## Leveraging Pre-trial Release to Reduce Crime and Re-victimization



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# Special Thanks

Senator Don East.



# 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.

# 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

# 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 <u>all</u> criminal cases (NCGS 15A-534).

There is <u>no</u> relationship requirement between the victim and suspect with this statute.

# 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

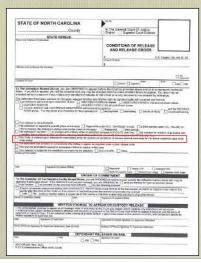
- (2) A judge may impose the following conditions on pretrial release:
- a. That the defendant stay away from the home, school, business or place of employment of the alleged victim.
- b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim.
- c. That the defendant 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.

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Example of a Bond Modification used in Pitt County

#### AOC Form Update (12/01/12)



The Pre-trial Release Investigation "Practically Applied"

# The Pre-trial Release Investigation

- Allows law enforcement, prosecutors, victims, judicial officials, and the community to develop restrictions that are specific to the crime and/ or the defendant that encourages behavior modification.
- No increase in funding is needed for new prisons as this is not a crime, merely a tool to effect an immediate bond revocation.

# The Pre-trial Release Investigation

- Allows law enforcement agencies to focus efforts on known recidivists, thus reducing future victimization and increasing offender accountability.
- If embraced and utilized by local communities, crime rates can be driven down almost instantaneously.

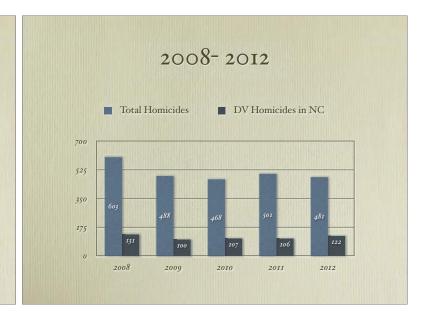
Domestic/Family Violence

Nationally 14% of all homicides are in the context of Domestic Violence

But in North Carolina its...

DV homicides in NC 2008-2012

Twenty Two Percent\* (23%\*)



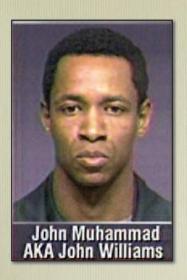


# N.Y. firefighters killed in ambush Shooting: See more photos from the scene at manda.com/nationpics is the seven houses that had been left to burn. The sister of the gunman, who lived with him, was unaccounted for. The gunman's motive was manda.com/nationpics and from a more manda.com/nationpics is come at manda.com/nationpics is seen at manda.com/na fires to set trap for responders, police say

By Jone Kirks
MEBSTER, N.Y. An ex-con
gunned down freighters after luring them to his neighborhood by
setting a car and a house ablaze
Monday, then took shots at police
and committed suicide while sever
al homes burned.
Authorities used an armored vehicle to help residents fee dozens
of homes on the shore of Lake Ontario a day before Christmas. Police

craased the suspect and exchanged mer in 1980 at the house next to gunffire.

"The gunman lay in wait outdoors" Pickering said at afternoon news



Law enforcement learned that Muhammad's ex-wife, who had obtained a protective order against him, lived near the Capital Beltway in Clinton, a community in suburban Prince George's County, Maryland. Information was also developed about an automobile purchased in New Jersey by Muhammad.

Much to their shock, police discovered that the New Jersey license plates issued to Muhammad on the blue 1990 Chevrolet Caprice had been checked by radio patrol cars several times near shooting locations in various jurisdictions in several states, but the car had not been stopped because law enforcement computer networks did not indicate that it was connected to any criminal activity and they were focused exclusively on the "white van."

On October 3, 2002, D.C. police stopped the Caprice for a "minor traffic infraction," two hours prior to the shooting of Pascal Charlot, after which witnesses reported seeing a Caprice near the scene.

On October 8, Baltimore city police investigated a dark blue Chevrolet Caprice with a person sleeping inside parked near the Jones Falls Expressway at 28th St. in Baltimore. The officers were concerned that the driver's license was from Washington state and the vehicle tag was from New Jersey. Despite the fact that the vehicle was suspicious enough for them to investigate, and the fact that the vehicle fit the description of a vehicle associated with the shooting in D.C. five days earlier, the officers did not question the occupants extensively, nor did they search the vehicle.

