior convictions and pretrial release explained the most variation in use of secured bonds, with prior convictions explaining 22% (out of 100%) of the variation and pretrial release explaining 20%.

It is important to carefully interpret the race results for Model 2 (insufficient ties to the community), Model 4 (pretrial release), and Model 7 (too impaired to be released) in Table E – 2. Zero order correlations in Table E – 1 show a negative correlation between race and these factors, which will lead to a *larger* first-order effect of race on secured bonds. This is referred to as a suppression effect in regression and readers are cautioned from drawing inferences from these models (Cohen, Cohen, West, & Aiken, 2003), especially since race had little to no relationship with each of these variables.

While these results show that the *general* effect of race becomes nonsignificant after inclusion of legal factors, it is important to consider that negative outcomes for certain groups of Black individuals (i.e., Black males between the ages of 18-29) may persist even after controlling for legal factors (Steffensmeier, Ulmer, & Kramer, 1998; Wooldredge, 2012).

Table E – 2. Odds ratios from logistic regression of secured bond regressed on legal factors, and extralegal factors for intermediate-level cases

| | Model 1 | Model 2 | Model 3 | Model 4 | Model 5 | Model 6 | Model 7 |
|-----------------------|----------|----------|---------|----------|---------|---------|---------|
| Race | 1.13 | 1.26* | 1.19 | 1.44*** | 1.12 | 1.11 | 1.25* |
| Prior convictions | 12.93*** | | | | | | |
| Insufficient ties | | 13.17*** | | | | | |
| History FTA | | | 8.19*** | | | | |
| Pretrial release | | | | 17.10*** | | | |
| Dist. of drugs | | | | | 3.90*** | | |
| Violent offense | | | | | | 8.08*** | |
| Impaired | | | | | | | 2.45*** |
| Pseudo R ² | .225 | .022 | .069 | .208 | .024 | .067 | .007 |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance.

Cohen, J., Cohen, P., West, S.G., & Aiken, L.S. (2003). *Applied Multiple Regression/Correlation Analysis for the Behavioral Sciences (3rd Edition)*. New Jersey: Lawrence Erlbaum Associates Publishers.

Steffensmeier, D., Ulmer, J., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology*, 36, 763-797.

Wooldredge, J. (2012). Distinguishing race effects on pre-trial release and sentencing decisions. *Justice Quarterly*, 29, 41-75.

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

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

| Guilford County | Pre | Post | % pt. difference |
|---|------------------------------|------------------------------|------------------|
| New criminal charges | 20.50% 7091 | 20.28% 3916 | -0.22 |
| New felony charges | 21.05% 1493 | 25.49% 998 | 4.44*** |
| New violent felony charges | 5.39% 382 | 7.46% 292 | 2.07*** |
| New non-violent felony charges | 17.98% 1275 | 21.50% 842 | 3.52*** |
| New non-traffic misdemeanor charges | 42.69% 3027 | 46.04% 1803 | 3.35*** |
| New violent non-traffic misdemeanor charges | 13.30% 943 | 16.19% 634 | 2.89*** |
| New non-violent non-traffic misdemeanor charges | 34.48% 2445 | 37.41% 1465 | 2.93** |
| New traffic misdemeanor charges | 73.73% 5228 | 70.05% 2743 | -3.68*** |
| Total number of defendants | 34,590 | 19,310 | |
| Durham County | Pre | Post | % pt. difference |
| New criminal charges | 18.98% 2681 | 17.48% 1938 | -1.50** |
| New felony charges | 28.65% 768 | 27.81% 539 | -0.84 |
| New violent felony charges | 7.24% 194 | 8.57% 166 | 1.33 |
| New non-violent felony charges | 24.32% 652 | 22.96% 445 | -1.36 |
| New non-traffic misdemeanor charges | 48.75% 1307 | 47.27% 916 | -1.48 |
| New violent non-traffic misdemeanor charges | 16.93% 454 | 18.16% 352 | 1.23 |
| New non-violent non-traffic misdemeanor charges | 40.66% 1090 | 37.05% 718 | -3.61* |
| New traffic misdemeanor charges | 63.56% 1704 | 64.65% 1253 | 1.09 |
| Total number of defendants | 14,127 | 11,087 | |

