



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Office of the Director

Judge John W. Smith
Director

PO Box 2448, Raleigh, NC 27602
T 919 890-1391 F 919 890-1915

March 1, 2013

The Honorable Stan Bingham
The Honorable Harry Brown
The Honorable Peter S. Brunstetter
The Honorable Thom Goolsby
The Honorable Neal Hunt
The Honorable E.S. (Buck) Newton

The Honorable James L. Boles, Jr.
The Honorable Justin P. Burr
The Honorable N. Leo Daughtry
The Honorable Nelson Dollar
The Honorable John Faircloth
The Honorable Bryan R. Holloway
The Honorable Pat B. Hurley
The Honorable Linda P. Johnson

North Carolina General Assembly
State Legislative Building
Raleigh, North Carolina 27601

Dear Representatives and Senators:

Enclosed please find a report from the NC Administrative Office of the Courts on the study of the management of magistrate schedules, pursuant to S.L. 2012-142, Section 16.1.

If you have any questions, please contact Brad Fowler, Administrator, NC Administrative Office of the Courts Division of Research and Planning at (919) 890-1223 or Brad.D.Fowler@nccourts.org.

Respectfully Yours,

A blue ink signature of John W. Smith, written in a cursive style.

John W. Smith
Director

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NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Report on the Study of the Management of Magistrate Schedules

Session Law 2012-142, Section 16.1

March 1, 2013



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Report to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the Study of the Management of Magistrate Schedules (HB 950/S.L. 2012-142)

Introduction

Pursuant to House Bill 950, Session Law 2012-142, Section 16.1, the North Carolina Administrative Office of the Courts (NCAOC) was tasked with studying the management of magistrate schedules and making “recommendations to (i) provide for more efficient use of the magistrates established for each county; and (ii) ensure that each county has sufficient coverage to adequately respond to law enforcement and the public.” This section also required that NCAOC report its findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

Initial Survey

In various budget actions taken by the NC General Assembly, beginning in 2009 and ending with the most recent cut effective on January 1, 2013, the number of magistrates statewide has been reduced by 116 full-time equivalent positions. While every county facing a reduction in staff had to make changes to their scheduling practice to accommodate these cuts, these reductions created the most severe scheduling difficulties for counties that would only have three or four magistrates remaining after the cuts.

In the fall of 2012, NCAOC created an on-line survey tool (a copy of this survey is attached in Appendix A) was sent to all Chief District Court Judges and Clerks of Superior Court in counties that were being reduced to three or four magistrate positions, effective December 31, 2012, asking for them to share their scheduling practice and the effects of the cuts on their day-to-day work. The survey was sent to 35 counties in all (some overlap in district court districts): 28 counties being reduced to three; 7 counties being reduced to four. These individuals were asked to send the survey link to the person most responsible for creating and managing the scheduling magistrates in that county (if that was someone else) and request that they fill out and submit the survey. The survey request was initially sent via email on September 14, 2012, with a deadline of September 26, 2012 (a sample copy of this email attached in Appendix A). Sixteen offices being reduced to three responded to the survey (57% of the pool), and six offices being reduced to four responded (86% of the pool).

Findings

The results of the initial survey were shared with those attendees at the Magistrates’ Conference, held on October 1-3, 2012, who represented counties that were being reduced to three or four magistrate positions. The dissemination of this information and ensuing discussion were designed to meet the requirements of item (i) in Session Law 2012-142, Section 16.1.

Some of the responders stated that they did not know how their post-1/1/2013 schedule would operate. NCAOC staff has since followed up with these counties to inquire about their new scheduling practices. The data provided in Appendix B includes these additional responses.

Technology Resources

NCAOC's Technology Services Division has created the Magistrate Video Project (MVP), which provides video phone units to magistrate's offices and participating local law enforcement to conduct certain activities virtually, without requiring the on-call magistrate, law enforcement, and the defendant to meet in-person.

