



# The Citation Project

## Second Report

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# Executive Summary

Executed by the UNC School of Government's Criminal Justice Innovation Lab (the Lab) and the North Carolina Association of Chiefs of Police (NCACP), the Citation Project seeks to improve policing practices through implementation and rigorous evaluation of a model Citation in Lieu of Arrest Policy. The project has three components:

- (1) developing a model citation in lieu of arrest policy ("model policy");
- (2) implementing the model policy in four police department pilot sites; and
- (3) conducting an empirical evaluation to assess the model policy's impact on criminal justice metrics such as safety, equity, and efficiency.

On December 1, 2020, four diverse North Carolina police departments implemented the project's model policy. Those police departments include Winston-Salem, Wilmington, Apex, and Elizabeth City. This report includes findings from the first six months of implementation. Throughout the report, we use the term "encounter" to refer to misdemeanor incidents that result in citation or warrantless arrest.

Key findings include:

- All four pilot sites experienced decreases in the overall number of misdemeanor encounters, suggesting that implementation of the policy did not increase the number of people involved with the criminal justice system. Put another way, no "net widening" occurred.
- Although citation rates were high across all sites in both the pre- and post-implementation periods, results show muted and mixed impact of the model policy on those rates. While citation rates increased for all encounters in three sites, these increases were driven by a shrinking proportion of DWI-related encounters, which, at least in the pre-implementation period, predominantly result in arrest. When DWI-related encounters are excluded from analysis, two sites experienced a statistically significant decrease in citation rates and two sites experienced increases in citation rates that were not statistically significant. At a February 2022 meeting where we presented these results to stakeholders, they agreed that DWI-related encounters should be removed from the dataset and helped us to refine the relevant list of DWI-related offenses.
- For all but one site, Black people and other people of color were significantly more likely to be involved in an encounter than White people. These racial/ethnic differences increased after implementation of the model policy. However, when we focused on the critical metric associated with the model policy—the likelihood of being arrested versus issued a citation—we found no statistically significant differences by race/ethnicity. This result indicates no racial differences in officers' decision to cite or arrest.
- Although results are preliminary, we found no evidence that implementation of the model policy resulted in increased court non-appearance or new misdemeanor charging rates. Rates for both of those metrics were lower after implementation of the model policy, reflecting at least in part, that the post-implementation timeframe is currently shorter than the pre-implementation timeframe.

Knowing the importance of successful implementation to police effectiveness as well as recognizing the challenges of implementing the model policy during an unprecedented pandemic, we executed additional analyses to evaluate implementation. Any problems with implementation could explain the limited impact on citation rates noted above. These additional analyses revealed significant issues with completion of Encounter Documentation Forms.

Specifically, for one site, forms were completed in only 15% of warrantless arrest cases. Other sites had completion rates of 34%, 50%, and 60%. Encounter Documentation Forms serve an important implementation purpose: by requiring officers to identify a valid model policy reason for a warrantless arrest, they force officers to apply the policy's new decision-making process. When officers fail to complete the forms, this raises questions about whether they are in fact applying the model policy.

At the February 2022 meeting where we presented these results to stakeholders, we asked for their feedback on whether low completion rates for the Encounter Documentation Forms could in fact be a depressing impact of the policy. Stakeholders were split on this issue but all pilot sites were in agreement that they would undertake immediate additional efforts to improve form completion rates. Specifically:

- Reinforcement by pilot site police chiefs of the importance of completing Encounter Documentation Forms.
- Refresher training, beginning immediately, for all officers at roll call on completion of Encounter Documentation Forms. To support this effort, Lab staff will send training leads a short instructional video on completing forms.
- Regular monthly reinforcement of the need to complete Encounter Documentation Forms at roll call.
- Improved quality control of pilot site RMS data to proactively identify encounters where forms are missing so that supervisors can follow up with officers to obtain the required documentation.

On the last strategy, one pilot site team shared its recent efforts to streamline that process by using the PowerDMS system. After discussion, Lab staff agreed to facilitate communications among the other pilot sites so that they can replicate using that system for these processes.

This evaluation continues through 2022.

# Background

Executed by the UNC School of Government's Criminal Justice Innovation Lab (the Lab) and the North Carolina Association of Chiefs of Police (NCACP), the Citation Project seeks to improve policing practices through implementation and rigorous evaluation of a model Citation in Lieu of Arrest Policy. The project has three components:

- (1) developing a model citation in lieu of arrest policy ("model policy");
- (2) implementing the model policy in four police department pilot sites; and
- (3) conducting an empirical evaluation to assess the model policy's impact on core criminal justice metrics such as safety, equity, and efficiency.

## Need to Evaluate Impact of Citation Policies

Although citation in lieu of arrest policies offer numerous potential benefits, little research has been executed to evaluate their impact. Charged with offering recommendations on how policing practices can promote effective crime reduction while building public trust, the Task Force on 21st Century Policing recommended that law enforcement agencies develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.<sup>1</sup> These include "least harm" resolutions such as use of citation in lieu of arrest.<sup>2</sup> Increased use of citations offers other potential benefits, including increased law enforcement efficiency; a report by the International Association of Chiefs of Police (IACP) found that citations offer a time savings of just over an hour per incident.<sup>3</sup> Thus, effective citation in lieu of arrest policies can reduce time out of service for officers and equipment, which can be re-directed to more serious public safety issues. Additionally, increased use of citations may help reduce unnecessary pretrial detentions of low-risk defendants and associated costs, unfairness, and negative public safety outcomes.<sup>4</sup> An arrest triggers an initial appearance and imposition of conditions of pretrial release.<sup>5</sup> Because secured bonds are the most common condition imposed in North Carolina,<sup>6</sup> the decision to make an arrest versus issue a citation often results in imposition of a secured bond and associated wealth-based detentions. The North Carolina Task Force for Racial Equity in Criminal Justice also has recommended citation in lieu of arrest as a tool to address racial disparities in the criminal justice

## Citation Versus Arrest—What's the Difference?

In NC, a citation is issued by a law enforcement officer to charge a misdemeanor or infraction. It directs the person charged to appear in court to answer the charges. When a citation is used, the person isn't taken into custody. Alternatively, officers have the option of making a warrantless arrest for criminal conduct. After such an arrest, the person is taken to a judicial official for, among other things, issuance of charges after a determination of probable cause and bail.

<sup>1</sup> FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING 3 (2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>2</sup> *Id.* at 43.

<sup>3</sup> INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, CITATION IN LIEU OF ARREST: EXAMINING LAW ENFORCEMENT'S USE OF CITATION ACROSS THE UNITED STATES (2016), <https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Citation%20Final%20Report%202016.pdf> [hereinafter IACP].

<sup>4</sup> Jessica Smith, *Bail in North Carolina*, 55 WAKE FOREST L. REV. 907, 920 (2020).

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

<sup>6</sup> JESSICA SMITH & ROSS HATTON, UNC SCH. OF GOV'T, 2019 NORTH CAROLINA CONDITIONS OF RELEASE REPORT 1 (2020), <https://cjil.sog.unc.edu/files/2020/02/2019-Conditions-of-Release-Report.pdf>.

system,<sup>7</sup> and it may offer increased officer safety, reduced criminal justice system costs, and diminished burdens on low-level offenders.<sup>8</sup>

Notwithstanding these potential benefits and initial recommendations, little research has been done to evaluate the impact of citation in lieu of arrest policies. Noting this research gap, the IACP has asserted that “[m]ore rigorous study is needed to establish how citation can be used to achieve these advantages, so that evidence-based practices can be standardized into model citation protocols.”<sup>9</sup> This project is designed to do just that: support evidence-based policing practices by evaluating the impact of a model citation in lieu of arrest policy.

## Project Team

A seven-member team is executing this project. Police chiefs hold five seats on the project team, ensuring a law enforcement informed effort. Law enforcement project team members include:

- Secretary Eddie Buffaloe, Department of Public Safety and Immediate Past President, NCACP
- Chief Paul Burdette, Beaufort Police Department and Regional Director, NCACP
- Chief Dan House, NC State University Police Department and Past President, NCACP
- Chief Blair Myhand, Hendersonville Police Department and Secretary, NCACP
- Chief Damon Williams, NC Central University Police Department and President, NCACP

Rounding out the project team is Jessica Smith, Lab Director & W.R. Kenan Distinguished Professor, and Sarah Desmarais, Senior Vice President, Policy Research Associates. Smith, an expert on North Carolina criminal law, brings decades of experience working with judicial system and law enforcement leaders. Desmarais brings expertise in empirical evaluation and implementation of evidence-based criminal justice practices.

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<sup>7</sup> REPORT OF THE NORTH CAROLINA TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE 35 (2020) (recommending encouraging the use of citations in lieu of arrest for misdemeanors and requiring the use of citations for the lowest level misdemeanors), [https://ncdoj.gov/wp-content/uploads/2020/12/TRECReportFinal\\_12132020.pdf](https://ncdoj.gov/wp-content/uploads/2020/12/TRECReportFinal_12132020.pdf).

<sup>8</sup> See IACP *supra* note 3, at 3 (noting these potential benefits).

<sup>9</sup> *Id.* at 3-4.

## Pilot Sites

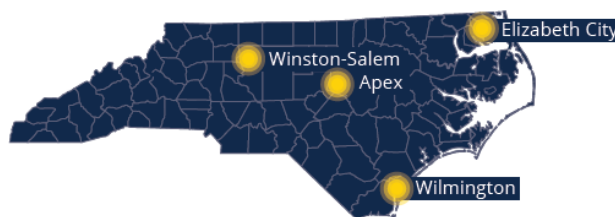
The project's four pilot site police departments are Winston-Salem, Wilmington, Apex, and Elizabeth City. Pilot sites were chosen based on factors such as commitment to implementation, adequacy of local resources, geographic location, community demographics, and department size and caseloads. Specifically, the project team wanted pilot sites that reflected the diversity of North Carolina's police departments.

## Timeline & Key Milestones

The project team began work in 2020. Its first task was to develop a model citation in lieu of arrest policy, included here as Appendix A and discussed in more detail below. The project team then developed implementation plans for pilot departments, a form for tracking officers' decision-making, a pilot site training manual,<sup>10</sup> and a research protocol for the project's evaluation phase. In June 2020, police departments were invited to apply to serve as a pilot site. Applications included a Memorandum of Agreement in which applicants expressed an intent to participate in the full multi-year project and to supply specified data from police record management systems. Additionally, completed applications required agreement by the local sheriff to supply jail data; completion of a COVID-19 survey designed to assess changes in policing practices during the pandemic; and submission of sample data reports. After pilot sites were selected in August 2020, Smith held train the trainer events for training staff in each pilot department and comparison sites were recruited. Additionally, pilot sites worked with the team to develop and execute protocols to pull required data. The data requirements of this project are rigorous. We acknowledge the substantial commitment of time and effort by pilot sites to comply with these requirements and thank them for their contribution to this project. Without their time and effort, this evaluation would not be possible.

