# 26ᵗʰ Judicial District Bail Policy

Presented to the Mecklenburg

Board of County Commissioners

March 19, 2019

# Collaborative Effort

- Mecklenburg County Criminal Justice Services
- Superior Court Judges' Office
- District Court Judges' Office
- District Attorney's Office
- Public Defender's Office
- Chief Magistrate's Office
- Justice System Partners

# Context

- Mecklenburg a Leader in Thoughtful Bail Administration

- Local Criminal Justice Leaders Collaborated in 2018 to Update the Bail Policy

- National Legal and Evidence-Based Conversations (including Lawsuits)

- North Carolina Commission on the Administration of Law and Justice

- New Release Conditions Matrix
  - Replaces the Monetary Bail Schedule and Decision Making Framework

- Updated List of Factors to Consider when Determining Conditions of Release

- Clarified Electronic Monitoring Condition

- Updated Pre-Trial Section to Reflect New Procedures

## Pretrial Decision Point

**Three Questions:**

1. Whom will we release?

2. Whom will we detain?

3. How will we do it?

## Make Purposeful Pretrial Decisions

- Decide, On Purpose:

  - Do you want to <span style="color:red">Detain</span> or <span style="color:green">Release</span>?

  - Recognize that every bond you set <u>results in either detention or release.</u>
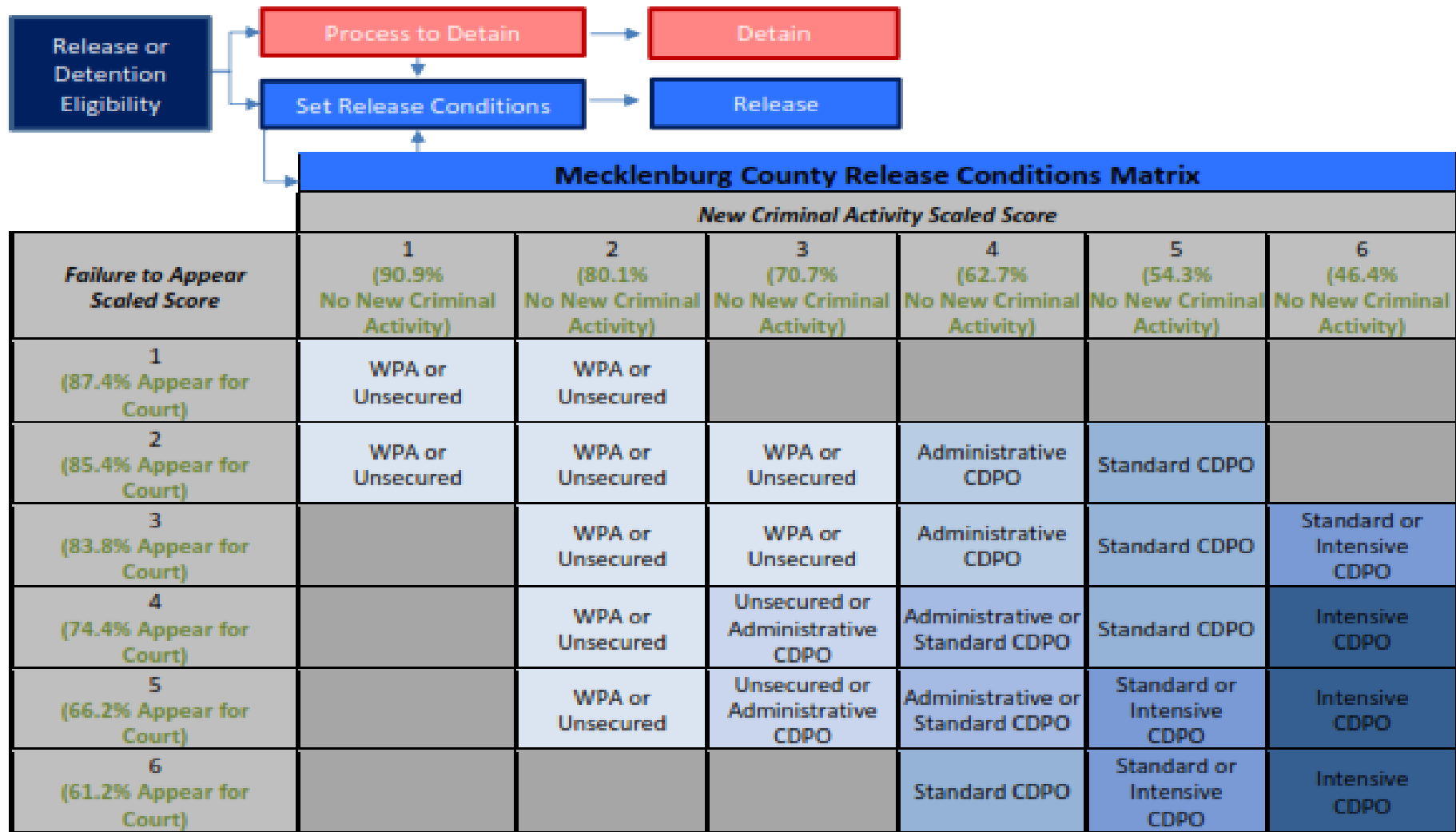
# Release Matrix Conditions

