





# Virginia's Pretrial Data Project: Findings from the 2018 Cohort

**November 9, 2022** 

### Virginia Pretrial Data Project Overview



The **PRETRIAL DATA PROJECT** was established in 2018, under the direction of the Virginia State Crime Commission.



The purpose was to address the <u>significant lack of data available</u> to answer questions regarding various pre-trial release mechanisms, appearance at court proceedings, and public safety.



The Project was an <u>unprecedented, collaborative effort</u> between numerous state and local agencies representing all three branches of government.



The 2021 General Assembly passed legislation directing the Sentencing Commission to continue this work.



### Virginia Pretrial Data Project Overview



#### E-Magistrate System

- Defendants brought before magistrates



### Pretrial and Community Corrections (PTCC) Case Management System

- Defendants on pretrial services agency supervision
- Defendants on active local probation



#### **Court Case Management Systems**

- Case dispositions and FTA
- Defendants released on summons or charged by direct indictment



#### **Central Criminal Records Exchange**

- New in-state arrests
- FTA



#### Circuit Court Case Management System

- Case dispositions and FTA
- Defendants released on summons or charged by direct indictment



### Corrections Information System (CORIS)

- Defendants on active state probation



#### Circuit Court Case Management System

- Case dispositions and FTA
- Defendants released on summons or charged by direct indictment



### Compensation Board- Local Inmate Data System (LIDS)

- Jail committals and releases
- Lengths of stay

Data for the Project is obtained from a number of agencies.

Compiling the data requires

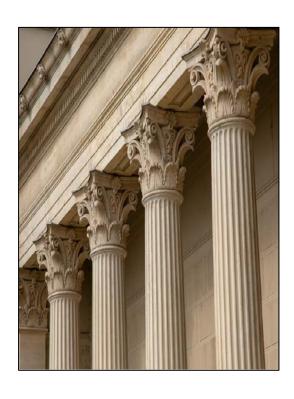
<u>numerous iterations</u> of data
cleaning, merging, and matching
to ensure accuracy when linking
information from each data system
to each defendant in the cohort.



This process is <u>intensive</u> and requires meticulous attention to detail.



### Virginia Pretrial Data Project Cohort Selection



#### **NEW COHORT**

The Commission selected individuals with pretrial contact events during CY2018.

This will provide a pre-COVID baseline.

For individuals with more than one contact event during the period, only the first event was selected.

### **FOLLOW-UP PERIOD**

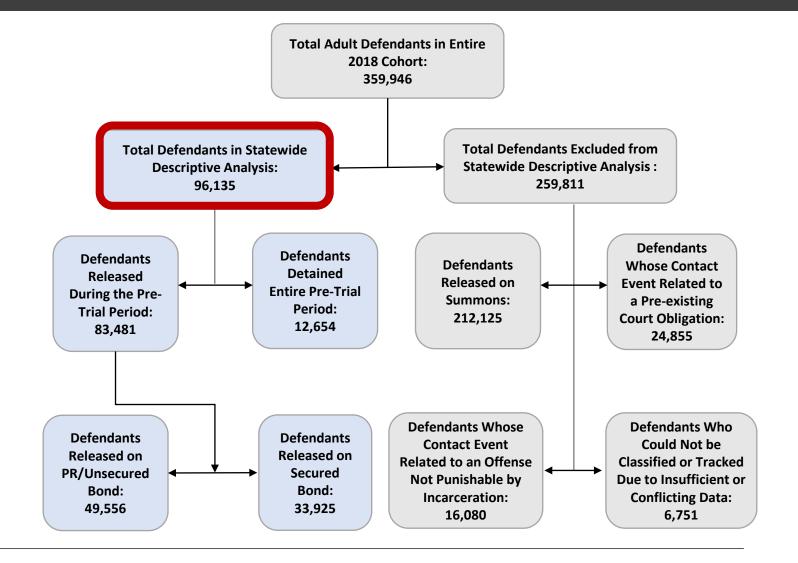
Individuals are tracked for a minimum of 15 months (same as a previous study).

Follow-up period will run through March 2020.



### Pretrial Data Project CY2018 Cohort

The study focuses on the 96,135 adult defendants whose contact event included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.





The cohort is mostly male, white, and between the ages of 18 and 35.

