

# VIRGINIA PRETRIAL DATA PROJECT: FINDINGS FROM THE 2018 COHORT



**2022**

**Virginia Criminal Sentencing Commission**

# Members of the Virginia Criminal Sentencing Commission

## APPOINTED BY THE CHIEF JUSTICE OF THE SUPREME COURT OF VIRGINIA AND CONFIRMED BY THE GENERAL ASSEMBLY

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## Supreme Court of Virginia Virginia Criminal Sentencing Commission

December 1, 2022

TO: The Honorable S. Bernard Goodwyn  
Chief Justice of Virginia  
  
The Honorable Glenn Youngkin  
Governor of Virginia  
  
The Honorable Members of the General Assembly of Virginia

Virginia's Pretrial Data Project was established in 2018 under the direction of the Virginia State Crime Commission as part of the Crime Commission's broader study of the pretrial system in the Commonwealth. The purpose of the Project was to address the significant lack of data available to answer important questions regarding Virginia's pretrial process. The Project was an unprecedented, collaborative effort among numerous agencies representing all three branches of government. Staff of the Virginia Criminal Sentencing Commission provided technical assistance to the Crime Commission during the course of the project. The 2021 General Assembly (Special Session I) passed legislation (House Bill 2110 and Senate Bill 1391) directing the Sentencing Commission to continue this work on an annual basis.

The legislation, now codified in § 19.2-134.1, requires the Sentencing Commission to submit its first report on the Pretrial Data Project on December 1, 2022. As required, this report is respectfully submitted for your consideration. Please contact the Sentencing Commission should you have questions regarding any aspect of the Pretrial Data Project.

The Sentencing Commission wishes to sincerely thank the staff of the Virginia State Crime Commission who laid the groundwork for the collection of comprehensive pretrial data in Virginia.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward L. Hogshire".

Edward L. Hogshire  
Circuit Judge (Ret.)  
Chair

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## Executive Summary

Virginia's Pretrial Data Project was established in 2018 under the direction of the Virginia State Crime Commission as part of the Crime Commission's broader study of the pretrial system in the Commonwealth.<sup>1</sup> The purpose of the Project was to address the significant lack of data available to answer key questions regarding the pretrial process in Virginia. The Project was an unprecedented, collaborative effort among numerous state and local agencies representing all three branches of government. The Crime Commission's study focused on a cohort of individuals charged with a criminal offense during a one-month period (October 2017). The work was well-received by lawmakers, and the 2021 General Assembly (Special Session I) passed legislation (House Bill 2110 and Senate Bill 1391) directing the Virginia Criminal Sentencing Commission to continue this work on an annual basis. Virginia's work in the area of pretrial data collection has begun to receive national attention.

For the newest pretrial study, the Sentencing Commission selected individuals with pretrial contact events during Calendar Year (CY) 2018. This period of time was selected in order to establish a pre-COVID baseline of pretrial data. For individuals with more than one contact event during the period, only the first event was selected. Individuals were tracked for a minimum of 15 months (until the disposition of the case or March 31, 2020, whichever occurred first). Data for the Project was obtained from numerous criminal justice agencies in Virginia. Compiling the data into a unified dataset requires numerous iterations of matching, merging and data cleaning to ensure accuracy when linking information from the respective data systems to each defendant in the cohort. More than 500 data elements were captured for each defendant, including demographics, charging details, criminal history records, pretrial release status, bond type and amount, court appearance by the defendant, new criminal arrest during the pretrial period, and final dispositions. For the current study, the Sentencing Commission largely replicated the approach established by the Crime Commission in the original study. This permits comparisons of the findings from the CY2018 cohort to those from the October 2017 cohort used in the prior analysis. The overall CY2018 cohort contains nearly 356,000 adult defendants.

This report focuses on the 96,135 adult defendants whose contact event in CY2018 included a charge for a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer (i.e., a magistrate or judge). Other defendants, such as those released on a summons, were not analyzed for this report. This report presents a descriptive analysis of the 96,135 defendants, their key characteristics, how these defendants proceeded through the pretrial system, and outcomes.

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<sup>1</sup> See Virginia State Crime Commission. (2021). *Virginia Pretrial Data Project: Final Report*.

Statewide descriptive findings contained in this report cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. A deeper understanding of the relationships among factors and the impact each factor may have on pretrial decision making and outcomes is required. In the coming months, the Sentencing Commission will conduct additional analysis of the CY2018 pretrial dataset using sophisticated multivariate statistical techniques and will issue supplemental reports as that work is completed. Furthermore, the Sentencing Commission will continue to explore ways to expand and improve the information available through the Pretrial Data Project. Ultimately, the annual replication of the Project can be used to inform policy and practice and provide a platform for discussion on pretrial matters in the Commonwealth in the years to come.

## KEY FINDINGS

Presented below are key descriptive findings from the Sentencing Commission's study of the 96,135 adult defendants whose pretrial contact event in CY2018 included a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer. The findings are largely consistent with the findings of the Crime Commission's previous study of the October 2017 cohort.

- The majority of defendants (86.8%) were ultimately released from custody during the pretrial period; only 13.2% of the defendants were detained throughout the pretrial period. Of released defendants, most (85.6%) were released within three days of their contact event (Tables 8 and 17).
- Females were more likely to be released pretrial than males (93.6% versus 84.2%) and Whites were more likely to be released than blacks (88.0% versus 85.2%). Non-indigent defendants were more likely to be released than defendants categorized as indigent (94.6% versus 81.4%) – (Table 9).
- Approximately 46% of the defendants were charged with a felony offense, while 54% were charged with a misdemeanor or special class offense as the most serious offense in the contact event (Table 3).
- Defendants charged with a felony were much more likely to be detained throughout the pretrial period compared to those charged with a misdemeanor only, with detention rates of 22.3% and 5.3%, respectively (Table 11).
- A large majority of released defendants (87.6%) were not charged with failure to appear at court proceedings for the offense(s) in the CY2018 contact event (Table 37).
- Fewer than one in four (22.4%) of released defendants had a new in-state arrest for an offense punishable by incarceration during the pretrial period (Table 41).

- The majority of the new arrests were for misdemeanor offenses; only 8.2% of released defendants were charged with a new felony, with only 2.2% charged with a new violent felony offense as defined in § 17.1-805 (Table 41).
- Compared to defendants who were not identified as indigent, a higher proportion of indigent defendants were charged with failure to appear and were more likely to have a new in-state arrest for an offense punishable by incarceration during the pretrial period (Tables 38 and 42).
- The proportion of released defendants charged with failure to appear or who had a new in-state arrest for an offense punishable by incarceration during the pretrial period increased as the defendants' Public Safety Assessment (PSA) scores increased, suggesting that the PSA may be a useful tool in pretrial release decision making (Tables 39 and 43; Charts 6 and 8).
- Among released defendants, 59.4% were released on a personal recognizance or unsecured bond, while 40.6% were released on a secured bond. Females were more likely than males, Whites were more likely than Blacks, and non-indigent were more likely than indigent defendants to be released on personal recognizance/unsecured bond versus a secured bond (Table 18).
- Median secured bond amounts were \$2,500 for felony contact events and \$2,000 for misdemeanor contact events (Tables 28 and 29).
- Secured bond amounts at the time of release generally did not vary widely across sex, race, indigency status, or whether the defendant received supervision by a Pretrial Services Agency (Table 25).
- Approximately 60% of the 96,135 defendants examined were convicted of at least one offense in the contact event (original or reduced charge). Conviction rates varied somewhat across sex, race, and indigency status, with males, Whites and non-indigent defendants convicted at slightly higher rates than defendants in other categories (Tables 51 and 52).
- Defendants who were detained during the entire pretrial period had a significantly higher conviction rate compared to defendants who were released during the pretrial period, 76.4% versus 57.6% (Table 53).
- Defendants represented by a retained attorney were released at a higher rate during the pretrial period (94.5%) compared to defendants represented by a public defender or court-appointed attorney (with 83.0% and 80.9% of defendants released, respectively); however, this is based on the type of attorney at case closure, which may not accurately reflect the type of attorney when the pretrial release decision was made (Table 16).

- Defendants represented by a retained attorney were convicted of at least one offense in the contact event at a slightly higher rate (65.0%) than defendants represented by a public defender or court-appointed attorney, with conviction rates of 57.6% and 61.0%, respectively (Table 54).
- Defendants who were male, Black, or between ages of 18 and 35 were significantly overrepresented among pretrial defendants compared to their overall representation within Virginia's population (Table 1).

## Introduction

Virginia's Pretrial Data Project was established in 2018 under the direction of the Virginia State Crime Commission as part of the Crime Commission's broader study of the pretrial system in the Commonwealth.<sup>2</sup> The purpose of the Project was to address the significant lack of data available to answer critical questions regarding Virginia's pretrial system. This was an unprecedented, collaborative effort between numerous state and local agencies representing all three branches of government. The Project laid the groundwork for the collection of comprehensive data in order to better understand all aspects of the pretrial process. The Crime Commission's study focused on a cohort of individuals charged with a criminal offense during a one-month period (October 2017). The work was well-received by lawmakers, and the 2021 General Assembly (Special Session I) passed legislation (House Bill 2110 and Senate Bill 1391) directing the Virginia Criminal Sentencing Commission to continue this work on an annual basis. The legislation, now codified in § 19.2-134.1, requires the Sentencing Commission to submit its first report on the Pretrial Data Project on December 1, 2022. The Sentencing Commission also must create an interactive data dashboard tool that will display aggregated data based on characteristics or factors selected by the user. The dashboard must be available to the public on the Commission's website as of December 1, 2022. Lastly, the final Project dataset (with all personal/case identifiers removed) must be made available to the public on the Commission's website. The Pretrial Data Project will provide valuable data for policy makers, agency and program administrators, and academic researchers and could become a model for other states interested in examining the pretrial process.

For the current study, the Sentencing Commission selected individuals with pretrial contact events during Calendar Year (CY) 2018. A contact event is the point at which an individual comes into contact with the criminal justice system and he or she is charged with a criminal offense, thus beginning the pretrial process. CY2018 was selected for the study in order to establish a pre-COVID baseline of pretrial data. Establishing a baseline allows researchers to better assess the impact of subsequent events (such as the COVID-19 pandemic), as well as changes in laws or policies (such as the elimination of the presumptive denial of bail from the *Code of Virginia*). For individuals with more than one contact event during CY2018, only the first event was selected. Individuals were tracked for a minimum of 15 months (until the disposition of the case or March 31, 2020, whichever occurred first).

Data for the Project was obtained from numerous criminal justice agencies in Virginia. Compiling the data into a unified dataset requires numerous iterations of matching, merging and data cleaning to ensure accuracy when linking information from the respective data systems to each defendant in the cohort. This process is intensive and

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<sup>2</sup> Virginia State Crime Commission. (2021). *Virginia Pretrial Data Project: Final Report*.

requires meticulous attention to detail. More than 500 data elements were captured for each defendant, including demographics, charging details, criminal history records, pretrial release status, bond type and amount, court appearance by the defendant, new criminal arrest during the pretrial period, and final dispositions. The Sentencing Commission's approach to the current study closely modeled the methods established for the previous study overseen by the Crime Commission. The overall CY2018 cohort contains nearly 356,000 adult defendants.

This report focuses on the 96,135 adult defendants whose contact event in CY2018 included a charge for a criminal offense punishable by incarceration where a bail determination was made by a judicial officer (i.e., a magistrate or judge). Other defendants, such as those released on a summons, were not analyzed for this report. This report presents a descriptive analysis of the 96,135 defendants, their key characteristics, how these defendants proceeded through the pretrial system, and outcomes. The report provides a snapshot of pretrial defendants at key points in the pretrial process. It is important to note that descriptive analysis such as this cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. Additional research is necessary in order to develop a deeper understanding of the relationships among factors and the impact each factor may have on pretrial decision making and outcomes. In the coming months, the Sentencing Commission will conduct additional analysis of the pretrial dataset using sophisticated multivariate statistical techniques and will issue supplemental reports presenting the findings as that work is completed.

As the Project moves forward, the Sentencing Commission will solicit input from the policy makers, agency and program administrators, and other stakeholders in the pretrial community. This is an important aspect of the Commission's work. Moreover, the Sentencing Commission will continue to explore ways to expand and improve the information available through the Pretrial Data Project.

As a note, the data tables presented later in this report replicate the tables provided in the Virginia State Crime Commission's *2021 Virginia Pretrial Data Project: Final Report* for the previous study. Replicating the tables permits comparisons of the findings from the CY2018 cohort to those of the October 2017 cohort used in the Crime Commission's previous analysis.



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## Overview of Methodology

When established in 2018, the Pretrial Data Project laid the groundwork for the collection of comprehensive data across all aspects of the pretrial process. The approach developed by the Crime Commission, with technical assistance from Sentencing Commission staff, proved to be a successful, albeit intensive, way to compile and examine pretrial data in Virginia. For the current study, the Sentencing Commission largely replicated the approach established by the Crime Commission in the original study of the October 2017 cohort. The Project methodology is discussed in this section. The Project can be broken into distinct stages. These are:

1. Selection of the study cohort;
2. Collection of relevant data from other agencies for each individual in the cohort;
3. Matching and merging records from numerous criminal justice data systems into a unified dataset;
4. Quality control and data cleaning to ensure accuracy;
5. Estimating risk; and
6. Tracking outcomes.

### SELECTION OF STUDY COHORT

For the current study, the Sentencing Commission selected individuals with pretrial contact events during CY2018 in order to establish a baseline that will allow for comparisons across years. Establishing a baseline allows researchers to better assess the impact of subsequent events (such as the COVID-19 pandemic) and subsequent changes in laws or policies (such as the elimination of the presumptive denial of bail from the *Code of Virginia*).

The primary unit of analysis in the study is a contact event. A contact event is the point at which an individual comes into contact with the criminal justice system and he or she is charged with a criminal offense, thus beginning the pretrial process. For individuals with more than one contact event during CY2018, only the first event was selected. This allows for easier tracking of the individual through the pretrial process without the complexities that may arise due to subsequent, and possibly overlapping, pretrial processes for the same defendant. The cohort does not include juvenile offenders who were arrested and charged with criminal offenses during the calendar year.

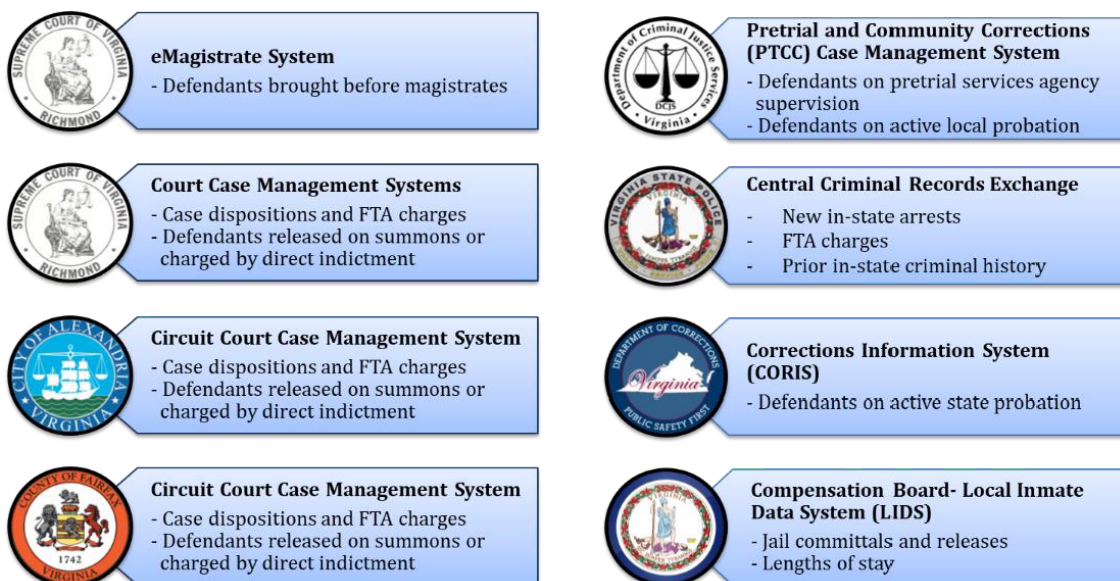
## DATA COLLECTION

The previous Pretrial Data Project was the first of its kind in Virginia. The immediate challenge was to identify state and local agency data systems that contained relevant and reliable information related to the pretrial process. Based on the work done for the original Project, the Sentencing Commission requested data from the same state and local agencies for the current project. These agencies included:

- Alexandria Circuit Court;
- Fairfax County Circuit Court;
- Compensation Board;
- Office of the Executive Secretary of the Supreme Court of Virginia;
- Virginia Department of Corrections;
- Virginia Department of Criminal Justice Services; and,
- Virginia State Police.

The specific systems at each agency contributing data to the Project appear in the chart below, and the primary elements provided by each are shown.

**Chart 1 Virginia State and Local Agency Data Systems in Project Dataset**



Source: Virginia State Crime Commission. (2021). *Virginia Pretrial Data Project: Final Report*.

There are three primary ways that an individual has contact with the criminal justice system and he or she is charged with a criminal offense: 1) a law enforcement officer issues a summons to an individual requiring them to appear in court, 2) a law enforcement officer makes a custodial arrest and brings the individual in front of a magistrate or, 3) an individual is directly indicted for a felony in Circuit Court and does not appear before a magistrate. Thus, the Court Case Management Systems and the e-Magistrate System were key in identifying individuals who had contact with the criminal justice system and entered the pretrial process. Because the Circuit Court clerks in Fairfax and Alexandria do not participate in the statewide Court Case Management System, the necessary data was requested from those specific clerks' offices. For defendants who were directly indicted and also appeared before a magistrate, the Sentencing Commission took steps to ensure that these defendants were not double-counted in the CY2018 cohort.

During the course of the current project, the Sentencing Commission improved methods for identifying summons cases. These improvements were necessitated by missing dates in the General District Court Case Management System. These improvements resulted in more comprehensive data for cases initiated by summons.

## **MATCHING AND MERGING RECORDS**

Criminal justice data systems are not integrated in Virginia. Compiling the data for the Project requires multiple iterations of matching, merging and data cleaning, steps that are necessary to ensure accuracy when connecting information from the respective data systems to individual defendants in the cohort. This process is staff intensive and requires meticulous attention to detail throughout.

The Court Case Management Systems and the e-Magistrate system are charge based, meaning that every charge is a separate record in the system. The inclusion of a charge in the study was based on the date the individual appeared before a magistrate, or the summons date for individuals issued summons (or, if missing, the court filing date), or the arrest date (or, if missing, the court filing date) for individuals directly indicted in Circuit Court. These contact dates were used regardless of the date on which the criminal offense was alleged to have been committed. Charges were then collapsed into contact events, such that all charges associated with the same person on the same contact date were grouped together.<sup>3</sup> This process was not an easy one, due to the lack of universal personal identifiers across all state agencies, missing information, and human error when the data was entered into the system (e.g., slight

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<sup>3</sup> For example, for an individual brought by law enforcement to appear before a magistrate, the contact event includes all charges against an individual heard together in the same jurisdiction on the same day and having the same CBR number (“Commit, Bond, Release”) in the e-Magistrate System.

misspelling of the defendant's name or the inversion of two digits of the birthdate). To address these issues, Sentencing Commission staff used an algorithm based on a similarity index to match records with a high degree of accuracy (although no such algorithm can guarantee 100% accuracy). Through this process, the Sentencing Commission identified the individuals for the study cohort. For individuals with more than one contact event during CY2018, only the first event was selected in order to allow for easier tracking of the individual through the pretrial process without the complexities that may arise due to subsequent, and possible overlapping, pretrial processes for the same defendant. Out of more than 660,000 charge-based records, about 70% were associated with first contact events. This indicates that about 30% of criminal charges were associated with persons arrested multiple times during the year.

Information from the various data systems was then used to track each defendant through the pretrial process to final disposition of the case or March 31, 2020, whichever came first. For example, the e-Magistrate system provided considerable detail regarding the initial bail decision of the magistrate and, for many defendants, bail information at release. The Local Inmate Data System (LIDS) was used to confirm whether or not a defendant was released from jail during the pretrial period. The Pretrial and Community Corrections (PTCC) Case Management System was used to identify defendants who received pretrial supervision. Records from the Court Case Management Systems were used to determine final disposition for the charges in the contact event.

Data provided by the Virginia State Police Central Criminal Records Exchange (CCRE) was used to compute various measures of prior record for each defendant. Obtaining prior record information is important because the individual's criminal history may affect pretrial decisions regarding the defendant's release. It must be noted that the Project only accounts for in-state criminal history. 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 (i.e., non-investigative) purposes. Research is not one of the authorized purposes. As such, out-of-state criminal history records could not be obtained for the Project.

## **QUALITY CONTROL AND DATA CLEANING**

As noted above, compiling the data for the Project is a rigorous process and requires painstaking attention to detail. The Sentencing Commission has developed a substantial amount of computer programming to perform much of the matching and merging of data through multiple stages. However, this requires numerous rounds of matching, merging and data cleaning to ensure correct information for each defendant is linked together. This means that data are reviewed for completeness and accuracy at each

stage throughout the process and, if relevant information is discovered in another dataset, data incorporated in previous stages is corrected or updated.