Participating local law enforcement agencies are able to buy video phone units at a cost of approximately \$1,200 per unit (purchase price plus three-year warranty) and place them wherever they choose (*i.e.* sheriff's office, police station, jail, etc.). With even a modest amount of usage, the savings in travel to the magistrate's office will more than offset the cost of the unit. In addition, the use of this technology reduces the time law enforcement officers must spend away from their regular duties by allowing them to appear quickly in front of a magistrate and not have to physically travel to the office.

Each participating magistrate's office receives a video phone unit, which can be used in the office or can be taken home by the magistrate on-call. In the next quarter NCAOC will begin to equip participating magistrate's offices with laptop computers that can be used to complete these virtual transactions, and will be even more mobile than the current video phone units. With the current and future laptops, and appropriate software, the magistrates can, from any location with internet access (including their homes), perform activities in NCAWARE and other NCAOC supported programs.

At the writing of this report there are 15 counties fully participating in this program (listed below). From January 1, 2013, to February 25, 2013, this technology facilitated 229 activities. There is currently an average of five local law enforcement agencies participating in the program in each participating county. This technology provides enhanced access to magistrates, even more so than was previously available through the use of satellite offices, many of which have recently been closed due to budget reductions.

County	Date Implemented
Alexander	July 7 th , 2012
Camden	October 12 th , 2012
Cherokee	August 9 th , 2012
Currituck	February 24 th , 2012
Davidson	August 7 th , 2012
Davie	January 17 th , 2013
Franklin	June 19 th , 2012
Granville	December 11 th , 2012
Jackson	March 14 th , 2012
Macon	March 14 th , 2012
Nash	November 9 th , 2012
Perquimans	October 12 th , 2012
Pasquotank	October 12 th , 2012
Stokes	June 4 th , 2012
Surry	May 17 th , 2012

In addition to the counties listed above, there are several more who are preparing to come on-line with this program. In order for a county to participate, the Senior Resident Superior Court Judge of that judicial district must submit a letter to NCAOC providing his or her approval and outlining the specific types of activities allowable for completion with the video phone and any conditions that must apply. A sample copy of this order is attached as Appendix C.

The MVP provides a tool to respond to law enforcement and the public as required in item (ii) in Session Law 2012-142, Section 16.1.

Recommendations

- Explore legislative action to amend various statutes to allow citizens to appear virtually before a magistrate;
- Explore modification to G.S. 7A-146.9, to explicitly allow counties in multi-county districts to share magistrates for coverage with the use of technology resources. The current statute is silent on whether physical presence is required in the county for which coverage is being provided by a magistrate serving in another county.

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Appendices

- | | |
|-------------------|---|
| APPENDIX A | Copy of initial survey and survey request email |
| APPENDIX B | Handout of survey results, updated February 2013 |
| APPENDIX C | Sample order from senior resident superior court judge for participation in Magistrate Video Project |

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APPENDIX A

Copy of initial survey and survey request email

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Seale, Danielle

From: Seale, Danielle
Sent: Friday, September 14, 2012 1:39 PM
To: Buckner, Joseph M.
Cc: Cooper, Sam
Subject: Magistrate Scheduling Survey

Dear Judge Buckner:

The NC General Assembly directed the NCAOC to "study the management of magistrate schedules..." This survey is intended to gather information about staffing practices in those magistrate offices that are being reduced to three or four magistrates as of 1/1/2012 (after all of the legislative cuts).

Please complete the short survey (link below) regarding magistrate scheduling practices for **Chatham County**. If you are not the individual most responsible for creating and managing the schedule for the magistrates in Chatham County, please forward this request to the appropriate person. If multiple individuals share this responsibility they should collaborate for this response, but only send one response per county. Separate email requests will be sent for each county that requires a survey.

<http://www.nccourts.org/Surveys/RPlanning/HTML/MagistrateSchedulingSurvey.htm>

Since this topic will be addressed at the upcoming magistrates' conference, responses by **September 26th** will be much appreciated. Please do not hesitate to contact me if you have any questions.