More than half of the individuals (59.2%) in the cohort are categorized as indigent.

Indigency status is a proxy measure calculated based upon whether the attorney type at case closure in the court case management system (CMS) was noted as a public defender or courtappointed attorney.

This measure does not capture any changes to the attorney type that occurred prior to case closure.

	Number	Percentage
Gender		_
Male	69,121	71.9%
Female	26,655	27.7%
Unknown	359	0.4%
Race		
White	54,737	56.9%
Black	37,273	38.8%
Other/Unknown	4,125	4.3%
Age Group		
18-25 years old	24,266	25.2%
26-35 years old	31,909	33.2%
36-45 years old	19,467	20.2%
46-55 years old	12,683	13.2%
>55 years old	7,810	8.1%
Indigency Status		
Indigent	56,892	59.2%
Not Indigent	36,354	37.8%
Undetermined	2,889	3.0%
Total	96,135	100.0%

This analysis is based on the 96,135 pretrial contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.



Just over half (54.1%) of the individuals in the cohort were charged with a misdemeanor as the most serious offense.

The <u>most common felony charge was a drug offense</u>, while the most common misdemeanor charge was DUI, followed closely by assault.

More than half (55.9%) of the defendants in the cohort were charged with a single offense count, with the remainder charged with multiple counts.

	Number	Percentage		
Most Serious Charge				
Felony	43,968	45.7%		
Misdemeanor	52,019	54.1%		
Special/Undetermined	148	0.2%		
Most Serious Felony Offense T	ypes			
Drug	14,097	32.1%		
Larceny	8,258	18.8%		
Assault	4,678	10.6%		
Fraud	3,548	8.1%		
Weapon/Firearm	1,954	4.4%		
Other Felonies	11,438	26.0%		
Most Serious Misdemeanor Offense Types				
DUI	16,547	31.8%		
Assault	16,415	31.6%		
Larceny	2,666	5.1%		
Obstruction Of Justice	1,759	3.4%		
Drug	1,713	3.3%		
Other Misdemeanors	12,919	24.8%		
Total Number of Counts in Even	nt			
1 Total Offense Count	53,764	55.9%		
2 Total Offense Counts	23,313	24.3%		
3+ Total Offense Counts	19,058	19.8%		
Total	96,135	100.0%		



With the exception of prior in-state misdemeanor convictions, <u>most individuals in the cohort</u> <u>did not have extensive prior in-state criminal</u> <u>history records.</u>

Data only capture Virginia in-state criminal history records.

Virginia is a Criminal Justice Information Services (CJIS) Systems Agency signatory state and has agreed to adhere to the Federal Bureau of Investigation (FBI) CJIS policies, which include a prohibition on disseminating out-of-state criminal history records for non-criminal justice purposes.

	Number	Percentage		
Prior In-State Felony Conviction				
Yes	25,315	26.3%		
No	70,820	73.7%		
Prior In-State Viole	ent Felony Convic	tion (§17.1-805)		
Yes	7,873	8.2%		
No	88,262	91.8%		
Prior In-State Mise	demeanor Convict	ion		
Yes	49,574	51.6%		
No	46,561	48.4%		
Prior Term of Incarceration of ≥ 14 days				
Yes	28,233	29.4%		
No	67,902	70.6%		
On State Probatio	n at Time of 2018	Contact Event		
Yes	9,420	9.8%		
No	86,715	90.2%		
Prior Failure to Ap	ppear Charge			
Yes	21,237	22.1%		
No	74,898	77.9%		
Total	96,135	100.0%		

This analysis is based on the 96,115 pretrial contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.



#### **Pretrial Risk Assessment**

Risk assessment tools are commonly used at various stages within the criminal justice system.

Studies have consistently found that validated actuarial risk assessment tools combined with professional judgement produce better outcomes than subjective professional judgement alone.

The Public Safety Assessment (PSA) is a pretrial risk assessment tool developed by Arnold Ventures that has been validated in a number of states/localities outside of Virginia.

Unlike other tools, the PSA does not require an interview with the defendant.

#### RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

Risk Factor	FTA	NCA	NVCA
1. Age at current arrest		Х	
2. Current violent offense			Х
Current violent offense & 20 years old or younger			Х
3. Pending charge at the time of the offense	X	Х	X
4. Prior misdemeanor conviction		Х	
5. Prior felony conviction		Х	
Prior conviction (misdemeanor or felony)	Х		Х
6. Prior violent conviction		Х	X
7. Prior failure to appear in the past two years	Х	Х	
8. Prior failure to appear older than two years	X		
9. Prior sentence to incarceration		Х	

Note: Boxes where an "X" occurs indicate that the presence of a risk factor increases the likelihood of that outcome for a given defendant.

https://www.arnoldventures.org/stories/public-safety-assessment-risk-tool-promotes-safety-equity-justice



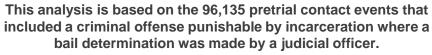
The largest share of individuals in the cohort were classified as low risk.

43.8% were classified in Level 1 for Failure to Appear (FTA).

33.6% were classified in Level 1 for New Criminal Activity (NCA).

Less than 1% of the individuals were classified in Level 6 (the highest risk) for FTA and less than 3% were classified in Level 6 for NCA.

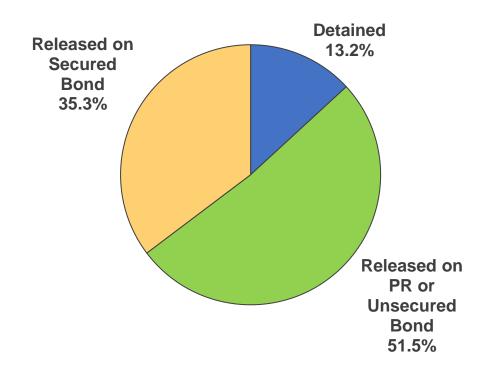
	Number	Porcontago
		Percentage
Assigned PSA Risk Level for Failur	re to Appear	
FTA Risk Level 1 (Lowest Risk)	42,090	43.8%
FTA Risk Level 2	29,846	31.0%
FTA Risk Level 3	13,124	13.7%
FTA Risk Level 4	8,299	8.6%
FTA Risk Level 5	2,309	2.4%
FTA Risk Level 6 (Highest Risk)	467	0.5% ←
Assigned PSA Risk Level for New	Criminal Activit	ty
NCA Risk Level 1 (Lowest Risk)	32,256	33.6%
NCA Risk Level 2	28,707	29.9%
NCA Risk Level 3	15,134	15.7%
NCA Risk Level 4	11,412	11.9%
NCA Risk Level 5	5,840	6.1%
NCA Risk Level 6 (Highest Risk)	2,786	2.9% 🕇
Total	96,135	100.0%





### **CY2018 Cohort Release Status**

#### **Pre-Trial Release Status of Defendants in Cohort**



Classification of	Pretrial Release Status		
Most Serious Offense	Released	Detained	Defendants
Felony	77.7%	22.3%	43,968
Misdemeanor	94.7%	5.3%	52,019
Special/Undetermined	39.2%	60.8%	148
Number of Defendants	86.8%	13.2%	96,135
		•	31 defendants etrial, 85.6%



This analysis is based on the 96,135 pretrial contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.

were released within 3 days.

### **CY2018 Cohort Release Status and Defendant Characteristics**

The majority of defendants were released pretrial regardless of demographic characteristics.

<u>Females</u> were more likely to be released than males (93.6% v. 84.2%).

Whites were more likely to be released than blacks (88.0% v. 85.2%).

<u>Defendants between the ages of 18 and 25 and</u> <u>those older than 55</u> were more likely to be released than other age groups.

Non-indigent defendants were more likely to be released than indigent defendants (94.6% v. 81.4%).

	Released	Detained	Defendants
Gender			
Male	84.2%	15.8%	69,121
Female	93.6%	6.4%	26,655
Unknown	79.5%	20.5%	359
Race			
White	88.0%	12.0%	54,737
Black	85.2%	14.8%	37,273
Other/Unknown	86.1%	13.9%	4,125
Age Group			
18-25 years old	88.8%	11.2%	24,266
26-35 years old	85.9%	14.1%	31,909
36-45 years old	85.2%	14.8%	19,467
46-55 years old	86.4%	13.6%	12,683
>55 years old	89.1%	10.9%	7,810
Indigency Status			
Indigent	81.4%	18.6%	56,892
Not Indigent	94.6%	5.4%	36,354
Undetermined	95.9%	4.1%	2,889
Total	86.8%	13.2%	96,135

**Pretrial Release Status** 



### **CY2018 Cohort Release Status and Current Offense**

Defendants with at least one <u>felony charge were</u> <u>more likely to be detained</u> than defendants with only misdemeanor charges.

