



MECKLENBURG COUNTY CRIMINAL JUSTICE SERVICES  
PRETRIAL RELEASE CONDITIONS FRAMEWORK  
PRESENTED TO THE BOARD OF COUNTY COMMISSIONERS  
JUNE 26, 2018



# Agenda

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- History of Pretrial Release Decision Making in Mecklenburg County
- Overview of Pretrial Research
- Public Safety Assessment
- Validation Study Results
- Pretrial Supervision
- Revised Decision Making Framework

# Request of the BOCC

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- Receive as Information the Proposed Revisions to the Mecklenburg County Pretrial Release Decision Making Framework
- Request Approval of the Recommended Changes at the July 10<sup>th</sup> BOCC Meeting

**The Pretrial Decisions  
Determine  
Mostly Everything.**

**Caleb Foote, 1956**



# Mecklenburg County: Then and Now

## 2008

- Proposal to build new jail for \$360,229,000
- Pretrial Average Daily Population: 1,953
- Projected bed capacity need for 2020: 5,111 beds



Inmates sleeping on the floor in an overcrowded direct supervision housing pod.



# Questions we started to ask

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- Who is in our jail?
- Why are they in our jail?
- Who are we releasing?
- Who are we supervising?
- What are our bond setting practices?





# Where we were in 2009...

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| Charge                        | Percent given Secure Bond |
|-------------------------------|---------------------------|
| Driving While License Revoked | 99%                       |
| Driving While Impaired        | 95%                       |
| Paraphernalia                 | 99%                       |
| Resisting Arrest              | 97%                       |
| Possession of Marijuana       | 98%                       |





# Research Overview

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## Case disposition

Detained defendants were significantly **more likely to be convicted** than similar defendants who were released pretrial.

## Likelihood of a sentence to incarceration

Detained defendants were over four times (4X) **more likely to be sentenced to jail** and over three times (3X) **more likely to be sentenced to prison** than similar defendants who were released at some point pending trial.

## Length of a sentence to incarceration

Sentences for detained defendants were also significantly longer: Jail sentences were **nearly three times (3X) as long**, and prison sentences were **more than twice (2X) as long**.





# Research Overview

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## Public safety pretrial (short term)

As length of pretrial detention increased up to 30 days, recidivism rates for low and moderate-risk defendants also increased.

Low-risk defendants held 2-3 days were almost **40 percent more likely to commit new crimes** before trial than similar defendants held no more than 24 hours.

## Public safety post-disposition (long-term recidivism)

Low-risk defendants held 8-14 days were **51 percent more likely to commit another crime** within two years after completion of their cases than similar defendants held no more than 24 hours.



# Rationale for Risk-Based Decision Making

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- Protect public safety
- Promote objective decisions and reduce biases
- Use system resources wisely
- Uphold “least restrictive means” in state statute
- Preserve legal and constitutional rights afforded defendants





# Role of Pretrial Services

Provide information to the court to assist them with the pretrial release decision

**Measure Risk**

Provide supervision services that promote public safety and court appearance

**Manage Risk**





# Public Safety Assessment

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- Developed by the Laura and John Arnold Foundation
- Largest and most comprehensive multi-jurisdictional dataset of pretrial information
- 1.5 million cases from approximately 300 different cities, counties, and federal jurisdictions
- Does not require face-to-face interview

# PSA Risk Factors

| Risk Factor   | Pretrial Outcome        |                             |                                      |
|---|-------------------------|-----------------------------|--------------------------------------|
|   | Failure to Appear (FTA) | New Criminal Activity (NCA) | New Violent Criminal Activity (NVCA) |
| 1. Age at current arrest                                |                         | ✓                           |                                      |
| 2. Current violent offense                              |                         |                             | ✓                                    |
| 2a. Current violent offense and 20 years old or younger |                         |                             | ✓                                    |
| 3. Pending charge at the time of the offense            | ✓                       | ✓                           | ✓                                    |
| 4. Prior misdemeanor conviction                         |                         | ✓                           |                                      |
| 5. Prior felony conviction                              |                         | ✓                           |                                      |
| 5a. Prior conviction                                    | ✓                       |                             | ✓                                    |
| 6. Prior violent conviction                             |                         | ✓                           | ✓                                    |
| 7. Prior failure to appear pretrial in past 2 years     | ✓                       | ✓                           |                                      |
| 8. Prior failure to appear pretrial older than 2 years  | ✓                       |                             |                                      |
| 9. Prior sentence to incarceration                      |                         | ✓                           |                                      |

