

Initial Appearance
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Monday, August 24, 2020 1

1

Basic Requirements

1. Defendant must be present

Monday, August 24, 2020 2

2

Basic Requirements (cont'd)

2. Determine probable cause if warrantless arrest

- Why?
- What type of process?
- What if arrest is with warrant?
- Is citation warrantless?
- Is "paperless" arrest warrantless?
- What should you do about unserved process?

Monday, August 24, 2020 3

3

Basic Requirements (cont'd)

3. Inform defendant of charges and rights
 - Appoint counsel?
4. Set pretrial release conditions in accordance with rules and exceptions

Monday, August 24, 2020 4

4

Basic Requirements (cont'd)

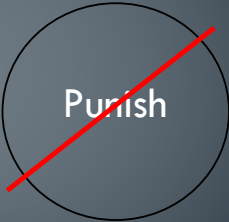
5. Set court date
 - Misdemeanor first appearances?
 - Out-of-county charges?
6. Fingerprint when required
 - Is arrest required when fingerprints are required?

Monday, August 24, 2020 5

5

Types of Pretrial Release

- Purpose of pretrial release



Monday, August 24, 2020 6

6

Types of Pretrial Release (cont'd)

- Forms of pretrial release
 - Written promise, unsecured bond, custody release, secured bond, and electronic house arrest (EHA) with secured bond
- Can you combine more than one form?

Monday, August 24, 2020 7

7

Types of Pretrial Release (cont'd)

- What type is preferred?
 - "The judicial official in granting pretrial release **must impose condition (1), (2), or (3) in subsection (a) above unless** he determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses." G.S. 15A-534(b).

Monday, August 24, 2020 8

8

Types of Pretrial Release

- Purpose of pretrial release

Monday, August 24, 2020 9

9

Types of Pretrial Release (cont'd)

- Conditions of pretrial release
 - Can you impose conditions with any form of pretrial release?
 - What are permissible conditions?
- Effect of violation
 - Who issues OFA?
 - Is violation new offense?
 - What happens if officer arrests without OFA?

Monday, August 24, 2020 10

10

Secured Bonds

- Types of security
 - Cash, property bond (accommodation bond), commercial bond
- Can you designate type?

Monday, August 24, 2020 11

11

Exceptions and Restrictions

- Delay initial appearance

Monday, August 24, 2020 12

12

Exceptions and Restrictions (cont'd)

- Hold initial appearance, but delay setting PTR conditions (DV offenses)
 - What are covered offenses?
 - What does 48-hour requirement mean?
 - What is "a spouse or former spouse or a person with whom the defendant lives or has lived as if married"? G.S. 15A-534.1(a).
 - What is "dating relationship" as defined in G.S. 50B-1(b)(6)?
 - What are permissible conditions?
 - Can you delay release beyond 48 hours?

Monday, August 24, 2020

13

13

Exceptions and Restrictions (cont'd)

- Hold initial appearance, set PTR conditions, but delay release (mainly, impaired driving offenses)

Monday, August 24, 2020

14

14

Exceptions and Restrictions (cont'd)

- Hold initial appearance, but deny PTR conditions
 - For certain offenses in certain circumstances, rebuttable presumption against release
 - Certain drug trafficking, gang, firearm, and methamphetamine offenses in certain circumstances

Monday, August 24, 2020

15

15

Exceptions and Restrictions: Firearms

- Rebuttable presumption that no condition of pretrial release will assure appearance or safety of community if
 - felony or Class A1 misdemeanor with firearm and one of following circumstances exist
 - defendant is on pretrial release for such an offense, or
 - less than 5 years have passed since prior conviction or release for such an offense, whichever is later

Monday, August 24, 2020 16

16

Exceptions and Restrictions (cont'd)

- Hold initial appearance, set PTR conditions, but in accordance with statute
 - After failure to appear
 - New offense while on pretrial release

Monday, August 24, 2020 17

17

Exceptions and Restrictions: Probation

<p>Felony by person on probation</p> <ul style="list-style-type: none"> • If danger, secured bond only • If not danger, set conditions • If insufficient information, delay setting conditions 	<p>Probation violation by person with pending felony or s/o registration</p> <ul style="list-style-type: none"> • If danger, deny release • If not danger, set conditions • If insufficient information, delay setting conditions
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18

18

Exceptions and Restrictions (cont'd)

- Reasons for not delaying initial appearance, delaying release, or denying PTR conditions
 - Probation absconders?
 - Paperless arrests?
 - Noncitizens and ICE holds?

Monday, August 24, 2020 19

19

Appearance Bonds

- Cash bonds
 - Who can post?
 - What happens to cash at end of case?
- Property bonds
 - When is a security instrument or mortgage required?

Monday, August 24, 2020 20

20

Appearance Bonds (cont'd)

- Commercial bonds
 - Are they as good as cash? (Hint: We already talked about this)
- Split bonds

Monday, August 24, 2020 21

21