Generally, charges for robbery and other felony crimes against person were more likely to result in detainment than non-person crimes, with the exception of burglary.

Among misdemeanor charges, protective order violations, larceny and obstruction of justice charges were most likely to result in detainment.

	Pretrial Release Status		
	Released	Detained	Defendants
Most Serious Felon	y Offense		
Drug	82.6%	17.4%	14,097
Larceny	85.1%	14.9%	8,258
Assault	69.7%	30.3%	4,678
Fraud	85.1%	14.9%	3,548
Weapon/Firearm	79.4%	20.6%	1,954
Burglary	70.1%	29.9%	1,792
Traffic - Hit & Run	88.1%	11.9%	1,083
Robbery	36.9%	63.1%	827
All Other Felonies	66.9%	33.1%	7,731
Total	77.7%	22.3%	43,968

Most Serious Misdemeanor Offense				
97.7%	2.3%	16,547		
96.6%	3.4%	16,415		
88.0%	12.0%	2,666		
88.7%	11.3%	1,759		
93.0%	7.0%	1,734		
90.3%	9.7%	1,664		
92.5%	7.5%	1,467		
86.7%	13.3%	1,432		
91.1%	8.9%	8,335		
94.7%	5.3%	52,019		
	97.7% 96.6% 88.0% 88.7% 93.0% 90.3% 92.5% 86.7% 91.1%	97.7%       2.3%         96.6%       3.4%         88.0%       12.0%         88.7%       11.3%         93.0%       7.0%         90.3%       9.7%         92.5%       7.5%         86.7%       13.3%         91.1%       8.9%		



### **CY2018 Cohort Release Status and Prior Record**

While most defendants were released regardless of their prior in-state criminal history, defendants were more likely to be detained throughout the pretrial period if they had a *prior record, particularly a* violent felony record, or they were on state probation at the time of the contact event.

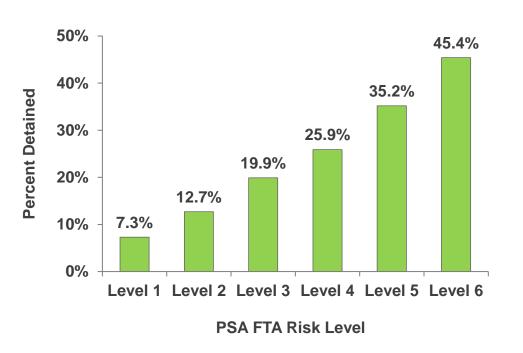
	Pretrial Release Status		
	Released	Detained	Defendants
Prior In-State Felon	y Conviction		
Yes	73.2%	26.8%	25,315
No	91.7%	8.3%	70,820
Prior In-State Viole	nt Felony Conviction	n (§17.1-805)	
Yes	66.2%	33.8%	7,873
No	88.7%	11.3%	88,262
Prior In-State Misde	emeanor Conviction		
Yes	82.3%	17.7%	49,574
No	91.6%	8.4%	46,561
Prior Term of Incarceration of ≥ 14 days			
Yes	74.0%	26.0%	28,233
No	92.2%	7.8%	67,902
On State Probation	at Time of 2018 Cor	ntact Event	
Yes	63.1%	36.9%	9,420
No	89.4%	10.6%	86,715
Prior Failure to Appear Charge			
Yes	76.4%	23.6%	21,237
No	89.8%	10.2%	74,898
Total	86.8%	13.2%	96,135



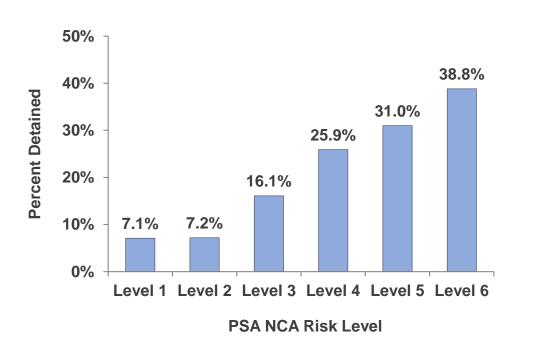
This analysis is based on the 96,135 pretrial contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.