Regards,

Danielle Seale
Research Associate
Research and Planning Division
North Carolina Administrative Office of the Courts
919 890-1280 T
919 417-7654 M
919 890-1911 F

Providing services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

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Magistrate Scheduling Survey

The NC General Assembly directed the NCAOC to "study the management of magistrate schedules..."

This survey is intended to gather information about staffing practices in those magistrate offices that are being reduced to three or four magistrates as of 1/1/2012 (**after** all of the legislative cuts).

Please complete this survey only if you are the individual most responsible for creating and managing the schedule for the magistrates in your county. If multiple individuals share this responsibility please collaborate with them for this response, but only send one response per county. If you have multiple counties under your jurisdiction please submit a separate response for each county.

1.	Please enter your county:	
----	---------------------------	--

2.	Please enter your name:	
----	-------------------------	--

3.	Please select your title:	
	<input type="radio"/>	Chief District Court Judge
	<input type="radio"/>	District Court Judge
	<input type="radio"/>	Clerk of Superior Court
	<input type="radio"/>	Judicial Support Staff (JA, TCA, TCC, etc.)
	<input type="radio"/>	"Chief" Magistrate

4.	How many satellite offices will you have as of 1/1/2013?	
----	--	--

5.	How many satellite offices will you have closed as of 1/1/2013?	
----	---	--

6.	Please describe your current scheduling practice (for example, 24 hours on-call, 48 hours off). Please include information about office hours (in-person coverage) versus on-call coverage.	

7.	If you still have pending cuts remaining (terms ending December 31, 2012) do you know what the new schedule looks like?	
----	---	--

--	--	--

8.	What changes did the legislative cuts cause to your scheduling practice? Please select all that apply.	
	<input type="checkbox"/>	Closed satellite office(s)
	<input type="checkbox"/>	Required existing staff to work longer hours/more shifts
	<input type="checkbox"/>	Required new or heavier reliance on video technology with law enforcement
	<input type="checkbox"/>	Less in-person/more on-call coverage
	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Other

9.	Please share any additional comments/concerns:	

Thank you for completing this survey! If you have any questions please contact Danielle Seale at Danielle.J.Seale@nccourts.org or (919) 890-1280.

[Submit](#)

NOTE

***This is a preview of the published version of your survey.
Although a few features may work, your survey is not operational in this preview.
Click on the 'Submit' link to preview your survey's confirmation page. No data will be submitted.
The links will be buttons in the published version of your survey.***

APPENDIX B

Handout of survey results, updated February 2013

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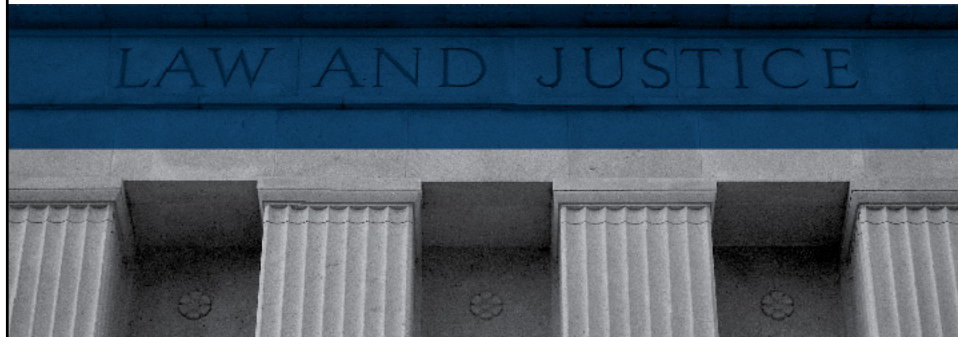


NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Magistrate Scheduling

Presentation for Magistrates' Conference, October 2012

Updated: February 2013



Magistrate Scheduling

The NC General Assembly directed NCAOC to “study the management of magistrate schedules.”