Table F – 1, continued

| Buncombe County | Pre | Post | % pt. difference |
|---|------------------------------|------------------------------|-----------------------------|
| New criminal charges | 20.47% 3204 | 17.36% 2116 | -3.11*** |
| New felony charges | 26.28% 842 | 27.03% 572 | 0.75 |
| New violent felony charges | 4.49% 144 | 4.77% 101 | 0.28 |
| New non-violent felony charges | 23.56% 755 | 24.05% 509 | 0.49 |
| New non-traffic misdemeanor charges | 53.12% 1702 | 54.68% 1157 | 1.56 |
| New violent non-traffic misdemeanor charges | 13.89% 445 | 16.40% 347 | 2.51* |
| New non-violent non-traffic misdemeanor charges | 45.88% 1470 | 46.17% 977 | 0.29 |
| New traffic misdemeanor charges | 63.86% 2046 | 58.18% 1231 | -5.68*** |
| Total number of defendants | 15,653 | 12,191 | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the percentage of individuals that acquire a new pretrial charge that have *** listed have less than a .1% chance of being observed due to chance.

Appendix G – New Pretrial Criminal Charges (Supplemental Analyses)

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

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

As shown in Table G – 1, we found that among those with new charges during the pretrial period, there was a statistically significant 1.37 percentage point increase in the prevalence of these felonies during the post-implementation period. 2.84% of the 6,948 individuals who had their cases served in 2019 and who incurred new pretrial criminal charges were charged with one or more of these offenses, compared to 4.21% of the 3,661 individuals during the post-implementation period. Absolute numbers of individuals who acquired these new pretrial charges, however, decreased. As shown in the table below, 197 individuals with cases served in 2019 incurred one or more of these charges during the pretrial period, compared to 154 individuals in 2020.

We also found that the prevalence of these pretrial offenses increased a statistically significant 1.72 percentage points during post-implementation in Guilford County, Forsyth's peer county. Among the 7,091 Guilford individuals with new pretrial offenses from 2019 cases, 4.64% (329 individuals) were charged with one or more of these felonies during the pretrial period compared to 6.36% (249 individuals) in 2020. Statistical tests showed that the amount of change was not statistically different for Forsyth County relative to Guilford County, suggesting that both counties are experiencing an equal amount of change in this metric. Durham and Buncombe Counties also experienced increases in these pretrial offenses (1.36 percentage points and .57 percentage points respectively), but these changes were not statistically significant at the .05 level.

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

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

| | Pre- implementation period | Post- implementation period | Percentage point change |
|-----------------|----------------------------------|-----------------------------------|----------------------------|
| Forsyth County | 2.84% 197 | 4.21% 154 | 1.37*** |
| Guilford County | 4.64% 329 | 6.36% 249 | 1.72*** |
| Durham County | 6.38% 171 | 7.74% 150 | 1.36 |
| Buncombe County | 3.78% 121 | 4.35% 92 | 0.57 |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the percentage of individuals who acquired a new pretrial charge that have *** listed have less than a .1% chance of being observed due to chance.

Appendix H – Pretrial Detention (Supplemental Analyses)