## ESTIMATING RISK

When examining pretrial outcomes, it is important to consider what factors or combination of factors may be associated with success or failure while on pretrial release. Empirically-based risk assessment tools are commonly used at various stages within the criminal justice system to assist in making decisions related to individual defendants.<sup>4</sup> Studies have consistently found that validated actuarial risk assessment tools combined with professional judgment produce better outcomes than subjective professional judgment alone.<sup>5</sup> Pretrial assessment tools have been used to assist judicial officers during the bail determination process in evaluating defendants' probability for court appearance or the likelihood of remaining arrest-free if released.<sup>6</sup> For studies such as this, it is critical to estimate the likelihood of success or failure in the community during the pretrial period in a uniform manner across all defendants so that comparisons can be made between similarly-situated defendants. For the purposes of the Project, the Public Safety Assessment (PSA) was used. The PSA is an actuarial pretrial assessment tool developed by Arnold Ventures that has been validated in a number of states/localities outside of Virginia.<sup>7</sup> Unlike some other tools, the PSA does not require an interview with the defendant. Using available data, the Sentencing Commission retroactively applied PSA calculations across the entire cohort based on defendants' current offenses and in-state criminal history. For each defendant, the Commission computed a score for each of the three PSA scales: the

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<sup>4</sup> See Hamilton, M. (2020). *Risk assessment tools in the criminal justice system – theory and practice: A resource guide*. Washington, DC: National Association of Criminal Defense Lawyers. Available at <https://www.nacdl.org/getattachment/a92d7c30-32d4-4b49-9c57-6c14ed0b9894/riskassessmentreportnovember182020.pdf>.

<sup>5</sup> See, e.g., Ægisdóttir, S., White, M. J., Spengler, P. M., Maugherman, A. S., Anderson, L. A., Cook, R. S., ... Rush, J. D. (2006). The meta-analysis of clinical judgment project: Fifty-six years of accumulated research on clinical versus statistical prediction. *The Counseling Psychologist*, 34(3), 341–382; Andrews, D. A., Bonta, J., & Wormith, J. S. (2006). The recent past and near future of risk and/or need assessment. *Crime & Delinquency*, 52(1), 7-27; Jung, J., Concannon, C., Shroff, R., Goel, S., & Goldstein, D.G. (2020). Simple rules to guide expert classifications. *Journal of the Royal Statistical Society*, 183(3), 771-800; National Institute of Justice. (2001). *Pretrial services programming at the start of the 21st century: A survey of pretrial services programs*. Washington: Office of Justice Programs, U.S. Department of Justice.

<sup>6</sup> See, e.g., Stanford Pretrial Risk Assessment Tools Factsheet Project for an overview of various pretrial risk assessment tools, available at <https://law.stanford.edu/pretrial-risk-assessment-tools-factsheet-project/>; See also, for general overview, e.g., Bechtel, K., Holsinger, A.M., Lowenkamp, C.T., & Warren, M.J. (2017). A meta-analytic review of pretrial research: Risk assessment, bond type, and interventions. *American Journal of Criminal Justice*, 42, 443-467; Mamalian, C.A. (2011). *State of the science of pretrial risk assessment*. Washington, DC: Department of Justice, Bureau of Justice Assistance and the Pretrial Justice Institute. Retrieved from: [https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PJI\\_PretrialRiskAssessment.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PJI_PretrialRiskAssessment.pdf).

<sup>7</sup> See Advancing Pretrial Policy & Research (APPR). About the Public Safety Assessment at <https://advancingpretrial.org/psa/about/>

likelihood of Failure to Appear (FTA), the likelihood of New Criminal Arrest (NCA), and the likelihood of New Violent Criminal Arrest (NVCA).<sup>8</sup>

For the original study, the Crime Commission consulted with the Virginia Criminal Sentencing Commission, the Virginia Department of Criminal Justice Services, and Arnold Ventures (formerly the Laura and John Arnold Foundation) to develop a list of violent offenses for purposes of assigning PSA scores to defendants in the cohort. The Sentencing Commission followed these protocols for the current study. However, there are two limitations in this approach. First, because federal and out-of-state criminal history could not be obtained for the Project, the retroactive calculation of PSA scoring does not include federal and out-of-state arrests and convictions. Second, the retroactive application of PSI scoring does not include all court responses to a defendant's failure to appear. For the purposes of the PSA, failure to appear refers to a person missing a pretrial court hearing and the court, in response, issues a warrant, *capias*, or takes similar action.<sup>9</sup> Due to current data limitations, retroactive application of PSA scoring can only identify failure to appear if a charge for failure to appear, or charge for contempt of court for failure to appear, is filed. The Sentencing Commission will work to address these limitations to the extent possible as the Project moves forward.

Recently, debates have arisen over the use of pretrial risk assessment tools. This report does not offer a position on the use of pretrial risk assessment tools in the decision making process. For a discussion of these debates and the arguments put forth by proponents and critics, see the Virginia State Crime Commission's *2021 Virginia Pretrial Data Project: Final Report*.

## TRACKING OUTCOMES

Two primary measures of pretrial outcomes were calculated for the Pretrial Data Project. The first outcome measure captures whether or not the defendant appeared at all court proceedings for the charges associated with the contact event. For this measure, the Sentencing Commission examined the data to determine if the defendant was charged with failure to appear, or contempt of court for failing to appear, during the pretrial period.<sup>10</sup>

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<sup>8</sup> Staff complied with the PSA Core Requirements (<https://advancingpretrial.org/terms/>) by adhering to the PSA Scoring Manual Implementation Guide (11A) obtained from <https://advancingpretrial.org/implementation/guides/>. The PSA Scoring Manual was used in a manner consistent with instructions, templates, or other guidance provided by LJAF regarding: data used to score the PSA; definitions of factors; weighting, inclusion and exclusion of factors; and, formulas for scoring or calculation of PSA scores. While the PSA has not been adopted in Virginia, Crime Commission and Virginia Criminal Sentencing Commission staff made a good faith effort in complying with PSA standards and instructions when assigning PSA risk levels to defendants in the cohort.

<sup>9</sup> See Advancing Pretrial Policy & Research (APPR). About the Public Safety Assessment – How It Works at <https://advancingpretrial.org/psa/factors/#psa-factors>

<sup>10</sup> Charges of failure to appear include violations of §§ 19.2-128, 18.2-456, 16.1-69.24, 29.1-210,

The second measure captures whether or not the defendant had a new in-state arrest for an offense punishable by incarceration during the pretrial period. For this measure, the Sentencing Commission examined data from the CCRE system provided by the State Police and the Court Case Managements Systems. The Sentencing Commission took additional steps to ensure, to the extent possible, that the new arrests were based on offenses alleged to have been committed during the pretrial period (i.e., the arrest was not associated with an earlier offense committed prior to the current pretrial period). Defendants were tracked through disposition of the case or March 31, 2020, whichever came first. This provided for a minimum 15-month follow up period for each defendant in the CY2018 cohort. This measure is limited to new in-state arrests because, as noted above, out-of-state criminal history records could not be obtained for the Project.

The two outcomes are separate and distinct. Any new charge that was specifically for failure to appear or a contempt of court charge that contained descriptive information indicating that it related specifically to failure to appear was analyzed as part of the court appearance outcomes. These charges are excluded to the extent possible from the new arrest outcome measure. However, there may have been new charges stemming from a failure to appear that were analyzed within the new arrest outcomes because it was not clear that the charge specifically related to failure to appear. For example, a new charge under the general contempt statute (§ 18.2-456) could have been related to failure to appear or to failure to comply with an order of the court, such as a pretrial supervision violation. If the new charge under the general contempt statute did not indicate the specific basis of the charge, then the new contempt charge was included within the new arrest outcomes. The Crime Commission identified this issue during its study of the pretrial process and ultimately endorsed legislation that was enacted in 2019 to clarify whether charges under § 18.2-456 related to failure to appear or to some other form of contempt of court. See 2019 Va. Acts. Ch. 708.

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46.2-936, 46.2-938, or 19.2-152.4:1 alleging that the defendant failed to appear prior to the final disposition of the contact event. Charges under §§ 16.1-69.24 and 46.2-938, as well as general contempt of court charges under § 18.2-456, were only included if the charge description indicated that offense charge was based on a failure to appear. A methodology was not able to be developed to determine if all failure to appear charges for defendants in the cohort were directly related to charges in the CY2018 contact event. However, staff was able to determine that approximately 80% of defendants charged with failure to appear during the pre-trial period did not have a pending criminal charge at the time of the CY2018 contact event. Approximately 20% of the defendants charged with failure to appear during the pre-trial period did have a pending charge at the time of their CY2018 contact event; but, it was unclear if the new failure to appear charge was related to a pending criminal charge or to the CY2018 contact event. It was also determined that, at most, 6% of failure to appear charges during the pretrial period may have been related to a civil matter (i.e., failure to pay child support). Finally, if the defendant was arrested for a new offense and subsequently charged with failure to appear during the pretrial period, the methodology was not able to clearly determine whether the failure to appear charge was related to the CY2018 contact event or to the new offense.

## LIMITATIONS

In addition to the limitations described above, other limitations should be noted. These are described below.

Due to the limitations of existing data systems, the Project dataset does not capture many elements that might be useful in a comprehensive study of the pretrial system. Furthermore, the data elements that are included in the dataset may be subject to limitations based on how each factor is defined or captured within its respective data system. This may affect how the findings should be interpreted and the extent to which statewide findings can be generalized.

The findings presented in this report are based on descriptive analysis of statewide data. Caution should be used in trying draw conclusions or inferences based on descriptive analysis alone. Descriptive analysis cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. Additional research is necessary to examine the relationships among factors and the impact each factor may have on pretrial decisions and pretrial outcomes. Multivariate statistical analysis must be conducted to determine whether there are factors that moderate relationships between variables, and if so, the extent to which certain variables or combination of variables predict various outcomes.

While aggregate findings presented in this report are an excellent method to examine a statewide snapshot of pretrial defendants at key points in the pretrial process, this approach cannot address variations across localities. Statewide descriptive findings should not be generalized to the individual locality level. Full understanding of Virginia's pretrial process is hindered by the inability to obtain out-of-state criminal history records. This limitation affects the measurement of prior record, the estimation of risk based on instruments such as the Public Safety Assessment (PSA), and outcome measures related to new criminal arrests. Locality-level data for jurisdictions bordering other states and the District of Columbia may be particularly susceptible to this limitation. However, in-state criminal history may also be incomplete as some individuals charged with an offense may not have been fingerprinted, meaning that particular charge/conviction would not be associated with the individual in the State Police CCRE system (State Police use fingerprints to associate arrests/convictions with individuals).

Caution is urged when examining localities or groups with a very small number of contact events. Due to the small number of cases, the data may not provide adequate representation of the locality or group. Small size implies larger variance, and a few outliers may change the distribution easily. To make inferences on groups with small size, more data or more advanced statistical methods are needed to overcome the potential issue of large variance.



*Appendix A* contains the *Abbreviated Data Codebook*, which provides detailed information on each factor included in the main body of this report and in the statewide and locality descriptive findings in *Appendix B*. The *Abbreviated Data Codebook* defines each factor and describes how it was captured within its respective data system.

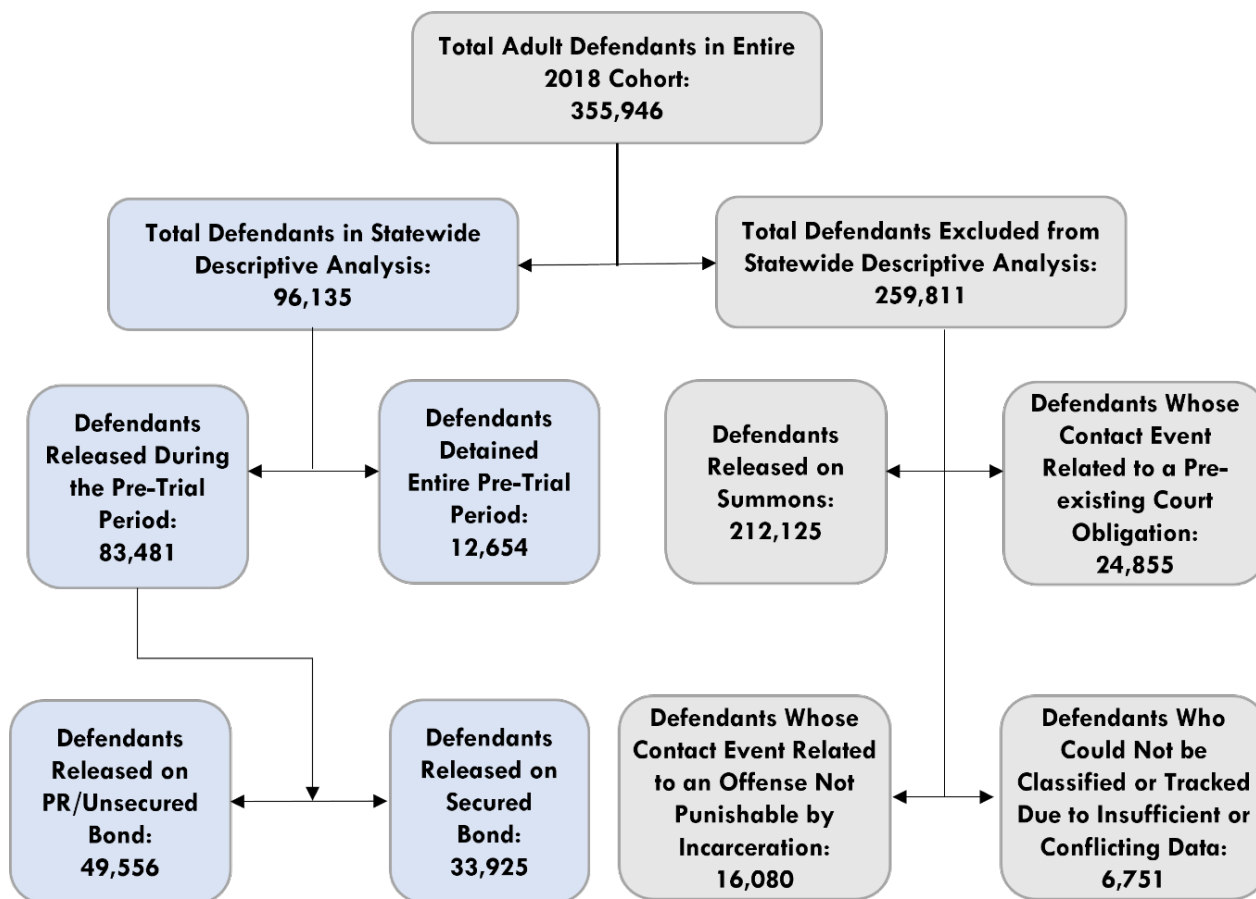
*Appendix A* is available at <http://www.vcsc.virginia.gov/pretrialdatapoint.html>

## Classification of Defendants in the CY2018 Cohort

The final cohort for the Pretrial Data Project contains nearly 356,000 adults with a contact event during CY2018 (only the individual’s first contact event in CY2018 was included). These 355,946 adult defendants were categorized based on the nature of their first contact event as shown in Chart 2. There were:

- 96,135 defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer;
- 212,125 defendants whose contact event was for a new criminal offense punishable by incarceration for which the defendant was released by a law enforcement officer on a summons;
- 24,855 defendants whose contact event was solely related to a pre-existing court obligation, such as a probation violation, failure to appear, or contempt of court;
- 16,080 defendants whose contact event was for a new criminal offense that was not punishable by incarceration; and,
- 6,751 defendants who could not be classified or tracked due to insufficient data.

**Chart 2: Classification of Defendants in the CY2018 Cohort**



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## Scope of Report

The primary purpose of the statewide descriptive analysis in this report is to provide an overview of the 96,135 adult defendants in the CY2018 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.

There are four categories of defendants not included in the statewide descriptive analysis. This report does not provide a statewide descriptive analysis for the 212,125 of 355,946 defendants in the CY2018 cohort who were released on a summons for a new criminal offense punishable by incarceration. These individuals were not included in the analysis because their release was typically based on law enforcement officer discretion as opposed to judicial officer discretion. Similarly, this report does not provide a statewide descriptive analysis for the 24,855 of 355,946 defendants in the CY2018 cohort whose contact event related solely to a pre-existing court obligation, such as a probation violation, failure to appear, or contempt of court. These individuals were not included in the analysis because their contact event related to a previous charge (prior to their first contact event in CY2018). As a result, the experiences that these defendants had during the pretrial period were likely different than the experiences of the defendants who began the pretrial period as a result of a new charge. Furthermore, this report does not provide a statewide descriptive analysis for the 16,080 of 355,946 defendants in the CY2018 cohort whose contact event related to a new criminal offense that was not punishable by incarceration (e.g., non-jailable misdemeanors or infractions). These defendants were not included in the analysis because this report focuses on new charges in the CY2018 contact event that could result in the pretrial detention and/or post-trial incarceration of the defendant. Lastly, this report does not provide a statewide descriptive analysis for the 6,751 of 355,946 defendants in the CY2018 cohort who could not be reliably classified or tracked due to missing, incomplete, or conflicting information. While these four categories of defendants were not included within the scope of this report, they did contribute to the overall pretrial caseload in CY2018 and are included in the final dataset.

The remainder of this report presents the statewide descriptive analysis of the 96,135 adult defendants in the CY2018 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer. This report focuses on the characteristics of pretrial defendants, the flow of defendants through the pretrial system, and outcomes. Specifically, this report addresses:

- Demographics of defendants;
- Comparisons between released and detained defendants;
- Comparisons between defendants released on a personal recognizance (PR) or unsecured bond and defendants released on a secured bond;
- Demographics and bond amounts at release for defendants released on a secured bond;
- Demographics and initial bond amounts for defendants who remained detained on a secured bond for the entire pretrial period;
- Court appearance and new in-state arrests for released defendants; and,
- Final dispositions for the charges in the CY2018 contact event.

The tables presented in this report replicate the tables provided in the Virginia State Crime Commission's *2021 Virginia Pretrial Data Project: Final Report* for the previous study. This permits comparisons of the findings from the CY2018 cohort to those from the October 2017 cohort used in the prior study.

While statewide descriptive findings presented in this report are an excellent method for examining aspects of Virginia's pretrial process overall, variations across localities are prevalent. Locality-specific descriptive findings are provided in *Appendix B: Statewide and Locality Descriptive Findings*.

## Overview of Findings

This report focuses on the 96,135 adult defendants whose contact event in CY2018 included a charge for a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer (i.e., a magistrate for judge). Other defendants, such as those released on a summons, were not analyzed for this report. Descriptive analysis such as this cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. Additional research is necessary to fully understand all of the relationships among factors and their impact on pretrial decision making and outcomes. Many of the findings presented in this report are similar to the findings of the Crime Commission's previous study of the October 2017 cohort.

### ***Main findings for the 96,135 defendants charged with a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer:***

- The majority of these defendants were male, White, between the ages of 18 to 35, and indigent (Table 1).
- Defendants who were male, Black, or between the ages of 18 and 35 were significantly overrepresented among pretrial defendants compared to their overall representation within Virginia's population (Table 1).
- The vast majority of defendants (86.8%) were ultimately released from custody during the pretrial period; only 13.2% of the defendants were detained throughout the pretrial period (Table 8).
- Most defendants were ultimately released during the pretrial period regardless of their demographic group, prior in-state criminal history record, or the classification of the most serious offense in their contact event (Tables 8, 9, 11, and 14).
- Females were more likely to be released pretrial than males (93.6% versus 84.2%) and Whites were more likely to be released than blacks (88.0% versus 85.2%). Non-indigent defendants were more likely to be released than defendants categorized as indigent (94.6% versus 81.4%) – (Table 9).
- Approximately 46% of the defendants were charged with a felony offense, while 54% were charged with a misdemeanor or special class offense as the most serious offense in the contact event (Table 3).
- Defendants charged with a felony were much more likely to be detained throughout the pretrial period compared to those charged with a misdemeanor only, with detention rates of 22.3% and 5.3%, respectively (Tables 3 and 11).

- Approximately 60% of the 96,135 defendants examined were convicted of at least one offense in the contact event (original or reduced charge). Conviction rates varied somewhat across sex, race, and indigency status, with males, Whites and non-indigent defendants convicted at slightly higher rates than defendants in other categories (Tables 51 and 52).
- Overall, defendants who were detained during the entire pretrial period had a significantly higher conviction rate compared to defendants who were released during the pretrial period, 76.4% versus 57.6% (Table 53).
- Defendants represented by a retained attorney were released at a higher rate during the pretrial period (94.5%) compared to defendants represented by a public defender or court-appointed attorney (83.0% and 80.9%, respectively); however, this is based on the type of attorney at case closure, which may not accurately reflect the type of attorney when the pretrial release decision was made (Table 16).
- Defendants represented by a retained attorney were convicted of at least one offense in the contact event at a higher rate (65.0%) than defendants represented by a public defender or court-appointed attorney, with conviction rates of 57.6% and 61.0%, respectively (Table 54).