# Release Decision-Making Matrix

## *New Criminal Activity (NCA) Score*

NCA 1

NCA 2

NCA 3

NCA 4

NCA 5

NCA 6

*Risk of Failure to Appear (FTA) Score*

FTA 1

WPA  
or  
UNSECURED

WPA  
or  
UNSECURED

FTA 2

WPA  
or  
UNSECURED

WPA  
or  
UNSECURED

UNSECURED or  
ADMINISTRATIVE  
CDPO

SECURED  
STANDARD / CDPO

SECURED/  
INTENSIVE / CDPO

FTA 3

UNSECURED or  
ADMINISTRATIVE  
CDPO

SECURED  
STANDARD / CDPO

SECURED  
STANDARD / CDPO

SECURED/  
INTENSIVE / CDPO

SECURED/DETAIN

FTA 4

SECURED  
STANDARD /  
CDPO

SECURED  
STANDARD / CDPO

SECURED/ INTENSIVE  
/ CDPO

SECURED/DETAIN

SECURED/DETAIN

FTA 5

SECURED  
STANDARD /  
CDPO

SECURED  
INTENSIVE / CDPO

SECURED/ INTENSIVE  
/ CDPO

SECURED/DETAIN

SECURED/DETAIN

FTA 6

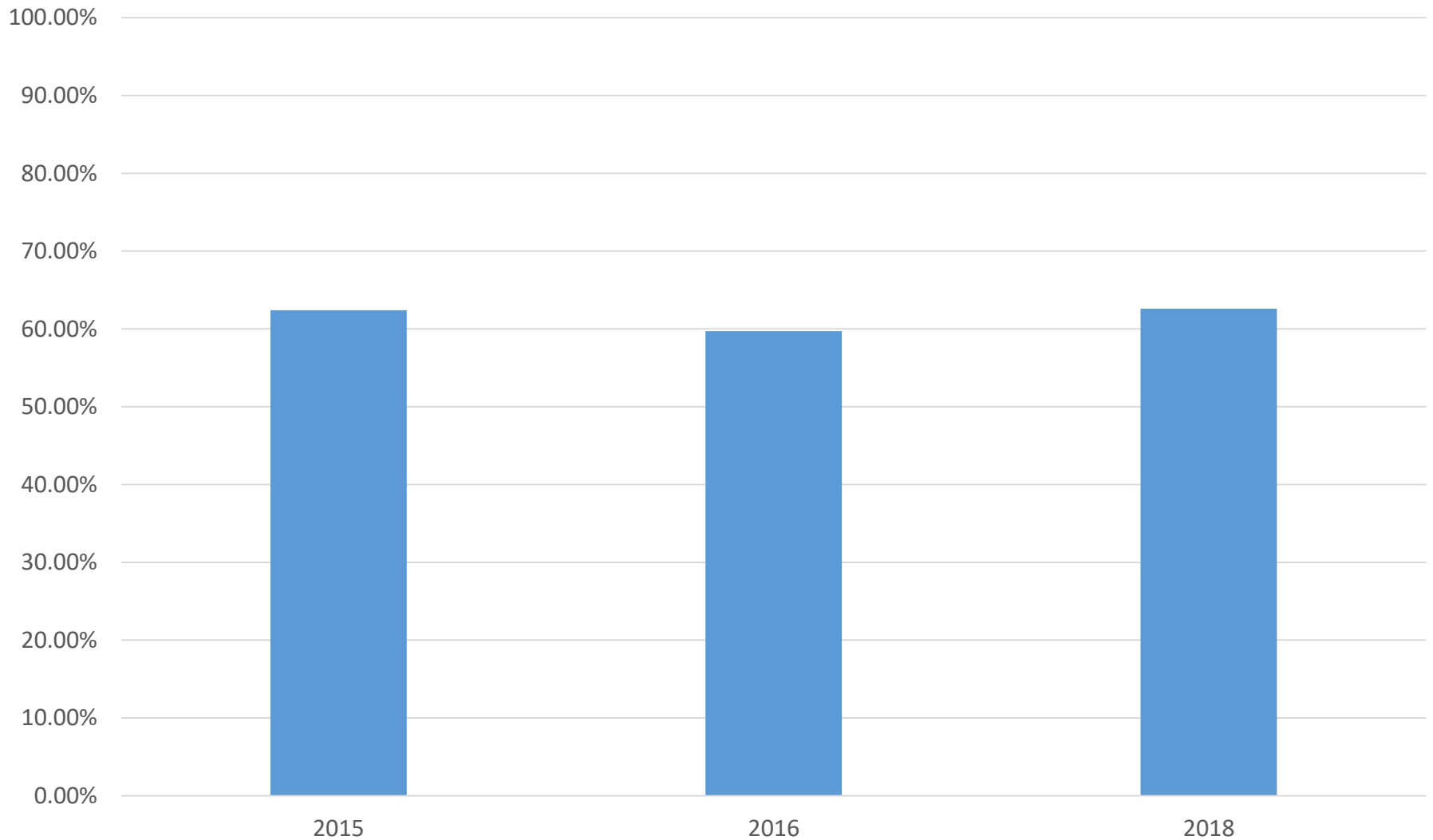
SECURED/DETAIN

SECURED/DETAIN

SECURED/DETAIN



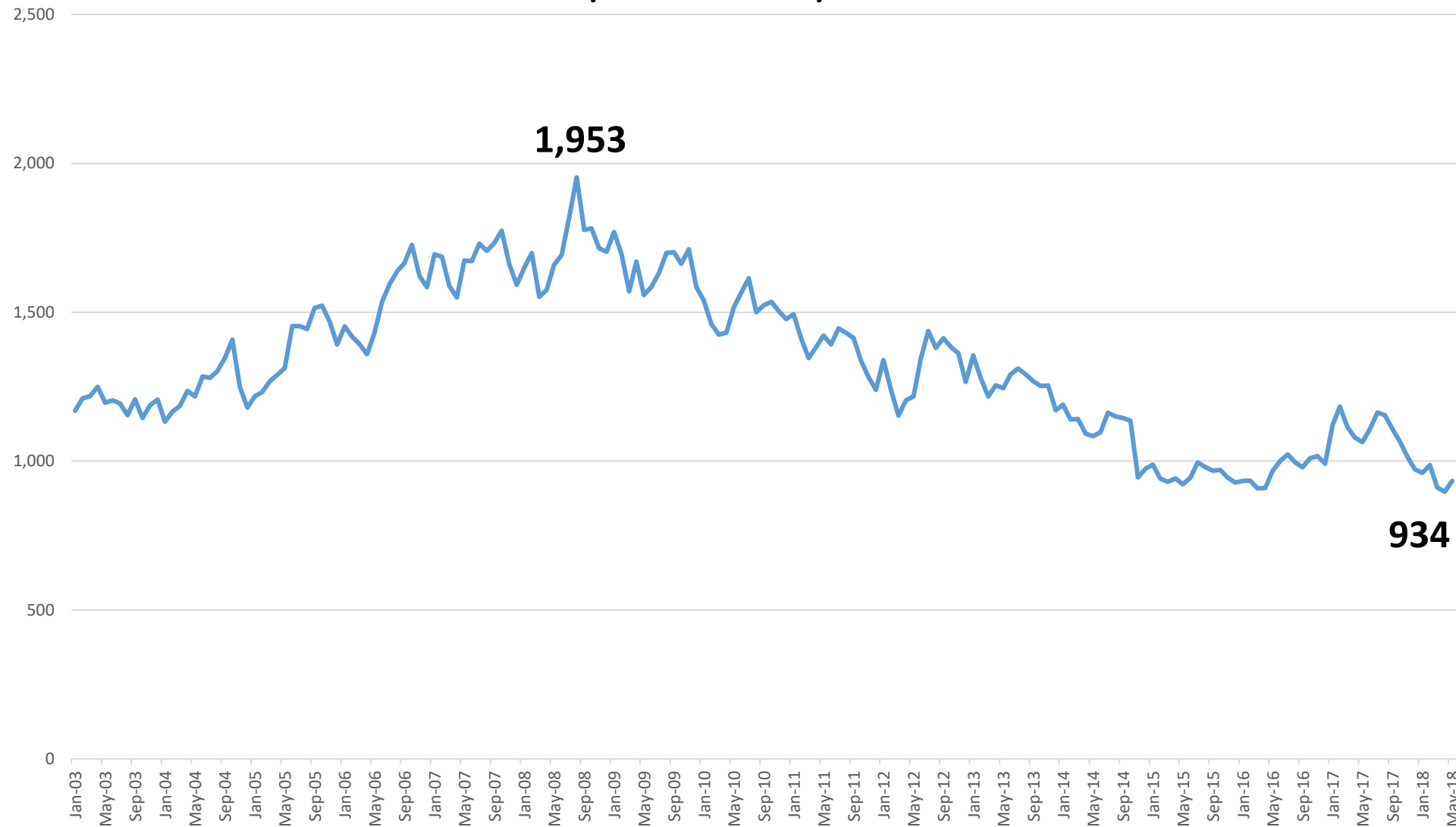
# Overall Judicial Strict Concurrence







# Pretrial Average Daily Population January 2003 - May 2018





# Mecklenburg County: Then and Now

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2018

- No new jail
- 2015 closure of the Work Release Center
- 2016 consolidation of adult jail population to Jail Central with bed capacity of 1,904
- Pretrial Average Daily Population: 934