Figure H – 1. Monthly Pretrial Bookings: 2019, 2020, and 2021

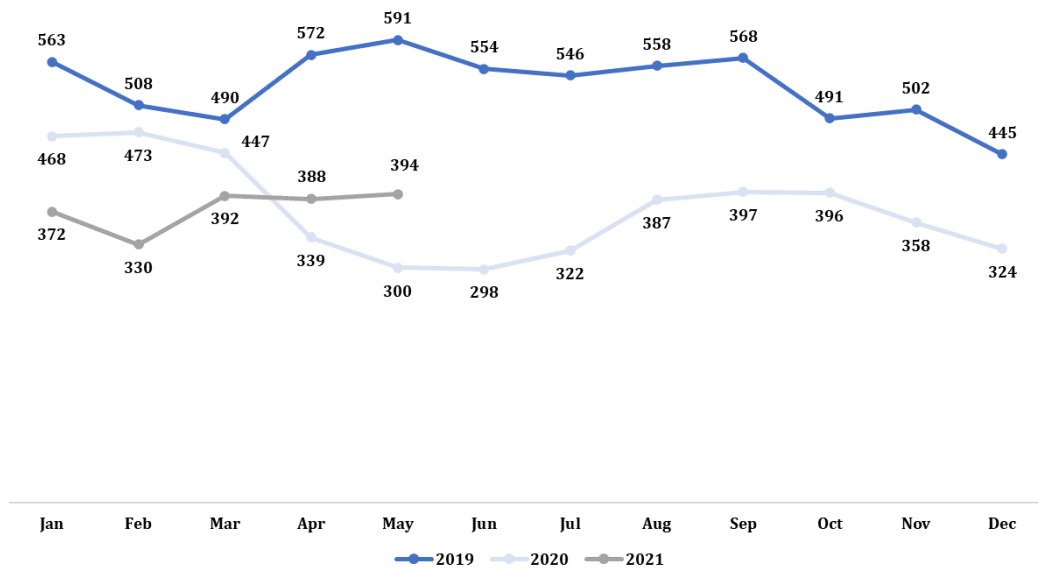
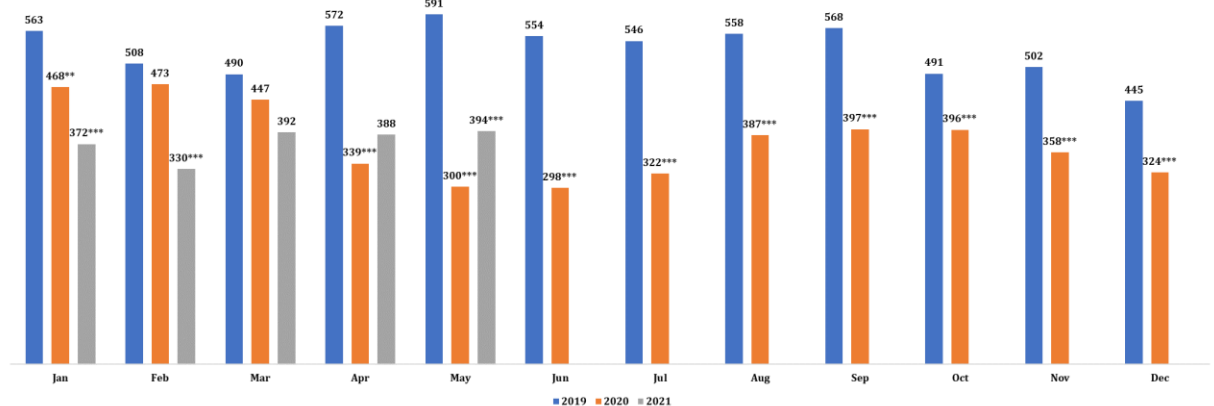
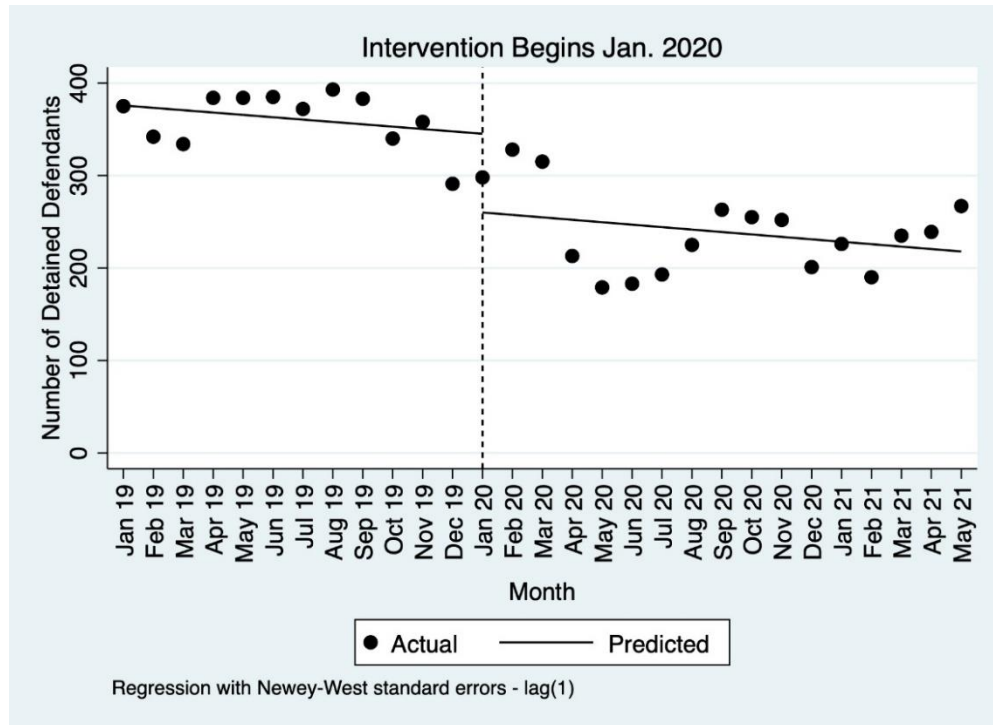