Pilot sites went live with the model policy on December 1, 2020. Team members worked with pilot sites to address questions from the field, produce supplemental training materials, and

## POLICE DEPARTMENT PILOT SITES



### ELIZABETH CITY

64  
SWORN  
OFFICERS

18,000  
PEOPLE  
SERVED

### APEX

96  
SWORN  
OFFICERS

66,000  
PEOPLE  
SERVED

### WILMINGTON

264  
SWORN  
OFFICERS

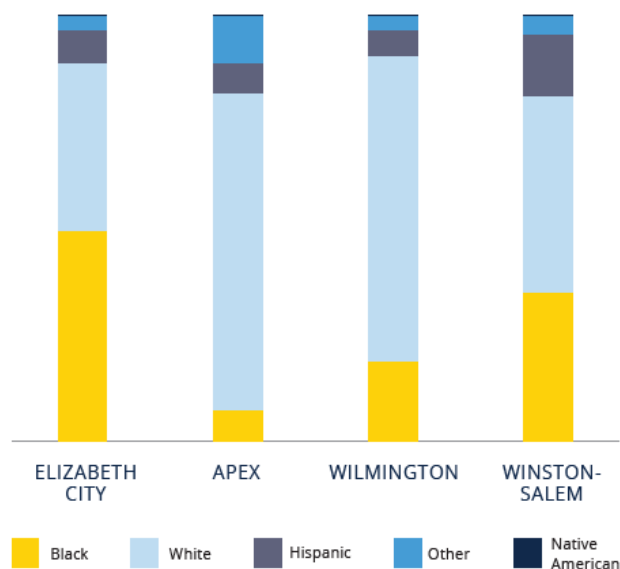
127,000  
PEOPLE  
SERVED

### WINSTON-SALEM

548  
SWORN  
OFFICERS

250,000  
PEOPLE  
SERVED

## DEMOGRAPHICS



<sup>10</sup> The training manual included among other things, a training agenda, scripts for trainers, videos for use during training, exercises and answer keys.

solve challenges regarding data extracts. The project continues until the end of 2022, with pilot and comparison sites submitting data monthly. We will be reporting bi-annually on the project and will produce a final report in early 2023. This is our second report.

## Additional Support

An Expert & Community Review Team provides additional state and national expertise. Specifically, providing feedback on draft reports. The review team includes the following:

- Tarrah Callahan, Executive Director, Conservatives for Criminal Justice Reform
- Elan Hope, Associate Professor, NC State University Department of Psychology
- Marc Levin, Chief Policy Counsel, Council on Criminal Justice
- Jasmine McGhee, Special Deputy Attorney General and Director of the Public Protection Section, North Carolina Department of Justice
- Kristie Puckett Williams, Deputy Director for Engagement and Mobilization, North Carolina ACLU

Christopher Tyner, School of Government Legal Research Associate, assisted with data coding and report production. Isolynn Massey, Research Assistant at PRA, supported the empirical evaluation. Additional support was provided by UNC's Odum Institute, specifically Matthew Dunlap and Jon Crabtree, who assisted with data management and merging of court and police system records. Finally, Professor Jamie Vaske of Western Carolina University provided assistance and advice with processing and analysis of court records.

The Citation Project is supported by a grant from the Charles Koch Foundation. The foundation, however, was not involved in development of the model policy, selection of pilot sites, implementation or execution of the project evaluation.



# Model Policy

As noted, this project involves development of a model citation in lieu of arrest policy. That model policy is included here as Appendix A. In this section we explain its key components.

The model policy provides that officers have discretion regarding whether to cite, arrest, or decline to charge. It further provides, however, that when an officer decides to charge a person with a criminal offense, a citation is recommended in misdemeanor incidents except when, based on information available at the time:

- (1) the law requires an arrest;
- (2) release on a citation
  - (a) will not reasonably assure the defendant's appearance in court;
  - (b) will pose a danger of injury to any person; or
  - (c) is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses; or
- (3) exigent circumstances require an arrest.

The model policy thus recommends use of a citation in misdemeanor cases, subject to three exceptions. The first exception applies when the law requires an arrest. For example, N.C.G.S. 50B-4.1(b) provides that "[a] law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the officer has probable cause to believe that the person knowingly has violated [certain domestic violence protective orders]." In such a scenario, arrest is required by law and a citation may not be issued.

The second exception aligns citation practice with state bail law. Specifically, exception (2) reflects the requirements of N.C.G.S. 15A-534. That provision states that when setting conditions of pretrial release ("bail") the judicial official (magistrate, clerk or judge) must impose a written promise, custody release, or unsecured bond "unless he 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." Because the law *prohibits* imposition of a secured bond unless one or more of the circumstances noted in (2)(a)-(c) above are present, the policy provides that a citation is recommended for defendants charged with misdemeanors who cannot receive a secured bond. The idea behind this structure is that it will promote officer efficiency by avoiding scenarios where a defendant is arrested but then immediately released by the magistrate on conditions other than secured bond because no statutory reason supports detention or imposition of a secured bond.

The model policy explains that circumstance (2)(a) applies when release on a citation will not reasonably assure the defendant's appearance in court. Examples include situations where the officer cannot establish the defendant's identity; the officer will not be able to later locate the defendant for court purposes; or the defendant has a record of prior failures to appear. Under the model policy, the term "a record of prior failures to appear" means two or more failures to appear within the last two years. Additionally, the model policy provides that the mere fact that the defendant is homeless does not satisfy this circumstance if the officer can establish the defendant's identity and knows where the defendant later can be found. Likewise, the mere fact that a defendant resides outside of the county does not satisfy this circumstance.

Under the model policy, circumstance (2)(b) applies when release on a citation will pose a danger of injury to any person. Examples include situations where there is an immediate danger that the defendant will harm themselves or others; the alleged offense involves physical injury to a person, a deadly weapon, or a domestic dispute; the defendant's criminal record includes a conviction for a violent felony; or the defendant is currently on parole, probation, pretrial

release, or post-release supervision for a conviction or charge involving injury to any person. The model policy clarifies that a risk of injury to property does not satisfy this circumstance.

Circumstance (2)(c) applies when release on a citation is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Examples include situations where the defendant has threatened a witness; has a record of witness intimidation; or previously has destroyed evidence to avoid prosecution.

The model policy's final exception applies when exigent circumstances require arrest, such as where release on a citation will not reasonably result in the immediate cessation of the criminal conduct. Examples of when this might occur include those where the defendant is engaged in aggressive panhandling and refuses to cease activity; or is engaged in drunk and disorderly activity that will continue absent removal from the scene. The model instructs that in applying this exception, officers should be aware of their authority under N.C.G.S. 122C-301 through -303 to provide assistance to a person who is intoxicated in public without making an arrest, including: transporting the person to their home, another residence, a shelter, or a medical facility; and transporting the person to jail for detention without arrest until the person becomes sober or up to 24 hours. It further clarifies that this exception applies in situations involving exigency. Thus, it does not apply when the officer believes that the criminal activity may resume at some later, non-immediate future time.

Finally, the model policy requires that officers who make an arrest in misdemeanor cases must document their reasons for doing so. The project team developed an Encounter Documentation Form for this purpose for use in police records management systems.

# Evaluation Plan

During this evaluation, we will investigate research questions regarding both the implementation and impact of the model policy.

**Policy implementation** questions include:

Can the model policy:

1. Maximize the use of citations while avoiding unnecessary involvement of individuals in the criminal justice system?
2. Result in the administration of citations in an equitable manner?
3. Be administered consistently with its guidelines and recommendations?



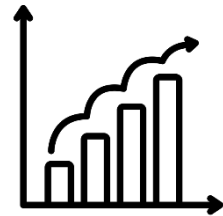
**Policy impact** questions include:

Does the model policy reduce:

1. The amount of time that police and equipment are removed from service during an encounter?
2. The number of arrests resulting from charges for low-level offenses?

Can the model policy be implemented without significantly increasing:

3. The rate of court non-appearances?
4. The rate of criminal activity during the pretrial period?



Our [first project report](#) relied on information from Encounter Documentation Forms completed by officers in encounters covered by the model policy. We used that information to report on the prevalence of encounters and encounter outcomes, including by race; adherence to the guidelines and recommendations of the model policy; and officers' time out of service. In this report, we use court record data to update and refine our analysis of the prevalence of encounters and encounter outcomes, including by race; and provide preliminary data on the court non-appearances and new criminal activity rates.

As the evaluation continues, we will continue to refine our analyses to report on all of the impacts outlined above.

# Data

## Sources & Included Encounters

Because the model policy is targeted to officers' decisions to initiate a case by citation or warrantless arrest, it applies only to misdemeanor encounters where officers have discretion to choose between issuing a citation or making a warrantless arrest. It thus does not apply to:

- encounters where the charging decision is made by some other judicial system actor, such as when a magistrate issues a Warrant for Arrest or Criminal Summons;
- encounters involving an Order for Arrest issued by a judicial official;
- encounters involving one or more felony charges;
- encounters involving only infractions; and
- encounters that do not involve the initiation of misdemeanor criminal charges by an officer, such as when a person is taken into custody for a probation violation or for violation of pretrial conditions.

Additionally, while the model policy applies to all misdemeanor encounters where officers have discretion to arrest, because of road safety issues, we knew that warrantless arrest is common in encounters involving impaired driving (DWI) and related offenses. In fact, when we examined the data, we found that in all sites during the period before implementation of the model policy, a large majority of encounters involving DWI-related offenses resulted in arrest (Table 1 below). However, given the road safety issues associated with these offenses, we thought that the model policy may be unlikely to impact outcomes for these encounters (e.g., unlikely to result in issuance of citations for these encounters). As discussed in more detail in the section on Traffic Encounters below, we observed a reduction in the frequency of DWI-related encounters in the post-implementation period as compared to the pre-implementation period. Because arrest rates are higher for these offenses, we knew that failing to account for lower numbers of them in the post-implementation period could skew the data and suggest larger or increased citation rates when in fact those results were driven by smaller numbers of DWI-related encounters (and associated arrests). To account for this issue, we developed a list of DWI-related offenses (Appendix C) and conducted supplemental analyses removing these offenses from the dataset of relevant encounters.

At the February 2022 meeting where we presented these results, we asked stakeholders for their feedback on this approach. They agreed that DWI-related encounters should be removed from analysis. We also asked for their feedback on whether all of the offenses listed in Appendix C should in fact be categorized as DWI-related offenses likely resulting in warrantless arrest. On that issue, they suggested that at least six offenses included on that list would not necessarily result in warrantless arrest. They asked for additional time to consider this issue, and we are following up with them on that. In our later reporting, we will include a revised list of DWI-related encounters consistent with their feedback and adjust analyses accordingly.

For this report, we linked data from the pilot site police departments' record management systems (RMS) to North Carolina Court Automated Criminal/Infractions System (ACIS) data. Doing this allowed us to create an analytic dataset limited to the encounters of interest for this evaluation: misdemeanor encounters involving the initiation of charges where officers have discretion regarding whether to cite or arrest.

Our final data set for this report included 65,465 encounters. This includes 54,544 encounters before the model policy was implemented and 10,921 encounters following implementation of

the model policy. Details on how we linked and cleaned RMS and ACIS data are provided in Appendix B.