***Main findings for the 83,481 defendants ultimately released during the pretrial period on a personal recognizance (PR), unsecured, or secured bond:***

- Among released defendants, 59.4% were released on personal recognizance (PR) or an unsecured bond, while 40.6% were released on a secured bond (Chart 3 and Table 18).
- Of those released, females were more likely than males, Whites were more likely than Blacks, and non-indigent were more likely than indigent defendants to be released on personal recognizance/unsecured bond versus a secured bond (Table 18).
- Of those released, the majority (85.6%) were released within three days of their contact event (Table 17).
- A larger proportion of defendants with a felony as the most serious offense in their contact event were released on a secured bond as opposed to a PR or unsecured bond (Table 20).
- A larger proportion of defendants released on a secured bond had a pending charge, a prior term of incarceration, prior in-state convictions, prior failure to appear charges or convictions, or were on state or local supervision at the time of their contact event, as compared to defendants released on a PR or unsecured bond (Table 23).

- Of the 13,000 defendants in this group who received supervision by a Pretrial Services Agency as a condition of their bond, 61.9% had been released on a secured bond and 38.1% were released on a PR or unsecured bond (Table 18).
- A large majority of released defendants (87.6%) were not charged with failure to appear at court proceedings for the offense(s) in the 2018 contact event (Table 37).
- Fewer than one in four (22.4%) of released defendants had a new in-state arrest for an offense punishable by incarceration during the pretrial period. Most of the new arrests were misdemeanor offenses. Only 8.2% of released defendants were charged with a new felony, with 2.2% being charged with a new violent felony offense, as defined in § 17.1-805 (Table 41).
- Overall, most defendants were not arrested for a new in-state offense punishable by incarceration during the pre-trial period regardless of demographic group; however, younger defendants were arrested for new offenses at significantly higher rates than older defendants (Table 42).
- Compared to defendants who were not identified as indigent, a higher proportion of indigent defendants were charged with failure to appear or had a new in-state arrest for an offense punishable by incarceration during the pretrial period (Tables 38 and 42).
- While most defendants were ultimately released during the pretrial period regardless of their Public Safety Assessment (PSA) score, the proportion of released defendants charged with failure to appear or who had a new in-state arrest for an offense punishable by incarceration during the pretrial period increased as the defendants' PSA scores increased, suggesting that the PSA may be a useful tool in pretrial release decision making (Tables 39 and 43; Charts 6 and 8).

***Main findings for the 33,925 defendants released during the pretrial period on a secured bond:***

- A larger proportion of defendants released on a secured bond were male, Black, or indigent, as compared to the proportion of defendants from other demographic groups (Table 18).
- Secured bond amounts at the time of release generally did not vary widely across sex, race, indigency status, or whether the defendant received supervision from a Pretrial Services Agency (Table 25).
- Secured bond amounts at the time of release for defendants charged with a

felony ranged from \$50 to \$200,000, with an average of \$4,644 and a median of \$2,500 (Table 28).

- The secured bond amounts at the time of release for defendants whose most serious offense in their contact event was a misdemeanor ranged from \$24 to \$75,000, with an average of \$2,415 and a median of \$2,000 (Table 29).
- The proportion of defendants released on a secured bond (instead of a PR unsecured bond) increased as the assigned PSA scores for Failure to Appear and New Criminal Arrest increased; however, the median secured bond amounts did not vary across these PSA scores (Tables 24 and 30).

***Main findings for the 1,306 defendants detained on a secured bond the entire pretrial period:***

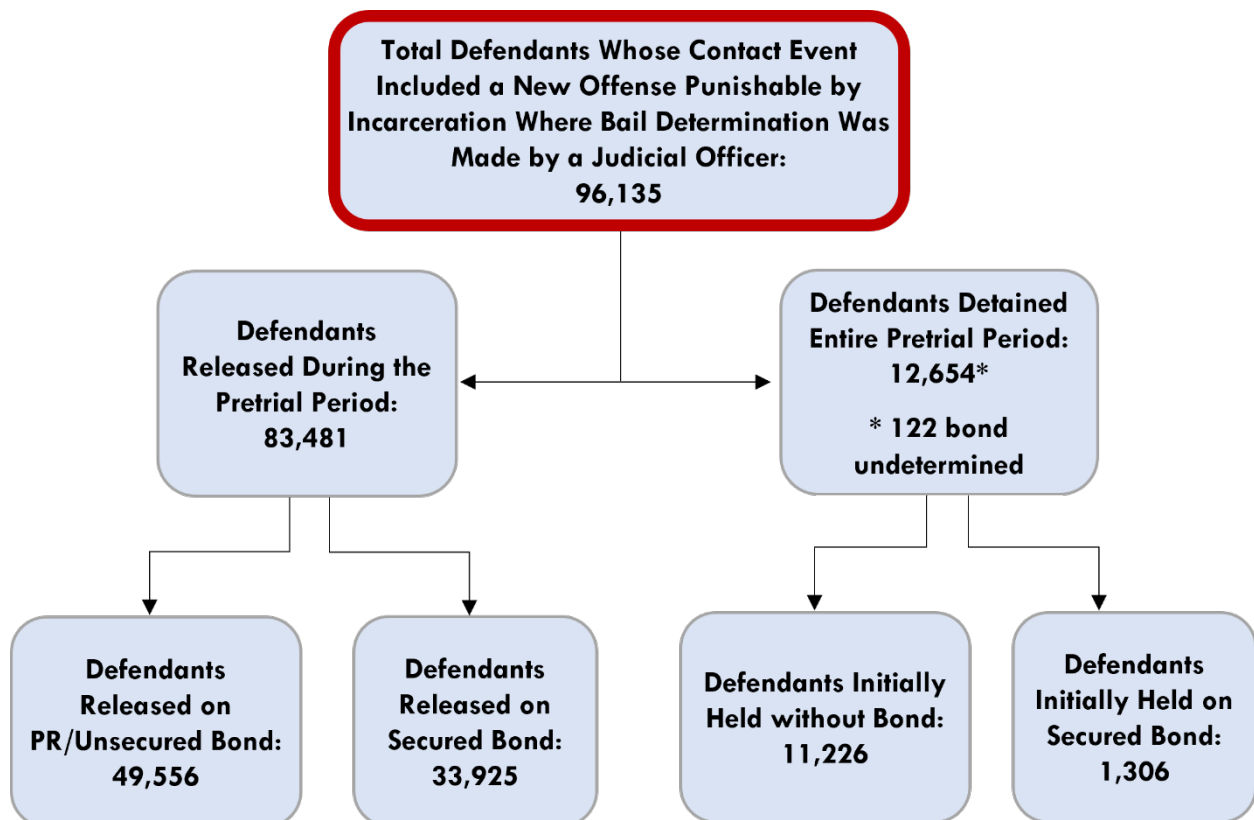
- Defendants detained on a secured bond for the entire pretrial period were largely male, White, and indigent (Table 31).
- The median initial secured bond amounts did not vary widely across sex, race, or indigency status, or across the various classes of felonies and misdemeanors or the PSA scores for Failure to Appear or New Criminal Arrest (Tables 31, 33, and 36).
- The initial secured bond amounts for detained defendants charged with a felony ranged from \$100 to \$80,000, with an average of \$3,890 and a median of \$2,500 (Table 34).
- The initial secured bond amounts for detained defendants whose most serious offense in their contact event was a misdemeanor ranged from \$50 to \$92,676, with an average of \$2,936 and a median of \$2,000 (Table 35).



## Defendants and CY2018 Contact Events

The statewide descriptive analysis in this section is based on all 96,135 defendants in the CY2018 cohort whose first contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.

The tables presented in the remainder of the report replicate the tables provided in the Virginia State Crime Commission's *2021 Virginia Pretrial Data Project: Final Report* for the previous study. This permits comparisons of the findings from the CY2018 cohort to those from the October 2017 cohort used in the prior study.



## DEFENDANT DEMOGRAPHICS

Table 1 presents the demographics of the 96,135 defendants in the cohort whose CY2018 contact event included a criminal offense punishable by incarceration where the bail determination was made by a judicial officer. Sex, race<sup>11</sup>, age group, indigency status, and Virginia residency status<sup>12</sup> are reported.

The majority of these defendants were male, White, between the ages of 18 to 35, and indigent.

A comparison between the demographics of these defendants and of Virginia's overall statewide population in 2018 revealed that the defendants in this cohort who were male, Black, or between the ages of 18 to 35 were significantly overrepresented as compared to their representation within Virginia's overall population.<sup>13</sup> Specifically, 71.9% (69,121 of 96,135) of defendants in the cohort were male, but males only comprised 49.2% of Virginia's overall population in 2018. Likewise, 38.8% (37,273 of 96,135) of defendants in the cohort were Black, much higher than 19.2% of Black population in the state. Furthermore, 58.4% (56,175 of 96,135) of defendants in the cohort were between the ages of 18 to 35, while the same age group comprises only one fourth of Virginia's overall population.

For this table and similar tables throughout this report, indigency is a proxy measure calculated based upon whether the attorney type at case closure in the Court Case Management System was noted as a public defender or court-appointed attorney. This measure does not capture any changes to the attorney type that occurred before case closure.

For additional information relating to the interplay between the sex, race, and indigency status of defendants in the cohort, please see *Appendix C: Supplemental Tables* - Tables 2 and 3.

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<sup>11</sup> Although the OES Court Case Management Systems have the capacity to capture the Hispanic ethnicity, the Virginia State Police use the race codes standardized by the National Crime Information Center (NCIC), including Asian or Pacific Islander, Black, American Indian or Alaskan Native, White, or Unknown. NCIC rules of classification categorize the Hispanic ethnicity within the White racial category. As such, persons of Hispanic ethnicity are included within the White racial category.

<sup>12</sup> Residency status was based on the zip code recorded by the magistrate in the e-Magistrate system at the time of the CY2018 contact event.

<sup>13</sup> U.S. Census Bureau, 2018 population estimates. Available at <https://www.census.gov/newsroom/press-kits/2018/pop-estimates-national-state.html>

**Table 1: Defendant Demographics**

	<b>Number of Defendants</b>	<b>Percentage</b>
<i>Defendant Sex</i>		
Male	69,121	71.9%
Female	26,655	27.7%
Unknown	359	0.4%
<i>Defendant Race</i>		
White	54,737	56.9%
Black	37,273	38.8%
Asian/Pacific Islander	1,111	1.2%
American Indian/Alaskan Native	44	0.0%
Unknown	2,970	3.1%
<i>Defendant Age Group</i>		
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%
56-65 years old	6,246	6.5%
>65 years old	1,542	1.6%
Unknown	22	0.0%
<i>Defendant Indigency Status</i>		
Indigent	56,892	59.2%
Not Indigent	36,354	37.8%
Unknown	2,889	3.0%
<i>Defendant Residency Status</i>		
Virginia Resident	82,719	86.0%
Out-of-State Resident	8,165	8.5%
Unknown	5,251	5.5%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
Some percentages may not total 100% due to rounding.  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – NUMBER OF OFFENSE TYPES AND COUNTS

Table 2 displays the total number of offense types in the CY2018 contact event for each of the 96,135 defendants in the cohort. Offense types are defined by major categories in Virginia’s Sentencing Guidelines, including assault, burglary, drug, fraud, kidnapping, larceny, murder, rape, robbery, sexual, traffic, weapons, and other miscellaneous offenses. If a defendant was charged with three counts of larceny and four counts of assault, that defendant would have two offense types. As seen in this table, 74.8% (71,923 of 96,135) had one offense type and 94.7% (91,065 of 96,135) of defendants had one or two offense types in their CY2018 contact event.

Table 2 also displays the number of offense counts in the CY2018 contact event for the 96,135 defendants. This was calculated as the total number of offense counts regardless of offense types. For example, if a defendant was charged with three counts of larceny and two counts of assault, that defendant would have five total offense counts. As the table shows, 80.2% (77,077 of 96,135) of defendants had one or two offense counts in their CY2018 contact event.

**Table 2: Number of Offense Types and Counts in Contact Event**

	Number of Defendants	Percentage
<i>Number of Offense Types</i>		
1 Offense Type	71,923	74.8%
2 Offense Type	19,142	19.9%
3 Offense Type	4,127	4.3%
4 Offense Type	765	0.8%
5 Offense Type	151	0.2%
6+ Offense Type	27	0.0%
<i>Number of Total Offense Counts</i>		
1 Total Offense Count	53,764	55.9%
2 Total Offense Counts	23,313	24.3%
3 Total Offense Counts	9,549	9.9%
4 Total Offense Counts	4,307	4.5%
5 Total Offense Counts	1,942	2.0%
6+ Total Offense Counts	3,260	3.4%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – CLASSIFICATION OF MOST SERIOUS OFFENSE

Table 3 specifies the classification of the most serious offense in the CY2018 contact event for the 96,135 defendants in the cohort. Most serious offense is identified as the offense with the highest statutory maximum penalty in the *Code of Virginia*.<sup>14</sup> If two offenses have the same statutory maximum penalty, the Sentencing Commission applied the rules for determining the most serious offense for the purposes of Virginia’s Sentencing Guidelines. When looking at the overall breakdown by the most serious offense, the analysis revealed that:

- 45.7% (43,968 of 96,135) of the defendants had a felony as their most serious offense;
- 54.1% (52,019 of 96,135) of the defendants had a misdemeanor or special class offense as their most serious offense; and,
- Less than 0.2% (148 of 96,135) of the defendants had a most serious offense whose classification could not be determined.

**Table 3: Classification of Most Serious Offense in Contact Event**

	Number of Defendants	Percentage
Class 1 Felony (F1)	24	0.0%
Class 2 Felony (F2)	481	0.5%
Class 3 Felony (F3)	1,698	1.8%
Class 4 Felony (F4)	1,904	2.0%
Class 5 Felony (F5)	14,141	14.7%
Class 6 Felony (F6)	9,644	10.0%
Unclassified/Undetermined Felony (F9)	16,076	16.7%
Class 1 Misdemeanor (M1)	48,434	50.4%
Class 2 Misdemeanor (M2)	373	0.4%
Unclassified/Undetermined Misdemeanor (M9)	3,212	3.3%
Special Class Offense (S9) <sup>15</sup>	137	0.1%
Undetermined Classification	11	0.0%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Note: F9 indicates the crime is a designated felony with a special penalty structure; M9 designates a misdemeanor crime with a special penalty structure; a special class (S9) designation carries a special penalty structure that does not fall within the parameters of Class 1 through Class 6 felonies or Class 1 through Class 4 misdemeanors.

<sup>14</sup> If a defendant appeared before a judicial officer for both a felony probation violation and a misdemeanor charge punishable by incarceration, the most serious offense (felony probation violation) was captured in order to most accurately reflect the nature of the contact event. The seriousness of a probation violation is based on the seriousness of the offense for which the individual is on probation.

<sup>15</sup> Special class offenses include second conviction for Driving while Intoxicated (DWI), which has a statutory penalty range of 1 month in jail up to 1 year in prison (§ 18.2-266/270).

## CY2018 CONTACT EVENTS – MOST SERIOUS OFFENSE CATEGORY

Table 4 provides detail for the 43,968 of 96,135 defendants in the cohort whose most serious offense in their CY2018 contact event was a felony. The grouping of the offense category is primarily based on the prefix of the Virginia Crime Code (VCC).<sup>16</sup> For instance, if a charge has a VCC starting with NAR or PHA, its offense category is drug. Similarly, if a charge's VCC code starts with ASL, its category is assault. The most common types of felony charges are shown.

As seen in this table, 32.1% (14,097 of 43,968) of the most serious offenses were associated with felony drug offenses, and the top three categories (drug, larceny, and assault) account for 61.5% of the felony charges. More than half of the felony drug charges were for possession of a Schedule I or II drug (§ 18.2-250). Nearly half of the felony larceny charges were for grand larceny (§ 18.2-95).

**Table 4: Most Serious Felony Offense Category in Contact Event**

	Number of Defendants	Percentage
Drug	14,097	32.1%
Larceny <sup>17</sup>	8,258	18.8%
Assault	4,678	10.6%
Fraud	3,548	8.1%
Weapon/Firearm	1,954	4.4%
Burglary	1,792	4.1%
Traffic - Hit and Run	1,083	2.5%
Robbery	827	1.9%
Family Offense	764	1.7%
Kidnapping	726	1.7%
All Other Felony Charges	6,241	14.2%
<b>Total</b>	<b>43,968</b>	<b>100.0%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Some percentages may not total 100% due to rounding.

See Appendix A for definitions of each variable used in this report.

<sup>16</sup> Offense categories are mainly based on VCC prefix of new arrest. See Virginia Criminal Sentencing Commission. 2022 VCC *Virginia Crime Codes*. Retrieved from: <http://www.vcsc.virginia.gov/worksheets2021/2022VCCBookfinal.pdf>.

<sup>17</sup> Note that the *Code of Virginia* was amended in 2018 to increase the felony threshold for larceny and many other property crimes from \$200 to \$500, effective July 1, 2018. Thus, larceny offenses involving \$201 to \$499, which were felonies if committed prior to July 1, 2018, could only be prosecuted as misdemeanors if committed July 1, 2018, or after.

Table 5 provides offense detail for the 52,019 of 96,135 defendants in the cohort whose most serious offense in their CY2018 contact event was a misdemeanor.<sup>18</sup> The most common misdemeanor charges are shown.

As seen in this table, 31.8% (16,547 of 52,019) of the contact events for these defendants involved a most serious offense related to driving while intoxicated (DWI) and 31.6% of the events (16,415 of 52,019) were associated with misdemeanor assault. The majority (75%) of the misdemeanor assault offenses involved assault against a family or household member (§ 18.2-57.2). Together, DWI and assault accounted for 63.4% of the misdemeanor contact events.

**Table 5: Most Serious Misdemeanor Offense Category in Contact Event**

	Number of Defendants	Percentage
Traffic - Driving While Intoxicated	16,547	31.8%
Assault	16,415	31.6%
Larceny <sup>19</sup>	2,666	5.1%
Obstruction Of Justice	1,759	3.4%
Drug	1,734	3.3%
Trespass	1,664	3.2%
Traffic - Operator's License	1,467	2.8%
Protective Orders	1,432	2.8%
Traffic - Reckless/Aggressive Driving	1,424	2.7%
Weapon/Firearm	929	1.8%
All Other Misdemeanor Charges	5,982	11.5%
<b>Total</b>	<b>52,019</b>	<b>100.0%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

<sup>18</sup> For purposes of this table and similar tables throughout the report, defendants whose most serious charge was a special class offense (see Table 3) are included within the misdemeanor offense category. Special class offenses include second conviction for Driving while Intoxicated, which has a statutory penalty range of 1 month in jail to 1 year in prison (§ 18.2-266/270).

<sup>19</sup> Note that the Code of Virginia was amended in 2018 to increase the felony threshold for larceny and many other property crimes from \$200 to \$500, effective July 1, 2018. Thus, larceny offenses involving \$201 to \$499, which were felonies if committed prior to July 1, 2018, could only be prosecuted as misdemeanors if committed July 1, 2018, or after.

## PRIOR IN-STATE CRIMINAL HISTORY RECORDS

Table 6 presents various measures of prior in-state criminal history records for each of the 96,135 defendants at the time of their CY2018 contact event. With the exception of defendants with prior in-state misdemeanor convictions, most defendants in the cohort did not have extensive prior in-state criminal history records.

Project data is limited to Virginia (in-state) criminal history records due to FBI restrictions on the dissemination of federal and out of state records for non-criminal justice (non-investigative) purposes (see *Overview of Methodology* section of this report for additional information).

**Table 6: Prior In-State Criminal History Records of Defendants**

	Number of Defendants	Percentage
<i>Pending Charges</i>		
Yes	10,826	11.3%
No	85,309	88.7%
<i>On State Probation Supervision</i>		
Yes	9,420	9.8%
No	86,715	90.2%
<i>On Local Community Corrections Supervision</i>		
Yes	2,547	2.6%
No	93,588	97.4%
<i>Prior Term of Incarceration of ≥ 14 days</i>		
Yes	28,233	29.4%
No	67,902	70.6%
<i>Prior In-State Misdemeanor Conviction</i>		
Yes	49,574	51.6%
No	46,561	48.4%
<i>Prior In-State Felony Conviction (Any Felony)</i>		
Yes	25,315	26.3%
No	70,820	73.7%
<i>Prior In-State Violent Felony Conviction (§ 17.1-805)</i>		
Yes	7,873	8.2%
No	88,262	91.8%
<i>Prior Failure to Appear Charge</i>		
Yes	21,237	22.1%
No	74,898	77.9%
<i>Prior Failure to Appear Conviction</i>		
Yes	11,862	12.3%
No	84,273	87.7%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.



## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

For studies such as this, it is important to consider what factors or combination of factors may be associated with a defendant's success or failure while on pretrial release. Empirically-based risk assessment tools are commonly used in the criminal justice system to assist in making decisions related to individual defendants.<sup>20</sup> For the purposes of the Project, the Public Safety Assessment (PSA) was selected to estimate risk across all defendants in a uniform manner. For additional information about the PSA, refer to the *Overview of Methodology* section of this report.<sup>21</sup>

Using available data, the Sentencing Commission retroactively applied the PSA and computed a score for each defendant on each of the three PSA scales: the likelihood of Failure to Appear (FTA), the likelihood of New Criminal Arrest (NCA), and the likelihood of New Violent Criminal Arrest (NVCA).<sup>22</sup> Higher scores on the PSA indicate a higher likelihood of failing to appear or having a new criminal arrest during the pretrial period.

