Leveraging Pre-trial Release to Reduce Crime and Re-victimization (Update)

John Guard

Major Crimes Division

(252) 902-2701 phone
(252) 830-4637 fax

jeguard@pittcountync.gov
or
jeguard4@gmail.com

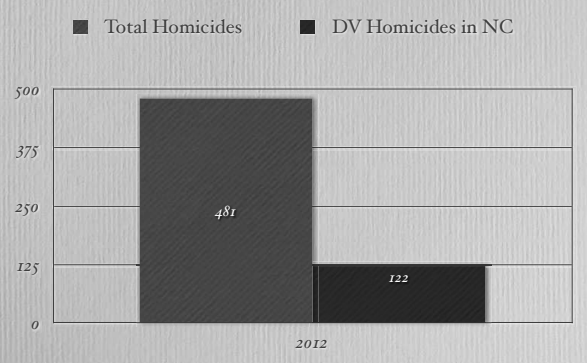
Why is pretrial release important?

DV homicides in NC 2012

Twenty Two Percent

(25%)

2012



Witness Tampering

Witness tampering is the most committed, yet under reported, under investigated, and under prosecuted crime there is that victims of domestic violence face post arrest.

"Meet me at the hill where we used to park": Interpersonal processes associated with victim recantation

https://vaw.msu.edu/wp-content/uploads/2013/10/Bonomi_2011_Meet-me-at-the-hill.pdf

Experience and Research Tells Us

- Needs more research attention because prosecutors are seven times more likely to prosecute when victims were perceived to be cooperative (Dawson & Dinovitzer, 2001)
- "The most **dedicated** of professionals **cannot effectively address the problem of witness intimidation** unless they know how and when it is likely to occur, how to recognize it and investigate it, and how to respond in a manner that protects the witness while holding the offender accountable – **not only for the original crime, but for the efforts to obstruct justice"** (Garvey, 2014, p. 88)

Public Safety

Problem Solvers

The Problem

Crime and re-victimization

Pre-trial Release Violations in Pitt County

Investigative DV Reports CBA May 2012

Selected cases with an OCA number where the case was cleared by arrest from May 1, 2012 - May 31, 2012. The following data represents additional calls and/or arrest from May 1, 2012 - December 1, 2012 involving the original suspects from May 1, 2012 - May 31, 2012.

Investigative DV Reports CBA May 2012

60% of the offenders had additional contact with law enforcement in the form of another investigation and/or arrest.

Investigative Non-DV Reports CBA May 2012

49% of the offenders had additional contact with law enforcement in the form of another investigation and/or arrest.

Things to Remember

- Study conducted in the Bronx, NY
- Reoffending happened early among those convicted for misdemeanor or domestic violence violations
- Of those rearrested for domestic violence, approximately two-thirds reoffended within the first six months

Rempel, M., M. Labriola, and R. Davis. "Does Judicial Monitoring Deter Domestic Violence Recidivism? Results of a Quasi-Experimental Comparison in the Bronx." Violence Against Women 14(2) (February 2008): 185-207, available online at http://vaw.sagepub.com/cgi/content/abstract/14/2/185

History of Pre-trial Release in North Carolina

In 2004, almost one in five domestic homicide victims were murdered in North Carolina by defendants who were free on bond for other domestic violence charges. As a result, legislation was drafted and implemented (NCGS 15A-534.1).

Utilizing this legislation, the Pitt County Sheriff's Office implemented the electronic monitoring program. This program monitors a select group of domestic violence offenders during the pretrial phase.

NCGS 15A-534.1

- Provides law enforcement officers with powers of arrest for violation of pretrial release in the following misdemeanor cases:
  - Assaults
  - Communicating Threats
  - Domestic Criminal Trespass
  - Violation of a DVPO
  - Stalking

NCGS 15A-534.1

- Additionally, it provides law enforcement officers with powers of arrest for violation of pretrial release in the following felonies provided in Articles 7A, 8, 10, or 15 of Chapter 14:
  - Article 7A - Rape and other sex offenses
  - Article 8 - Assaults
  - Article 10 - Kidnapping and Abduction
  - Article 15 - Arson

Relationships per 15A-534.1

The victim and suspect must be…

- Spouse
- Former Spouse
- Person who one lives or has lived with as if married

But this statute did not address all crime

Special Thanks

Senator Don East

(Not so) Recent Expansion of Pre-trial Release in North Carolina

In 2011, the North Carolina Legislature provided law enforcement officers with powers of arrest for violations of pre-trial release in ***all*** criminal cases(NCGS 15A-534).