As noted above, our first project report relied on data from officer Encounter Documentation Forms. Officers are required to complete those forms for all encounters covered by the model policy. We had planned to execute similar analyses based on Encounter Documentation Form data for this report: specifically, officers' reason(s) for arrest, magistrates' bail decisions after arrest, and officer time spent on encounters. However, when we linked Encounter Documentation Forms to the ACIS data, we discovered significant issues with completion of Encounter Documentation Forms. Through outreach to pilot sites, we determined that this was an implementation issue; specifically, that officers were not completing forms as required in all relevant encounters. Because of the high level of missing Encounter Documentation Forms, we did not update our prior analyses that relied on data from these forms for this report (reasons for arrest; magistrate bail decisions; and time spent on encounters). We detail this issue further in the section below on Project Participation & Implementation of the Model Policy.

Table 1. Number and Percentage of Highest Charge Misdemeanor Encounters Covered by the Model Policy and Involving DWI-Related Offenses that Resulted in Arrest vs. Citation

Site	Pre-Implementation		Post-Implementation	
	Arrest #(%)	Citation #(%)	Arrest #(%)	Citation #(%)
Apex	91 (89.2)	11 (10.8)	1 (50.0)	1 (50.0)
Elizabeth City	22 (73.3%)	8 (26.7)	2 (100.0)	0 (0.0)
Wilmington	369 (93.7)	25 (6.3)	75 (87.2)	11 (12.8)
Winston-Salem	616 (84.8)	110 (15.2)	22 (34.4)	42 (65.6)

*Note.* Covered encounters included only highest charge misdemeanor encounters where the officer has discretion to issue a citation or make a warrantless arrest. At this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period (see Pre- and Post-Implementation Timeframes, below). And as discussed below, while the pre-implementation period does not include any COVID months, all of the post-implementation period is impacted by the COVID pandemic.

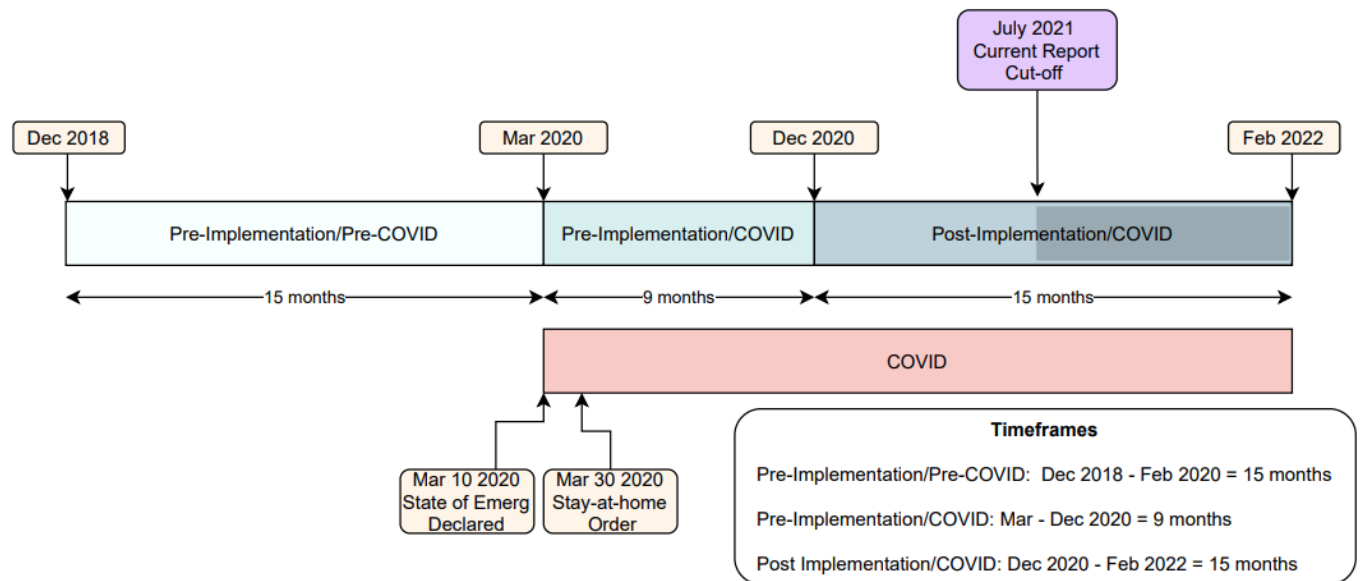
## Pre- & Post-Implementation Timeframes

Pilot sites began implementing the model policy on December 1, 2020. In our initial evaluation plan, developed before the COVID-19 pandemic, we included a straightforward comparison of the time period immediately before implementation of the model policy and the time period immediately after its implementation. However, once the pandemic occurred, we suspected that it was having varied impacts on policing and policing practices (e.g., changes in calls for service and agency operations). We explored this by surveying police departments on changes to their protocols following the onset of the pandemic. This survey revealed substantial changes in agency policies and practices. Meanwhile, our original pre-implementation time period (December 2019 to November 2020) encompassed many months of the pandemic, including its earliest months when policing and policing practices were impacted most significantly.

To accommodate the potential biases that the pandemic created in this original pre-implementation time period, we modified our evaluation plan, shifting our pre-implementation

comparison timeframe to a period before the pandemic; specifically, December 2018 to February 2020 (see Figure 1). Because both the pre- and post-implementation periods begin in December, we also are able to account for seasonal changes through this change. For simplicity throughout this report, we refer to the pre-implementation/pre-COVID period of December 2018 through February 2020 as the “pre-implementation period” and refer to the period after implementation of the model policy as the “post-implementation period.” We do however describe the additional March 2020 through November 2020 pre-implementation period in various portions of this report.

Figure 1. Project timeframes.



# Findings

For all findings, we note that the COVID 19-pandemic may be impacting results and will seek to address that issue as the evaluation continues.

## Project Participation & Implementation of the Model Policy

As mentioned earlier in this report, faithful implementation of the model policy is instrumental to its potential to maximize citations in appropriate cases. Because implementation is crucial to policy effectiveness, we evaluated implementation in two ways: (1) interviews with project liaisons to better understand how each pilot site executed the policy, and (2) assessment of Encounter Documentation Form completion rates to better understand officer compliance with the model policy.

### *Interviews*

We conducted interviews in all four pilot sites with a total of five project liaisons. The liaisons differed in their roles, from a deputy police chief to police lieutenants to a records manager. During the interviews, we asked a range of questions about policy implementation, including the department's rationale for participating in the project, the resources required for policy implementation, communications about the policy to officers, and officer receptivity and learning curve.

Project liaisons cited several reasons for their department's participation in the project. Some reasons were pragmatic, such as saving time by forgoing jail transport, minimizing COVID exposure, and reducing conflict during police interactions (the latter especially considering the current national climate towards police). Other reasons were more normative, including demonstrating fairness to the community, helping the state explore innovative policing strategies, and furthering their agency's least-harm philosophy.

Liaisons explained that the resources required to implement the policy include time and staff to train officers, create and store records (which involves staff from records and information technology), and monitor the data for quality control (crime analysts). They noted that supervisors were involved in quality control for some but not all agencies.

Liaisons for all sites reported that all officers were trained on the policy, including recent hires who learned about it during field training. In two sites, the police chiefs made videos for officers explaining the policy's purpose and importance. Additional training videos, such as those provided by the project team, offered further clarity surrounding the model policy.

Liaisons indicated that officers initially focused their attention on the extra paperwork required by the policy. They also indicated that there was an initial learning curve as minor technical glitches and common officer questions were resolved. However, officers soon embraced the policy for its time savings and ease of use. Liaisons estimated widespread compliance because officers had gotten in the habit of using citations and completing the officer documentation form. Liaisons reported that officers were motivated to use the policy to lower COVID risks and reduce conflicts with community members.

In summary, pilot site departments participated in the project for practical and normative reasons. Liaisons reported that policy implementation appears to be consistent and faithful to policy design. They further reported that initial challenges such as officer receptivity and technical challenges were quickly resolved, representing an initial learning curve that quickly flattened out.



### *Encounter Documentation Form Compliance*

As noted in the Executive Summary and in more detail below, evaluation results show very muted and mixed impact of the model policy on citation rates. Knowing the importance of successful implementation to police effectiveness as well as recognizing the challenges of implementing the model policy during an unprecedented pandemic, we executed additional analyses to determine whether implementation issues could explain the limited impact on citation rates. These additional analyses revealed significant issues with completion of Encounter Documentation Forms. Specifically, for one site, forms were completed in only 15% of warrantless arrest cases. Other sites had completion rates of 34%, 50%, and 60% for warrantless arrest cases. For citation cases, completion rates were 56%, 72%, 74%, and 77%. These numbers show that officers failed to complete forms at a much higher rate in warrantless arrest cases, the precise cases that the model policy was designed to target. Encounter Documentation Forms serve an important implementation purpose: by requiring officers to identify a valid model policy reason for a warrantless arrest, they force officers to apply the policy's new decision-making process. When officers fail to complete the forms, this raises questions about whether they are in fact applying the model policy.

At the February 2022 meeting where we presented these results to stakeholders, we asked for their feedback on whether low completion rates for the Encounter Documentation Forms could in fact be depressing impact of the policy. Stakeholders were split on this issue but all pilot sites were in agreement that they would undertake immediate additional efforts to improve form completion rates. Specifically:

- Reinforcement by pilot site police chiefs of the importance of completing Encounter Documentation Forms.
- Refresher training, beginning immediately, for all officers at roll call on completion of Encounter Documentation Forms. To support this effort, Lab staff will send to training leads a short instructional video on completing forms.
- Regular monthly reinforcement of the need to complete Encounter Documentation Forms at roll call.
- Improved quality control of pilot site RMS data to proactively identify encounters where forms are missing so that supervisors can follow up with officers to obtain the required documentation.

On the last strategy, one pilot site team shared its recent efforts to streamline that process by using the PowerDMS system. After discussion, Lab staff agreed to facilitate communications among the other pilot sites so that they can replicate using that system for these processes.

### **Prevalence of Encounters & Encounter Outcomes**

One objective of the model policy is to increase citation rates while avoiding unnecessary involvement of people in the criminal justice system (i.e., avoid “net widening”). In the sections that follow, we assess this objective by examining the prevalence of encounters and encounter outcomes (citation versus warrantless arrest) overall and by encounter type (traffic encounters, non-traffic encounters, mixed encounters).

All other things equal, if the model policy is being implemented rigorously, then we would expect to see:



- no increase in the overall number of misdemeanor encounters (i.e., no net widening) and
- increased use of citations.

Deviations from these expectations might be caused by unanticipated impact of the model policy or from outside factors that change the context in which the model policy operates, such as changes in the types of encounters or other changes in policy or behavior resulting from the COVID-19 pandemic.