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<sup>20</sup> See, e.g., Hamilton, M. (2020). *Risk assessment tools in the criminal justice system – theory and practice: A resource guide*. Washington, DC: National Association of Criminal Defense Lawyers. Available at <https://www.nacdl.org/getattachment/a92d7c30-32d4-4b49-9c57-6c14ed0b9894/riskassessmentreportnovember182020.pdf>.

<sup>21</sup> See also Advancing Pretrial Policy & Research (APPR). *About the Public Safety Assessment* at <https://advancingpretrial.org/psa/factors/>

<sup>22</sup> The Sentencing Commission followed the protocols for computing PSA scores established during the original study directed by the Crime Commission. See *Overview of Methodology* section of this report for more information.

Table 7 delineates the assigned PSA scores for Failure to Appear (FTA) and New Criminal Arrest (NCA) assigned to the 96,135 defendants in the cohort. Most of the defendants were classified with a Score of 1 (lowest) or 2 for both FTA and NCA. Furthermore, few defendants were assigned the PSA flag for New Violent Criminal Arrest (NVCA).

**Table 7: Assigned Public Safety Assessment (PSA) Scores**

	Number of Defendants	Percentage
<i>Assigned PSA Score for FTA</i>		
FTA Score 1 (Lowest)	42,090	43.8%
FTA Score 2	29,846	31.0%
FTA Score 3	13,124	13.7%
FTA Score 4	8,299	8.6%
FTA Score 5	2,309	2.4%
FTA Score 6 (Highest)	467	0.5%
<i>Assigned PSA Score for NCA</i>		
NCA Score 1 (Lowest)	32,256	33.6%
NCA Score 2	28,707	29.9%
NCA Score 3	15,134	15.7%
NCA Score 4	11,412	11.9%
NCA Score 5	5,840	6.1%
NCA Score 6 (Highest)	2,786	2.9%
<i>Assigned PSA NVCA Flag</i>		
Yes	10,700	11.1%
No	85,435	88.9%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Failure to appear (FTA); New Criminal Arrest (NCA); New Violent Criminal Arrest (NVCA).

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Some percentages may not total 100% due to rounding.

See Appendix A for definitions of each variable used in this report.

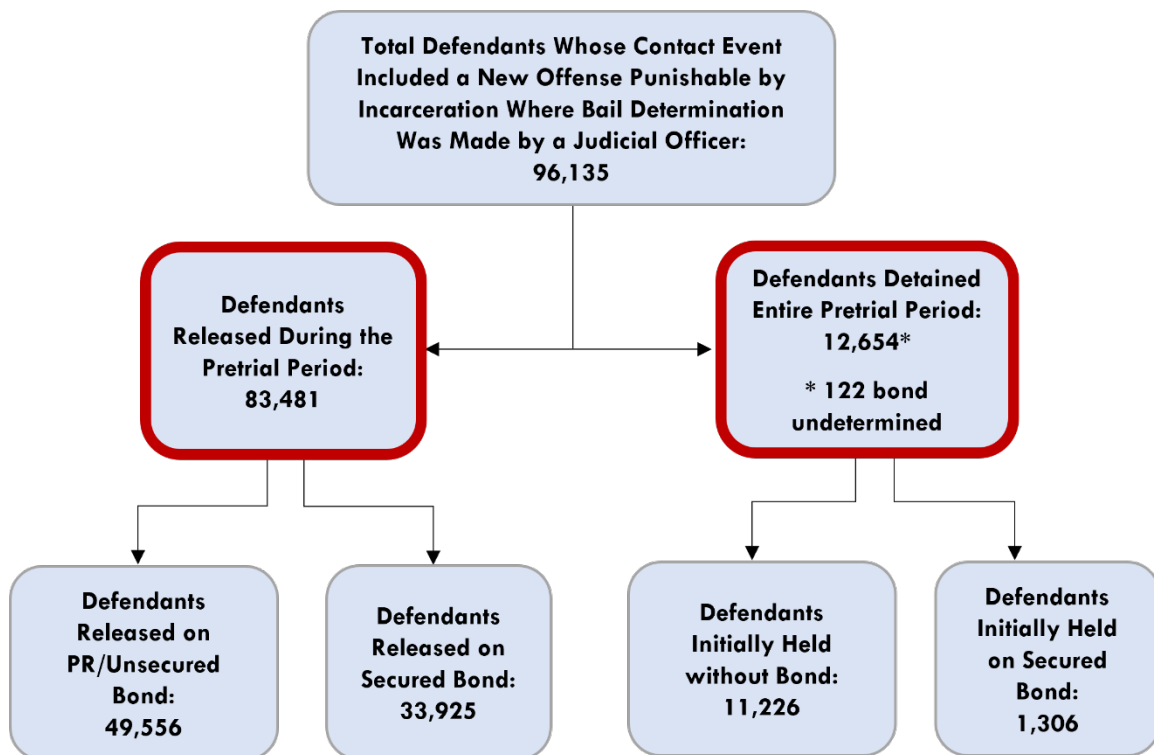
See Appendix B for more detailed information on the statewide and locality variances amongst the assigned PSA risk levels across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond.

See Appendix C - Tables 4, 5, and 6 for additional information on the interplay between the assigned PSA risk levels and the sex, race, indigency status, and residency status of defendants in the cohort.

See Appendix C - Table 7 for additional information on the interplay between assigned PSA scores for New Criminal Activity (NCA) by assigned PSA scores for Failure to Appear (FTA).

## Pretrial Release Status of Defendants

The statewide descriptive analysis in this section is based on all 96,135 defendants in the CY2018 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer, with a detailed comparison between the 83,481 defendants who were released during the pretrial period and the 12,654 defendants who were detained the entire pretrial period.



## PRETRIAL RELEASE STATUS

Table 8 indicates the ultimate pretrial release status for the 96,135 defendants in the cohort. This table shows 86.8% (83,481 of 96,135) of defendants were ultimately released during the pretrial period. Only 13.2% were detained for the entire pretrial period.

**Table 8: Pretrial Release Status of Defendants in Cohort**

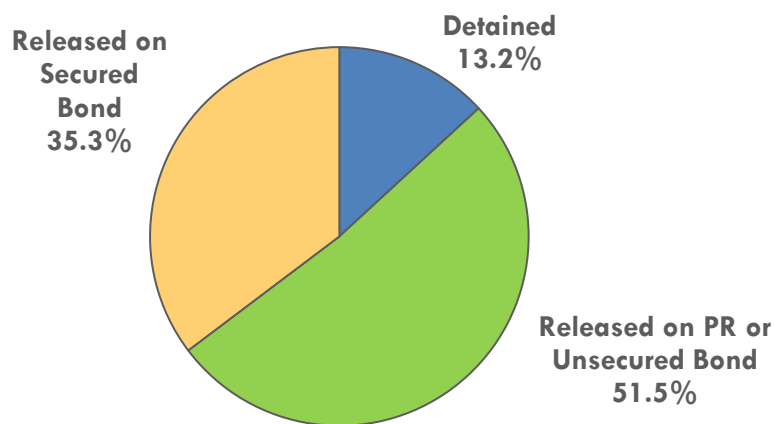
	Number of Defendants	Percentage
<u>Released</u> during pretrial period	83,481	86.8%
<u>Detained</u> entire pretrial period	12,654	13.2%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Chart 3 below provides additional detail. Among the 96,135 defendants:

- 51.5% (49,556 of 96,135) were released on a personal recognizance (PR) or unsecured bond during the pretrial period (among these 49,556 defendants, 94.9% were released on an unsecured bond and 5.1% were released on a PR bond);
- 35.3% (33,925 of 96,135) were released on a secured bond during the pretrial period; and
- 13.2% (12,654 of 96,135) were detained for the entire pretrial period.

**Chart 3 Pretrial Release Status of Defendants in Cohort**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

It is important to note that a defendant's pretrial release status may have been modified between the time that they were initially brought before a judicial officer and the time of their pretrial release. In the CY2018 cohort, 55.0% (13,751 of 24,977) of defendants who were initially held without bond were later released on a secured, unsecured, or PR bond, while 45.0% (11,226 of 24,977) remained detained for the entire pretrial period. Similarly, when looking at the 26,803 defendants who were initially held on a secured bond, 87.8% (23,523 of 26,803) of these defendants were later released on a secured bond, 7.3% (1,974 of 26,803) were released on a PR or unsecured bond, and 4.9% (1,306 of 26,803) remained detained the entire pretrial period.

For more detailed information on modifications to bond between the time that a defendant was initially brought before a judicial officer and the time of the defendant's pretrial release, refer to *Appendix C: Supplemental Tables - Table 1*.

## DEFENDANT DEMOGRAPHICS

Table 9 illustrates the pretrial release status and the demographics of the 96,135 defendants in the cohort. As seen in this table, most defendants were ultimately released during the pretrial period regardless of their demographic group. Females, however, were more likely to be released than males (93.6% v. 84.3%) and Whites were more likely to be released than Blacks (88.0% v. 85.2%). Also, defendants between the ages of 18 and 25 and those older than 55 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%).

**Table 9: Pretrial Release Status and Defendant Demographics**

	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
<b>Sex</b>			
Male	58,236 (84.3%)	10,885 (15.7%)	69,121
Female	24,959 (93.6%)	1,696 (6.4%)	26,655
Unknown	286 (79.7%)	73 (20.3%)	359
<b>Race</b>			
White	48,183 (88.0%)	6,554 (12.0%)	54,737
Black	31,744 (85.2%)	5,529 (14.8%)	37,273
Asian/Pacific Islander	1,032 (92.9%)	79 (7.1%)	1,111
American Indian/Alaskan Native	35 (79.5%)	9 (20.5%)	44
Unknown	2,487 (83.7%)	483 (16.3%)	2,970
<b>Age Group at Contact Event</b>			
18-25 years old	21,553 (88.8%)	2,713 (11.2%)	24,266
26-35 years old	27,423 (85.9%)	4,486 (14.1%)	31,909
36-45 years old	16,582 (85.2%)	2,885 (14.8%)	19,467
46-55 years old	10,961 (86.4%)	1,722 (13.6%)	12,683
56-65 years old	5,522 (88.4%)	724 (11.6%)	6,246
>65 years old	1,422 (92.2%)	120 (7.8%)	1,542
Unknown	18 (81.8%)	4 (18.2%)	22
<b>Indigency Status</b>			
Indigent	46,307 (81.4%)	10,585 (18.6%)	56,892
Not Indigent	34,402 (94.6%)	1,952 (5.4%)	36,354
Unknown	2,772 (96.0%)	117 (4.0%)	2,889
<b>Residency Status</b>			
Virginia Resident	73,226 (88.5%)	9,493 (11.5%)	82,719
Out-of-State Resident	6,840 (83.8%)	1,325 (16.2%)	8,165
Unknown	3,415 (65.0%)	1,836 (35.0%)	5,251
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – NUMBER OF OFFENSE TYPES AND COUNTS

Table 10 displays the pretrial release status for the 96,135 defendants in the cohort and the total number of offense types and counts in their CY2018 contact event. While most defendants were released during the pretrial period, the proportion of defendants who were detained for the entire pretrial period increased as the number of offense types or counts in their contact event increased.

**Table 10 Pretrial Release Status and Number of Offense Types and Counts in Contact Event**

	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
<i>Number of Offense Types</i>			
1 Offense Type	65,115 (90.5%)	6,808 (9.5%)	71,923
2 Offense Type	15,196 (79.4%)	3,946 (20.6%)	19,142
3 Offense Type	2,753 (66.7%)	1,374 (33.3%)	4,127
4 Offense Type	370 (48.4%)	395 (51.6%)	765
5 Offense Type	37 (24.5%)	114 (75.5%)	151
6+ Offense Type	10 (37.0%)	17 (63.0%)	27
<i>Number of Total Offense Counts</i>			
1 Total Offense Count	49,733 (92.5%)	4,031 (7.5%)	53,764
2 Total Offense Counts	20,030 (85.9%)	3,283 (14.1%)	23,313
3 Total Offense Counts	7,474 (78.3%)	2,075 (21.7%)	9,549
4 Total Offense Counts	3,061 (71.1%)	1,246 (28.9%)	4,307
5 Total Offense Counts	1,254 (64.6%)	688 (35.4%)	1,942
6+ Total Offense Counts	1,929 (59.2%)	1,331 (40.8%)	3,260
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – CLASSIFICATION OF MOST SERIOUS OFFENSE

Table 11 specifies the pretrial release status for the 96,135 defendants in the cohort and the classification of the most serious offense in their CY2018 contact event. With the exception of defendants who were charged with Class 1 and Class 2 felonies and special class offenses, most defendants were ultimately released during the pretrial period regardless of the classification of the most serious offense in their contact event. However, defendants charged with a felony were much more likely to be detained throughout the pretrial period compared to those charged with a misdemeanor only, with detention rates of 22.3% and 5.3%, respectively.

**Table 11: Pretrial Release Status and Classification of Most Serious Offense in Contact Event**

	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
Class 1 Felony (F1)	4 (16.7%)	20 (83.3%)	24
Class 2 Felony (F2)	140 (29.1%)	341 (70.9%)	481
Class 3 Felony (F3)	1,114 (65.6%)	584 (34.4%)	1,698
Class 4 Felony (F4)	1,566 (82.2%)	338 (17.8%)	1,904
Class 5 Felony (F5)	12,109 (85.6%)	2,032 (14.4%)	14,141
Class 6 Felony (F6)	7,455 (77.3%)	2,189 (22.7%)	9,644
Unclassified/Undetermined Felony (F9)	11,795 (73.4%)	4,281 (26.6%)	16,076
Class 1 Misdemeanor (M1)	45,837 (94.6%)	2,597 (5.4%)	48,434
Class 2 Misdemeanor (M2)	347 (93.0%)	26 (7.0%)	373
Unclassified/Undetermined Misd. (M9)	3,056 (95.1%)	156 (4.9%)	3,212
Special Class Offense (S9) <sup>23</sup>	49 (35.8%)	88 (64.2%)	137
Undetermined Classification	9 (81.8%)	2 (18.2%)	11
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Note: F9 indicates the crime is a designated felony with a special penalty structure; M9 designates a misdemeanor crime with a special penalty structure; a special class (S9) designation carries a special penalty structure that does not fall within the parameters of Class 1 through Class 6 felonies or Class 1 through Class 4 misdemeanors.

<sup>23</sup> Special class offenses include second conviction for Driving while Intoxicated (DWI), which has a statutory penalty range of 1 month in jail up to 1 year in prison (§ 18.2-266/270).



## CY2018 CONTACT EVENTS – MOST SERIOUS OFFENSE CATEGORY

Table 12 provides more details on the pretrial release status for the 43,968 of 96,135 defendants in the cohort whose most serious offense in their CY2018 contact event was a felony. The most frequently charged felonies are shown. Most of the defendants were ultimately released during the pretrial period, with the exception of defendants whose most serious offense was robbery. More than 63% of robbery defendants were detained.

A few felony categories that are grouped in ‘All Other Felony Charges’ have much higher pretrial detention rates than average. For instance, 74.9% (251 of 335) of defendants charged with murder as the most serious offense were detained and 57.6% (357 of 620) of those charged with rape were detained.

**Table 12: Pretrial Release Status and Most Serious Felony Offense Category in Contact Event**

Most Serious Felony Offense Category	Pretrial Release Status		Number of Defendants
	Released	Detained	
Drug	11,638 (82.6%)	2,459 (17.4%)	14,097
Larceny	7,030 (85.1%)	1,228 (14.9%)	8,258
Assault	3,260 (69.7%)	1,418 (30.3%)	4,678
Fraud	3,018 (85.1%)	530 (14.9%)	3,548
Weapon/Firearm	1,551 (79.4%)	403 (20.6%)	1,954
Burglary	1,256 (70.1%)	536 (29.9%)	1,792
Traffic - Hit and Run	954 (88.1%)	129 (11.9%)	1,083
Robbery	305 (36.9%)	522 (63.1%)	827
Family Offense	698 (91.4%)	66 (8.6%)	764
Kidnapping	460 (63.4%)	266 (36.6%)	726
All Other Felony Charges	4,013 (64.3%)	2,228 (35.7%)	6,241
<b>Total</b>	<b>34,183 (77.7%)</b>	<b>9,785 (22.3%)</b>	<b>43,968</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Table 13 reports the pretrial release status for the 52,019 of 96,135 defendants in the cohort whose most serious offense in their CY2018 contact event was a misdemeanor. The most frequently charged misdemeanors are shown. The vast majority of these defendants were ultimately released during the pretrial period. Defendants charged with certain misdemeanors, however, were more likely to be detained than others. Defendants whose most serious offense related to protective order violations, larceny, or obstruction of justice offenses were detained at higher rates compared to other defendants.

In addition, among the ‘All Other Misdemeanor Charges,’ a few misdemeanor categories have much higher pretrial detention rates than average. For instance, drug and alcohol testing (adulterate urine with intent to defeat drug/alcohol screening test) had a detention rate of 43.3% (29 of 67). Misdemeanor fail to appear (where the defendant had at least one new misdemeanor charge) has a detention rate of 41.3% (31 of 75). Desertion and nonsupport (fail to comply with support of spouse or children order) had a detention rate of 25.9% (88 of 340).

**Table 13: Pretrial Release Status and Most Serious Misdemeanor Offense Category in Contact Event**

Most Serious Misdemeanor Offense Category	Pretrial Release Status		Number of Defendants
	Released	Detained	
Traffic - Driving While Intoxicated	16,173 (97.7%)	374 (2.3%)	16,547
Assault	15,852 (96.6%)	563 (3.4%)	16,415
Larceny	2,345 (88.0%)	321 (12.0%)	2,666
Obstruction Of Justice	1,561 (88.7%)	198 (11.3%)	1,759
Drug	1,612 (93.0%)	122 (7.0%)	1,734
Trespass	1,503 (90.3%)	161 (9.7%)	1,664
Traffic - Operator's License	1,357 (92.5%)	110 (7.5%)	1,467
Protective Orders	1,242 (86.7%)	190 (13.3%)	1,432
Traffic - Reckless/Aggressive Driving	1,365 (95.9%)	59 (4.1%)	1,424
Weapon/Firearm	891 (95.9%)	38 (4.1%)	929
All Other Misdemeanor Charges	5,339 (89.3%)	643 (10.7%)	5,982
<b>Total</b>	<b>49,240 (94.7%)</b>	<b>2,779 (5.3%)</b>	<b>52,019</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## PRIOR IN-STATE CRIMINAL HISTORY RECORDS

Table 14 details the pretrial release status for the 96,135 defendants in the cohort and their prior in-state criminal history records at the time of their CY2018 contact event. Most defendants were released during the pretrial period regardless of their prior in-state criminal history record. Examining the measures of prior record, defendants who were on state probation supervision at the time of CY2018 contact event and those who had a prior in-state violent felony conviction (as defined in § 17.1-805) were detained at the highest rates, 36.9% and 33.8%, respectively.

**Table 14: Pretrial Release Status and Prior In-State Criminal History Records of Defendants**

	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
<i>Pending Charges</i>			
Yes	7,900 (73.0%)	2,926 (27.0%)	10,826
No	75,581 (88.6%)	9,728 (11.4%)	85,309
<i>On State Probation Supervision</i>			
Yes	5,944 (63.1%)	3,476 (36.9%)	9,420
No	77,537 (89.4%)	9,178 (10.6%)	86,715
<i>On Local Community Corrections Supervision</i>			
Yes	2,022 (79.4%)	525 (20.6%)	2,547
No	81,459 (87.0%)	12,129 (13.0%)	93,588
<i>Prior Term of Incarceration of ≥ 14 days</i>			
Yes	20,887 (74.0%)	7,346 (26.0%)	28,233
No	62,594 (92.2%)	5,308 (7.8%)	67,902
<i>Prior In-State Misdemeanor Conviction</i>			
Yes	40,820 (82.3%)	8,754 (17.7%)	49,574
No	42,661 (91.6%)	3,900 (8.4%)	46,561
<i>Prior In-State Felony Conviction (Any Felony)</i>			
Yes	18,538 (73.2%)	6,777 (26.8%)	25,315
No	64,943 (91.7%)	5,877 (8.3%)	70,820
<i>Prior In-State Violent Felony Conviction (§ 17.1-805)</i>			
Yes	5,209 (66.2%)	2,664 (33.8%)	7,873
No	78,272 (88.7%)	9,990 (11.3%)	88,262
<i>Prior Failure to Appear Charge</i>			
Yes	16,225 (76.4%)	5,012 (23.6%)	21,237
No	67,256 (89.8%)	7,642 (10.2%)	74,898
<i>Prior Failure to Appear Conviction</i>			
Yes	8,741 (73.7%)	3,121 (26.3%)	11,862
No	74,740 (88.7%)	9,533 (11.3%)	84,273
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Table 15 provides the pretrial release status for each of the 96,135 defendants in the cohort and delineates their assigned Public Safety Assessment (PSA) scores for Failure to Appear (FTA) and New Criminal Arrest (NCA). While most defendants in the cohort were ultimately released during the pretrial period regardless of their assigned PSA score for Failure to Appear or New Criminal Arrest, the proportion of defendants who were detained the entire pretrial period increased as their assigned PSA scores increased. Additionally, defendants assigned the PSA New Violent Criminal Arrest (NVCA) flag were more likely to be detained the entire pretrial period than defendants who were not assigned the flag.