Figure H – 2. Monthly Comparison of Pretrial Bookings



Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance. In the above graph, significance indicates that the number of pretrial bookings in a given month were significantly different from the same month in the previous year (e.g., the number of bookings in Jan. 2020 were significantly lower than the number in Jan. 2019).

**Figure H – 3. Trends in Pretrial Detention Pre- and Post-Implementation:
Highest Charge Misdemeanor**



**Figure H – 4. Trends in Pretrial Detention Pre- and Post-Implementation:
Highest Charge Felony**

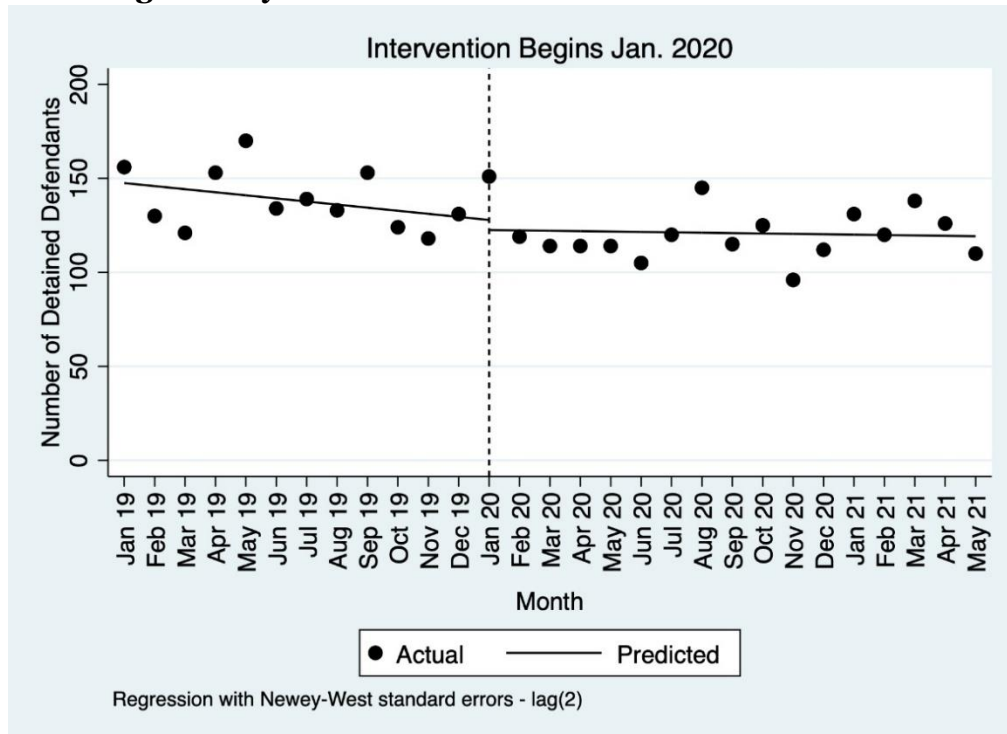


Figure H - 5. Average Detention Length (Raw) by Month: All Offenses

| Month | 2019 | 2020 | 2021 |
|-------|------|---------|--------|
| Jan | 21.6 | 24.5 | 9.9*** |
| Feb | 16.6 | 20.3 | 12* |
| Mar | 17.6 | 14.2 | 13.4 |
| Apr | 15.9 | 18.1 | 9.6** |
| May | 24.5 | 14.2* | 10.5 |
| Jun | 21.7 | 14.2 | |
| Jul | 19.6 | 16.9 | |
| Aug | 21.1 | 15 | |
| Sep | 22.9 | 16.9 | |
| Oct | 28.8 | 15** | |
| Nov | 21.2 | 7.3*** | |
| Dec | 31.5 | 13.1*** | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance. In the above graph, significance (asterisks) indicates that the average detention length in a given month were significantly different from the same month in 2019 (e.g., detention length in Nov. 2020 was significantly lower than in Nov. 2019).