As discussed in more detail below, all four pilot sites experienced decreases in the overall number of misdemeanor encounters, suggesting that no net widening occurred. In all sites, officers issued citations in the vast majority of encounters, in both the pre- and post-implementation periods. When examining all misdemeanor encounters, three sites experienced statistically significant increases in citation rates. These increases were driven by increased use of citations in traffic encounters and “mixed” encounters (encounters involving both traffic and non-traffic offenses). In one site, citation rates in non-traffic encounters significantly decreased; in the other three they remained constant. For encounters that involved charges for any traffic offenses, the rate of DWI-related encounters decreased in the three sites with increased use of citations. After removing DWI-related encounters from the dataset and re-running analyses for all encounters, two sites experienced a statistically significant decrease in citation rates and two sites experienced increases in citation rates that were not statistically significant.

### *All Misdemeanor Encounters*

Across all sites, there is a general decline in the number of misdemeanor encounters when comparing the pre- and post-implementation periods. In other words, no net widening occurred.

As shown Table 2, officers in all sites issued citations in the vast majority of all misdemeanor encounters, both in the pre- and post-implementation periods. In the pre-implementation period, citation rates ranged from 84.1% at the low end to 96.3% at the high end. In the post-implementation period that range was similarly high: 84.5% to 98.3%.

When considering all encounters, all sites except Elizabeth City exhibited statistically significant increases in citation rates when comparing the pre- and post-implementation periods. Elizabeth City exhibited a statistically significant decrease in citation rates, though it must be noted that the overall number of encounters in that site is small.

## A Note on Statistical Significance

When reporting results, we note whether differences found were statistically significant or not. If a difference is **statistically significant**, it means the difference was not likely attributable to chance, and you can feel confident that it is reliable. If it is **not statistically significant**, it means the difference was likely due to chance.

Table 2. All Misdemeanor Encounter Outcomes by Site

All Misdemeanor Encounters					
Site	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	5,611 (96.3)	1,771 (98.3)	218 (3.7)	30 (1.7)	+2.0*
Elizabeth City	952 (91.5)	185 (84.5)	89 (8.5)	34 (15.5)	-7.0*
Wilmington	4,843 (84.1)	1,878 (87.6)	913 (15.9)	266 (12.4)	+3.5*
Winston-Salem	25,278 (92.2)	6,290 (93.1)	2,151 (7.8)	467 (6.9)	+0.9*

Notes. Pre = pre-implementation period, Post = post-implementation period. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

As discussed above, because of road safety issues, arrest is common in encounters involving DWI-related offenses. As such, we anticipated that the model policy would be unlikely to impact outcomes in those encounters. Additionally, and as discussed in more detail in the section on Traffic Encounters below, we observed a reduction in the frequency of DWI-related encounters in the post-implementation period as compared to the pre-implementation period. Because these encounters are more likely to result in arrest, we knew that failing to account for lower numbers of these offenses in the post-implementation period could skew the data and suggest larger or increased citation rates when in fact those results were driven by smaller numbers of DWI-related encounters (and associated arrests). To account for this issue, we conducted supplemental analyses, removing DWI-related offenses from the dataset. As shown in Table 3 below, when encounters involving DWI-related offenses are removed, no sites experienced increased citation rates for all encounters. In fact, both Elizabeth City and Winston-Salem experienced significant decreases<sup>11</sup> in citation rates for all encounters; Apex and Wilmington experienced no statistically significant change in citation rates.<sup>12</sup>

<sup>11</sup> Elizabeth City -  $\chi^2 = 15.89$ ,  $p < .001$ ; Winston-Salem -  $\chi^2 = 7.78$ ,  $p = .005$

<sup>12</sup>  $ps \leq .116$

Table 3. All Misdemeanor Encounter Outcomes by Site (DWI-Related Encounters Removed)

All Misdemeanor Encounters (No DWI)					
Site	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	5,600 (97.8)	1,770 (98.4)	127 (2.2)	29 (1.6)	+0.6
Elizabeth City	944 (93.4)	185 (85.3)	67 (6.6)	32 (14.7)	-8.1*
Wilmington	4,818 (89.9)	1,867 (90.7)	544 (10.1)	191 (9.3)	+0.8
Winston-Salem	25,168 (94.3)	6,248 (93.4)	1,535 (5.7)	445 (6.6)	-0.9*

*Note.* Pre = pre-implementation period, Post = post-implementation period. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

To better understand where the model policy had the most impact, we divided all misdemeanor encounters into three groups:

- 1) encounters involving only traffic offenses (e.g., speeding, driving while license revoked);
- 2) encounters involving only non-traffic offenses (e.g., misdemeanor larceny or drug possession); and
- 3) encounters involving both non-traffic and traffic offenses.

We then compared citation rates during the pre- and post-implementation periods for each offense grouping.

We also considered the type of charges in each offense grouping to help contextualize changes or lack of changes in citation rates. For example, if encounters overall are decreasing but a larger proportion of them involve violent offenses, then—regardless of the model policy—we would expect to see stable or decreasing citation rates. Alternatively, if encounters involving violent offenses are decreasing, we would expect to see increases in citation rates, independent of the model policy.

To assess these issues with respect to non-traffic encounters, we examined whether there was a change in the number and percent of encounters that involved violent offense. And as discussed above, because DWI-related offenses typically involve an arrest, for traffic encounters and mixed encounters, we examined whether there was a change in the number and percent of encounters that involved DWI-related charges.

### *Traffic Encounters*

While misdemeanor encounters involving only traffic offenses constituted the majority of all encounters in each site, this proportion differed across sites. Apex had the largest proportion of traffic encounters (92.1% across all months) and Elizabeth City had the smallest (72.4% across all months). As shown in Table 4, all sites except Elizabeth City experienced a statistically significant increase in citation rates for traffic encounters after implementation of the model policy.

Table 4. Traffic Encounter Outcomes by Site

Traffic Encounters					
Site	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	5,278 (98.3)	1,689 (99.9)	92 (1.7)	1 (0.1)	+1.6*
Elizabeth City	742 (96.9)	149 (96.8)	24 (3.1)	5 (3.2)	-0.1
Wilmington	3,974 (91.9)	1,529 (96.3)	349 (8.1)	58 (3.7)	+4.4*
Winston-Salem	20,315 (98.0)	4,918 (99.6)	425 (2.0)	22 (0.4)	+1.6*

*Note.* Pre = pre-implementation period, Post = post-implementation period. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

To explore whether these changes were impacted by a change in the “mix” of traffic encounters during the pre-and post-implementation periods, we examined whether there was a change in the number and percent of DWI-related encounters. As discussed above, DWI-related encounters typically result in a warrantless arrest. Thus, a change in the prevalence of DWI-related encounters could explain changes in citation rates. As shown in Table 5 below, analyses showed statistically significant decreases in the percentage of DWI-related traffic encounters from the pre- to post-implementation periods in all sites except for Elizabeth City, where there was no significant change.

Table 5. Rates of DWI-Related Encounters.

Site	DWI-Related Encounters		
	# (%)		Percentage Point Change
	Pre	Post	
Apex	102 (1.9)	2 (0.1)	-1.8*
Elizabeth City	30 (3.8)	2 (1.2)	-2.6
Wilmington	394 (8.7)	86 (5.1)	-3.6*
Winston-Salem	726 (3.3)	64 (1.2)	-2.1*

*Notes.* Analyses included all traffic and mixed encounters; that is, any encounter that involved charges for a traffic offense. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

As shown in Table 6, when we removed DWI-related encounters from the dataset, only Apex experienced a statistically significant increase in citation rates for traffic encounters.<sup>13</sup> The other sites experienced no statistically significant changes in citation rates for these encounters.<sup>14</sup>

Table 6. Traffic Encounter Outcomes by Site (DWI-Related Encounters Excluded)

Traffic Encounters (No DWI)					
Site	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	5,267 (99.7)	1,688 (100.0)	17 (0.3)	0 (0.0)	+0.3*
Elizabeth City	735 (99.5)	149 (98.0)	4 (0.5)	3 (2.0)	-1.5
Wilmington	3,954 (98.7)	1,519 (99.2)	51 (1.3)	13 (0.8)	-0.5
Winston-Salem	20,227 (99.8)	4,885 (99.8)	40 (0.2)	8 (0.2)	0.0

*Note.* Pre = pre-implementation period, Post = post-implementation period. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

### *Non-Traffic Encounters*

Misdemeanor encounters involving only non-traffic offenses made up a minority of all encounters in all sites. Of the four sites, Elizabeth City had the largest proportion of non-traffic misdemeanor encounters (24.9% of all encounters). In contrast to citation rates for traffic encounters, citation rates for non-traffic misdemeanor encounters tended to be lower for all sites in the post-implementation period and had a wider range. For example, in Apex, monthly citation rates for traffic encounters ranged from 96.6% to 100.0%, but for non-traffic encounters they ranged from 42.2% to 100.0%. This wider range indicates that there is opportunity for a greater impact of the model policy within this encounter type. In other words, we would expect the model policy to make the most difference within non-traffic encounters, because the citation rate for traffic encounters is already so high (i.e., potential ceiling effects) and the range is very small (i.e., potential range restriction). That said, because non-traffic misdemeanor encounters make up a small portion of misdemeanor encounters overall, the potential impact of this change is limited when looking at absolute number of encounters. For example, a 20% increase in citation rate for non-traffic encounters still would represent a relatively small number of cases.

Contrary to expectations, no pilot sites experienced increases in citation rates for non-traffic encounters after implementation of the model policy (see Table 7). Elizabeth City experienced a statistically significant decrease in citation rates while the other sites did not exhibit any statistically significant changes.

<sup>13</sup>  $\chi^2 = 5.44, p = .020$ .

<sup>14</sup>  $ps \leq .061$

Table 7. Non-Traffic Encounter Outcomes by Site

Non-Traffic Encounters					
Site	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	259 (72.8)	54 (65.9)	97 (27.2)	28 (34.1)	-6.9
Elizabeth City	199 (77.7)	29 (51.8)	57 (22.3)	27 (48.2)	-25.9*
Wilmington	768 (63.1)	293 (64.0)	450 (36.9)	165 (36.0)	+0.9
Winston-Salem	4,167 (74.9)	1,118 (73.1)	1,395 (25.1)	411 (26.9)	-1.8

*Note.* Pre = pre-implementation period, Post = post-implementation period. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

We also examined whether there was change in the number and percent of violent non-traffic encounters during the pre- and post-implementation periods, to put changes in citation rates for these encounters in context. Specifically, an increase in the proportion of violent non-traffic misdemeanors could help to explain why citation rates for this offense grouping either decreased or remained the same in the pilot sites. We found, however, that there was no statistically significant change in the percentage of violent non-traffic misdemeanor encounters in Apex, Elizabeth City, or Wilmington (see Table 8). Thus, a change in the “mix” of non-traffic encounters does not explain the decreased or stable citation rates in those sites. Although Winston-Salem experienced an increase in the percentage of violent non-traffic encounters (from 9.5% to 13.0%), analyses showed that this increase was not sufficient enough to impact the citation rate. In other words, this increase in violent non-traffic encounters does not explain why Winston-Salem experienced no statistically significant change in citation rates for non-traffic misdemeanors.