A survey was sent to offices that are being reduced to three or four magistrates effective 1/1/2013 (after all of the legislative cuts).

These offices shared their scheduling practices and effects of the cuts on their day-to-day work.

The following data is current as of 9/27/2012, including responses from 16 offices with three magistrates and 6 offices with four magistrates.



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Magistrate Scheduling February 2013 2

Effects of legislative cuts

	Offices w/ 3	Offices w/ 4
Closed satellite offices	25%	50%
Longer hours / more shifts	100%	83%
Increased use of video technology	25%	0%
Less in-person / more on-call shifts	63%	33%

Other comments and concerns

Difficulty covering vacation/sick/training leave

Disgruntled partners (law enforcement, probation officers, clerks, juvenile justice staff...)

Video phones have helped very much

Should be a minimum of four magistrates

Had a vacancy, had to borrow magistrate staff from another county

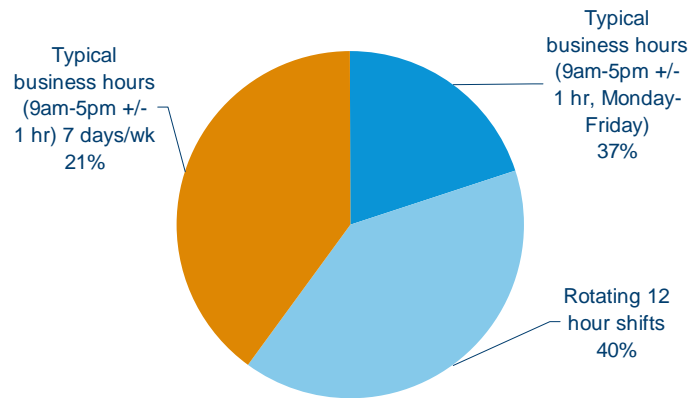
Had to revise scheduling of small claims court

Magistrate steps are still frozen

Not properly staffed for peak tourism season

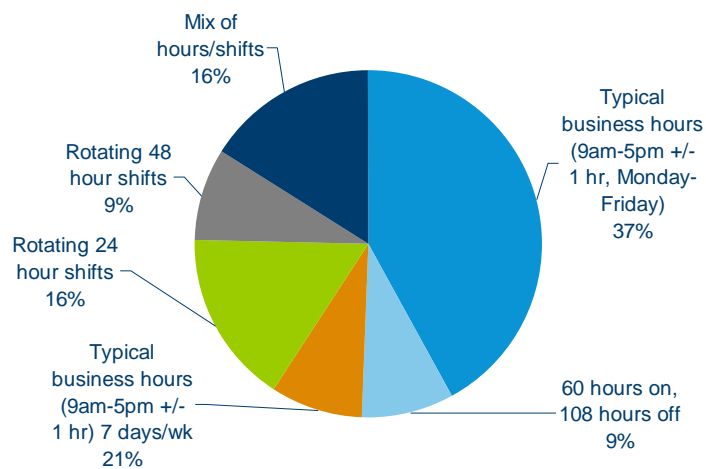
Difficulty scheduling a week off at a time

Examples of shift schedules (in-person or on-call) in offices with four magistrates