There is ***no*** relationship requirement between the victim and suspect with this statute.

Reason for lack of use by law enforcement officers…

l) Session Law 2011-245[52]—-warrantless arrest

NOTE: Show slide, "Warrantless Arrest."

(1) Officers are authorized to make a warrantless arrest of a person on pretrial release if the person violate a condition of a pretrial release order. The violation does not need to be in the presence of the officer.

(2) Effective date: December 1, 2011

Training Stats

- 85% of Attendees had never received training on *Crawford v. Washington*
- 82% of Attendees had never received training on pretrial release enforcement

15A-534 and 15A-534.1 The Process Explained...

The Process

- After an arrest is made, the defendant is brought before a judicial official to have his or her bond set.
- This bond could be secured or unsecured based upon a number of factors.
- In addition to a monetary amount, the judicial official may set additional restrictions on the defendant pending the final disposition of the case.

N.C.G.S. 15A-534

...The judicial official authorizing pretrial release under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. The order of release must be filed with the clerk and a copy given the defendant.

N.C.G.S. 15A-534 continued...

...In imposing conditions of pretrial release and in modifying and revoking orders of release under this section, the judicial official must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.

N.C.G.S. 15A-534.1

(2) A judge may impose the following conditions on pretrial release:

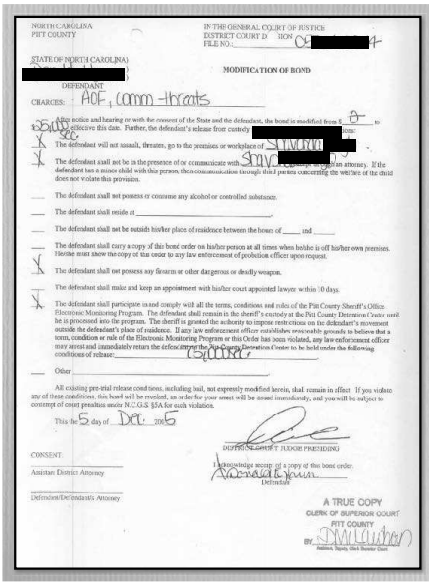
a. That the defendant stay away from the home, school, business or place of employment of the alleged victim.

b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim.

c. That the defendant refrain from removing, damaging or injuring specifically identified property.

d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

e. That the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.



NORTH CAROLINA
PITT COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT D HON
FILE NO.: 0[redacted]

STATE OF NORTH CAROLINA
[redacted]
DEFENDANT

MODIFICATION OF BOND

CHARGES: AOF, comm-threats

Upon notice and hearing or with the consent of the State and the defendant, the bond is modified from $ 0 to $ 500 SEC effective this date. Further, the defendant's release from custody [redacted] date.

X The defendant will not assault, threaten, go to the premises or workplace of [redacted].

X The defendant shall not be in the presence of or communicate with [redacted] except through an attorney. If the defendant has a minor child with this person, then communication through third parties concerning the welfare of the child does not violate this provision.

___ The defendant shall not possess or consume any alcohol or controlled substance.

___ The defendant shall reside at _____.

___ The defendant shall not be outside his/her place of residence between the hours of ____ and ____.

___ The defendant shall carry a copy of this bond order on his/her person at all times when he/she is off his/her own premises. He/she must show the copy of this order to any law enforcement of probation officer upon request.

X The defendant shall not possess any firearm or other dangerous or deadly weapon.

___ The defendant shall make and keep an appointment with his/her court appointed lawyer within 10 days.

X The defendant shall participate in and comply with all the terms, conditions and rules of the Pitt County Sheriff's Office Electronic Monitoring Program. The defendant shall remain in the sheriff's custody at the Pitt County Detention Center until he is processed into the program. The sheriff is granted the authority to impose restrictions on the defendant's movement outside the defendant's place of residence. If any law enforcement officer establishes reasonable grounds to believe that a term, condition or rule of the Electronic Monitoring Program or this Order has been violated, any law enforcement officer may arrest and immediately return the defendant to the Pitt County Detention Center to be held under the following conditions of release: [illegible]

___ Other _____

All existing pre-trial release conditions, including bail, not expressly modified herein, shall remain in effect. If you violate any of these conditions, this bond will be revoked, an order for your arrest will be issued immediately, and you will be subject to contempt of court penalties under N.C.G.S. §5A for such violation.