This statute can help with the federal law

Possession of a firearm while subject to a Protection Order - 18 U.S.C. § 922(g)(8)

It is illegal for a person to possess a firearm <u>while subject to a</u> <u>court order</u> restraining such person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner or from engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child. The protection order must have been issued following a hearing as to which the defendant had actual notice and an opportunity to participate. The protection order must also include a specific finding that the defendant represents a credible threat to the physical safety of the victim, or must include an explicit prohibition against the use of force that would reasonably be expected to cause injury.

Transfer of Firearm to Person Subject to Order of Protection - 18 U.S.C. §922(d)(8)

It is illegal to transfer a firearm to a person knowing <u>or having</u> <u>reasonable cause to believe</u> that such person is subject to a court order that restrains him/her from harassing, stalking, or threatening an intimate partner or the child of an intimate partner. A violation of Section 922(d)(8) must be knowing. Proof concerning knowledge on the part of the supplier may be difficult to establish unless the purchaser acknowledges in the firearm application that he/she is a prohibited person.

While it sounds great, we have...

Challenges

# Challenges

Currently, pre-trial release conditions are retained in the clerks office of each county of issuance and are only accessible during normal business hours.

Is there anywhere these orders can be housed now and would allow the officer in the field 24/7 access?

# Challenges

Although NCAWARE offers a centralized place to store the pre-trial release conditions so they are accessible 24 hours a day, only two Judicial Districts are utilizing it.

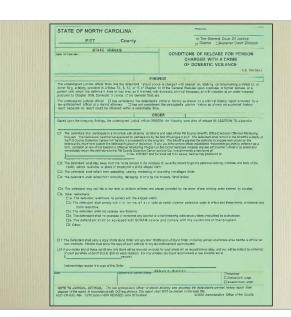
Pitt County's Pretrial Enforcement Program

The "Who" and the "How to"

**Bond Modification Forms** 

Pitt County

Conditions of Release for Persons Charged with Domestic Violence

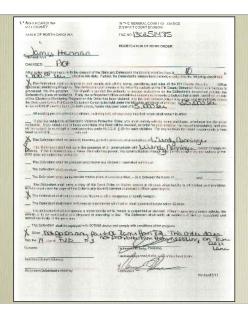


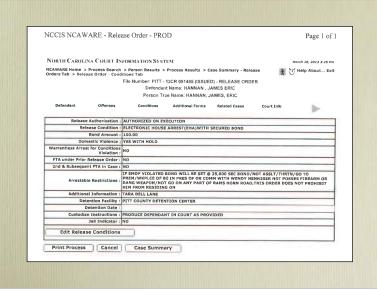
Conditions of Release for Persons Charged with other Crimes

NORTH CAROLINA PITT COUNTY	IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION
TATE OF NORTH CAROLINA	FILE NO
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DEFENDANT	
CHARGES:	
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	RAM device and cornely with conditions of the program.
The Defendant shall reside at	
	place of residence Mon. – Sun. between the hours of and
The Defendant shall not possess any fixes	
The Defendant shall carry a copy of this helshe is off his/her own premises. Helshe mu	Bond Order and any later Bond Modification Order on higher person at all times when at show the copy of such order(s) to any low enforcement upon request.
The State represents that all witnesses notification efforts have been made and that the and either do not object or have not responded.	entitled to be notified under the Victims Rights Act have been notified or reasonable see witnesses have been given time to object or request to be heard on this modification.
Other	
This the day of	
Consent:	District Court Judge Presiding

James Hannan

"Review of Process"

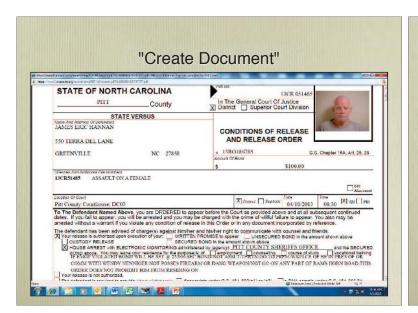




# Pitt County's Pretrial Enforcement Program

The "How to"

#### **NCAWARE**





Conditions of Release

# **Hypothesis**

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

# 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.