### CY2018 Cohort Detained Rates and Risk Level

DETAINED RATES by
Assigned Public Safety Assessment (PSA) Risk Level



DETAINED RATES by
Assigned Public Safety Assessment (PSA) Risk Level





This analysis is based on the 96,135 pretrial contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.

### **CY2018 Cohort Release Status and Attorney Type**

	Pretrial Rel		
	Released	Detained	Defendants
Type of Attorney at Case Cle	osure		
Court-Appointed Attorney	80.9%	19.1%	34,720
Public Defender	83.0%	17.0%	21,408
Both Court-Appointed & Public Defender	56.6%	3.4%	744
Retained Attorney	94.5%	5.5%	32,051
Waived	93.8%	6.2%	1,886
Unknown/Other	96.2%	3.8%	5,306
Total	86.8%	13.2%	96,135

Individuals in the cohort who had a retained attorney were released at the highest rate (94.5%), followed by those who had a public defender (83.0%) and then a court-appointed attorney (80.9%).

Specific circumstances of the defendant and other factors, such as the offense(s) charged and criminal history, also impact pretrial release rates.



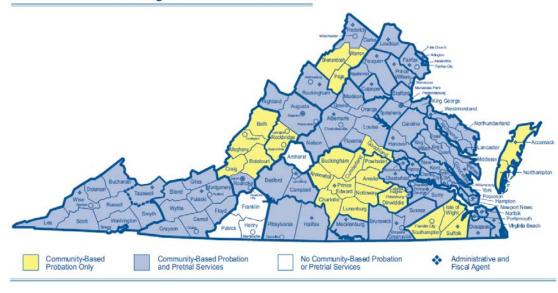
## CY2018 Cohort Release Status and Availability of Pretrial Services

	Pretrial Release Status		
	Released	Detained	Defendants
Pretrial Supervision Se	rvices Agency	Available in L	ocality
Yes	86.9%	13.1%	91,983
No	85.9%	14.1%	4,152
Total	86.8%	13.2%	96,135

Pretrial release rates were nearly identical in localities with Pretrial Services Agencies and those without Pretrial Services Agencies.

### **Community-Based Probation and Pretrial Services**

Administrative & Fiscal Agents and Localities Served



Source: Virginia Department of Criminal Justice Services



## **CY2018 Cohort Bond Type at Release**

Of the 96,135 contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer, 83,481 defendants (86.8%) were released during the pretrial period.

Of the released defendants, 59.4% were released on a PR or unsecured bond.

Female, white, youngest and oldest age groups, and non-indigent defendants were more likely to receive a PR or unsecured bond compared to other defendants.

	Bond Type at Release PR or Unsecured Secured		Released Defendants	
Gender				
Male	56.2%	43.8%	58,236	
Female	66.7%	33.3%	24,959	
Unknown	63.6%	36.4%	286	
Race				
White	61.9%	38.1%	48,183	
Black	55.1%	44.9%	31,744	
Other/Unknown	63.8%	36.2%	3,556	
Age Group				
18-25 years old	63.6%	36.4%	21,533	
26-35 years old	57.3%	42.7%	27,423	
36-45 years old	55.5%	44.5%	16,582	
46-55 years old	58.3%	41.7%	10,961	
>55 years old	65.2%	34.8%	6,962	
Indigency Status				
Indigent	54.6%	45.4%	46,307	
Not Indigent	64.1%	35.9%	34,402	
Undetermined	80.0%	20.0%	2,772	
Total	59.4%	40.6%	83,481	
This analysis is based on the 92 494 defendants who were charged with a				

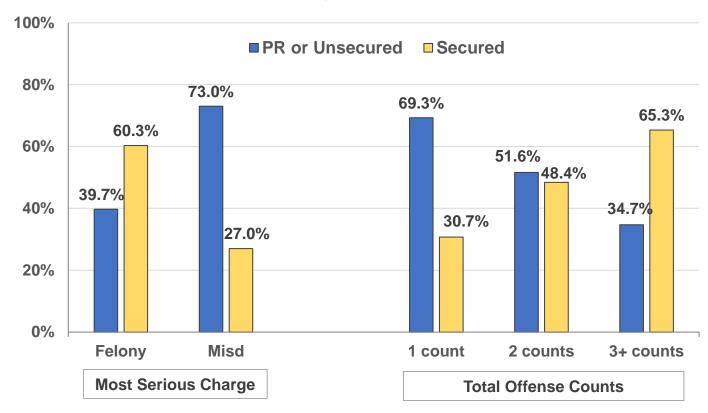


### **CY2018 Cohort Bond Type at Release**

Among released defendants, those charged with <u>at least one felony</u> were much more likely to receive a secured bond than those charged with misdemeanors only.