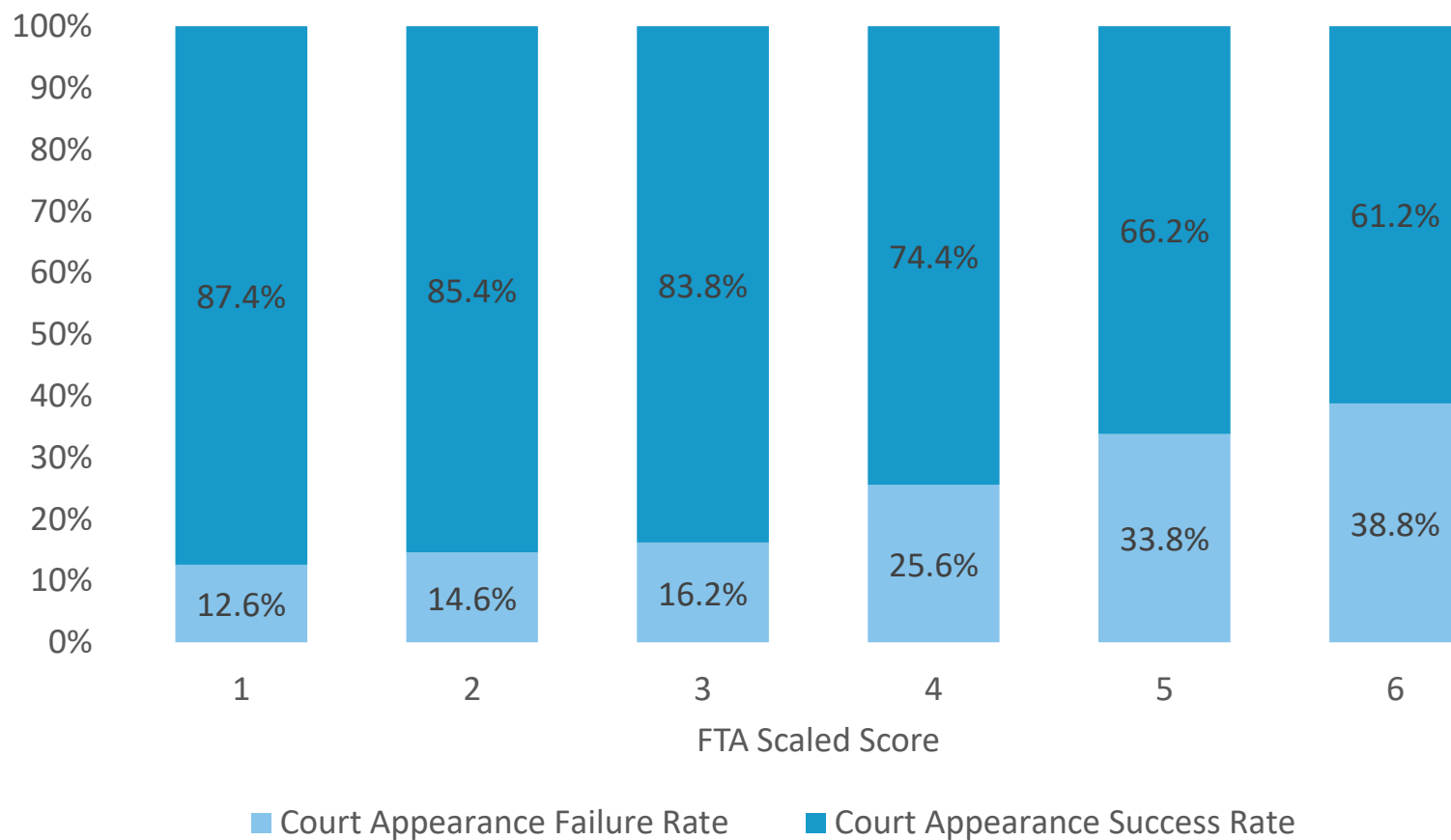


# Mecklenburg PSA Validation and Assessment Study

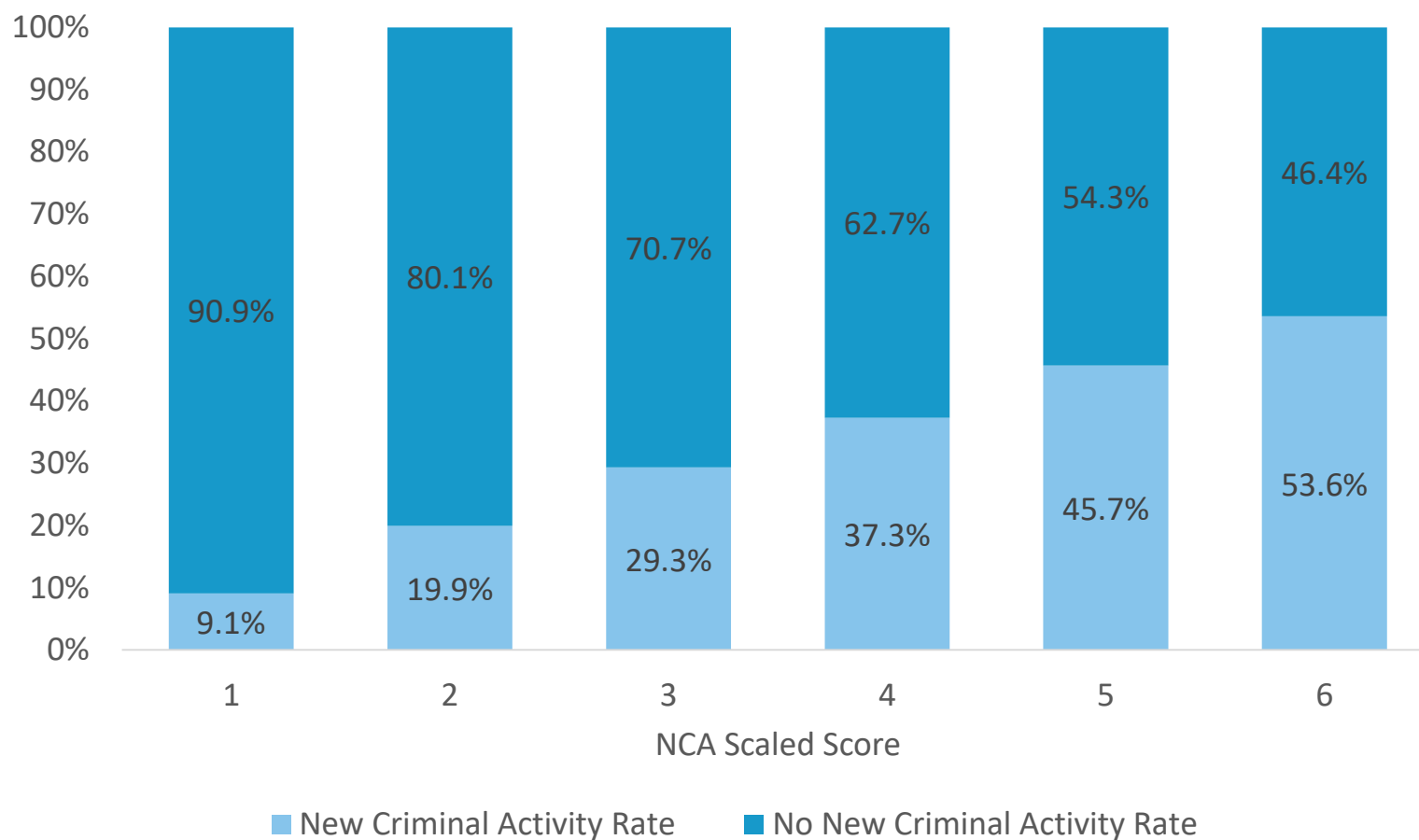
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- Conducted by Luminosity Solutions
- Supported by the Arnold Foundation
- Validation of the PSA
- Impact of PSA at Initial Appearance on:
  - Release Rates
  - Jail Population
  - Pretrial Outcomes