**Table 15: Pretrial Release Status and Assigned Public Safety Assessment (PSA) Scores**

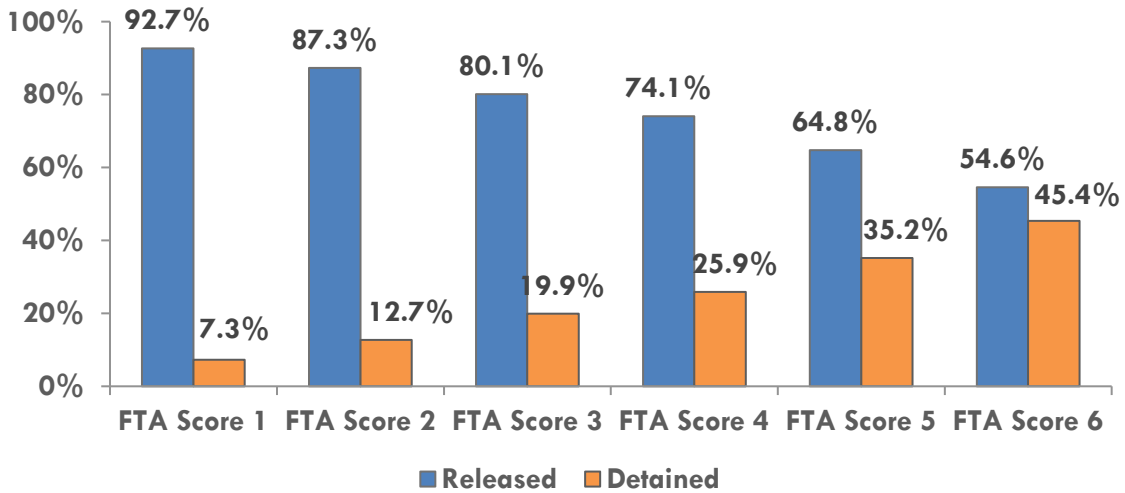
	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
<i>Assigned PSA Score for FTA</i>			
FTA Score 1 (Lowest)	39,022 (92.7%)	3,068 (7.3%)	42,090
FTA Score 2	26,046 (87.3%)	3,800 (12.7%)	29,846
FTA Score 3	10,513 (80.1%)	2,611 (19.9%)	13,124
FTA Score 4	6,149 (74.1%)	2,150 (25.9%)	8,299
FTA Score 5	1,496 (64.8%)	813 (35.2%)	2,309
FTA Score 6 (Highest)	255 (54.6%)	212 (45.4%)	467
<i>Assigned PSA Score for NCA</i>			
NCA Score 1 (Lowest)	29,966 (92.9%)	2,290 (7.1%)	32,256
NCA Score 2	26,631 (92.8%)	2,076 (7.2%)	28,707
NCA Score 3	12,699 (83.9%)	2,435 (16.1%)	15,134
NCA Score 4	8,453 (74.1%)	2,959 (25.9%)	11,412
NCA Score 5	4,027 (69.0%)	1,813 (31.0%)	5,840
NCA Score 6 (Highest)	1,705 (61.2%)	1,081 (38.8%)	2,786
<i>Assigned PSA NVCA Flag</i>			
Yes	7,720 (72.1%)	2,980 (27.9%)	10,700
No	75,761 (88.7%)	9,674 (11.3%)	85,435
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Failure to appear (FTA); New Criminal Arrest (NCA); New Violent Criminal Arrest (NVCA).

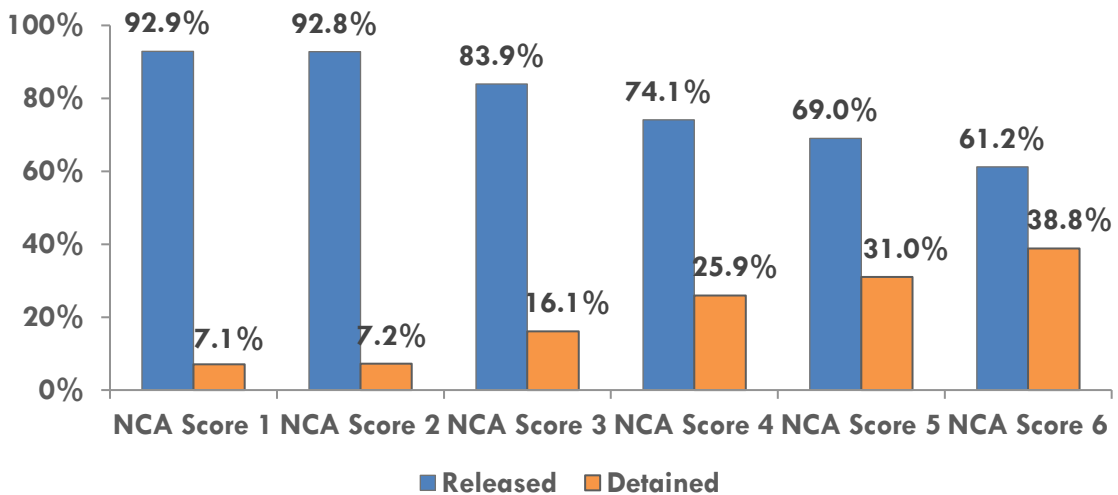
Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Chart 4 and Chart 5 illustrate the percentage of defendants *within* each assigned PSA score for Failure to Appear (Chart 4) and New Criminal Arrest (Chart 5) that were released versus detained during the pretrial period. In general, the proportion of defendants released during the pretrial period decreased as assigned PSA score increased. Conversely, the proportion of defendants detained during the entire pretrial period increased as assigned PSA score increased.

**Chart 4: Percentage of Defendants Released/Detained during Pretrial Period by Assigned PSA Score for Failure to Appear (FTA)**



**Chart 5: Percentage of Defendants Released/Detained during the Pretrial Period by Assigned PSA Score for New Criminal Arrest (NCA)**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

## LOCALITY SPECIFIC FACTORS AND TYPE OF ATTORNEY

Table 16 outlines the pretrial release status of the 96,135 defendants in relation to (i) whether a public defender office was present in a given locality, (ii) whether Pretrial Services Agency supervision was available in a given locality, and (iii) the type of attorney representing the defendant.

It is important to underscore that one should not immediately draw a correlation between a defendant's ultimate pretrial release status and the presence of a public defender office, availability of Pretrial Services Agency supervision, or the type of attorney representing a defendant, as data from the Project does not show what effect, if any, that these factors had on the bail determination for each individual defendant in the cohort. For example, a defendant may have been released before a public defender was assigned to their case, a defendant may have been released on a bond that did not include Pretrial Services Agency supervision, or a retained attorney may not have been involved in the case at the time of the bail determination. Moreover, due to limitations of the data, the type of attorney is captured at case closure. It does not capture any changes to the attorney type that occurred before case closure; therefore, it may not accurately reflect the type of attorney when the pretrial release decision was made.

Table 16 suggests that, overall, pretrial release status of defendants did not vary considerably across localities with a public defender office or the presence of a Pretrial Services Agency as compared to localities without these services. However, the overall pretrial release status did vary by the type of attorney representing the defendant (at the conclusion of the case). As shown in this table, 94.5% (30,303 of 32,051) of the defendants in the cohort represented by a retained attorney were released during the pretrial period as compared to 83.0% (17,775 of 21,408) of defendants represented by a public defender and 80.9% (28,111 of 34,740) of defendants represented by a court-appointed attorney.

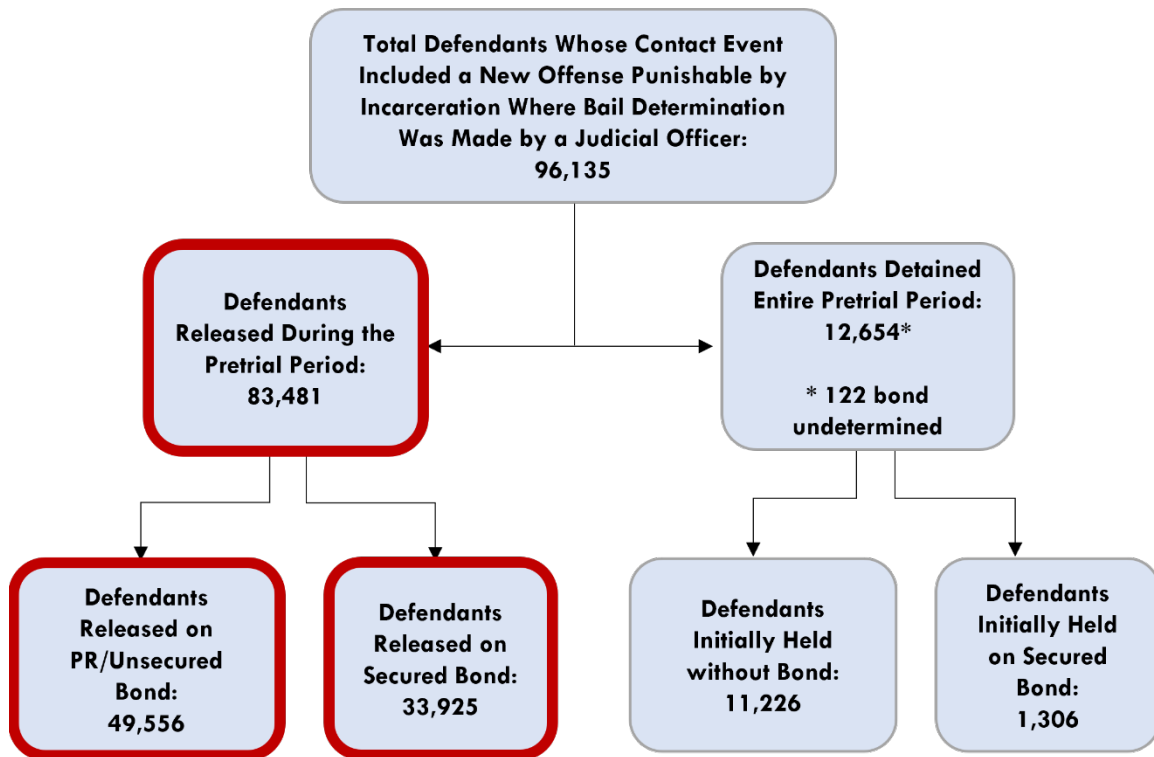
**Table 16: Pretrial Release Status by Locality Factors and Type of Attorney**

	<i>Pretrial Release Status</i>		<b>Number of Defendants</b>
	<b>Released</b>	<b>Detained</b>	
<i>Public Defender Office in Locality</i>			
Yes	57,641 (87.3%)	8,403 (12.7%)	66,044
No	25,840 (85.9%)	4,251 (14.1%)	30,091
<i>Pretrial Supervision Services Agency in Locality</i>			
Yes	79,915 (86.9%)	12,069 (13.1%)	91,984
No	3,566 (85.9%)	585 (14.1%)	4,151
<i>Type of Attorney at Case Closure</i>			
Court-Appointed Attorney	28,111 (80.9%)	6,629 (19.1%)	34,740
Public Defender	17,775 (83.0%)	3,633 (17.0%)	21,408
Both Court Apptd & Public Defender	421 (56.6%)	323 (43.4%)	744
Retained Attorney	30,303 (94.5%)	1,748 (5.5%)	32,051
Waived	1,769 (93.8%)	117 (6.2%)	1,886
Other	5,102 (96.2%)	204 (3.8%)	5,306
<b>Total</b>	<b>83,481 (86.8%)</b>	<b>12,654 (13.2%)</b>	<b>96,135</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 See Appendix A for definitions of each variable used in this report.

## Defendants Released during the Pretrial Period

The statewide descriptive analysis in this section is only based on the 83,481 defendants in the CY2018 cohort who were ultimately released during the pretrial period, with comparison between the 49,556 defendants who were released on a PR or unsecured bond and the 33,925 defendants who were released on a secured bond.





## LENGTH OF TIME UNTIL PRETRIAL RELEASE

A growing body of research emphasizes not only the importance of whether a defendant is ultimately released during the pretrial period, but also the importance of how *quickly* a defendant is released after being charged.<sup>24</sup> Table 17 specifies the number of days between the date of the CY2018 contact event and the date of pretrial release for the 83,481 defendants in the cohort who were ultimately released during the pretrial period.<sup>25</sup> Overall, 85.6% (71,437 of 83,481) of these defendants were released *within three days* of their contact event.

**Table 17: Number of Days Between Contact Event and Pretrial Release**

	Number of Defendants	Percentage
0 days	57,225	68.5%
1 day	10,481	12.6%
2 days	2,099	2.5%
3 days	1,632	2.0%
4 days	1,261	1.5%
5 days	1,024	1.2%
6-10 days	3,527	4.2%
11-15 days	1,758	2.1%
16-20 days	780	0.9%
21-25 days	761	0.9%
26-30 days	368	0.4%
Over 30 days	2,565	3.1%
<b>Total</b>	<b>83,481</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
Some percentages may not total 100% due to rounding

<sup>24</sup> See, e.g., Dobbie, W., Goldin, J., & Yang, C.S. (2018). The effects of pretrial detention on conviction, future crime, and employment: Evidence from randomly assigned judges. *American Economic Review*, 108(2), 201-240; Lowenkamp, C. T., VanNostrand, M., & Holsinger, A. (2013). *The hidden costs of pretrial detention*. Houston: The Laura & John Arnold Foundation. Retrieved from <https://nicic.gov/hidden-costs-pretrial-detention>; Oleson, J. C., Lowenkamp, C. T., Wooldredge, J., VanNostrand, M., & Cadigan, T. P. (2017). The sentencing consequences of federal pretrial detention. *Crime and Delinquency*, 63(3), 313-333; Oleson, J. C., Lowenkamp, C. T., VanNostrand, M., Cadigan, T., & Wooldredge, J. (2016). The effect of pretrial detention on sentencing in two federal districts. *Justice Quarterly*, 33(6), 1103-1122.

<sup>25</sup> For defendants who appeared before magistrate, time until release was calculated based on the number of days between the date the DC-352 (commitment order in the e-Magistrate data system) was issued and the date the DC-330 (recognizance order in the e-Magistrate data system) was issued. If a DC-352 was not issued (i.e., date of DC-352 was missing), then it was assumed that the defendant was released on the same day. If the time between the DC-352 and DC-330 resulted in a negative number, the outcome was recoded to missing. A defendant who was brought before a magistrate for a bond hearing in the evening and was released the next morning will appear as having been released on Day 1 in the e-Magistrate data system. For defendants who were directly indicted in Circuit Court and did not appear before a magistrate, time until release was calculated based on the number of days between the arrest date (or, if missing, court filing date) and the individual's release date, based on the Local Inmate Data System (LIDS).

## DEFENDANT DEMOGRAPHICS

Table 18 illustrates the bond type at release and the demographics for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Of these 83,481 defendants, 59.4% (49,556 of 83,481) were released on a personal recognizance (PR) or unsecured bond and 40.6% (33,925 of 83,481) were released on a secured bond. Among released defendants, females were more likely than males, Whites were more likely than Blacks, and non-indigent were more likely than indigent defendants to be released on a PR or unsecured bond versus a secured bond. Additionally, 61.9% (8,046 of 13,000) of the defendants who received pretrial supervision were released on a secured bond.

**Table 18: Bond Type at Release and Defendant Demographics**

	<i>Bond Type at Release</i>		<b>Number of Defendants</b>
	<b>PR or Unsecured Bond</b>	<b>Secured Bond</b>	
<b>Sex</b>			
Male	32,727 (56.2%)	25,509 (43.8%)	58,236
Female	16,647 (66.7%)	8,312 (33.3%)	24,959
Unknown	182 (63.6%)	104 (36.4%)	286
<b>Race</b>			
White	29,806 (61.9%)	18,377 (38.1%)	48,183
Black	17,481 (55.1%)	14,263 (44.9%)	31,744
Asian/Pacific Islander	714 (69.2%)	318 (30.8%)	1,032
American Indian/Alaskan Native	26 (74.3%)	9 (25.7%)	35
Unknown	1,529 (61.5%)	958 (38.5%)	2,487
<b>Age Group at Contact Event</b>			
18-25 years old	13,710 (63.6%)	7,843 (36.4%)	21,553
26-35 years old	15,709 (57.3%)	11,714 (42.7%)	27,423
36-45 years old	9,205 (55.5%)	7,377 (44.5%)	16,582
46-55 years old	6,387 (58.3%)	4,574 (41.7%)	10,961
56-65 years old	3,481 (63.0%)	2,041 (37.0%)	5,522
>65 years old	1,048 (73.7%)	374 (26.3%)	1,422
Unknown	16 (88.9%)	2 (11.1%)	18
<b>Indigency Status</b>			
Indigent	25,282 (54.6%)	21,025 (45.4%)	46,307
Not Indigent	22,057 (64.1%)	12,345 (35.9%)	34,402
Unknown	2,217 (80.0%)	555 (20.0%)	2,772
<b>Residency Status</b>			
Virginia Resident	44,190 (60.3%)	29,036 (39.7%)	73,226
Out-of-State Resident	3,303 (48.3%)	3,537 (51.7%)	6,840
Unknown	2,063 (60.4%)	1,352 (39.6%)	3,415
<b>Pretrial Services Agency Supervision Status</b>			
Received Supervision	4,954 (38.1%)	8,046 (61.9%)	13,000
Did Not Receive Supervision	44,602 (63.3%)	25,879 (36.7%)	70,481
<b>Total</b>	<b>49,556 (59.4%)</b>	<b>33,925 (40.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

## CY2018 CONTACT EVENTS – NUMBER OF OFFENSE TYPES AND COUNTS

Table 19 displays the bond type at release and the number of offense types and counts in the CY2018 contact event for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. As seen in this table, the proportion of defendants who were released on a secured bond (rather than a PR or unsecured bond) increased as the number of offense types or counts in their contact event increased.

**Table 19: Bond Type at Release and Number of Offense Types and Counts in Contact Event**

	<i>Bond Type at Release</i>		<b>Number of Defendants</b>
	<b>PR or Unsecured Bond</b>	<b>Secured Bond</b>	
<i>Number of Offense Types</i>			
1 Offense Type	41,715 (64.1%)	23,400 (35.9%)	65,115
2 Offense Type	6,905 (45.4%)	8,291 (54.6%)	15,196
3 Offense Type	843 (30.6%)	1,910 (69.4%)	2,753
4 Offense Type	83 (22.4%)	287 (77.6%)	370
5 Offense Type	8 (21.6%)	29 (78.4%)	37
6+ Offense Type	2 (20.0%)	8 (80.0%)	10
<i>Number of Total Offense Counts</i>			
1 Total Offense Count	34,460 (69.3%)	15,273 (30.7%)	49,733
2 Total Offense Counts	10,342 (51.6%)	9,688 (48.4%)	20,030
3 Total Offense Counts	2,914 (39.0%)	4,560 (61.0%)	7,474
4 Total Offense Counts	943 (30.8%)	2,118 (69.2%)	3,061
5 Total Offense Counts	332 (26.5%)	922 (73.5%)	1,254
6+ Total Offense Counts	565 (29.3%)	1,364 (70.7%)	1,929
<b>Total</b>	<b>49,556 (59.4%)</b>	<b>33,925 (40.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – CLASSIFICATION OF MOST SERIOUS OFFENSE

Table 20 specifies the bond type at release and the classification of the most serious offense in the CY2018 contact event for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. A larger proportion of defendants with a felony as the most serious offense in their contact event were released on a secured bond as opposed to a PR or unsecured bond. Conversely, a larger proportion of defendants with a misdemeanor as the most serious offense in their contact event were released on a PR or unsecured bond as opposed to a secured bond.

**Table 20: Bond Type at Release and Classification of Most Serious Offense in Contact Event**

	<i>Bond Type at Release</i>		<b>Number of Defendants</b>
	<b>PR or Unsecured Bond</b>	<b>Secured Bond</b>	
Class 1 Felony (F1)	1 (25.0%)	3 (75.0%)	4
Class 2 Felony (F2)	25 (17.9%)	115 (82.1%)	140
Class 3 Felony (F3)	217 (19.5%)	897 (80.5%)	1,114
Class 4 Felony (F4)	713 (45.5%)	853 (54.5%)	1,566
Class 5 Felony (F5)	5,190 (42.9%)	6,919 (57.1%)	12,109
Class 6 Felony (F6)	2,583 (34.6%)	4,872 (65.4%)	7,455
Unclassified/Undetermined Felony (F9)	4,846 (41.1%)	6,949 (58.9%)	11,795
Class 1 Misdemeanor (M1)	34,241 (74.7%)	11,596 (25.3%)	45,837
Class 2 Misdemeanor (M2)	260 (74.9%)	87 (25.1%)	347
Unclassified/Undetermined Misd. (M9)	1,453 (47.5%)	1,603 (52.5%)	3,056
Special Class Offense (S9)	21 (42.9%)	28 (57.1%)	49
Undetermined Classification	6 (66.7%)	3 (33.3%)	9
<b>Total</b>	<b>49,556 (59.4%)</b>	<b>33,925 (40.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Note: F9 indicates the crime is a designated felony with a special penalty structure; M9 designates a misdemeanor crime with a special penalty structure; a special class (S9) designation carries a special penalty structure that does not fall within the fixed parameters of Class 1 through Class 6 felonies or Class 1 through Class 4 misdemeanors.