Released defendants charged with <u>more</u>
<u>than one total offense count</u> were more
likely to receive a secured bond than
those charged with a single count.

#### **Bond Type at Release**





## **CY2018 Cohort Bond Type at Release**

A larger proportion of defendants who were released on a <u>secured bond</u> during the pretrial period were on state supervision, had a prior term of incarceration, had prior in-state convictions of any type, or had prior failure to appear charges, as compared to defendants released on a PR or unsecured bond.

	Bond Type at Release		Released	
	PR or Unsecured	Secured	Defendants	
Prior In-State Felony Conviction				
Yes	36.3%	63.7%	18,538	
No	66.0%	34.0%	64,943	
Prior In-State Viole	Prior In-State Violent Felony Conviction (§17.1-805)			
Yes	34.5%	65.5%	5,209	
No	61.0%	39.0%	78,272	
Prior In-State Misde	emeanor Conviction			
Yes	48.7%	51.3%	40,820	
No	69.6%	30.4%	42,661	
Prior Term of Incarceration of ≥ 14 days				
Yes	39.4%	60.6%	20,887	
No	66.0%	34.0%	62,594	
On State Probation	at Time of 2018 Conta	ct Event		
Yes	39.4%	60.6%	5,944	
No	66.0%	34.0%	77,537	
Prior Failure to Appear Charge				
Yes	39.4%	60.6%	16,225	
No	66.0%	34.0%	67,256	
Total	59.4%	40.6%	83,481	





### CY2018 Cohort Pretrial Supervision by a Pretrial Services Agency

	Pretrial Release Status		
	PR or Unsecured	Secured	Defendants
Pretrial Services Agency Su	pervision Status	;	
Received Supervision	38.3%	61.7%	13,487
Did Not Receive Supervision	63.4%	36.6%	69,994
Total	59.4%	40.6%	83,481

Of released individuals, 14.0% were ordered to comply with pretrial supervision by a Pretrial Services Agency.

Defendants placed under <u>pretrial supervision</u> requirements were more likely to receive a secured bond than those who were not placed under pretrial supervision.



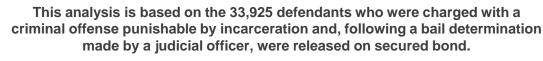
### **CY2018 Cohort Secured Bond Amount at Release**

In general, the <u>median secured bond amounts did not</u> <u>vary widely</u> across sex, race, indigency status, residency status, or whether the defendant received pretrial services agency supervision.

The mean bond amount for all defendants released on secured bond was \$3,770 and the median was \$2,500.

In addition to the information in this table, data for the *Project* showed that 93% of defendants released on a secured bond utilized the services of a bail bondsman.

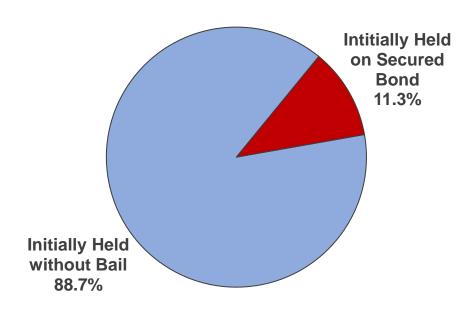
	Mean	Median	Defendants	
Defendant Sex				
Male	\$3,995	\$2,500	25,509	
Female	\$3,059	\$2,000	8,312	
Unknown	\$5,439	\$2,500	104	
Defendant Race				
White	\$3,682	\$2,500	18,377	
Black	\$3,803	\$2,500	14,263	
Other/Unknown	\$4,649	\$2,500	1,285	
Defendant Age Group				
18-25 years old	\$3,786	\$2,500	7,844	
26-35 years old	\$3,823	\$2,500	11,714	
36-45 years old	\$3,762	\$2,500	7,377	
46-55 years old	\$3,543	\$2,500	4,574	
>55 years old	\$3,912	\$2,500	2,417	
Defendant Indigency Status				
Indigent	\$3,379	\$2,500	21,025	
Not Indigent	\$4,480	\$2,500	12,345	
Unknown	\$2,771	\$2,000	555	
Total	\$3,770	\$2,500	33,925	





### **CY2018 Cohort Detained Defendants**

#### **DETAINED Defendants by Initial Bond Decision**



Of the 12,654 individuals detained throughout the pretrial period, the vast majority of them were initially held without bail.