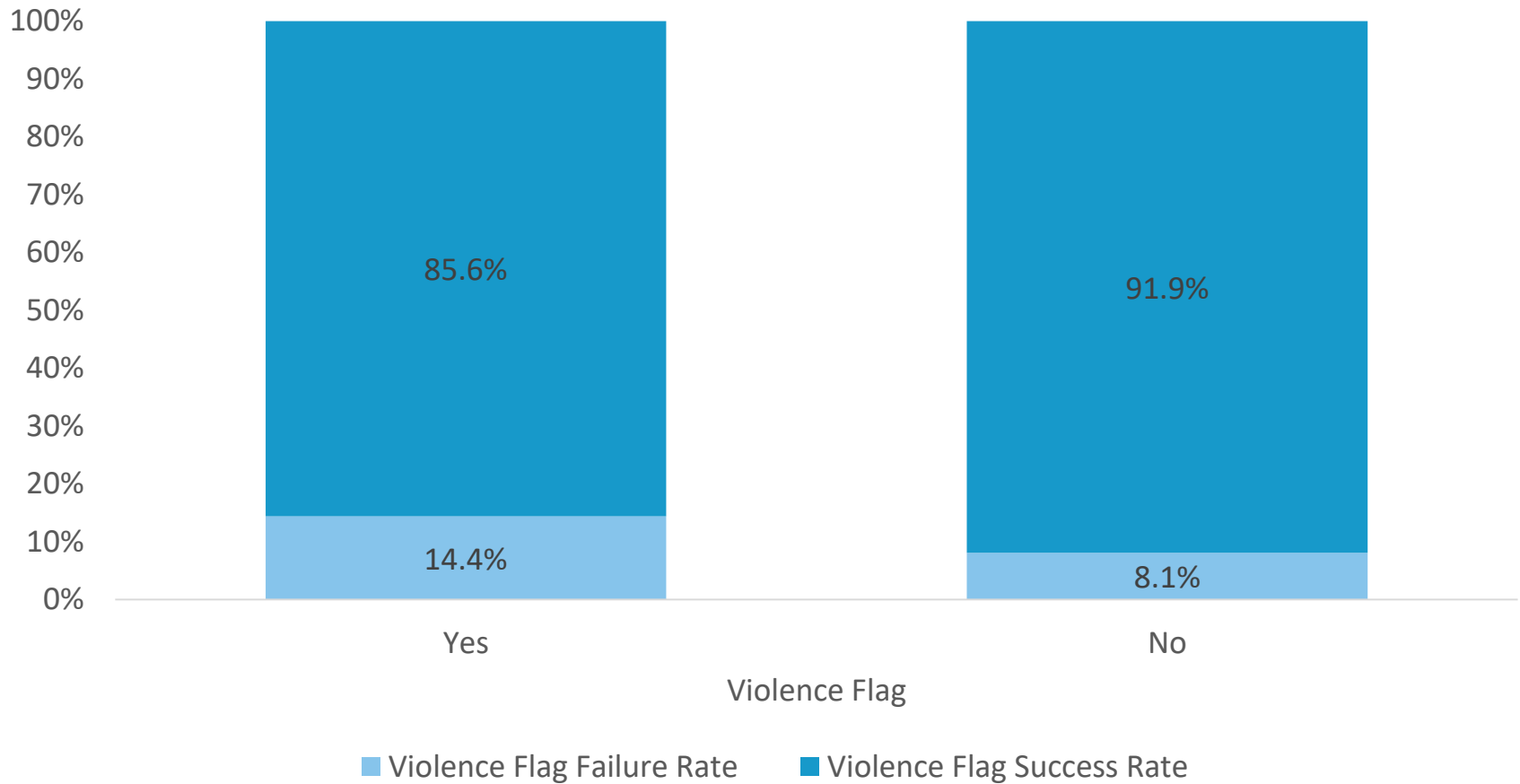
# Mecklenburg PSA Validation Failure To Appear