Table 8. Rates of Encounters Involving Violent Offenses

Site	Violent Encounters		
	# (%)		Percentage Point Change
	Pre	Post	
Apex	76 (16.6)	18 (16.2)	-0.4
Elizabeth City	44 (16.0)	13 (20.0)	+4.0
Wilmington	260 (18.1)	105 (18.9)	+0.8
Winston-Salem	633 (9.5)	237 (13.0)	+3.5*

*Note.* Analyses included all non-traffic encounters and mixed encounters; that is, any encounter that involved charges for a non-traffic offense. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

#### *Mixed Traffic & Non-traffic Encounters*

We analyzed outcomes of “mixed” encounters (misdemeanor encounters involving both traffic and non-traffic offenses) for all sites except for Elizabeth City, where there were not enough encounters to run analyses. In the other sites, these encounters also made up a very small proportion of all encounters (< 10%). As shown in Table 9, for these encounters, citation rates increased in Apex and Winston-Salem, and those increases were statistically significant. Although Wilmington’s citation rate increased for these encounters, it was not statistically significant.

Table 9. Mixed Traffic &amp; Non-Traffic Encounter Outcomes by Site

Site	Mixed Traffic & Non-Traffic Encounters				
	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	74 (71.8)	28 (96.6)	29 (28.2)	1 (3.4)	+24.8*
Elizabeth City	11 (57.9)	7 (77.8)	8 (42.1)	2 (22.2)	---
Wilmington	101 (47.0)	56 (56.6)	114 (53.0)	43 (43.4)	+9.6
Winston-Salem	796 (70.6)	254 (88.2)	331 (29.4)	34 (11.8)	+17.6*

*Notes.* Pre = pre-implementation period, Post = post-implementation period. We did not conduct statistical analysis to compare pre and post citation rates for mixed encounters in Elizabeth City due to very low counts. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

As with traffic encounters, when we removed encounters that involved DWI-related offenses, no sites experienced any change in citation rate after implementation of the model policy (Table 10).<sup>15</sup>

Table 10. Mixed Traffic & Non-Traffic Encounter Outcomes by Site (DWI-Related Encounters Excluded)

Mixed Traffic & Non-Traffic Encounters (No DWI)					
Sites	Citations # (%)		Arrests # (%)		Percentage Point Change in Citation Rate
	Pre	Post	Pre	Post	
Apex	74 (85.1)	28 (96.6)	13 (14.9)	1 (3.4)	+11.5
Elizabeth City	10 (62.5)	7 (77.8)	6 (37.5)	2 (22.2)	---
Wilmington	96 (69.1)	55 (80.9)	43 (30.9)	13 (19.1)	+11.8
Winston-Salem	774 (88.6)	245 (90.4)	100 (11.4)	26 (9.6)	+1.8

Notes. Pre = pre-implementation period, Post = post-implementation period. We did not conduct statistical analysis to compare pre and post citation rates for mixed encounters in Elizabeth City due to very low counts. As reminder, at this stage of the evaluation, the post-implementation period currently is half the length of the pre-implementation period and the post-implementation period was impacted by COVID (see Pre- and Post-Implementation Timeframes, above). An \* indicates results are statistically significant.

## Equitable Administration

Equitable administration of the model policy requires an examination of encounters within groups defined by race/ethnicity. In this section, race/ethnicity refers to the person's race or ethnicity as indicated in ACIS records.<sup>16</sup>

For each site, we first report the racial/ethnic breakdown of misdemeanor encounters overall compared to Census approximations of city demographics and the racial/ethnic breakdown of misdemeanor encounters from the pre- to post- implementation periods.<sup>17</sup> Although the policy does not directly target

## A Note on City Demographics

Comparisons to city demographics are imperfect because encounters may include people who reside in another jurisdiction. For example, and particularly in traffic cases, charged individuals may not reside in the city where the encounter occurred. We are exploring ways to assess or reduce this potential noise in the data in future reporting.

<sup>15</sup>  $ps \leq .072$

<sup>16</sup> ACIS includes Hispanic as a racial category despite it being an ethnicity. In some instances, race/ethnicity data may reflect an officer's perception based upon visual inspection (i.e., when identification documents were not available or provided).

<sup>17</sup> City demographics were calculated from the Census Bureau's American Community Survey 5-Year Estimates (2015-2019). Specifically, we pulled data for the adult population for each race by site and calculated the percentage as a share of the total adult population for the site. Note that the Black, Asian, and Other categories are race only and include Hispanic and non-Hispanic individuals within those respective racial categories.



officers' decision to charge a person with an offense (rather, it targets the method for charging, i.e., citation versus warrantless arrest), examining the racial/ethnic breakdown of misdemeanor encounters overall is important for two reasons. First, although the model policy is targeted at officers' decisions to cite versus arrest, it is important to explore whether the model policy is having unanticipated impact on related processes and decisions and to understand the larger context of the cite versus arrest decision. Thus, we will examine one step "downstream" from officers' cite or arrest decisions (e.g., magistrate decision-making). For the same reason, we examine one step "upstream" from officers' cite versus arrest decisions (e.g., all incidents that lead to misdemeanor charging). Second, given our interest in changes in practices and outcomes after implementation of the model policy, we also are interested in broader contextual differences between the pre- and post-implementation time periods. Therefore, we compare not only the racial/ethnic breakdown of misdemeanor encounters overall to city demographics, but we also compare the racial/ethnic breakdown of misdemeanor encounters from the pre- to post-implementation periods. Any changes in this context would signal the need to further investigate potential factors, including the model policy itself, that may be having broader impacts than the outcomes directly targeted by the policy.

After examining the racial/ethnic breakdown of misdemeanor encounters overall, we then investigate any differences in warrantless arrest rates across race/ethnicity groups after implementation of the model policy. While the first breakdown contextualizes the set of encounters between officers and individuals, the second considers racial/ethnic differences in the implementation of the model policy.

We found that although there are racial/ethnic differences in terms of individuals who are charged with a misdemeanor, we found no racial/ethnic differences in officers' decision-making with respect to whether to charge by citation or make a warrantless arrest during the policy implementation period.

## *All Sites*

### *All Encounters by Race/Ethnicity*

Analysis showed that the racial/ethnic breakdown of people involved in misdemeanor encounters in all pilot sites except Elizabeth City significantly differed from city demographics during the pre- and post-implementation periods. These results suggest that Black people and other people of color were significantly more likely to be involved in a misdemeanor encounter than White people. These results are consistent with findings of prior research demonstrating racial/ethnic disparities in police contact rates.<sup>18</sup> Analyses also showed that racial/ethnic differences increased from the pre- to post-implementation periods in three of the pilot sites. Again, although the model policy does not directly impact the decision to charge, we examined this issue to better understand context for cite versus arrest decisions directly impacted by the model policy.

### *Warrantless Arrest Rates by Race/Ethnicity*

Within each site, a person's likelihood of being arrested versus issued a citation once they were involved in a misdemeanor encounter did not significantly differ by race/ethnicity after implementation of the model policy, suggesting that officers' decisions to arrest versus cite were

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<sup>18</sup> Robin Shepard Engel & Jennifer M. Calnon, *Examining the Influence of Drivers' Characteristics During Traffic Stops with Police: Results from a National Survey*, 21 JUSTICE QUARTERLY 49, 49–90 (2004), <https://doi.org/10.1080/07418820400095741>

not affected by the person's race/ethnicity.<sup>19</sup> In other words, analyses revealed no racial differences with respect to warrantless arrests.

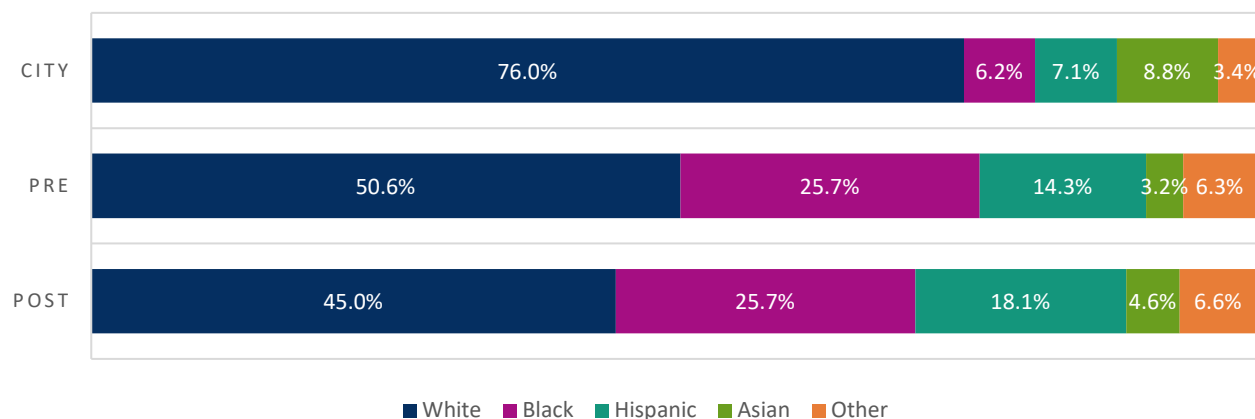
## Apex

### All Encounters by Race/Ethnicity

Figure 2 shows the racial/ethnic breakdown of Apex along with the demographic makeup of people involved in misdemeanor encounters during the pre- and post-implementation periods. As shown there, while Black people make up only 6.2% of the city's population, around 25% of encounters during both the pre- and post-implementation periods involved Black people. Hispanic people make up 7.1% of the population but between 14.3 to 18.1% of encounters. Analyses revealed that these differences were statistically significant.<sup>20</sup> Specifically, Black people and other people of color were significantly overrepresented in encounters compared to city demographics and White people were significantly underrepresented compared to city demographics.<sup>21</sup>

While the percentage of misdemeanor encounters of interest in this project that involved Black people remained the same from the pre- to post-implementation periods, rates of misdemeanor encounters for other people of color (e.g., Hispanic people) significantly increased.<sup>22</sup> In other words, racial/ethnic differences increased from the pre- to post-implementation periods.

Figure 2. Percentage of Misdemeanor Encounters by Race/Ethnicity Compared to Apex Demographics.



*Note.* The “other” category includes American Indian/Alaskan Native, “other,” “unknown,” and two or more races/ethnicities.

<sup>19</sup> One exception included that people of races/ethnicities other than Black and white were the least likely to be arrested in Winston-Salem.

<sup>20</sup>  $\chi^2 = 1,442.88, p < .001$ .

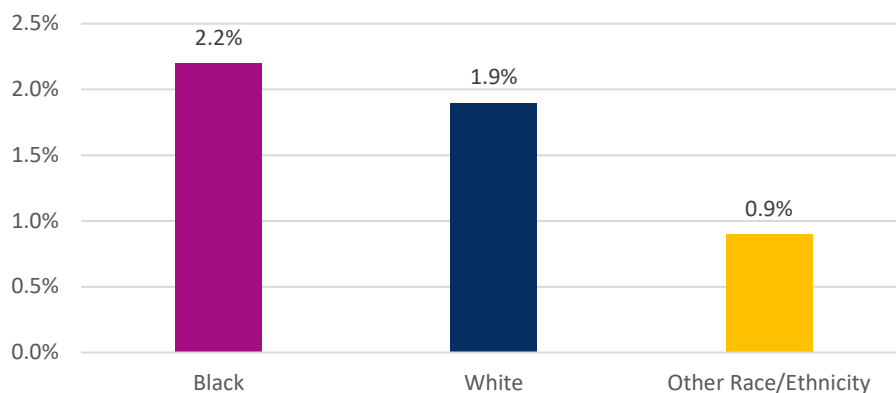
<sup>21</sup> For statistical analyses, our three comparison groups included Black people, white people, and all other racial/ethnic categories (Hispanic, Asian, American Indian/Alaskan Native, “other,” “unknown,” and two or more races).

