

ADMINISTRATIVE ORDER
Probation Cases

Pursuant to N.C.G.S. 15A-301.1, the North Carolina Administrative Office of the Courts has developed NCAWARE, an automated electronic repository for criminal process, allowing for the electronic creation, storage and remote access of criminal process. The following procedures are hereby implemented to direct the use of NCAWARE as it relates to probation cases effective.

1. Effective March 1, 2010, all orders for arrest issued for failure to appear at probation violation hearings in District and Superior Court shall be issued by the office of the Clerk of Superior Court. The Presiding Judge shall set a bond during the court session. All orders for arrest for failure to appear at probation violation hearings are assigned to the Sheriff's Office for service.
2. Any requests by an attorney, assistant district attorney or probation officer to recall an order for arrest for failure to appear must be prepared on the Superior Court *Recall Order for Arrest* form which shall be presented to an appropriate judge for signature. Said *Recall Order for Arrest* form shall be fully filled out. Upon signature by a judge, the form shall be submitted to the Clerk of Superior Court, Criminal Division, for process.
3. Orders of arrest on violations of probation will be issued by a magistrate. The probation officer will take the original violation report and two (2) copies to the Clerk of Superior Court Criminal Division to be "file Stamped." The Clerk will retain the original violation report for processing and return the copies to the Probation Officer. For any out of county case, the Clerk will also provide the Violation Report with the case number and place the new case number on the two (2) copies. Thereafter, the Probation Officer will see that the criminal process is pre-entered in NCAWARE and that all mandatory data fields have been completed. The Probation Officer will then take the two (2) copies of the violation report to the Magistrate for determination of issuance of an Order for Arrest. The magistrate will issue the Order for Arrest in NCAWARE, electronically assign the process to be served to the Division of Community Corrections, and retain a copy of the violation report in the Magistrate's Office to be provided to the Defendant as may be required. The Probation Officer shall retain the remaining copy of the Violation Report for their files.

4. When a probation officer arrests a Defendant on “authority to arrest” without the prior issuance of an order for arrest by a judicial official, the probation officer will take the Defendant before a magistrate for processing. The magistrate will issue an appropriate release order manually.

This the 12th day of February, 2010.

Jerry F. Waddell
Chief District Court Judge

Benjamin G. Alford
Senior Resident Superior Court Judge