Figure H – 6. Average Detention Length (Capped) by Month: All Offenses

| Month | 2019 | 2020 | 2021 |
|-------|------|--------|--------|
| Jan | 7.9 | 7.5 | 4.6*** |
| Feb | 6.9 | 7.0 | 5.4* |
| Mar | 7.1 | 5.0*** | 5.7 |
| Apr | 6.7 | 5.4 | 5.5 |
| May | 7.7 | 4.5*** | 6.8** |
| Jun | 7.0 | 4.9** | |
| Jul | 10.0 | 5.2*** | |
| Aug | 7.4 | 5.1*** | |
| Sep | 6.8 | 5.8 | |
| Oct | 8.0 | 5.6*** | |
| Nov | 7.2 | 3.9*** | |
| Dec | 8.2 | 5.2*** | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance. In the above graph, significance (asterisks) indicates that the average detention length in a given month were significantly different from the same month in 2019 (e.g., detention length in Nov. 2020 was significantly lower than in Nov.).

Figure H – 7. Trends in Proportion of Individuals Detained 0 Days: Highest Charge Misdemeanor

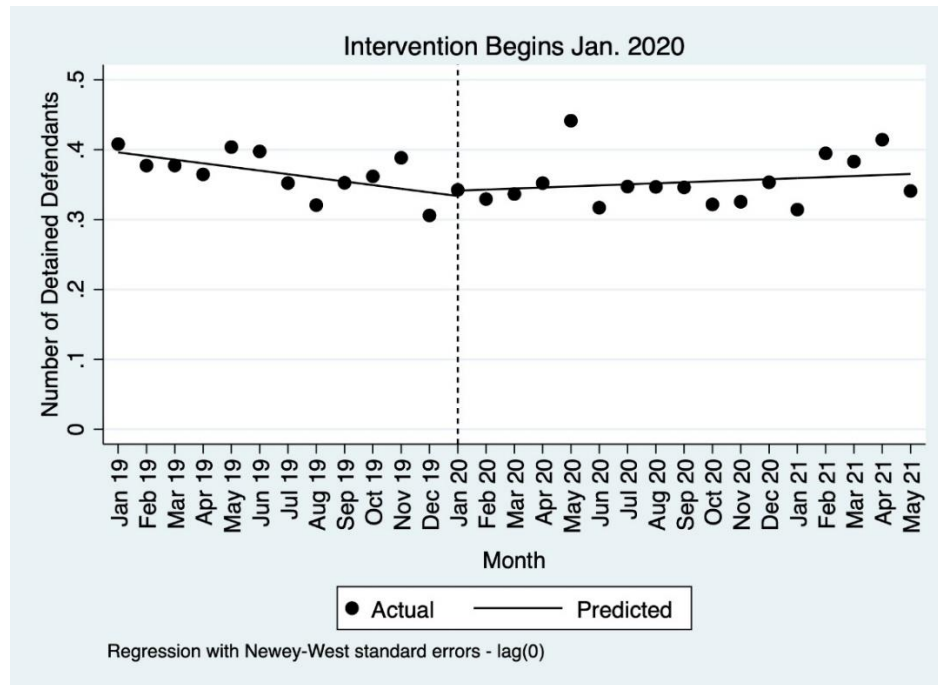
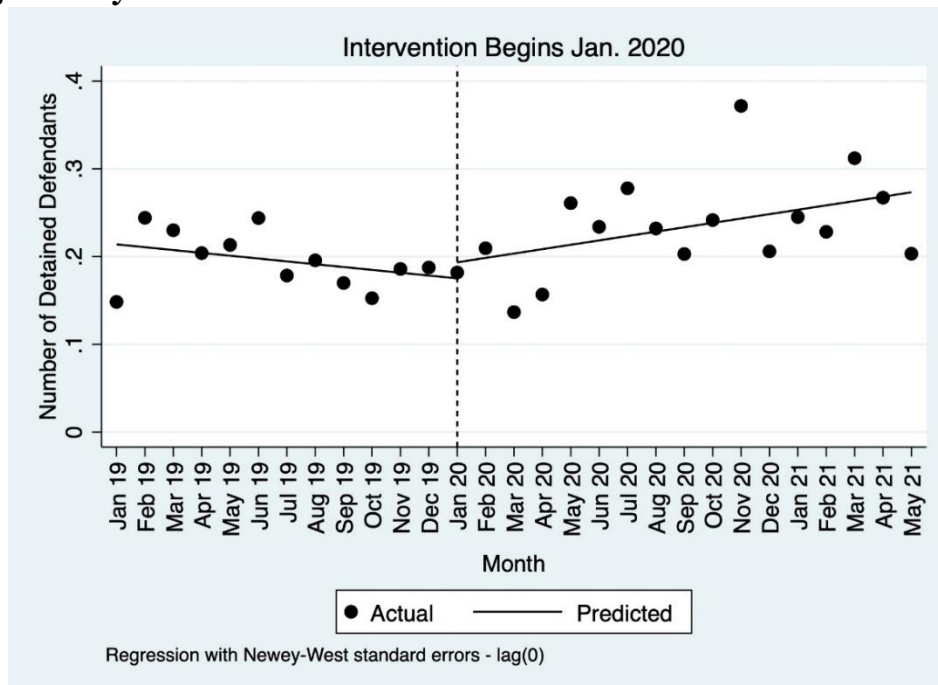