<sup>22</sup>  $\chi^2 = 25.87, p < .001$ .

#### Warrantless Arrest Rates by Race/Ethnicity

As shown in Figure 3, 2.2% of encounters involving Black people, 1.9% involving White people, and 0.9% involving people with other racial/ethnic identities resulted in warrantless arrest in Apex. These differences were not statistically significant; that is, in Apex people across all races/ethnicities had statistically comparable odds of being arrested as an outcome of a misdemeanor encounter.<sup>23</sup> Put another way, there were no racial differences with respect to warrantless arrests.

Figure 3. Warrantless Arrest Rates for Misdemeanor Encounters by Race/Ethnicity in Apex.

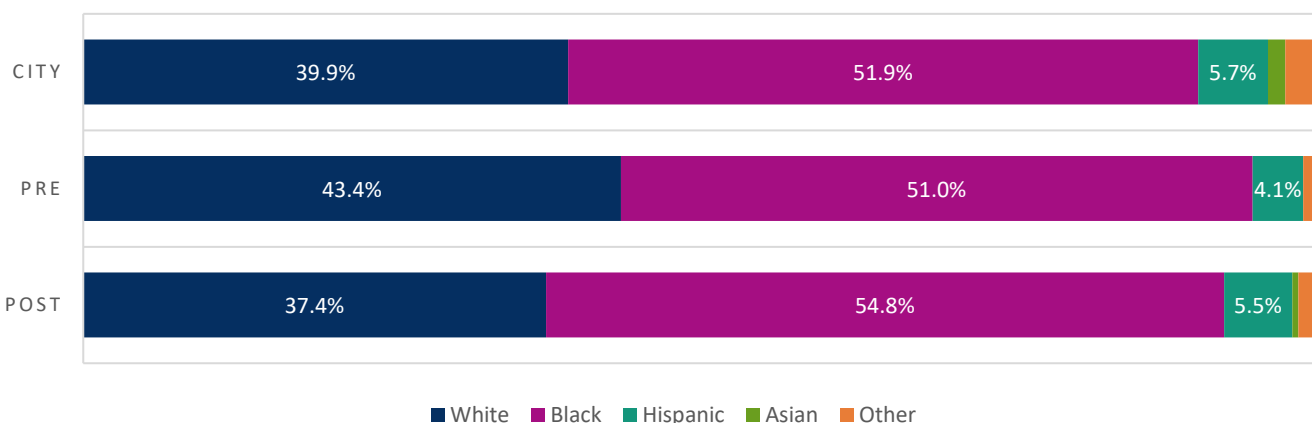


#### Elizabeth City

##### All Encounters by Race/Ethnicity

Analyses revealed no statistical difference between the racial/ethnic breakdown of people involved in misdemeanor encounters in Elizabeth City compared to the city's racial/ethnic demographics (Figure 4).<sup>24</sup> In other words, there was no evidence of racial/ethnic differences in misdemeanor encounters.

Figure 4. Percentage of Misdemeanor Encounters by Race/Ethnicity Compared to Elizabeth City Demographics.



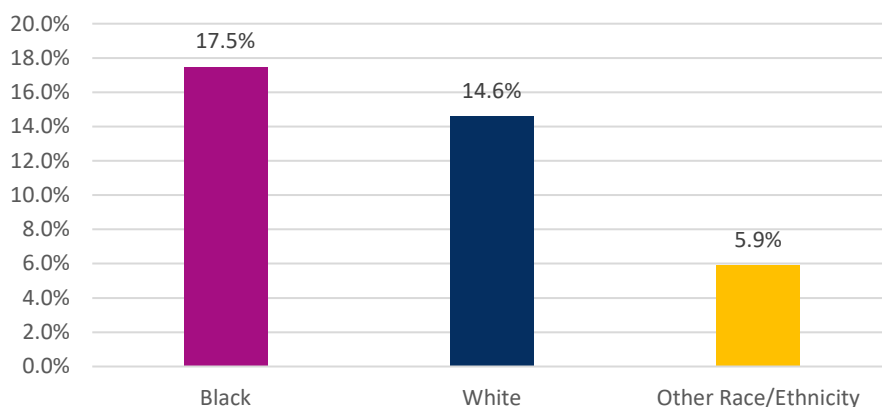
<sup>23</sup>  $p = .279$ .

<sup>24</sup>  $p = .401$ .

#### Warrantless Arrest Rates by Race/Ethnicity

While Black people were the most likely to be arrested as a result of a misdemeanor encounter (17.5% of encounters resulting in warrantless arrest) and people with other racial/ethnic identities were the least likely (5.9%), analyses revealed these differences were not statistically significant (Figure 5).<sup>25</sup> However, due to low counts, this statistical analysis result may lack reliability. We will continue to assess these differences as the project progresses.

Figure 5. Warrantless Arrest Rates for Misdemeanor Encounters by Race/Ethnicity in Elizabeth City.



#### Wilmington

##### All Encounters by Race/Ethnicity

As shown in Figure 6, Black people make up a much greater proportion of the people involved in misdemeanor encounters in Wilmington than they do the city's population. Analyses revealed this difference to be statistically significant.<sup>26</sup> Specifically, Black people are more likely and White people are less likely to be involved in a misdemeanor encounter than would be expected based on city demographics. These differences grew from the pre-implementation period to post-implementation period, such that Black people make up a significantly greater proportion of encounters and White people make up a significantly smaller proportion of encounters from pre- to post-implementation.<sup>27</sup> In other words, racial/ethnic differences as to encounters increased after implementation of the model policy, and those differences are statistically significant.

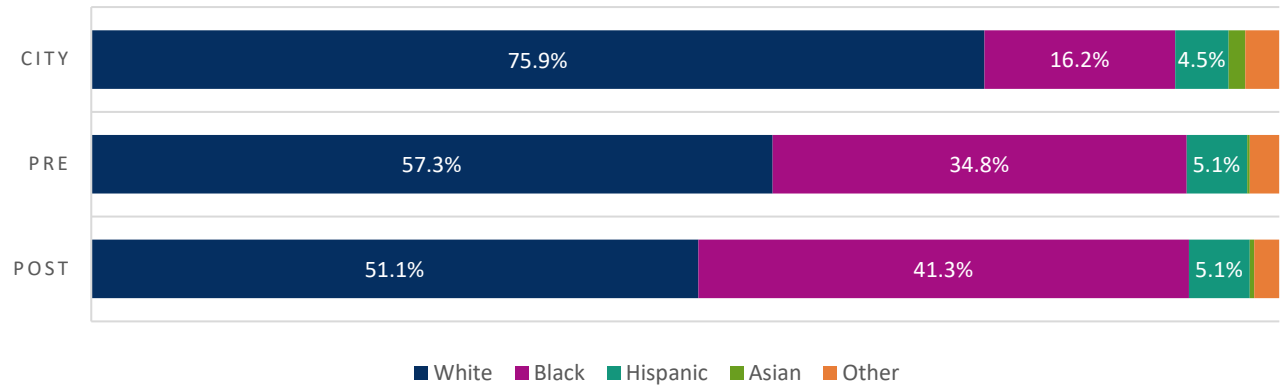
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<sup>25</sup>  $p = .447$ .

<sup>26</sup>  $\chi^2 = 1,018.20, p < .001$ .

<sup>27</sup>  $\chi^2 = 40.39, p < .001$ .

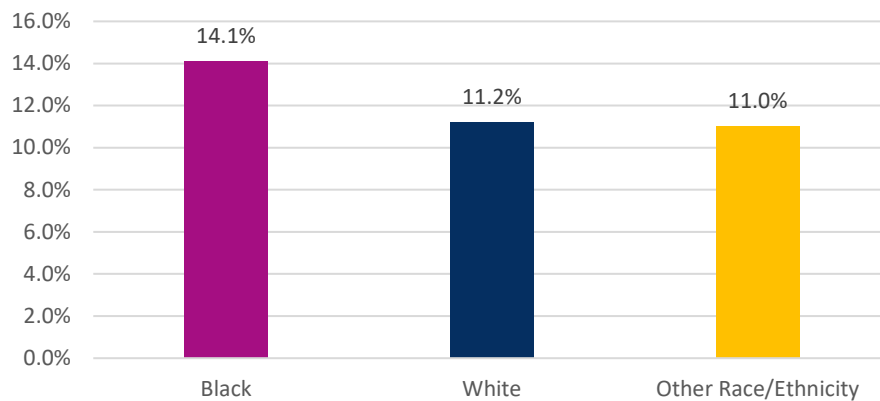
Figure 6. Percentage of Misdemeanor Encounters by Race/Ethnicity Compared to Wilmington Demographics.



#### Warrantless Arrest Rates by Race/Ethnicity

As shown in Figure 7, the warrantless arrest rate ranged between 11.0% for people of other races/ethnicities to 14.1% for Black people. These differences were not statically significant, meaning they could have been due to chance.<sup>28</sup> Put another way, there were no racial differences with respect to warrantless arrests.

Figure 7. Warrantless Arrest Rates for Misdemeanor Encounters by Race/Ethnicity in Wilmington.



#### Winston-Salem

##### All Encounters by Race

As with Apex and Wilmington, in Winston-Salem Black people were statistically more likely to be involved in a misdemeanor encounter and White people were statistically less likely to be so involved as compared to city demographics in Winston-Salem (see Figure 8).<sup>29</sup> These results indicate racial differences, particularly between Black and White people, in misdemeanor encounters.

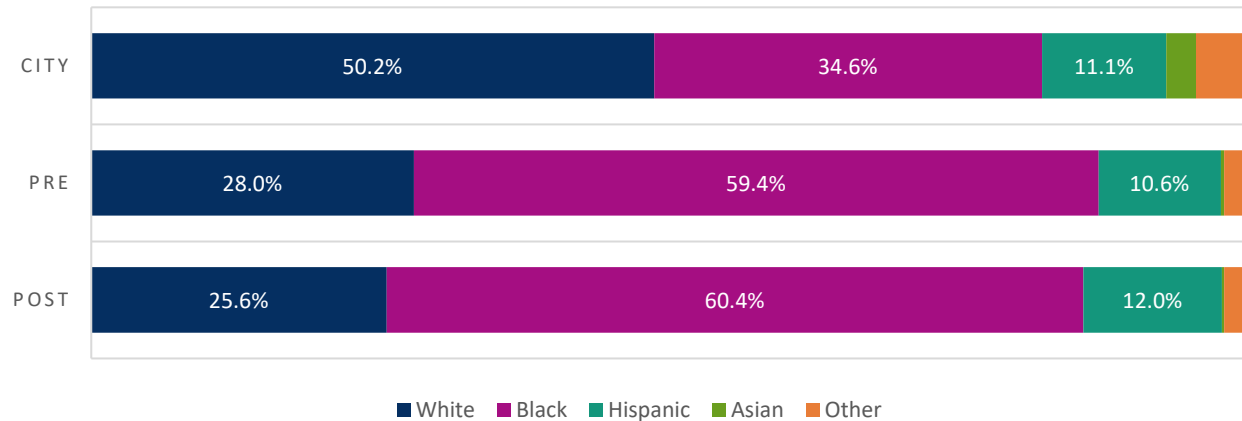
While the percentage of encounters that involved Black people remained statistically comparable from the pre- to post-implementation periods, the rate of encounters involving

<sup>28</sup>  $p = .129$ .