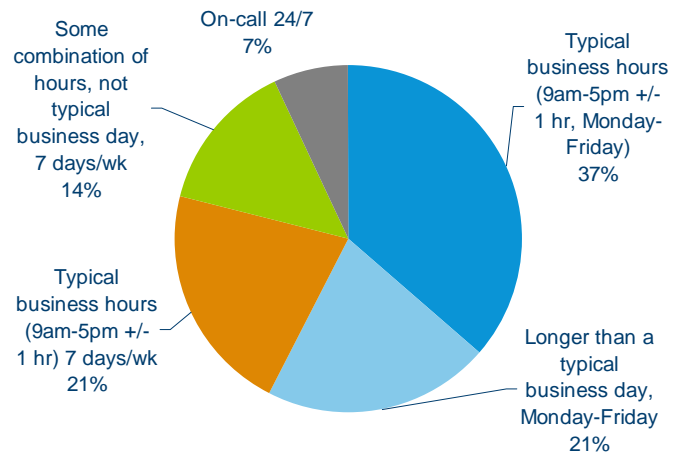


Only two offices with four magistrates provided their in-person schedule:
Typical business hours (M-F), and 24 hour in-person coverage (M-F)

Examples of shift schedules (in-person or on-call) in offices with three magistrates



Examples of in-person coverage in offices with three magistrates



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Magistrate Scheduling February 2013 7



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Prepared by:
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Administrator

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www.nccourts.org



APPENDIX C

**Sample order from senior resident superior court judge
for participation in Magistrate Video Project**

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February 27, 2013

Mr. Pete E. Powell
Legal Counsel
PO Box 2448
Raleigh, NC 27602

Re: Approval of audio and video transmission equipment

Dear: Mr. Powell

The purpose of this letter is to request approval of a two-way audio and video transmission equipment in (county name) County in order to conduct non-capital initial appearances and probable cause hearing before a magistrate. This request is made pursuant to G.S. 15A-303, G.S. 15A-304, G.S. 15A-511, and G.S. 15A-532. This equipment will be used to facilitate communication between law enforcement officers and magistrates and defendants.

The NCAOC makes use of Cisco VoIP call manager infrastructure and Cisco branded video enabled handsets. These handsets are from the 9900 or E series product line or the Mobi software. We specifically have chosen to use the 9971 or the E20 handset. These handsets have a 5 inch or larger screen. The 9971 phone provides 6 lines of service, touch screen dialing, a speaker phone, programmable soft keys and other features. The 9971 handset provides a USB camera which is removable if necessary or beneficial. Also, the 9971 phone comes with a built-in Virtual Private Network client that allows the phone to be located across the Internet and maintain secure encrypted connectivity. Each phone is configured to register with the NCAOC call manager infrastructure here at NCJC in Raleigh.

This equipment will be used to conduct initial appearances and probable cause hearings. This equipment has been approved for use for this purpose by the Technology Services Division of the North Carolina Administrative Office of the Courts as it meets the minimum guidelines necessary for NCAOC approval.

If a defendant has counsel present and wishes to speak privately with his attorney, the officer will turn off the audio and video equipment and allow the defendant to speak confidentially to counsel. If the defendant has an attorney that is not present, he will be allowed to talk confidentially by telephone with counsel in a private area on a telephone not subject to being recorded.

In addition, facsimile transmission facilities and NCAWARE are in place at both locations. The defendant will be provided with a printed copy of the statements made and notices provided by the magistrate at the time the magistrate conducts the initial appearance.

Attached are the Procedures for Utilization of Audio and Video Transmission with Magistrates for Non-Capital Offenses Pursuant to G.S. 15A-303, G.S. 15A-304, G.S. 15A-511, and G.S. 15A-532.

I request your approval of the Cisco VoIP call manager and Cisco handsets for use in initial appearances and probable cause hearings before a magistrate. If you have any questions, or need further information, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely

Printed Name

Attachments

cc: XXX, Chief District Court Judge
XXX, Clerk of Superior Court
XXX, XXX County Sheriff
XXX, XXX City Police Chief
XXX, XXX District Attorney
Basil McVey, Deputy Director NCAOC

Procedures for Utilization of Audio and Video Transmission with Magistrates for Non-Capital Offenses Pursuant to G.S. 15A-303, G.S. 15A-304, G.S. 15A-511, and G.S. 15A-532

Arrest without a Warrant

Upon the arrest of a defendant without a warrant, the arresting law enforcement officer may contact the magistrate and request utilization of the audio and video transmission process to conduct an initial appearance.