### Pretrial Data Project Outcome Measures

#### **COURT APPEARANCE OUTCOME**

Whether the released defendant was charged with failure to appear (FTA) or contempt of court for failure to appear during the pretrial period

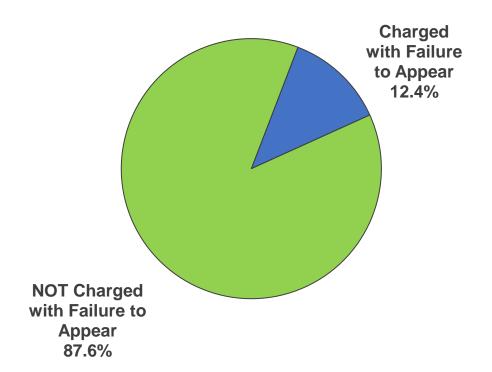
#### **PUBLIC SAFETY OUTCOME**

Whether the released defendant had a new in-state arrest for an offense punishable by incarceration during the pretrial period (excluding FTA and probation violations, etc.)

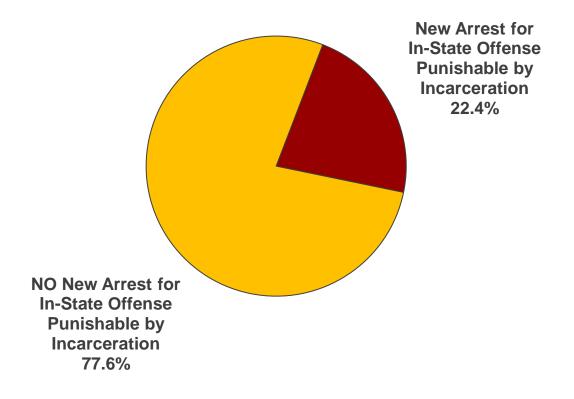




#### **COURT APPEARANCE Outcomes for Released Defendants**



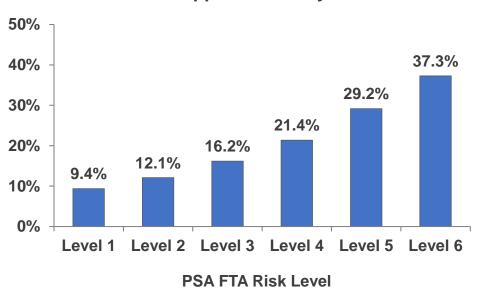
#### **PUBLIC SAFETY Outcomes for Released Defendants**





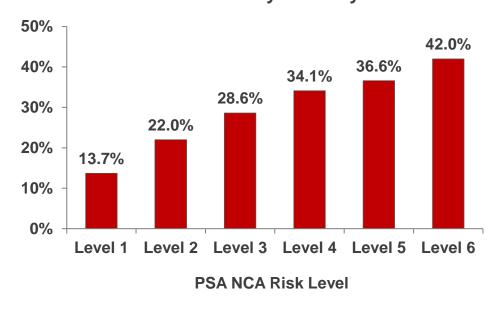
COURT APPEARANCE Outcomes by Assigned Public Safety Assessment (PSA) Risk Level

Failure to Appear Rates by Risk Level



### PUBLIC SAFETY Outcomes by Assigned Public Safety Assessment (PSA) Risk Level

#### **New Criminal Activity Rates by Risk Level**





	Case Heard in Locality Served by Pretrial Services Agency	Case Heard in Locality NOT Served b cy Pretrial Services Agen	
Number of Defendants	79,895	3,566	
Outcomes % Charged with FTA	12.6%	8.7%	
% Arrests for New In-State Offense Punishable by Incarceration	22.4%	22.2%	

#### **COURT APPEARANCE**

The percentage of defendants released on bond who were charged with FTA during the pretrial period was slightly lower for defendants whose cases were heard in localities not served by pretrial services agencies.