<sup>29</sup>  $\chi^2 = 2,222.50, p < .001$ .

other people of color significantly increased while the rate of encounters among White people significantly decreased.<sup>30</sup> In other words, racial/ethnic differences grew from the pre- to post-implementation periods.

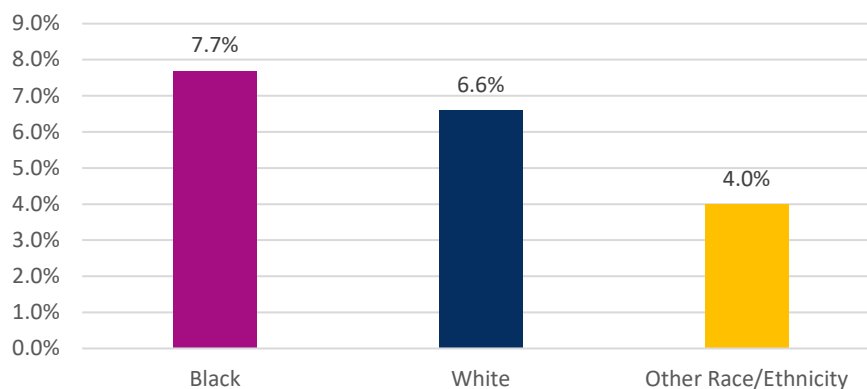
Figure 8. Percentage of Misdemeanor Encounters by Race/Ethnicity Compared to Winston-Salem Demographics.



#### Warrantless Arrest Rates by Race/Ethnicity

Compared to White and Black people, people with other racial/ethnic identities were significantly less likely to be arrested in Winston-Salem (Figure 9).<sup>31</sup> The difference in the rates of warrantless arrest between Black and White people was not significant. Put another way, there were no racial differences with respect to warrantless arrests.

Figure 9. Warrantless Arrest Rates for Misdemeanor Encounters by Race/Ethnicity in Winston-Salem.



#### Court Non-Appearances

Some have expressed the concern that greater use of citations over warrantless arrests will lead to increased court non-appearance rates. In this report we provide a preliminary assessment of this issue, narrowing our comparison to closed cases during the pre- and post-implementation periods. We recorded an incident as involving a court non-appearance if the incident had one of

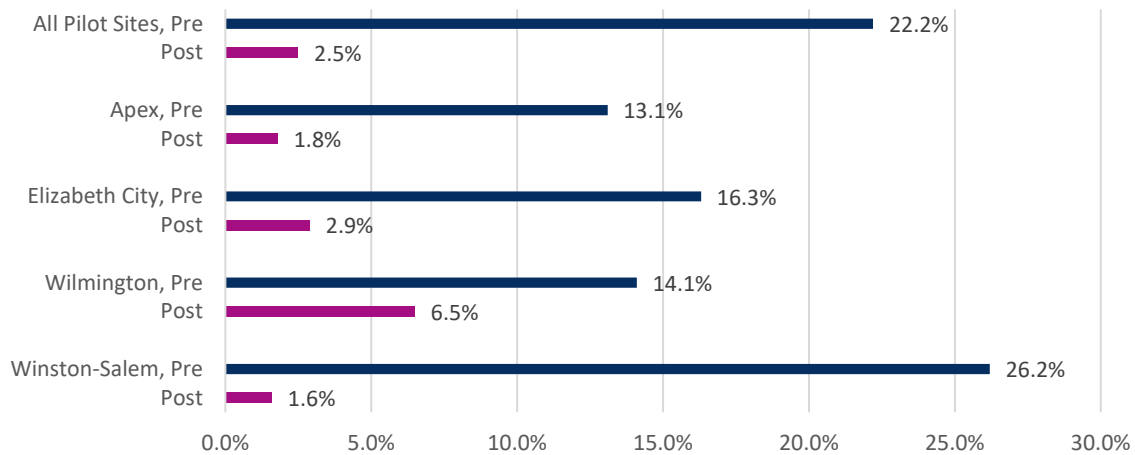
<sup>30</sup>  $\chi^2 = 20.37, p < .001$

<sup>31</sup>  $\chi^2 = 16.51, p < .001$ , Cramer's  $V = .05$ .

two indicators of court non-appearance in ACIS data: (1) called and failed, and (2) failure to appear (FTA). Our decision to include cases where an individual was called and failed is a conservative approach because not all called and faileds result in entry of a FTA. As discussed below, the number and percentage of court non-appearances decreased from the pre-implementation period to the post-implementation period.

Figure 10 shows the percent of incidents involving at least one court non-appearance in the pre- and the post-implementation periods across all pilot sites and for each site. As shown there, court non-appearance rates decreased from the pre-implementation period to the post-implementation period overall and in all pilot sites. All decreases were statistically significant.<sup>32</sup>

Figure 10. Percentage of Incidents with Any Court Non-Appearance.



Two factors unrelated to the model policy likely contribute to these decreases. First, the COVID-19 pandemic may continue to be disrupting not only policing practices, but also court operations. Second, the incidents from the pre-implementation period included in this analysis involve much longer “time at risk,” which presents greater opportunity for court non-appearances. As this project continues, “time-at-risk” will increase for post-implementation incidents and these rates likely will increase. Our final project report will limit results to comparable reporting periods and control for time-at-risk. As such, these findings should be considered as very preliminary in nature

### A Note Court Appearance & New Charge Results

In this interim report, our findings show decreases in court non-appearance and new charge rates. However, because this is an interim report the “at risk” period for the pre-implementation timeframe is substantially longer than the post-implementation timeframe. Because of this, these interim findings likely understate non-appearance and new charge rates for the post-implementation period. This issue will correct as the evaluation continues and reporting periods equalize.

### New Charges

Another concern that has been articulated regarding citation in lieu of arrest policies is that they may result in higher rates of new criminal activity. In this report we provide a preliminary

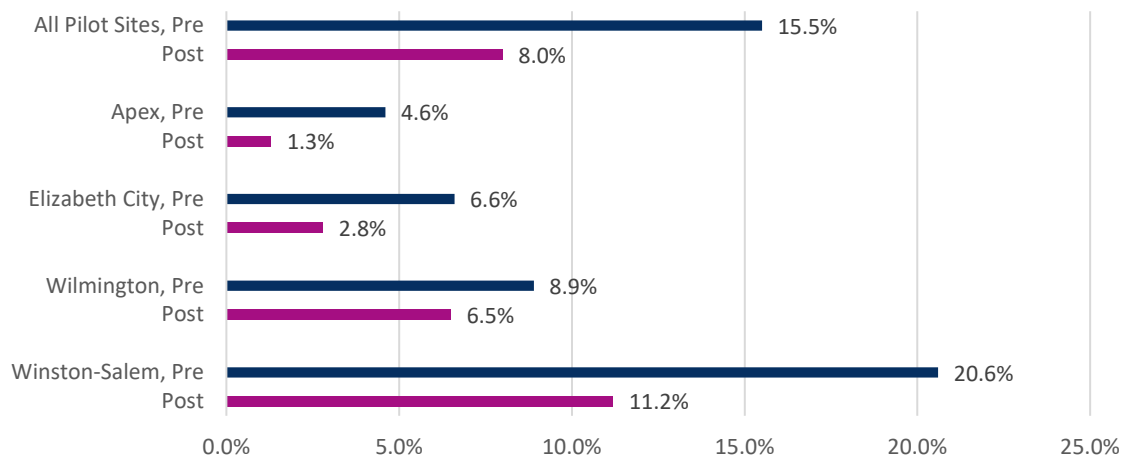
<sup>32</sup> All  $ps < .001$ .

assessment of this issue. Specifically, from our data set of misdemeanor encounters, we report on whether individuals acquired an additional misdemeanor charge during the relevant pre- or post-implementation periods. In future reporting, we will refine this analysis, by: (a) assessing whether individuals acquired any new felony or misdemeanor charges during the relevant periods;<sup>33</sup> (b) narrowing this analysis to new encounters during the pretrial period; and (c) controlling for other factors, such as time-at-risk.

Figure 11 shows the percentage of individuals who acquired one or more additional misdemeanor charges in the pre- and post-implementation periods. As shown there, across all sites and for each site, the percentage of people who acquired an additional misdemeanor charge was lower in the post-implementation period than in the pre-implementation period. All decreases were statistically significant.<sup>34</sup> This indicates that new misdemeanor criminal charging is decreasing.

However, as with our analysis of court non-appearance rates, individuals were “at risk” for much longer in the pre-implementation period compared to those in the post-implementation period (fifteen versus seven months). In later reporting, the comparison timeframes will be equal (fifteen months each) leading to more comparable and conclusive results. As with court-non-appearance rates, we emphasize that these are very preliminary findings.

Figure 11. Percentage of People Involved in More Than One Misdemeanor Encounter.



On average, people involved in misdemeanor encounters were involved in 1.27 incidents during the pre-implementation period and 1.12 incidents during the post-implementation period. This difference, while small, is statistically significant.<sup>35</sup> The higher rate of new encounters among people in Winston-Salem in both the pre- and post-implementation periods as compared to other pilot sites is noteworthy. As shown in Figure 11, approximately 2 in 10 people involved in misdemeanor encounters were involved in more than 1 incident during the pre-implementation period and approximately 1 in 10 were involved in more than 1 incident during the post-implementation period. Apex had the lowest rates for new encounters in both periods.

<sup>33</sup> Due to a constricted dataset that only included misdemeanor charges for this reporting period, we were not able to assess charges for felony offenses.

<sup>34</sup>  $p_s \leq .034$ .

<sup>35</sup>  $T = 14.74$ ,  $p < .001$ , Cohen's  $d = 0.16$ .



## Next Steps

We will continue to evaluate implementation and impact of the model policy. Future reporting will include data from all sources including Encounter Documentation Forms, thereby allowing us to also report on the policy's impact on time spent on encounters, officers' reasons for arrest, and magistrate decisions regarding conditions of release. The evaluation timeframes will also be equal (fifteen months for both the pre- and post-implementation periods) allowing for more meaningful comparisons when assessing new criminal activity and court non-appearance rates. Furthermore, we will include post-implementation comparisons on select outcomes between pilot sites and two comparison sites that have not implemented the model policy.