This the 5 day of Dec 2015

DISTRICT COURT JUDGE PRESIDING

CONSENT:

Assistant District Attorney

I acknowledge receipt of a copy of this bond order.

Defendant

Defendant/Defendant's Attorney

A TRUE COPY
CLERK OF SUPERIOR COURT
PITT COUNTY
BY: [illegible]
Assistant, Deputy Clerk Superior Court

Example of a Bond Modification used in Pitt County

The Pre-trial Release Investigation

"Practically Applied"

The Pre-trial Release Investigation

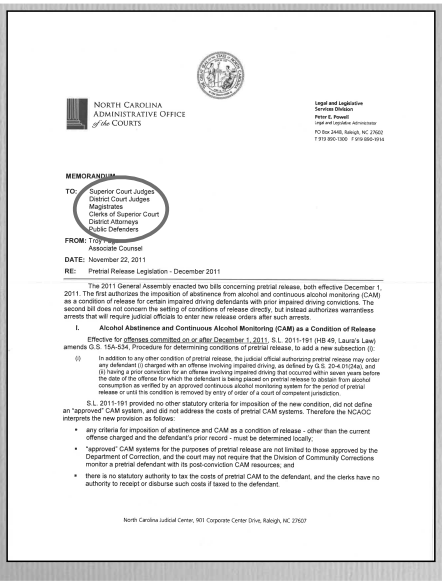
- Allows law enforcement agencies to focus efforts on known recidivists, thus reducing future victimization and increasing offender accountability.
- No increase in funding is needed for new prisons as this is not a crime, merely a tool to effect an immediate bond revocation.
- If embraced and utilized by local communities, crime rates can be driven down almost instantaneously.
- Becomes a vehicle to improve communications within the CJ system.

Pitt County's Pretrial Enforcement Program

The "How to"

Hey John...

What about the...



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Legal and Legislative Services Division
Peter E. Powell
Legal and Legislative Administrator

PO Box 2448, Raleigh, NC 27602
T 919 890-1300 F 919 890-1914

MEMORANDUM

TO: Superior Court Judges
District Court Judges
Magistrates
Clerks of Superior Court
District Attorneys
Public Defenders

FROM: Troy Page
Associate Counsel

DATE: November 22, 2011

RE: Pretrial Release Legislation - December 2011

The 2011 General Assembly enacted two bills concerning pretrial release, both effective December 1, 2011. The first authorizes the imposition of abstinence from alcohol and continuous alcohol monitoring (CAM) as a condition of release for certain impaired driving defendants with prior impaired driving convictions. The second bill does not concern the setting of conditions of release directly, but instead authorizes warrantless arrests that will require judicial officials to enter new release orders after such arrests.

I. **Alcohol Abstinence and Continuous Alcohol Monitoring (CAM) as a Condition of Release**

Effective for offenses committed on or after December 1, 2011, S.L. 2011-191 (HB 49, Laura's Law) amends G.S. 15A-534, Procedure for determining conditions of pretrial release, to add a new subsection (i):

(i) In addition to any other condition of pretrial release, the judicial official authorizing pretrial release may order any defendant (i) charged with an offense involving impaired driving, as defined by G.S. 20-4.01(24a), and (ii) having a prior conviction for an offense involving impaired driving that occurred within seven years before the date of the offense for which the defendant is being placed on pretrial release to abstain from alcohol consumption as verified by an approved continuous alcohol monitoring system for the period of pretrial release or until this condition is removed by entry of order of a court of competent jurisdiction.

S.L. 2011-191 provided no other statutory criteria for imposition of the new condition, did not define an "approved" CAM system, and did not address the costs of pretrial CAM systems. Therefore the NCAOC interprets the new provision as follows:

- any criteria for imposition of abstinence and CAM as a condition of release - other than the current offense charged and the defendant's prior record - must be determined locally;
- "approved" CAM systems for the purposes of pretrial release are not limited to those approved by the Department of Correction, and the court may not require that the Division of Community Corrections monitor a pretrial defendant with its post-conviction CAM resources; and
- there is no statutory authority to tax the costs of pretrial CAM to the defendant, and the clerks have no authority to receipt or disburse such costs if taxed to the defendant.

North Carolina Judicial Center, 901 Corporate Center Drive, Raleigh, NC 27607

AOC Memo November, 2011

Hypothesis

The implementation of a pre-trial release enforcement program will reduce re-victimization and increase offender accountability in North Carolina.

Concerns

- Training (lack of)
- Access to ***all*** PTR Conditions (real time)
- Citizen initiated charges
- Tracking of DV Homicide Data