## CY2018 CONTACT EVENTS – MOST SERIOUS OFFENSE CATEGORY

When examining the 83,481 of 96,135 defendants in the cohort who were ultimately released during the pretrial period, data revealed that 34,183 of these defendants had a felony as the most serious offense in their CY2018 contact event. Table 21 provides more details on the bond type at release for these 34,183 defendants. The most frequently charged felonies are shown. In general, a significantly higher proportion of defendants whose most serious offense was a felony were released on a secured bond, as opposed to a PR or unsecured bond, with the exception of defendants whose most serious felony offense category was larceny, fraud, or vandalism/damage to property.

**Table 21: Bond Type at Release and Most Serious Felony Offense Category in Contact Event**

Most Serious Felony Offense Category	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
Drug	4,530 (38.9%)	7,108 (61.1%)	11,638
Larceny	3,563 (50.7%)	3,467 (49.3%)	7,030
Assault	839 (25.7%)	2,421 (74.3%)	3,260
Fraud	1,500 (49.7%)	1,518 (50.3%)	3,018
Weapon/Firearm	594 (38.3%)	957 (61.7%)	1,551
Burglary	428 (34.1%)	828 (65.9%)	1,256
Traffic - Hit and Run	447 (46.9%)	507 (53.1%)	954
Family Offense	279 (40.0%)	419 (60.0%)	698
Vandalism, Damage Property	359 (61.5%)	225 (38.5%)	584
Traffic - All Others	140 (28.4%)	353 (71.6%)	493
All Other Felony Charges	896 (24.2%)	2,805 (75.8%)	3,701
<b>Total</b>	<b>13,575 (39.7%)</b>	<b>20,608 (60.3%)</b>	<b>34,183</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

When examining the 83,481 defendants in the cohort who were ultimately released during the pretrial period, data revealed that 49,240 of these defendants had a misdemeanor as the most serious offense in their CY2018 contact event. Table 22 presents the bond type at release for these 49,240 defendants by offense category. The most frequently charged misdemeanors are shown. In general, a larger proportion of defendants whose most serious offense was a misdemeanor were released on a PR or unsecured bond, as opposed to a secured bond.

**Table 22: Bond Type at Release and Most Serious Misdemeanor Offense Category in Contact Event**

Most Serious Misdemeanor Offense Category	Bond Type at Release <sup>26</sup>		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
Traffic - Driving While Intoxicated	12,243 (75.7%)	3,930 (24.3%)	16,173
Assault	12,240 (77.2%)	3,612 (22.8%)	15,852
Larceny	1,394 (59.4%)	951 (40.6%)	2,345
Drug	1,102 (68.4%)	510 (31.6%)	1,612
Obstruction Of Justice	974 (62.4%)	587 (37.6%)	1,561
Trespass	1,175 (78.2%)	328 (21.8%)	1,503
Traffic - Reckless/Aggressive Driving	908 (66.5%)	457 (33.5%)	1,365
Traffic - Operator's License	743 (54.8%)	614 (45.2%)	1,357
Protective Orders	764 (61.5%)	478 (38.5%)	1,242
Weapon/Firearm	605 (67.9%)	286 (32.1%)	891
All Other Misdemeanor Charges	3,806 (71.3%)	1,533 (28.7%)	5,339
<b>Total</b>	<b>35,954 (73.0%)</b>	<b>13,286 (27.0%)</b>	<b>49,240</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 See Appendix A for definitions of each variable used in this report.

<sup>26</sup> This table excludes 58 defendants whose most serious offense was a special classification (S9) or the offense classification could not be determined.

## PRIOR IN-STATE CRIMINAL HISTORY RECORDS

Table 23 indicates the bond type at release for the 83,481 defendants in the cohort who were ultimately released during the pretrial period in relation to their prior in-state criminal history records at the time of their CY2018 contact event. A larger proportion of defendants who were released on a secured bond during the pretrial period had a pending charge, were on state or local supervision, had a prior term of incarceration, had prior in-state convictions of any type, or had prior failure to appear charges or convictions, as compared to defendants released on a PR or unsecured bond. In Table 23, defendants who were on state probation supervision at the time of the contact event were the most likely to receive a secured bond (68.1%).

**Table 23: Bond Type at Release and Prior In-State Criminal History Records of Defendants**

	<i>Bond Type at Release</i>		<b>Number of Defendants</b>
	<b>PR or Unsecured Bond</b>	<b>Secured Bond</b>	
<i>Pending Charges</i>			
Yes	3,292 (41.7%)	4,608 (58.3%)	7,900
No	46,264 (61.2%)	29,317 (38.8%)	75,581
<i>On State Probation Supervision</i>			
Yes	1,894 (31.9%)	4,050 (68.1%)	5,944
No	47,662 (61.5%)	29,875 (38.5%)	77,537
<i>On Local Community Corrections Supervision</i>			
Yes	854 (42.2%)	1,168 (57.8%)	2,022
No	48,702 (59.8%)	32,757 (40.2%)	81,459
<i>Prior Term of Incarceration of ≥ 14 days</i>			
Yes	8,234 (39.4%)	12,653 (60.6%)	20,887
No	41,322 (66.0%)	21,272 (34.0%)	62,594
<i>Prior In-State Misdemeanor Conviction</i>			
Yes	19,884 (48.7%)	20,936 (51.3%)	40,820
No	29,672 (69.6%)	12,989 (30.4%)	42,661
<i>Prior In-State Felony Conviction (Any Felony)</i>			
Yes	6,726 (36.3%)	11,812 (63.7%)	18,538
No	42,830 (66.0%)	22,113 (34.0%)	64,943
<i>Prior In-State Violent Felony Conviction (§ 17.1-805)</i>			
Yes	1,795 (34.5%)	3,414 (65.5%)	5,209
No	47,761 (61.0%)	30,511 (39.0%)	78,272
<i>Prior Failure to Appear Charge</i>			
Yes	6,824 (42.1%)	9,401 (57.9%)	16,225
No	42,732 (63.5%)	24,524 (36.5%)	67,256
<i>Prior Failure to Appear Conviction</i>			
Yes	3,409 (39.0%)	5,332 (61.0%)	8,741
No	46,147 (61.7%)	28,593 (38.3%)	74,740
<b>Total</b>	<b>49,556 (59.4%)</b>	<b>33,925 (40.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset



## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Table 24 delineates the bond type at release for the 83,481 defendants in the cohort who were ultimately released during the pretrial period in relation to their assigned Public Safety Assessment (PSA) scores for Failure to Appear (FTA) and New Criminal Arrest (NCA). The proportion of defendants released on a secured bond increased as the assigned PSA scores for Failure to Appear and New Criminal Arrest increased.

In general, defendants with an assigned FTA or NCA Score of 6 were two times more likely to receive a secured bond than those assigned a Score of 1. Similarly, a higher proportion of defendants who were assigned the PSA New Violent Criminal Arrest (NVCA) flag were released on a secured bond, as compared to defendants who were not assigned this flag.

**Table 24: Bond Type at Release and Assigned Public Safety Assessment (PSA) Scores**

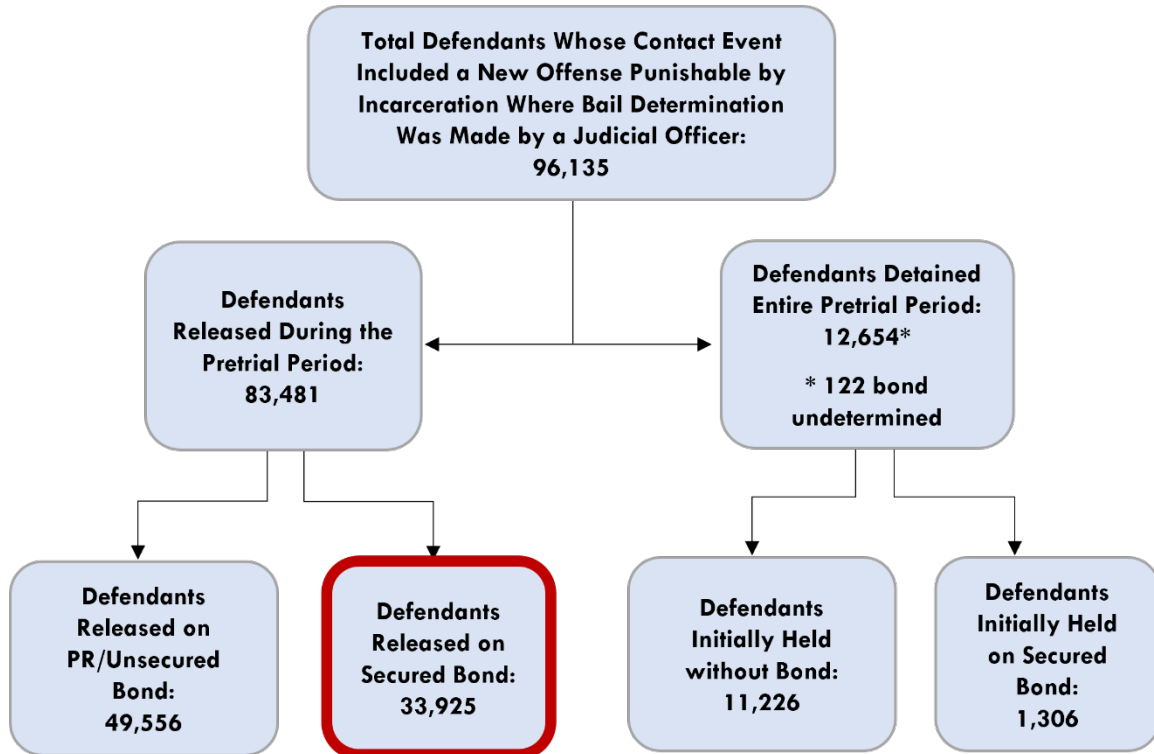
	<i>Bond Type at Release</i>		<b>Number of Defendants</b>
	<b>PR or Unsecured Bond</b>	<b>Secured Bond</b>	
<i>Assigned PSA Score for FTA</i>			
FTA Score 1 (Lowest)	27,823 (71.3%)	11,199 (28.7%)	39,022
FTA Score 2	14,057 (54.0%)	11,989 (46.0%)	26,046
FTA Score 3	4,605 (43.8%)	5,908 (56.2%)	10,513
FTA Score 4	2,433 (39.6%)	3,716 (60.4%)	6,149
FTA Score 5	541 (36.2%)	955 (63.8%)	1,496
FTA Score 6 (Highest)	97 (38.0%)	158 (62.0%)	255
<i>Assigned PSA Score for NCA</i>			
NCA Score 1 (Lowest)	21,451 (71.6%)	8,515 (28.4%)	29,966
NCA Score 2	16,845 (63.3%)	9,786 (36.7%)	26,631
NCA Score 3	5,951 (46.9%)	6,748 (53.1%)	12,699
NCA Score 4	3,267 (38.6%)	5,186 (61.4%)	8,453
NCA Score 5	1,438 (35.7%)	2,589 (64.3%)	4,027
NCA Score 6 (Highest)	604 (35.4%)	1,101 (64.6%)	1,705
<i>Assigned PSA NVCA Flag</i>			
Yes	3,497 (45.3%)	4,223 (54.7%)	7,720
No	46,059 (60.8%)	29,702 (39.2%)	75,761
<b>Total</b>	<b>49,556 (59.4%)</b>	<b>33,925 (40.6%)</b>	<b>83,481</b>

Failure to appear (FTA); New Criminal Arrest (NCA); New Violent Criminal Arrest (NVCA).

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## Defendants Released on Secured Bond

The statewide descriptive analysis in this section is only based on the 33,925 defendants in the CY2018 cohort who were ultimately released on a secured bond during the pretrial period.



## DEFENDANT DEMOGRAPHICS

A total of 33,925 of the 96,135 defendants in the cohort were ultimately released on a secured bond during the pretrial period. If a defendant had multiple charges, the maximum bond amount was used. The secured bond amounts at the time of release for this group of 33,925 defendants ranged from \$20 to \$250,000, with an average of \$3,770 and a median of \$2,500. Table 25 provides more details on the secured bond amount at the time of release and the demographics of defendants. In general, the median secured bond amounts did not vary widely across sex, race, age, indigency status, or whether the defendant received supervision by a Pretrial Services Agency. In addition to the information in this table, data for the Project showed that 92.7% (31,443 of 33,925) of defendants released on a secured bond utilized the services of a bail bondsman.

**Table 25: Secured Bond Amount at Release and Defendant Demographics**

	<b>Average</b>	<b>Median</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Number of Defendants</b>
<i>Defendant Sex</i>					
Male	\$3,994	\$2,500	\$20	\$250,000	25,509
Female	\$3,059	\$2,000	\$50	\$100,000	8,312
Unknown	\$5,399	\$2,500	\$100	\$75,000	104
<i>Defendant Race</i>					
White	\$3,682	\$2,500	\$24	\$250,000	18,377
Black	\$3,803	\$2,500	\$100	\$100,000	14,263
Asian/Pacific Islander	\$5,627	\$2,500	\$500	\$100,000	318
American Indian/Alaskan Native	\$3,527	\$2,000	\$750	\$15,000	9
Unknown	\$4,330	\$2,500	\$20	\$100,000	958
<i>Defendant Age Group</i>					
18-25 years old	\$3,787	\$2,500	\$24	\$100,000	7,843
26-35 years old	\$3,822	\$2,500	\$50	\$100,000	11,714
36-45 years old	\$3,762	\$2,500	\$20	\$200,000	7,377
46-55 years old	\$3,542	\$2,500	\$25	\$100,000	4,574
56-65 years old	\$3,714	\$2,500	\$100	\$250,000	2,041
>65 years old	\$4,992	\$2,000	\$250	\$100,000	374
Unknown	\$5,750	\$5,750	\$1,500	\$10,000	2
<i>Defendant Indigency Status</i>					
Indigent	\$3,379	\$2,500	\$25	\$100,000	21,025
Not Indigent	\$4,480	\$2,500	\$20	\$250,000	12,345
Unknown	\$2,775	\$2,000	\$250	\$66,000	555
<i>Defendant Residency Status</i>					
Virginia Resident	\$3,702	\$2,500	\$20	\$250,000	29,036
Out-of-State Resident	\$4,282	\$2,500	\$100	\$100,000	3,537
Unknown	\$3,877	\$2,500	\$100	\$100,000	1,352
<i>Defendant Pretrial Services Agency Supervision Status</i>					
Received Supervision	\$5,330	\$3,000	\$24	\$100,000	8,046
Did Not Receive Supervision	\$3,284	\$2,000	\$20	\$250,000	25,879
<b>Total</b>	<b>\$3,770</b>	<b>\$2,500</b>	<b>\$20</b>	<b>\$250,000</b>	<b>33,925</b>

Note: Secured bond amounts were not summed across charges (the e-Magistrate displays the aggregate bond amount for all charges in contact event).

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

## CY2018 CONTACT EVENTS – NUMBER OF OFFENSE TYPES AND COUNTS

Table 26 displays the secured bond amount at the time of release and the number of offense types and counts in the CY2018 contact event for the 33,925 defendants in the cohort who were ultimately released on a secured bond during the pretrial period. The median secured bond amounts generally increased as the number of offense types or the total counts in the contact event increased. For example, the median bond amount set for defendants charged with one count was \$2,000, while the median bound amount for a defendant facing six or more charges was \$5,000.

**Table 26: Secured Bond Amount at Release and Number of Offense Types and Counts in Contact Event**

	Average	Median	Minimum	Maximum	Number of Defendants
<i>Number of Offense Types</i>					
1 Offense Type	\$3,347	\$2,000	\$20	\$250,000	23,400
2 Offense Type	\$4,435	\$2,500	\$50	\$100,000	8,291
3 Offense Type	\$5,515	\$3,000	\$200	\$100,000	1,910
4 Offense Type	\$6,650	\$5,000	\$350	\$55,000	287
5 Offense Type	\$8,793	\$5,000	\$500	\$50,000	29
6+ Offense Type	\$11,656	\$5,000	\$4,250	\$50,000	8
<i>Number of Total Offense Counts</i>					
1 Total Offense Count	\$2,867	\$2,000	\$20	\$100,000	15,273
2 Total Offense Counts	\$3,682	\$2,500	\$24	\$100,000	9,688
3 Total Offense Counts	\$4,430	\$2,500	\$50	\$200,000	4,560
4 Total Offense Counts	\$5,333	\$3,000	\$250	\$100,000	2,118
5 Total Offense Counts	\$5,941	\$4,000	\$250	\$50,000	922
6+ Total Offense Counts	\$8,391	\$5,000	\$100	\$250,000	1,364
<b>Total</b>	<b>\$3,770</b>	<b>\$2,500</b>	<b>\$20</b>	<b>\$250,000</b>	<b>33,925</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – CLASSIFICATION OF MOST SERIOUS OFFENSE

Table 27 specifies the secured bond amount at the time of release and the classification of the most serious offense in the CY2018 contact event for the 33,925 defendants in the cohort who were ultimately released on a secured bond during the pretrial period. The median secured bond amounts did not vary considerably across misdemeanors, special class offenses, Class 4 felonies, Class 5 felonies, or Class 6 felonies; however, the median secured bond amounts were higher for defendants whose most serious offense was a Class 1, Class 2, or Class 3 felony.

**Table 27: Secured Bond Amount at Release and Classification of Most Serious Offense in Contact Event**

	<b>Average</b>	<b>Median</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Number of Defendants</b>
Class 1 Felony (F1)	\$15,666	\$15,000	\$10,000	\$22,000	3
Class 2 Felony (F2)	\$14,002	\$7,500	\$500	\$100,000	115
Class 3 Felony (F3)	\$7,245	\$5,000	\$500	\$100,000	897
Class 4 Felony (F4)	\$4,385	\$2,500	\$100	\$70,000	853
Class 5 Felony (F5)	\$3,720	\$2,500	\$20	\$100,000	6,919
Class 6 Felony (F6)	\$4,143	\$2,500	\$25	\$100,000	4,872
Unclassified/Undetermined Felony (F9)	\$5,453	\$2,500	\$50	\$250,000	6,949
Class 1 Misdemeanor (M1)	\$2,364	\$2,000	\$24	\$75,000	11,596
Class 2 Misdemeanor (M2)	\$2,313	\$1,500	\$500	\$10,000	87
Unclassified/Undetermined Misdemeanor (M9)	\$2,797	\$2,500	\$100	\$25,000	1,603
Special Class Offense (S9)	\$2,642	\$2,500	\$1,000	\$8,000	28
Undetermined Classification	\$2,166	\$1,500	\$1,500	\$3,500	3
<b>Total</b>	<b>\$3,770</b>	<b>\$2,500</b>	<b>\$20</b>	<b>\$250,000</b>	<b>33,925</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## CY2018 CONTACT EVENTS – MOST SERIOUS OFFENSE CATEGORY

Data revealed that 20,608 of the 33,925 defendants who were ultimately released on a secured bond during the pretrial period had a felony as the most serious offense in their CY2018 contact event. Table 28 provides more details on the secured bond amount at the time of release and the most serious felony offense category in the contact event for these 20,608 defendants. The most common felony charges are shown. The secured bond amounts across all felonies ranged from \$20 to \$250,000, with an average of \$4,644 and a median of \$2,500. When looking at types of felony offense categories, the median secured bond amounts ranged from \$2,000 (larceny) to \$5,000 (DUI or kidnapping). Furthermore, the felony offense with the highest amount of security bond (\$250,000) was sexual assault/obscenity – child solicitation (specifically using a communications system, such as the internet, to propose a sex act with a minor).

**Table 28: Secured Bond Amount at Release and Most Serious Felony Offense Category in Contact Event**

	<b>Average</b>	<b>Median</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Number of Defendants</b>
Drug	\$4,323	\$2,500	\$100	\$100,000	7,108
Larceny	\$2,957	\$2,000	\$50	\$55,000	3,467
Assault	\$5,750	\$4,000	\$100	\$100,000	2,421
Fraud	\$3,566	\$2,500	\$100	\$30,000	1,518
Weapon/Firearm	\$4,662	\$2,500	\$20	\$75,000	957
Burglary	\$4,735	\$3,000	\$100	\$50,000	828
Traffic - Hit and Run	\$3,623	\$2,500	\$100	\$25,000	507
Traffic - DUI	\$5,199	\$5,000	\$250	\$50,000	428
Family Offense	\$3,939	\$2,500	\$500	\$35,000	419
Kidnapping	\$7,851	\$5,000	\$500	\$75,000	359
All Other Felony Charges	\$6,287	\$2,500	\$50	\$250,000	2,596
<b>Total</b>	<b>\$4,644</b>	<b>\$2,500</b>	<b>\$20</b>	<b>\$250,000</b>	<b>20,608</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Further examination revealed that 13,286 of the 33,925 defendants who were ultimately released on a secured bond during the pretrial period had a misdemeanor as the most serious offense in their CY2018 contact event. Table 29 provides more details on the secured bond amount at the time of release and the most serious misdemeanor offense category in the contact event for these 13,286 defendants. The most common misdemeanor charges are shown. The secured bond amounts for these defendants ranged from \$24 to \$75,000, with an average of \$2,415 and a median of \$2,000. The median secured bond amounts did not vary considerably across the various types of misdemeanor offense categories in the contact event.