# Appendix A. Model Policy



## CITATION IN LIEU OF ARREST

Model Policy  
July 2020

### I. PURPOSE

This policy is designed to promote public safety and efficient use of taxpayer funds, reduce unnecessary pretrial detentions, and promote least harm resolutions. The Presidential Task Force on 21st Century Policing recommended that law enforcement agencies adopt preferences for “least harm” resolutions, such as the use of citation in lieu of arrest for low-level offenses. Increased use of citations also promotes efficiency. An International Association of Chiefs of Police report found that citations offer a time savings of just over an hour per incident. Increased use of citations can help reduce unnecessary pretrial detentions of low-risk defendants and associated taxpayer costs, unfairness, and negative public safety outcomes. An arrest triggers an initial appearance and imposition of conditions of pretrial release. Because secured bonds are the most common condition imposed in North Carolina, the decision to make an arrest often results in imposition of a secured bond. Imposition of a bond in turn can cause unnecessary wealth-based detentions of low-level defendants, driving up jail costs. Additionally, such detentions have been shown to negatively impact public safety; research shows that misdemeanor defendants detained pretrial are more likely to be charged with new crimes after release than similar defendants who were not detained pretrial. This policy achieves its purposes by aligning citation practices with state law regarding arrest and bail while preserving officer discretion.

### II. POLICY

Whether to cite, arrest, or decline to charge is always in the officer’s discretion. However, when an officer decides to charge a person with a criminal offense, a citation is recommended in misdemeanor incidents except when, based on information available at the time:

- (1) the law requires an arrest;
- (2) release on a citation
  - (a) will not reasonably assure the defendant’s appearance in court;
  - (b) will pose a danger of injury to any person; or
  - (c) is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses; or
- (3) exigent circumstances require an arrest.

Officers who make an arrest in misdemeanor cases shall document their reasons for doing so.

### III. EXPLANATORY NOTES

*Officer Discretion.* The policy preserves officer discretion. Specifically, it states that “[w]hether to cite or arrest is always in the officer’s discretion” and recommends (but does not mandate) use of citations unless an exception applies.

*Exceptions.* The policy recommends use of a citation in misdemeanor cases, subject to three exceptions.

One exception applies when the law requires an arrest. For example, N.C.G.S. 50B-4.1(b) provides that “[a] law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the officer has probable cause to believe that the person knowingly has violated [certain domestic violence protective orders].” In such a scenario, arrest is required by law and a citation may not be issued.

The second exception aligns citation practice with state bail law. Specifically, exception (2) reflects the requirements of N.C.G.S. 15A-534. That provision states that when setting conditions of pretrial release (“bail”) the judicial official (magistrate, clerk or judge) must impose a written promise, custody release, or unsecured bond “unless he 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.” The law *prohibits* imposition of a secured bond unless one or more of the circumstances noted in (2)(a)-(c) above are present. The policy thus provides that a citation is recommended for defendants charged with misdemeanors who cannot receive a secured bond. This will promote officer efficiency as it will avoid scenarios where a defendant is arrested but then immediately released by the magistrate without a secured bond on grounds that no statutory reason supporting imposition of such a bond is present.

Circumstance (2)(a) applies when release on a citation will not reasonably assure the defendant’s appearance in court. Examples:

- The officer cannot establish the defendant’s identity
- The officer will not be able to later locate the defendant for court purposes, such as serving an order for arrest after a failure to appear
- The defendant has a record of prior failures to appear

As used here, “a record of prior failures to appear” means two or more failures to appear within the last two years.

The mere fact that the defendant is homeless does not satisfy this circumstance, if the officer can establish the defendant’s identity and knows where the defendant later can be found. Likewise, the mere fact that a defendant resides outside of the county does not satisfy this circumstance.

Circumstance (2)(b) applies when release on a citation will pose a danger of injury to any person. Examples:

- There is an immediate danger that the defendant will harm themselves or others
- The alleged offense involves physical injury to a person, a deadly weapon, or a domestic dispute

- The defendant's criminal record includes a conviction for a violent felony
- The defendant is currently on parole, probation, pretrial release, or post-release supervision for a conviction or charge involving injury to any person

A risk of injury to property does not satisfy the bail statute or this circumstance.

Circumstance (2)(c) applies when release on a citation is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Subornation of perjury means procuring or inducing another person to commit perjury. Examples:

- The defendant has threatened a witness
- The defendant has a record of witness intimidation
- The defendant previously has destroyed evidence to avoid prosecution

The final exception applies when exigent circumstances require arrest. An example of when this exception might apply is when release on a citation will not reasonably result in the immediate cessation of the criminal conduct. Examples:

- The defendant is engaged in aggressive panhandling and refuses to cease activity
- The defendant is engaged in drunk and disorderly activity that will continue absent removal from the scene

In applying this exception, officers should be aware of their authority under G.S. 122C-301 through -303 to provide assistance to a person who is intoxicated in public without making an arrest, including: transporting the person to their home, another residence, a shelter, or a medical facility; and transporting the person to jail for detention without arrest until the person becomes sober or up to 24 hours.

Note that this exception applies in situations involving exigency. Thus, it does not apply when the officer believes that the criminal activity may resume at some later, non-immediate future time. However, depending on the nature of the activity in question, a belief that it may eventually resume may satisfy one of the other exceptions discussed above.

*Documentation Required.* The policy provides that when an officer makes an arrest in a misdemeanor case, reasons for doing so must be documented.

# Appendix B. Cleaning & Linking of RMS & ACIS Data

As noted in the body of this report, to create our analytic dataset, we linked data from the pilot site police departments' record management systems (RMS) to North Carolina Court Automated Criminal/Infractions System (ACIS) data. Doing this allowed us to create an analytic dataset limited to the encounters of interest for this evaluation: misdemeanor encounters involving the initiation of charges where officers have discretion regarding whether to cite or arrest. In this appendix we describe our data cleaning and linking process.

## Step 1: Clean RMS Data

Many of our analyses are run from ACIS data and require us to identify ACIS cases initiated by the pilot sites. However, information from RMS, specifically the arresting agency, is required to identify the specific ACIS cases of interest to the project.

After receiving RMS data, we conducted initial data cleaning to eliminate charges that were outside of the scope of this evaluation. Doing so allows us to simplify the later process of linking RMS and ACIS data. Specifically, we eliminated:

- Charges associated with people under 18 years of age;
- Charges labeled as a warrant case (or "taken-into-custody") or associated with charges involving a warrant (i.e., part of the same encounter);
- Infractions; and
- Charges labeled as felonies or associated with felony charges.

To remove infractions and charges labeled as felonies or associated with felony charges, we used RMS statute numbers to pull over offense type classification information (e.g., felony, misdemeanor, traffic, infraction). Because RMS statute numbers often are formatted differently than the statute numbers in the ACIS codebook (e.g., 14-33C vs. 14-33(c)), many charges do not successfully match to an offense type classification. Further, some RMS case information is too broad to determine whether the encounter is relevant to this evaluation and thus should remain in the analytic dataset. For example, RMS uses one designation for summons and citations; however, and as discussed in the body of this report, charges initiated by Criminal Summons do not fall within the scope of this evaluation. As such, only a portion of the cleaning process can occur with RMS data only; the rest of the process requires linkage to the ACIS data, which is a more comprehensive data source.

## Step 2: Link RMS and ACIS Data

Linkage of RMS and ACIS data was conducted by the UNC Odum Institute and involved a multi-step match approach. Odum staff first matched the two datasets on the following data fields: county code; defendant date of birth; and service date. They then applied trigram matching to the defendant names in the match to calculate the accuracy of the match. This method created a score based on name similarity, or SIM, where a 1.0 was a perfectly identical match. The SIM was further adjusted to account for the potential inclusion or exclusion of middle names (e.g. two records listed as "Tom Jones" and "Tom Jeffrey Jones"). We retained charges in the dataset that had an adjusted SIM match rate of .7 or higher. For the pre-implementation data, 91% of all RMS charges successfully matched to ACIS data, and for the post-implementation data, 83% of all RMS charges successfully matched to ACIS data.

### **Step 3: Eliminate Irrelevant Charges**

Once RMS and ACIS data were linked, we were able to eliminate all other irrelevant charges. This process was similar to the cleaning method outlined in step 1 but used information from the ACIS data as opposed to the RMS data. Specifically, we deleted charges where the initiating process was something other than a citation or warrantless arrest (e.g., indictment, summons, statement of charges, bill of information, warrant for arrest). Because the policy applies only to misdemeanor encounters, we also deleted all felony charges and misdemeanor charges associated with one or more felony charges. Finally, using the Lab's offense coding spreadsheet, we eliminated charges (and associated charges) where we could not determine from the offense description and statute number whether the offense was a felony or misdemeanor (e.g., offense description "Other – Free Text" with no associated statute number) and when the listed offense is not a substantive criminal offense under state law (e.g., "Habeas Corpus", "Motions").

### **Step 4: Encounter-Level Dataset**

In the final step of data cleaning, we collapsed the merged dataset (RMS+ACIS) from the charge-level (each row representing a separate charge) to the encounter-level (each row representing a police encounter). Our final dataset for this report included 65,465 encounters total: 54,544 encounters from the twenty-four months before policy implementation and 10,921 encounters from the seven months following policy implementation.

## Appendix C. DWI-Related Offenses

As described in the text of this report, we categorized the following offenses as DWI-related offenses and, because they frequently result in arrest, executed supplemental analyses removing this group of offenses from the dataset:

Offense Code	GS_Number	Description
9958	20-138.1	AID AND ABET DWI
5471	20-138.1	AID AND ABET IMPAIRED DRIVING
5620	20-138.2(A)(2)	COMMERCIAL DWI $\geq .04$
5615	20-138.2(A)(1)	COMMERCIAL DWI UNDER INFLUENCE
5624	20-138.2B	CONSUME ALCH SCH BUS/CHILD VEH
5622	20-138.2A	CONSUME ALCOHOL COMM VEH
5577	20-138.3	DRIVE AFTER CONSUMING $< 21$
9956	20-138.3	DRIVE AFTER DRINK-PROV LIC
9960	18B-401(A)	DRIVE-CONS MALT BEV PASS AREA
5405	20-138.1	DRIVING WHILE IMPAIRED
5404	20-138(A)	DUI - ALCHOLIC BEVERAGE (R/83)
5472	20-138	DUI - SECOND OFFENSE (R/83)
4724	20-138.1(A)	DWI - AGGRAVATED LEVEL 1
5511	20-138.1(A)	DWI - LEVEL 1
5512	20-138.1(A)	DWI - LEVEL 2
5513	20-138.1(A)	DWI - LEVEL 3
5514	20-138.1(A)	DWI - LEVEL 4
5515	20-138.1(A)	DWI - LEVEL 5
5610	20-138.2	DWI COMMERCIAL VEHICLE
5571	20-12.1	IMPAIRED SUPERV/INSTRUCTION
5594	20-138.7(A)	OPEN CONT AFTER CONS ALC 1ST
5595	20-138.7(A)	OPEN CONT AFTR CONS ALC SUBOFN
4105	18B-401(A)	TRANS ALC/CONTAINER NOT MANU

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