The officer will then transport the defendant to the nearest approved audio and video transmission location.

Upon arrival at the transmission site, the officer will contact the magistrate by telephone and agree to activate the audio and video transmission equipment.

Once both locations are in audio and video communications, the magistrate will identify himself or herself and determine the identity of the defendant.

The magistrate will then follow established procedures for conducting an initial appearance including the provisions regarding confidential communications between defendant and attorney noted below.

If probable cause is determined to exist, the magistrate will issue a magistrate's order and then determine the conditions of pretrial release.

The magistrate will complete the necessary documentation and ensure the document(s) are printed at the officer's location. If a document cannot be printed at the officer's location, then a facsimile will be used. See G.S. 15A-101.1(9). An example of a document that cannot be printed is a magistrate's order based on a citation where the citation needs to be signed by the magistrate. The officer will fax the completed citation to the magistrate for signing and the magistrate will fax back the signed magistrate's order based on the citation. See Routing Documents to the Clerk's Office listed below.

The officer shall place the defendant before the audio and video equipment whenever it is necessary for the defendant and the magistrate to speak with each other during the initial appearance.

After the initial appearance is complete and all necessary paperwork is printed, delivered to the defendant and signed if necessary, the defendant will be released or committed to a detention facility as directed by the magistrate.

The arresting officer shall ensure the defendant has properly signed any necessary documentation.



Arrest with a Warrant

Upon the arrest of a defendant with a warrant, the arresting law enforcement officer may contact the magistrate and request utilization of the audio and video transmission process to conduct an initial appearance.

If necessary, the officer will then transport the defendant to the nearest approved audio and video transmission location.

Upon arrival at the conferencing site, the officer will contact the magistrate by telephone and agree to activate the audio and video transmission equipment.

Once both locations are in audio and video communications, the magistrate will identify himself or herself and determine the identity of the defendant.

The magistrate will then follow established procedures for conducting an initial appearance including the provisions regarding confidential communications between defendant and attorney noted below.

The magistrate will complete the necessary documentation and ensure the document(s) are printed at the officer's location. If a document cannot be printed at the officer's location, then a facsimile will be used. See G.S. 15A-101.1(9); see also Routing Documents to the Clerk's Office listed below.

The officer shall place the defendant before the audio and video equipment whenever it is necessary for the defendant and the magistrate to speak with each other during the initial appearance.

After the initial appearance is complete and all necessary paperwork is printed, delivered to the defendant and signed if necessary, the defendant will be released or committed to a detention facility as directed by the magistrate.

The arresting officer shall ensure the defendant has properly signed any necessary documentation.

Confidential Communications between Defendant and Attorney

If a defendant has counsel present and wishes to speak privately with his attorney, the officer will turn off the audio and video equipment and allow the defendant to speak confidentially to counsel. If the defendant has an attorney that is not present, he will be allowed to talk confidentially by telephone with counsel in a private area on a telephone not subject to being recorded.

Probable Cause Hearings for the Purpose of Obtaining an Arrest Warrant or a Criminal Summons

When a law enforcement officer determines the need to obtain an arrest warrant or a criminal summons, the officer may contact the magistrate and request utilization of the audio and video transmission process to conduct a probable cause hearing.



Once both locations are in audio and video communications, the magistrate will then follow established procedure for conducting a probable cause hearing.

If probable cause is determined to exist, the magistrate will issue the arrest warrant or criminal summons according to established procedures.

Routing Documents to the Clerk's Office

The officer will ensure the printed documents at his or her location are delivered to the clerk's office as soon as possible.

The magistrate will ensure that any printed documents at his or her location, including facsimile documents, are delivered to the clerk's office as soon as possible.

The undersigned hereby adopt the foregoing procedures, and they become effective, on the date set out below.

This the _____ day of _____, 20_____.

Senior Resident Superior Court Judge

Chief District Court Judge



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