**Table 29: Secured Bond Amount at Release and Most Serious Misdemeanor Offense Category in Contact Event<sup>27</sup>**

	Average	Median	Minimum	Maximum	Number of Defendants
Traffic - Driving While Intox.	\$2,569	\$2,000	\$100	\$25,000	3,930
Assault	\$2,355	\$2,000	\$100	\$35,000	3,612
Larceny	\$1,937	\$1,500	\$100	\$15,000	951
Traffic - Operator's License	\$2,167	\$1,500	\$100	\$75,000	614
Obstruction Of Justice	\$2,192	\$1,500	\$250	\$50,000	587
Drug	\$2,444	\$2,000	\$100	\$30,000	510
Protective Orders	\$2,995	\$2,000	\$24	\$25,000	478
Traffic - Reckless/Agg. Driving	\$2,473	\$2,000	\$250	\$30,000	457
Trespass	\$1,816	\$1,500	\$150	\$10,000	328
Weapon/Firearm	\$2,389	\$2,000	\$250	\$10,000	286
All Other Misd. Charges	\$2,617	\$1,750	\$250	\$66,000	1,533
<b>Total</b>	<b>\$2,415</b>	<b>\$2,000</b>	<b>\$24</b>	<b>\$75,000</b>	<b>13,286</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

<sup>27</sup> This table excludes 31 defendants whose most serious offense was a special classification (S9) or the offense classification could not be determined.



## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Table 30 delineates the secured bond amount at the time of release in relation to the assigned Public Safety Assessment (PSA) scores for Failure to Appear (FTA) and New Criminal Arrest (NCA) for the 33,925 defendants in the cohort who were ultimately released on a secured bond during the pretrial period. As shown here, the median secured bond amounts did not vary across the Failure to Appear or New Criminal Arrest scores.

**Table 30: Secured Bond Amount at Release and Assigned Public Safety Assessment (PSA) Scores**

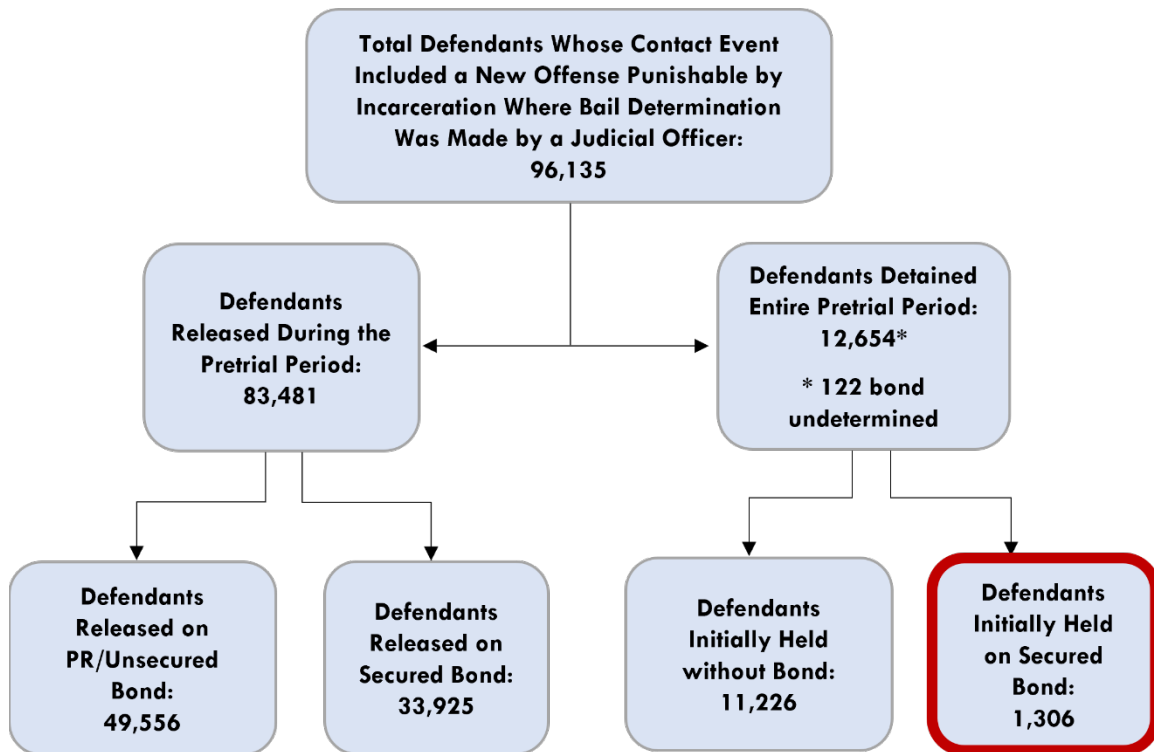
	Average	Median	Minimum	Maximum	Number of Defendants
<i>Assigned PSA Score for FTA</i>					
FTA Score 1 (Lowest)	\$4,240	\$2,500	\$20	\$250,000	11,199
FTA Score 2	\$3,616	\$2,500	\$24	\$100,000	11,989
FTA Score 3	\$3,493	\$2,500	\$50	\$75,000	5,908
FTA Score 4	\$3,409	\$2,500	\$100	\$75,000	3,716
FTA Score 5	\$3,371	\$2,500	\$100	\$100,000	955
FTA Score 6 (Highest)	\$3,297	\$2,000	\$500	\$25,000	158
<i>Assigned PSA Score for NCA</i>					
NCA Score 1 (Lowest)	\$4,388	\$2,500	\$20	\$250,000	8,515
NCA Score 2	\$3,578	\$2,500	\$25	\$100,000	9,786
NCA Score 3	\$3,524	\$2,500	\$24	\$80,000	6,748
NCA Score 4	\$3,619	\$2,500	\$50	\$100,000	5,186
NCA Score 5	\$3,494	\$2,500	\$100	\$75,000	2,589
NCA Score 6 (Highest)	\$3,554	\$2,500	\$100	\$100,000	1,101
<i>Assigned PSA NVCA Flag</i>					
Yes	\$4,157	\$2,500	\$100	\$100,000	4,223
No	\$3,715	\$2,500	\$20	\$250,000	29,702
<b>Total</b>	<b>\$3,770</b>	<b>\$2,500</b>	<b>\$20</b>	<b>\$250,000</b>	<b>33,925</b>

Failure to appear (FTA); New Criminal Arrest (NCA); New Violent Criminal Arrest (NVCA).

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## Defendants Detained on Secured Bond for Entire Pretrial Period

The statewide descriptive analysis in this section is only based on the 1,306 defendants in the CY2018 cohort who were initially held on a secured bond and were detained for the entire pre-trial period.



## OVERVIEW

Data from the Project revealed that 1,306 of the 96,135 defendants in the cohort were *initially* held on a secured bond and detained for the entire pretrial period. Data in the Project captured both the *initial* bond amount and the bond amount at the time a defendant was *released* during the pretrial period. However, because these 1,306 defendants were not released during the pretrial period, only the initial secured bond amount was captured for these defendants. Furthermore, data in the Project does not capture *why* these defendants remained detained on a secured bond the entire pretrial period.

It is important to note that more than 1,306 defendants in the cohort may have ultimately been detained on a secured bond and not released during the pretrial period. For example, if a defendant in the cohort was initially held without bond (i.e., denied bail), but ultimately had a secured bond set as a result of a subsequent bond hearing and remained detained on that secured bond for the remainder of the pretrial period, that defendant will not be accounted for amongst these 1,306 defendants who were *initially* detained on a secured bond for the entire pretrial period.

For more detailed information on modifications to bond between the time that a defendant was initially brought before a judicial officer and the time of the defendant's pretrial release, please refer to *Appendix C Supplemental Tables - Table 1*.

## DEFENDANT DEMOGRAPHICS

Table 31 shows the initial secured bond amount and the demographics for 1,305 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period.<sup>28</sup> The initial secured bond amount for this group ranged from \$50 to \$92,676, with an average of \$3,333 and a median of \$2,500. In general, the median initial secured bond amounts did not vary widely across sex, race, age, or indigency status.

**Table 31: Initial Secured Bond Amount and Detained Defendant Demographics**

	Average	Median	Minimum	Maximum	Number of Defendants	Percentage
<i>Defendant Sex</i>						
Male	\$3,475	\$2,500	\$100	\$92,676	1,094	83.8%
Female	\$2,589	\$2,000	\$50	\$16,000	207	15.9%
Unknown	\$3,125	\$3,000	\$1,500	\$5,000	4	0.3%
<i>Defendant Race</i>						
White	\$3,326	\$2,500	\$100	\$92,676	829	63.5%
Black	\$3,400	\$2,500	\$50	\$80,000	415	31.8%
Asian/Pacific Islander	\$4,500	\$2,500	\$1,000	\$15,000	9	0.7%
American Indian/ Alaskan Native	\$5,000	\$5,000	\$5,000	\$5,000	1	0.1%
Unknown	\$2,670	\$2,000	\$500	\$10,000	51	3.9%
<i>Defendant Age Group</i>						
18-25 years old	\$3,038	\$2,500	\$500	\$25,000	241	18.5%
26-35 years old	\$3,251	\$2,500	\$100	\$35,000	438	33.6%
36-45 years old	\$3,461	\$2,500	\$500	\$80,000	293	22.5%
46-55 years old	\$3,980	\$2,500	\$50	\$92,676	206	15.8%
56-65 years old	\$2,971	\$2,000	\$300	\$39,469	108	8.3%
>65 years old	\$2,052	\$2,000	\$500	\$4,500	19	1.5%
<i>Defendant Indigency Status</i>						
Indigent	\$3,326	\$2,500	\$50	\$92,676	1,150	88.1%
Not Indigent	\$3,454	\$2,500	\$100	\$25,000	146	11.2%
Unknown	\$2,250	\$2,000	\$1,000	\$5,000	9	0.7%
<i>Defendant Residency Status</i>						
Virginia Resident	\$3,364	\$2,500	\$100	\$92,676	938	71.9%
Out-of-State Resident	\$4,085	\$3,000	\$500	\$25,000	181	13.9%
Unknown	\$2,445	\$1,500	\$50	\$39,469	186	14.3%
<b>Total</b>	<b>\$3,333</b>	<b>\$2,500</b>	<b>\$50</b>	<b>\$92,676</b>	<b>1,305</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

<sup>28</sup> One defendant is excluded due to missing bond amount.

## CY2018 CONTACT EVENTS – NUMBER OF OFFENSE TYPES & TOTAL COUNTS

Table 32 displays the initial secured bond amount and the number of offense types and counts in the CY2018 contact event for 1,305 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period.<sup>29</sup> The data indicate that 96.7% (1,262 of 1,306) of these defendants had two or fewer offense types in their contact event. The median initial secured bond amounts generally increased as the number of offense types in the contact event increased. In addition, 81.1% (1,059 of 1,306) of these defendants had two or fewer offense counts in their contact event. The median initial secured bond amounts generally increased as the number of offense counts in the contact event increased.

**Table 32: Initial Secured Bond Amount and Number of Offense Types and Counts in Contact Event for Detained Defendants**

	Average	Median	Minimum	Maximum	Number of Defendants	Percentage
<i>Number of Offense Types</i>						
1 Offense Type	\$3,156	\$2,500	\$50	\$92,676	994	76.2%
2 Offense Type	\$3,839	\$2,500	\$500	\$80,000	268	20.5%
3 Offense Type	\$4,250	\$3,000	\$500	\$25,000	34	2.6%
4 Offense Type	\$3,857	\$3,000	\$2,000	\$7,000	7	0.5%
5 Offense Type	\$6,250	\$6,250	\$2,500	\$10,000	2	0.2%
<i>Number of Total Offense Counts</i>						
1 Total Offense Count	\$2,725	\$2,000	\$50	\$80,000	674	51.6%
2 Total Offense Counts	\$3,752	\$2,500	\$500	\$92,676	385	29.5%
3 Total Offense Counts	\$4,094	\$2,500	\$500	\$25,000	143	11.0%
4 Total Offense Counts	\$4,244	\$3,000	\$500	\$25,000	49	3.8%
5 Total Offense Counts	\$5,340	\$3,500	\$1,000	\$25,000	22	1.7%
6+ Total Offense Counts	\$4,937	\$5,000	\$2,000	\$12,000	32	2.5%
<b>Total</b>	<b>\$3,333</b>	<b>\$2,500</b>	<b>\$50</b>	<b>\$92,676</b>	<b>1,305</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

<sup>29</sup> One defendant is excluded due to missing bond amount.

## CY2018 CONTACT EVENTS – CLASSIFICATION OF MOST SERIOUS OFFENSE

Table 33 specifies the initial secured bond amount and the classification of the most serious offense in the CY2018 contact event for 1,305 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period.<sup>30</sup> About half of the defendants in this group (684 of 1,305) had a Class 1 misdemeanor as the most serious offense in their contact event. The median initial secured bond amounts did not vary considerably across the various classes of felonies and misdemeanors, with the exception of a few defendants in the group whose most serious offense was an unclassified felony (the highest median bond amount) or a Class 2 misdemeanor (the lowest median bond amount).

**Table 33: Initial Secured Bond Amount and Classification of Most Serious Offense in Contact Event for Detained Defendants**

	Average	Median	Minimum	Maximum	Number of Defendants	Percentage
Class 1 Felony (F1)	---	---	---	---	---	---
Class 2 Felony (F2)	---	---	---	---	---	---
Class 3 Felony (F3)	\$2,500	\$2,500	\$1,500	\$3,500	3	0.2%
Class 4 Felony (F4)	\$3,200	\$2,500	\$1,500	\$7,500	25	1.9%
Class 5 Felony (F5)	\$3,400	\$2,500	\$500	\$25,000	158	12.1%
Class 6 Felony (F6)	\$3,984	\$2,500	\$100	\$80,000	135	10.3%
Unclassified/Undetermined Felony (F9) <sup>31</sup>	\$4,277	\$3,500	\$500	\$25,000	223	17.1%
Class 1 Misdemeanor (M1)	\$2,939	\$2,000	\$50	\$92,676	684	52.4%
Class 2 Misdemeanor (M2)	\$1,727	\$1,500	\$500	\$5,000	11	0.8%
Unclassified/Undetermined Misdemeanor (M9)	\$3,105	\$2,500	\$500	\$15,000	64	4.9%
Special Class Offense (S9)	\$2,750	\$2,750	\$2,500	\$3,000	2	0.2%
Undetermined Classification	---	---	---	---	---	---
<b>Total</b>	<b>\$3,333</b>	<b>\$2,500</b>	<b>\$50</b>	<b>\$92,676</b>	<b>1,305</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

Note: F9 indicates the crime is a designated felony with a special penalty structure; M9 designates a misdemeanor crime with a special penalty structure; a special class (S9) designation carries a special penalty structure that does not fall within the fixed parameters of Class 1 through Class 6 felonies or Class 1 through Class 4 misdemeanors.

<sup>30</sup> One defendant is excluded due to missing bond amount.

<sup>31</sup> The most common unclassified felonies among defendants who were initially held on a secured bond and were detained for the entire pretrial period were: grand larceny, felony shoplifting, burglary, and distribution of a Schedule I or II drug.

## CY2018 CONTACT EVENTS – MOST SERIOUS OFFENSE CATEGORY

Data revealed that 545 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period had a felony as the most serious offense in their CY2018 contact event. Table 34 displays the initial secured bond amount and the most serious felony offense category in the contact event for 544 of these 545 defendants.<sup>32</sup> The most common felony charges are shown. As seen in this table, 63.5% (346 of 544) of the contact events for these defendants related to felony larceny or drug offense categories.

Overall, the initial secured bond amounts across all felonies ranged from \$100 to \$80,000, with an average of \$3,890 and a median of \$2,500. The median initial secured bond amounts did not vary considerably across the most serious misdemeanor offense categories, except felony charges for driving while intoxicated (DWI). Felony DWI charges resulted in the highest median bond amount (\$5,000).

**Table 34: Initial Secured Bond Amount and Most Serious Felony Offense Category in Contact Event for Detained Defendants**

Felony Offense Category	Average	Median	Minimum	Maximum	Number of Defendants	Percentage
Larceny	\$3,659	\$2,500	\$100	\$25,000	184	33.8%
Drug	\$3,498	\$2,500	\$500	\$18,000	162	29.7%
Fraud	\$3,902	\$3,000	\$1,000	\$25,000	46	8.4%
Burglary	\$4,459	\$3,000	\$500	\$25,000	37	6.8%
Assault	\$4,217	\$3,000	\$500	\$25,000	23	4.2%
Traffic - Hit and Run	\$4,750	\$2,500	\$1,000	\$20,000	18	3.3%
Traffic - Driving While Intoxicated	\$7,363	\$5,000	\$1,500	\$35,000	11	2.0%
Sex Offender Registry	\$2,600	\$2,500	\$1,000	\$5,000	10	1.8%
Traffic - Operator's License	\$3,033	\$2,800	\$1,000	\$5,000	9	1.7%
Weapon/Firearm	\$12,166	\$2,500	\$1,000	\$80,000	9	1.7%
All Other Felony Charges	\$2,872	\$2,500	\$500	\$10,000	35	6.4%
<b>Total</b>	<b>\$3,890</b>	<b>\$2,500</b>	<b>\$100</b>	<b>\$80,000</b>	<b>544</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

<sup>32</sup> One defendant is excluded due to missing bond amount.

Data also revealed that 759 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period had a misdemeanor as the most serious offense in their CY2018 contact event. Table 35 lists the initial secured bond amount and the most serious misdemeanor offense category in the contact event for these 759 defendants. The most common misdemeanor charges are shown. As seen in this table, 53.4% (406 of 545) of the contact events for these defendants related to misdemeanor DWI, assault, or larceny offense categories. Overall, the initial secured bond amounts for these defendants ranged from \$50 to \$92,676, with an average of \$2,936 and a median of \$2,000. The median initial secured bond amounts did not vary considerably across the most serious misdemeanor offense categories.

**Table 35: Initial Secured Bond Amount and Most Serious Misdemeanor Offense Category in Contact Event for Detained Defendants**

Misdemeanor Offense Category					Number of	
	Average	Median	Minimum	Maximum	Defendants	Percentage
Traffic - DWI	\$3,264	\$2,500	\$500	\$20,000	170	22.4%
Assault	\$2,321	\$2,000	\$500	\$10,000	140	18.4%
Larceny	\$2,358	\$2,000	\$250	\$10,000	96	12.6%
Trespass	\$1,590	\$1,000	\$50	\$7,500	63	8.3%
Obstruction of Justice	\$2,304	\$2,000	\$500	\$10,000	56	7.4%
Drug	\$1,991	\$1,500	\$500	\$5,000	37	4.9%
Traffic - Operator's License	\$2,725	\$1,500	\$500	\$20,000	28	3.7%
Protective Orders	\$2,452	\$2,000	\$500	\$10,000	25	3.3%
Vandalism, Damage Property	\$1,895	\$1,500	\$500	\$7,500	24	3.2%
Traffic - Reckless/Agg. Driving	\$4,458	\$2,500	\$1,000	\$25,000	24	3.2%
All Other Misd. Charges	\$4,445	\$2,250	\$500	\$92,676	96	12.6%
<b>Total</b>	<b>\$2,936</b>	<b>\$2,000</b>	<b>\$50</b>	<b>\$92,676</b>	<b>759</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.



## Public Safety Assessment (PSA) Scores Assigned to Defendants

Table 36 delineates the initial secured bond amount in relation to the assigned Public Safety Assessment (PSA) scores for Failure to Appear (FTA) and New Criminal Arrest (NCA) for 1,305 of the 1,306 defendants in the cohort who were detained on a secured bond for the entire pretrial period.<sup>33</sup> As shown below, the median value of the initial secured bond amounts did not vary considerably across the various FTA or NCA scores.

