



NORTH CAROLINA JUDICIAL DISTRICT 26  
SUPERIOR COURT DIVISION  
POLICIES AND PROCEDURES

**ORDER FOR ARREST AFTER DISMISSAL TO THE GRAND JURY**

**POLICY**

N.C.G.S. § 15A-305(b)(1) states that an order for arrest (OFA) may be issued when a grand jury has returned a true bill of indictment against a defendant who is out of custody and who has not been released on bail to answer to the charges in the bill of indictment.


It is the goal of Judicial District 26 to:

- Comply with the North Carolina General Statutes;
- Promote equity and efficiency in the management of criminal cases; and
- Avoid the redundancy and expense of re-arrest.

Therefore, when a defendant is arrested on a charge that is voluntarily dismissed and a grand jury subsequently returns a true bill of indictment for the same charge, the Court will not automatically issue an OFA. Instead, the Court will send the defendant notice of the indictment and order the defendant to appear in superior court to answer the charges in the indictment.

**PROCEDURE**

1. Upon submission of charges to the grand jury, the District Attorney's Office will notify the Clerk's Office of which charges were previously dismissed to the grand jury (VDGJ) in district court.
2. Upon return of true bills of indictment for the VDGJ charges, the Clerk's Office will send a Notice of Return of Bill of Indictment ([AOC-CR-215](#)) and a copy of the indictments by certified mail, return receipt requested, to the defendants' last known address of record.
  - a. If the Clerk's Office is aware of a defendant in MCSO custody, then a Notice of Return of Bill of Indictment and a copy of the indictments will be provided to the MCSO Courthouse Deputy Liaison to facilitate service.
  - b. If a defendant does not have an address on file with the Clerk's Office, the Clerk's Office will issue an OFA.

Approved by: Carla Archie,   
Senior Resident Superior Court Judge

Effective: May 13, 2024

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- c. Address changes should be submitted to the Clerk's Office via email at [Clerk26.AddressChange@nccourts.org](mailto:Clerk26.AddressChange@nccourts.org) using the Notice of Address Change form ([CRF-17](#)) available on [NCcourts.gov](http://NCcourts.gov).
3. The Notice of Return will order a defendant to appear 5-6 weeks later, on the Monday of probation violation week in superior courtroom 5350 (First Setting).
4. The Clerk's Office will create a separate docket of cases scheduled for First Setting in courtroom 5350.
5. If a defendant fails to appear at the First Setting, the Clerk's Office will issue an OFA.
6. At the First Setting, the Court will advise the defendant of the right to counsel and provide the defendant with a scheduling conference date approximately sixty (60) days in the future.
7. If a defendant is appointed an attorney, the Clerk's Office will enter the appropriate Events in the Integrated Case Management System (ICMS) Case Manager application and relate the signed Order of Assignment ([AOC-CR-224](#)) to the Events. This will automatically create the case in the Attorney Manager application. The Public Defender's Office will update Attorney Manager to reflect the specific attorney to whom the case is assigned. The attorney assignment will be automatically replicated in the Case Manager application.
8. A defendant who waives the right to appointed counsel will be responsible for retaining private counsel within thirty (30) days of the First Setting so that counsel will be prepared to proceed on the scheduling conference date.
  - a. Retained counsel should promptly complete a Notice of Appearance ([AOC-G-312](#)) and file it with the Clerk's Office and serve the District Attorney's Office so that discovery can be sent in preparation for the scheduling conference.
  - b. If a defendant is unable to retain counsel, then the defendant must appear at the scheduling conference.
9. A defendant who waives the right to all counsel must appear at the scheduling conference.