#### **PUBLIC SAFETY**

The percentage of defendants released on bond who were arrested for a new in-state offense punishable by incarceration during the pretrial period did not vary between localities served by pretrial services agencies and localities not served by pretrial services agencies.



	PR/ Unsecured Bond Only	PR/Unsecured Bond with Pretrial Supervision	Secured Bond Only	Secured Bond with Pretrial Supervision
Number of Defendants Outcomes	42,380	5,162	24,057	8,296
% Charged with FTA		14.6%	14.4%	11.5%
% Arrests for New In-State Offense Punishable by Incarceration		28.6%	25.5%	28.7%

#### **COURT APPEARANCE**

A lower percentage of defendants released on "Secured Bond with Pretrial Supervision" were charged with FTA during the pretrial period as compared to defendants released on "PR/Unsecured Bond Only," "PR/Unsecured Bond with Pretrial Supervision," or "Secured Bond Only."

#### **PUBLIC SAFETY**

The percentage of defendants released on bond who were arrested for a new in-state offense punishable by incarceration during the pretrial period was generally consistent across defendants released on "PR/Unsecured Bond with Pretrial Supervision," "Secured Bond with Pretrial Supervision," and "Secured Bond Only."



This analysis is based on the 79,895 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period whose cases were heard in localities served by Pretrial Services Agencies.

## Pretrial Data Project Examples of Potential Future Research Questions



- What factors are correlated with FTA or New Criminal Activity?
- What factors impact how quickly New Criminal Activity occurs?
- What effect does Attorney Type have on pretrial release, conviction, confinement and sentence length?
- What effect does Secured Bond or Bond Amount have on Appearance Rate?
- What factors effect the decision to release defendants pretrial?
- What factors effect the decision on type of bond?
- What has been impact of policy changes and other events on the overall pretrial trial process? (examples: abolishing presumptive denial of bail provisions, COVID pandemic)
- How might changes in penalties affect PSA risk scoring?



## Pretrial Data Project Reporting and Deliverables (§ 19.2-134.1)

The Commission's first report is due to the General Assembly on *December 1, 2022*.

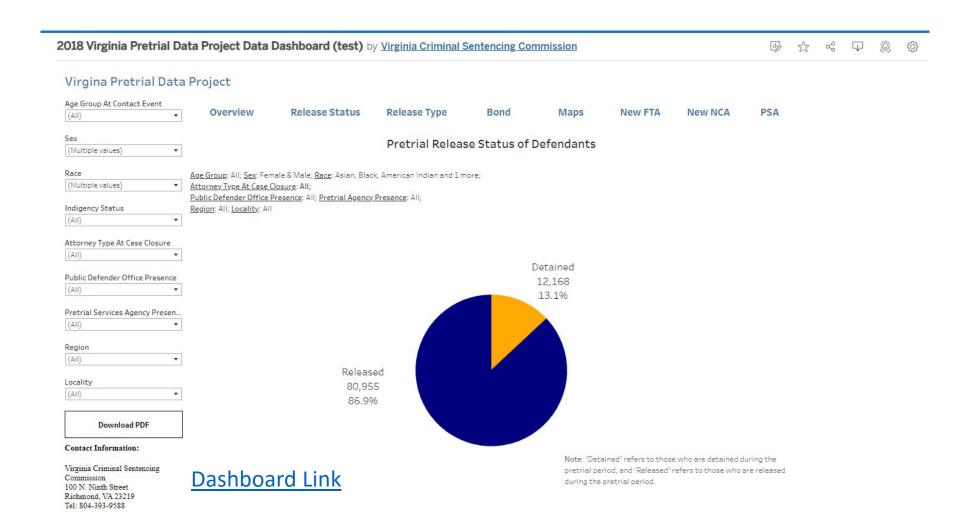
The *final data set* (with personal/case identifiers removed) must be made available on the Commission's website.

An electronic interactive data dashboard tool on the website must display aggregated data based on characteristics or indicators selected by the user.





### Pretrial Data Project Data Dashboard Demonstration





### **Questions and Comments?**

### Virginia Criminal Sentencing Commission

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