Figure H – 8. Trends in Proportion of Individuals Detained 0 Days: Highest Charge Felony



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

As shown in Table I - 1, the prevalence of new criminal charges during the pretrial period decreased 5.79 percentage points for Black individuals. Among Black individuals with a new charge, there was a significant increase for all offense categories, except violent felonies (no statistically significant change) and traffic misdemeanors (statically significant 5.60 percentage point decrease). The largest increases were for non-violent non-traffic misdemeanors, where the likelihood of incurring these charges increased 7.73 percentage points during the post-implementation period.

Table I -2 displays the same results for White individuals. While there was no significant change in the prevalence of new pretrial charges overall, there were significant increases for overall felonies, non-violent felonies, overall misdemeanors, and non-violent misdemeanors. Results showed that the odds of incurring a new non-violent felony charge during the pretrial period increased 5.46 percentage points for White individuals and the likelihood of a new non-violent misdemeanor charge increased 7.23 percentage points.

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

| | Pre | Post | % pt. difference |
|---|------------------------------|------------------------------|------------------|
| New criminal charges | 32.53% 4183 | 26.74% 2110 | -5.79*** |
| New felony charges | 13.29% 556 | 17.11% 361 | 3.82*** |
| New violent felony charges | 3.20% 134 | 3.93% 83 | 0.73 |
| New non-violent felony charges | 11.48% 480 | 15.07% 318 | 3.59*** |
| New non-traffic misdemeanor charges | 40.07% 1676 | 47.25% 997 | 7.18*** |
| New violent non-traffic misdemeanor charges | 10.66% 446 | 13.32% 281 | 2.66** |
| New non-violent non-traffic misdemeanor charges | 32.70% 1368 | 40.43% 853 | 7.73*** |
| New traffic misdemeanor charges | 79.15% 3311 | 73.55% 1552 | -5.60*** |
| Total number of defendants | 12,860 | 7,890 | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance.

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

| | Pre | Post | % pt. difference |
|---|------------------------------|------------------------------|---------------------|
| New criminal charges | 19.22% 2160 | 19.41% 1212 | 0.19 |
| New felony charges | 19.07% 412 | 24.26% 294 | 5.19*** |
| New violent felony charges | 2.82% 61 | 3.38% 41 | 0.56 |
| New non-violent felony charges | 17.31% 374 | 22.77% 276 | 5.46*** |
| New non-traffic misdemeanor charges | 48.06% 1038 | 55.12% 668 | 7.06*** |
| New violent non-traffic misdemeanor charges | 10.19% 220 | 11.63% 141 | 1.44 |
| New non-violent non-traffic misdemeanor charges | 40.46% 874 | 47.69% 578 | 7.23*** |
| New traffic misdemeanor charges | 72.64% 1569 | 67.24% 815 | -5.40*** |
| Total number of defendants | 11,238 | 6,243 | |

Note. *: Significant at $p < .05$. **: Significant at $p < .01$. ***: Significant at $p < .001$. P-values represent the probability that the observed differences are the result of chance. For example, differences in the average number of detentions that have *** listed have less than a .1% chance of being observed due to chance.

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