# Mecklenburg PSA Validation New Criminal Activity



# Mecklenburg PSA Validation Violence Flag





# Pretrial Supervision

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Several guiding principles when assigning supervision:

- Defendants should be released with the least-restrictive conditions necessary to reasonably assure they will **appear for court** and not engage in **criminal activity**.
- The supervision level should be commensurate with the identified risk of pretrial failure.

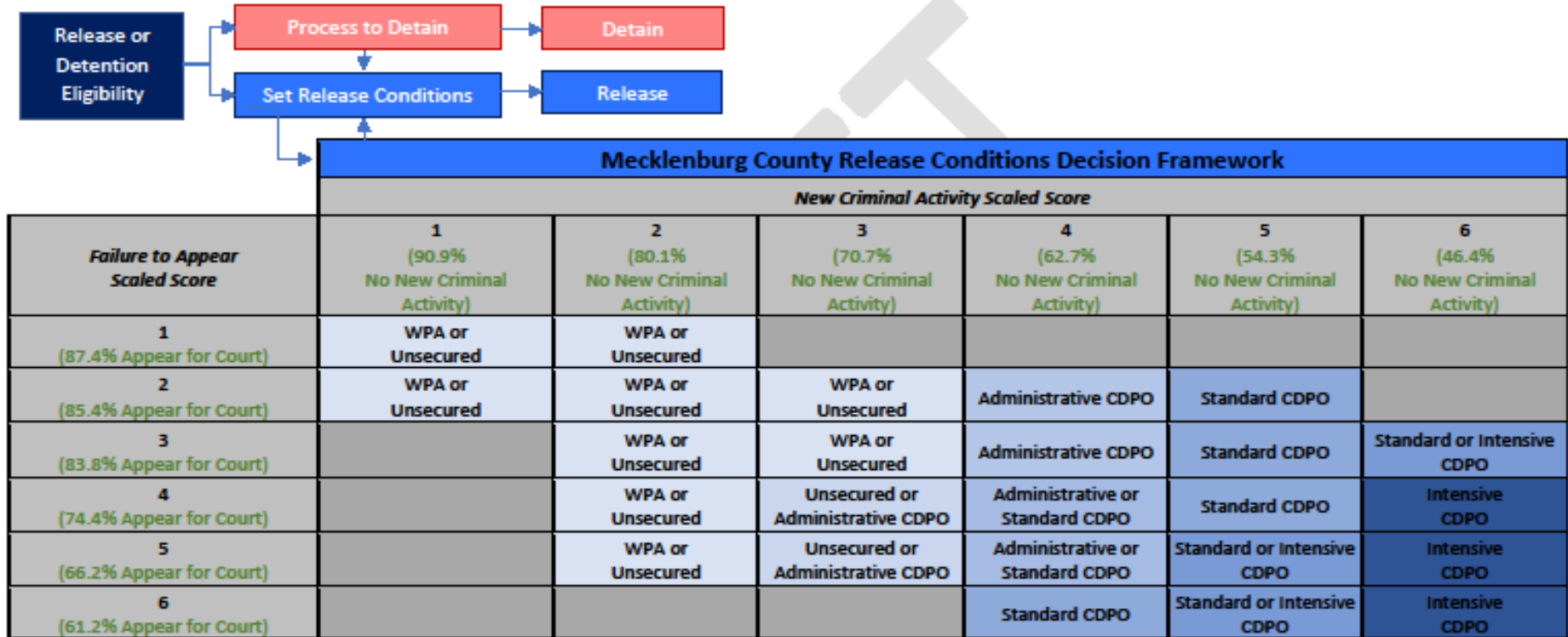


# Supervision Levels and Requirements

|                                     | Administrative | Standard | Intensive |
|-------------------------------------|----------------|----------|-----------|
| Initial Office Visit                | ✓              | ✓        | ✓         |
| Monthly Office Contact              |                | ✓        |           |
| Bi-weekly Office Contact            |                |          | ✓         |
| Court Reminders                     | ✓              | ✓        | ✓         |
| Service Referral                    | ✓              | ✓        | ✓         |
| Monthly Criminal History Monitoring | ✓              | ✓        | ✓         |
| Drug Testing*                       | ✓              | ✓        | ✓         |

## DRAFT: Mecklenburg County Release Conditions Decision Framework

Mecklenburg County uses a locally validated actuarial tool, the Public Safety Assessment (PSA), to assess a defendant's likelihood of pretrial success along three factors: court appearance, no new criminal activity, and no new violent criminal activity. This information combined with the professional judgement of local criminal justice stakeholders was used to develop Mecklenburg County's Release Conditions Decision Matrix to inform a judicial officer's order for pretrial release conditions.



WPA-Written Promise to Appear; CDPO- Place in the Custody of Designated Person or Organization

### Additional Notes:

- ✓ If the person has a NVCA flag = 85.6% No New Violent Criminal Activity