- Guided by Law and Research

- Developed by a Collaborative of Mecklenburg County Criminal Justice Leaders

- All Conditions Result in Release (no $ bonds)

- Indicates when a Referral to Pretrial Services is Suggested

# Release Conditions Matrix



**Release or Detention Eligibility** → **Process to Detain** → **Detain**

**Process to Detain** → **Set Release Conditions**

**Set Release Conditions** → **Release**

| Mecklenburg County Release Conditions Matrix | | | | | | |
|---|---|---|---|---|---|---|
| | **New Criminal Activity Scaled Score** | | | | | |
| **Failure to Appear Scaled Score** | 1 (90.9% No New Criminal Activity) | 2 (80.1% No New Criminal Activity) | 3 (70.7% No New Criminal Activity) | 4 (62.7% No New Criminal Activity) | 5 (54.3% No New Criminal Activity) | 6 (46.4% No New Criminal Activity) |
| 1 (87.4% Appear for Court) | WPA or Unsecured | WPA or Unsecured | | | | |
| 2 (85.4% Appear for Court) | WPA or Unsecured | WPA or Unsecured | WPA or Unsecured | Administrative CDPO | Standard CDPO | |
| 3 (83.8% Appear for Court) | | WPA or Unsecured | WPA or Unsecured | Administrative CDPO | Standard CDPO | Standard or Intensive CDPO |
| 4 (74.4% Appear for Court) | | WPA or Unsecured | Unsecured or Administrative CDPO | Administrative or Standard CDPO | Standard CDPO | Intensive CDPO |
| 5 (66.2% Appear for Court) | | WPA or Unsecured | Unsecured or Administrative CDPO | Administrative or Standard CDPO | Standard or Intensive CDPO | Intensive CDPO |
| 6 (61.2% Appear for Court) | | | | Standard CDPO | Standard or Intensive CDPO | Intensive CDPO |

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

- **New Bail Policy updated the list of factors to consider – Section V**

- **G.S. § 15A-534(b) – Presumption of release with non-secured conditions.**

    1. Written Promise

    2. Unsecured, or

    3. Custody Release / Referral to Mecklenburg County Pretrial Services

- **G.S. § 15A-535(b) – Judges may refer defendants to pretrial supervision.**

- **G.S. § 15A-544.3 – Failure to appear for court is the only event that can lead to forfeiture of money on a bail bond.**

- Money is one tool in the release conditions toolbox.

- Ask: What is the purpose of a secured monetary condition?

  ➢ **$ set to release**

  - Delays or prevents release

  - Can lead to worse public safety outcomes by delaying release and increasing a defendant's short and longer term risk  (The Hidden Costs of Pretrial Detention, LJAF 2013)

  - Is not tied to public safety for those that are released (cannot be forfeited G.S. § 15A-544.3)

  ➢ **$ set to detain**

  - Intentionally, is unlawful

  - Unintentionally, is facing legal challenges (14th Amendment)

  - Can be paid and result in release for some you want to detain

- **3 Studies on Moving Away from a Reliance on Money Bonds Showed:**
  - o Improved Release Rates
  - o No significant impact on Court Appearance or Public Safety
  - o One showed Improved Racial/Ethnic Equity in Release Rates

- **Secured Money Bonds Delay or Prevent Release**

1. Michael R. Jones, *Unsecured Bonds: The "As Effective" and "Most Efficient" Pretrial Release Option* (Pretrial Justice Institute, 2013),

2. Claire M. B. Brooker, Michael R. Jones, Timothy R. Schnacke, *The Jefferson County Bail Project: Impact Study Found Better Cost Effectiveness for Unsecured Recognizance Bonds Over Cash and Surety Bonds,* (Pretrial Justice Institute, 2014),

3. Claire M. B. Brooker, *Yakima County, Washington Pretrial Justice System Improvements: Pre- and Post-Implementation Analysis*, (Pretrial Justice Institute and Justice System Partners, 2017).

- Lower risk defendants may not need PTS oversight.

- Releasable defendants needing **more oversight than a written promise or unsecured bond** may be appropriate for Pretrial Services.

# 26<sup>th</sup> Judicial District Bail Policy

Presented to the Mecklenburg
Board of County Commissioners
March 19, 2019