- ✓ Defendant success rates noted in the matrix are from the most recent local validation of the PSA actuarial tool in December 2017.
- ✓ When the judicial official refers a defendant to CDPO, the Pretrial Services Agency will monitor the defendant in accordance with the supervision level listed in this release conditions matrix. Where the release conditions matrix lists two levels of supervision, the Pretrial Services Agency will monitor the defendant at the lower level listed unless otherwise ordered.
- ✓ See Mecklenburg County's Pretrial Services' Directives for a full description of supervision levels and response to compliance and non-compliance protocols.
- ✓ G.S. § 15A-534 (b) sets forth a presumption of release with non-secured conditions.
- ✓ If the judicial officer decides to impose a secured only release condition or house arrest with electronic monitoring, G.S. § 15A-534 (b) allows the local jurisdiction to provide requirements for recording the reasons for doing so. A monetary bail bond may only be forfeited for failing to appear for court, pursuant to G.S. § 15A-544.3.

# Questions

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## DRAFT – Response to Non-compliance

### Response to Non-Compliance Protocol

| Supervision Condition  | Type and Level of Non-Compliance                             | Response to Non-Compliance (Low, Medium, High)<br>by Supervision Level |          |                         |
|--|--|--|----------|-------------------------|
|  |  | Administrative   | Standard | Intensive               |
| Report for Initial Face to Face Check-In the following business day. | Failed to check-in and no contact the following business day | Low  |          | Medium                  |
|  | Failed to check-in and no contact within 3 calendar days     | Medium   |          | High                    |
|  | Failed to check-in and no contact within 7 calendar days     | High   |          | Submit Notice to Revoke |
|  | Failed to check-in and no contact within 14 calendar days    | Submit Notice to Revoke  |          |                         |
|  |  |  |          |                         |