**Table 36: Initial Secured Bond Amount and Assigned Public Safety Assessment (PSA) Scores for Detained Defendants**

	Average	Median	Minimum	Maximum	Number of Defendants	Percentage
<i>Assigned PSA Score for FTA</i>						
FTA Score 1 (Lowest)	\$3,380	\$2,500	\$100	\$80,000	419	32.1%
FTA Score 2	\$3,143	\$2,500	\$100	\$39,469	392	30.0%
FTA Score 3	\$3,854	\$2,500	\$50	\$92,676	212	16.2%
FTA Score 4	\$3,105	\$2,500	\$500	\$35,000	193	14.8%
FTA Score 5	\$3,235	\$2,250	\$500	\$20,000	68	5.2%
FTA Score 6 (Highest)	\$3,109	\$3,000	\$500	\$7,500	21	1.6%
<i>Assigned PSA Score for NCA</i>						
NCA Score 1 (Lowest)	\$3,444	\$2,500	\$100	\$80,000	343	26.3%
NCA Score 2	\$3,407	\$2,500	\$50	\$39,469	245	18.8%
NCA Score 3	\$3,007	\$2,500	\$500	\$15,000	231	17.7%
NCA Score 4	\$3,514	\$2,500	\$100	\$92,676	264	20.2%
NCA Score 5	\$3,338	\$2,500	\$500	\$35,000	138	10.6%
NCA Score 6 (Highest)	\$2,988	\$2,500	\$500	\$20,000	84	6.4%
<i>Assigned PSA NVCA Flag</i>						
Yes	\$3,164	\$2,500	\$500	\$25,000	150	11.5%
No	\$3,355	\$2,500	\$50	\$92,676	1,155	88.4%
<b>Total</b>	<b>\$3,333</b>	<b>\$2,500</b>	<b>\$50</b>	<b>\$92,676</b>	<b>1,305</b>	<b>100%</b>

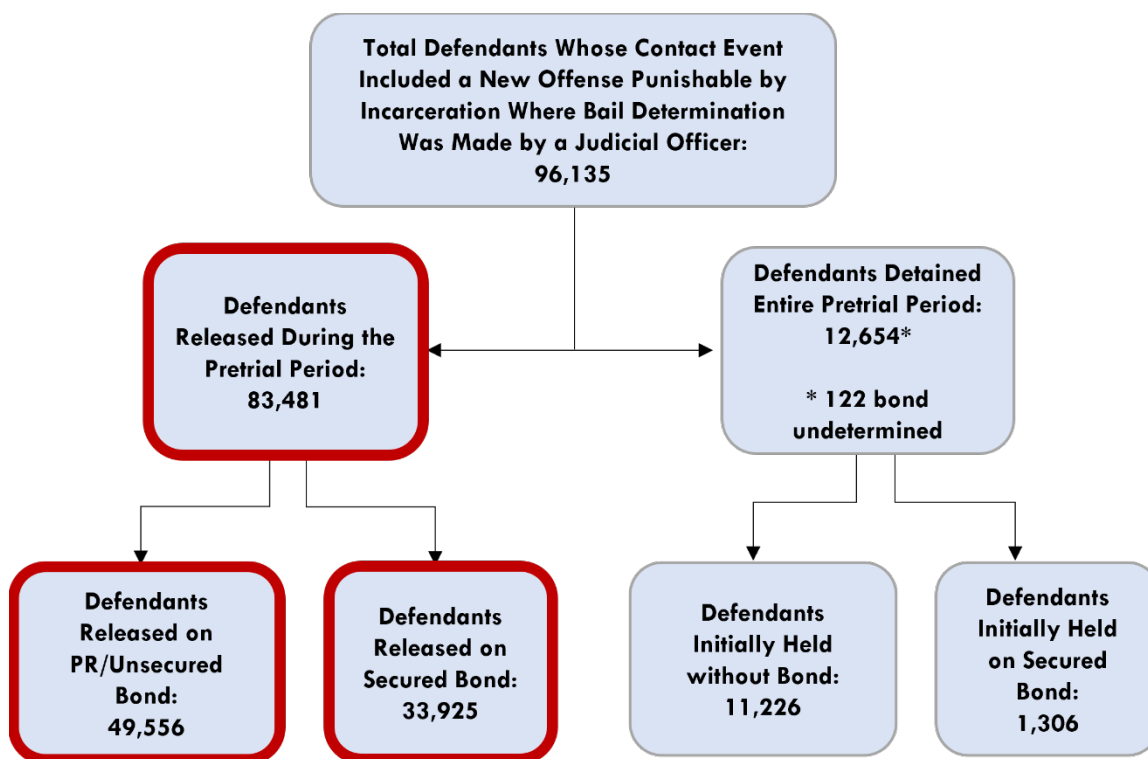
Failure to appear (FTA); New Criminal Arrest (NCA); New Violent Criminal Arrest (NVCA).

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding.  
 See Appendix A for definitions of each variable used in this report.

<sup>33</sup> One defendant is excluded due to missing bond amount.

## Statewide Court Appearance Outcomes

Two primary measures of pretrial outcomes were calculated for the Pretrial Data Project. The first outcome measure captures whether or not the defendant appeared at all court proceedings for the charges associated with the contact event. For this measure, the Sentencing Commission examined the data to determine if the defendant was charged with failure to appear, or contempt of court for failing to appear, during the pretrial period.<sup>34</sup> The 96,135 defendants in the cohort were tracked during the pretrial period from the date of their CY2018 contact event until the final disposition of their contact event, or March 31, 2020, whichever came first. The statewide descriptive analysis in this section focuses only on the court appearance outcomes for the 83,481 defendants in the cohort who were ultimately released during the pretrial period.



<sup>34</sup> Charges of failure to appear include violations of §§ 19.2-128, 18.2-456, 16.1-69.24, 29.1-210, 46.2-936, 46.2-938, or 19.2-152.4:1. Charges under §§ 16.1-69.24 and 46.2-938, as well as general contempt of court charges under § 18.2-456, were only included if the charge description indicated that offense charge was based on a failure to appear.

## COURT APPEARANCE OUTCOMES FOR RELEASED DEFENDANTS

Table 37 delineates the overall court appearance outcomes for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. The vast majority of these defendants were not charged with failure to appear (or contempt of court for failure to appear).<sup>35</sup>

**Table 37: Statewide Court Appearance Outcomes for Released Defendants**

Charged with Failure to Appear	Number of Defendants	Percentage
Yes	10,365	12.4%
No	73,116	87.6%
<b>Total Defendants</b>	<b>83,481</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 See Appendix A for definitions of each variable used in this report.

Data from the Project also captured the court appearance outcomes for each of the 12,654 of 96,135 defendants who were detained the entire pretrial period. The data revealed that 4.5% (575 of 12,654) of these defendants were charged with failure to appear during the pretrial period. Although the data does not account for why these defendants were charged with failure to appear, reasons could include transportation order issues, medical or health issues, refusals, etc.

<sup>35</sup> Charges of failure to appear include violations of §§ 19.2-128, 18.2-456, 16.1-69.24, 29.1-210, 46.2-936, 46.2-938, or 19.2-152.4:1. Charges under §§ 16.1-69.24 and 46.2-938, as well as general contempt of court charges under § 18.2-456, were only included if the charge description indicated that offense charge was based on a failure to appear. It was not clear if all failure to appear charges for defendants in the cohort were directly related to charges in the 2018 contact event. A methodology could not be developed to determine if all failure to appear charges for defendants in the cohort were directly related to charges in the 2018 contact event. However, staff was able to determine that approximately 84.4% of defendants charged with failure to appear during the pre-trial period did not have a pending criminal charge at the time of the 2018 contact event. Approximately 15.6% of the defendants charged with failure to appear during the pre-trial period did have a pending charge at the time of their 2018 contact event; but, it was unclear if the new failure to appear charge was related to a pending criminal charge or to the 2018 first contact event. Similar to the previous study directed by the Crime Commission, it is expected that at most 6% of failure to appear charges during the pretrial period may have been related to a civil matter (i.e., failure to pay child support). Finally, if the defendant was arrested for a new offense and subsequently charged with failure to appear during the pretrial period, the methodology was not able to clearly determine whether the failure to appear charge was related to the CY2018 contact event or to the new offense.

## DEFENDANT DEMOGRAPHICS

Table 38 illustrates the court appearance outcomes and the demographics for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, most defendants were not charged with failure to appear during the pretrial period regardless of demographic group.

The proportions of defendants charged with failure to appear during the pretrial period were similar across most demographic groups; however, a higher proportion of indigent defendants were charged with failure to appear as compared to defendants who were not classified as indigent. While findings from the Project do not reflect the reasons why a higher proportion of indigent defendants were charged with failure to appear, existing literature points to a variety of challenges indigent defendants face when required to appear for court, such as transportation issues, employment, childcare, etc.<sup>36</sup> Nevertheless, descriptive analysis such as this does not account for the influence other factors may have on appearance rates; therefore, drawing inferences from this table is discouraged.

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<sup>36</sup> See, e.g., Bornstein, B.H., Tomkins, A.J., & Neeley, E.M. (2011). *Reducing courts' failure to appear rate: A procedural justice approach*. Washington DC: U.S. Department of Justice. Available at <https://www.ojp.gov/pdffiles1/nij/grants/234370.pdf>; Lowenkamp, C.T., Holsinger, A.M., & Dierks, T. (2018). Assessing the effects of court date notifications within pretrial case processing. *American Journal of Criminal Justice*, 43, 167-180; National Center for State Courts' Pretrial Justice Center for Courts. (2017). *Use of court date reminder notices to improve court appearance rates*. National Center for State Courts' Pretrial Justice Center for Courts. Retrieved from [https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0015/1635/pjcc-brief-10-sept-2017-court-date-notification-systems.ashx.pdf](https://www.ncsc.org/__data/assets/pdf_file/0015/1635/pjcc-brief-10-sept-2017-court-date-notification-systems.ashx.pdf)

**Table 38: Court Appearance Outcomes and Released Defendant Demographics**

	<i>Charged with Failure to Appear</i>		<b>Number of Defendants</b>
	<b>Yes</b>	<b>No</b>	
<b>Sex</b>			
Male	7,418 (12.7%)	50,818 (87.3%)	58,236
Female	2,917 (11.7%)	22,042 (88.3%)	24,959
Unknown	30 (10.5%)	256 (89.5%)	286
<b>Race</b>			
White	5,832 (12.1%)	42,351 (87.9%)	48,183
Black	4,192 (13.2%)	27,552 (86.8%)	31,744
Asian/Pacific Islander	69 (6.7%)	963 (93.3%)	1,032
Amer. Indian/Alaskan Native	9 (25.7%)	26 (74.3%)	35
Unknown	263 (10.6%)	2,224 (89.4%)	2,487
<b>Age Group at Contact Event</b>			
18-25 years old	2,831 (13.1%)	18,722 (86.9%)	21,553
26-35 years old	3,759 (13.7%)	23,664 (86.3%)	27,423
36-45 years old	2,055 (12.4%)	14,527 (87.6%)	16,582
46-55 years old	1,142 (10.4%)	9,819 (89.6%)	10,961
56-65 years old	484 (8.8%)	5,038 (91.2%)	5,522
>65 years old	92 (6.5%)	1,330 (93.5%)	1,422
Unknown	2 (11.1%)	16 (88.9%)	18
<b>Indigency Status</b>			
Indigent	7,568 (16.3%)	38,739 (83.7%)	46,307
Not Indigent	2,421 (7.0%)	31,981 (93.0%)	34,402
Unknown	376 (13.6%)	2,396 (86.4%)	2,772
<b>Residency Status</b>			
Virginia Resident	8,749 (11.9%)	64,477 (88.1%)	73,226
Out-of-State Resident	1,019 (14.9%)	5,821 (85.1%)	6,840
Unknown	597 (17.5%)	2,818 (82.5%)	3,415
<b>Defendant Pretrial Services Agency Supervision Status</b>			
Received Supervision	1,486 (11.4%)	11,514 (88.6%)	13,000
Did Not Receive Supervision	8,879 (12.6%)	61,602 (87.4%)	70,481
<b>Total</b>	<b>10,365 (12.4%)</b>	<b>73,116 (87.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Table 39 presents the court appearance outcomes and the Public Safety Assessment (PSA) scores for Failure to Appear (FTA) assigned to the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, most defendants were not charged with failure to appear during the pretrial period regardless of assigned PSA Failure to Appear score. However, the proportion of defendants charged with failing to appear increased as the assigned PSA score for Failure to Appear increased.

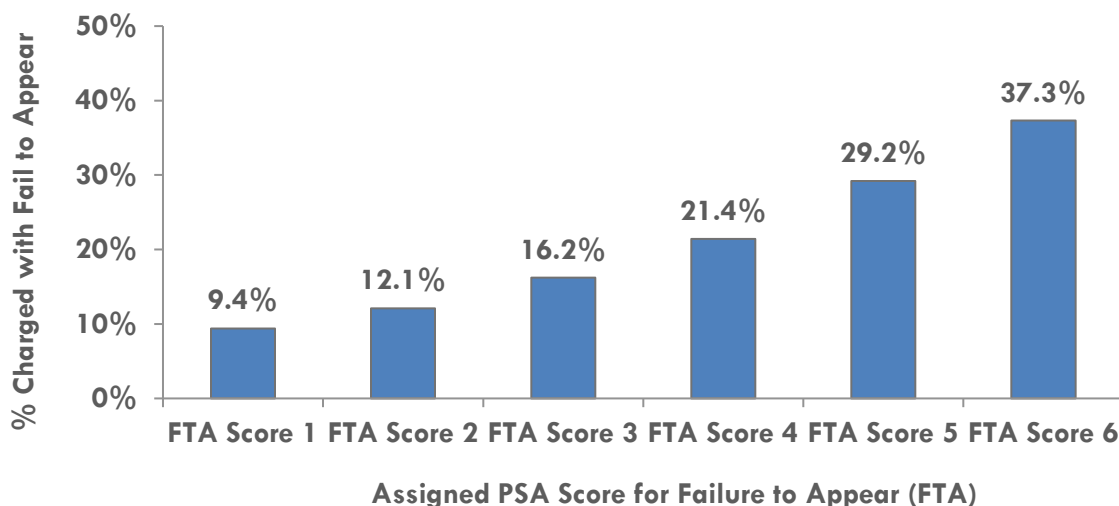
**Table 39: Court Appearance Outcomes and Assigned Public Safety Assessment (PSA) Score for Failure to Appear (FTA) for Released Defendants**

	Charged with Failure to Appear		Number of Defendants
	Yes	No	
FTA Score 1 (Lowest)	3,667 (9.4%)	35,355 (90.6%)	39,022
FTA Score 2	3,148 (12.1%)	22,898 (87.9%)	26,046
FTA Score 3	1,700 (16.2%)	8,813 (83.8%)	10,513
FTA Score 4	1,318 (21.4%)	4,831 (78.6%)	6,149
FTA Score 5	437 (29.2%)	1,059 (70.8%)	1,496
FTA Score 6 (Highest)	95 (37.3%)	160 (62.7%)	255
<b>Total</b>	<b>10,365 (12.4%)</b>	<b>73,116 (87.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

Chart 6 illustrates the percentage of defendants *within* each assigned PSA score for Failure to Appear who were charged with failing to appear during the pretrial period (as seen in Table 39).

**Chart 6: Percentage of Released Defendants Charged with Failure to Appear during Pretrial Period by Assigned PSA Score for Failure to Appear**



## NUMBER OF DAYS BETWEEN PRETRIAL RELEASE AND FAILURE TO APPEAR

Table 40 depicts the number of days between pretrial release date and the date on which the defendant was alleged to have failed to appear in court for the 10,365 released defendants who were charged with failure to appear during the pretrial period (see Table 37). As seen in this table, nearly one-third (3,369 of 10,365) of these defendants were charged with failure to appear within 30 days of their pretrial release.

**Table 40: Number of Days Between Pretrial Release and Failure to Appear Charge for Released Defendants**

	Number of Defendants	Percentage
0 to 15 days	2,161	20.8%
16 to 30 days	1,208	11.7%
31 to 60 days	1,898	18.3%
61 to 90 days	1,187	11.5%
91 to 120 days	929	9.0%
121 to 150 days	632	6.1%
151 to 180 days	465	4.5%
Over 180 days	1,750	16.9%
Undetermined	135	1.3%
<b>Total</b>	<b>10,365</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Some percentages may not total 100% due to rounding.

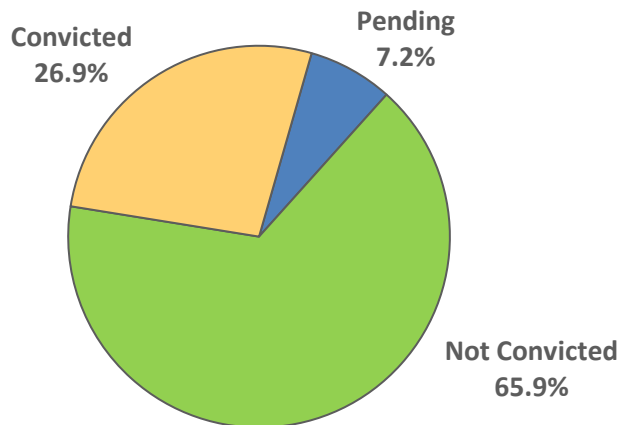
See Appendix A for definitions of each variable used in this report.

In addition to the information in Table 40, data from the Project captured the number of days between the date on which the defendant allegedly failed to appear and the date on which the defendant was arrested for this alleged failure to appear. Data revealed that 31.2% (3,240 of 10,365) of defendants were arrested on the same day as the alleged failure to appear occurred. Data further revealed that 77.9% (8,073 of 10,365) of defendants were arrested within 30 days of the date of the alleged failure to appear.

## DISPOSITION OF FTA CHARGE FOR DEFENDANTS CHARGED WITH FTA DURING PRETRIAL PERIOD

Data indicate that most defendants who were charged with failure to appear during the pretrial period were not ultimately convicted of that charge. As seen in Chart 7, the dispositions of the failure to appear charges for the 10,365 defendants in the cohort who were charged with failure to appear during the pretrial period were as follows: 26.9% (2,788 of 10,365) were convicted, 65.9% (6,830 of 10,365) were not convicted, and 7.2% (746 of 10,365) were pending as of March 31, 2020.

**Chart 7: Final Disposition of Failure to Appear (FTA) Charge for 10,365 Defendants Charged with FTA during Pretrial Period**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

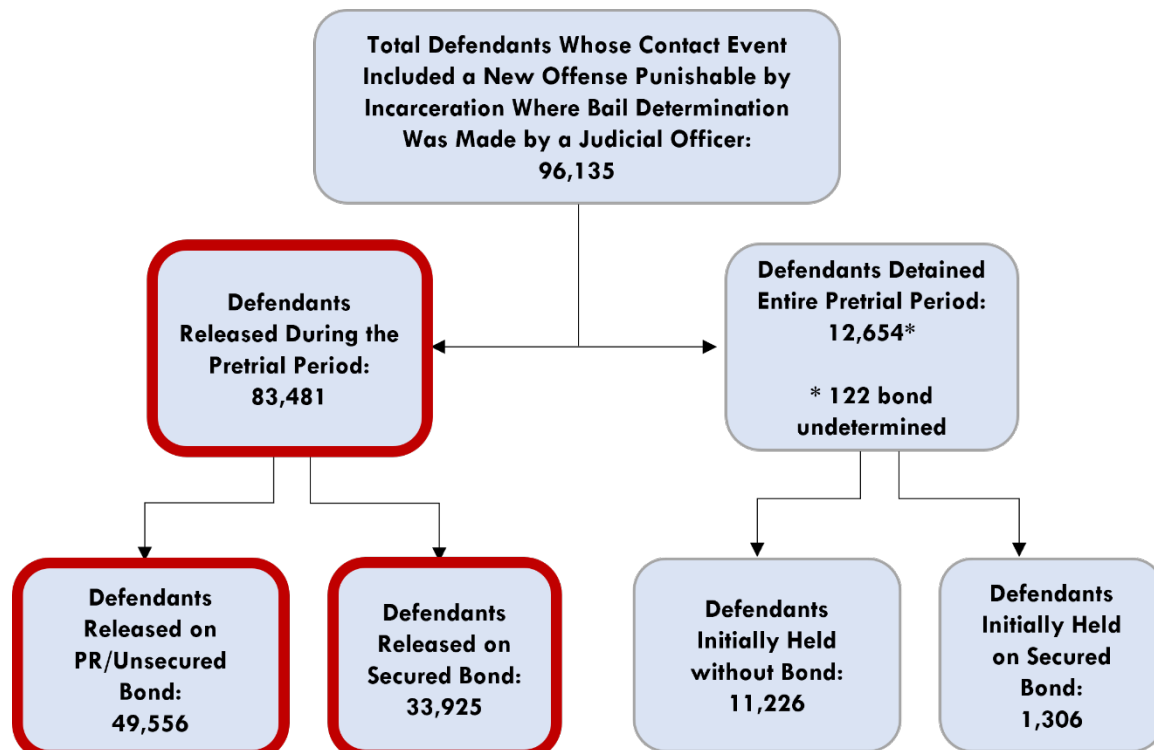


## Statewide New Arrest Outcomes

The second outcome measure for the Project captures whether or not the defendant had a new in-state arrest for an offense punishable by incarceration during the pretrial period. The Sentencing Commission took steps to ensure, to the extent possible, that the new arrests were associated with alleged offenses committed during the pretrial period (i.e., the arrest was not associated with an offense committed prior to the current pretrial period). The 96,135 defendants in the cohort were tracked during the pretrial period from the date of their CY2018 contact event until the final disposition of their contact event, or March 31, 2020, whichever came first, to capture any arrests for a new in-state offense punishable by incarceration.

As noted previously, Project data is limited to Virginia (in-state) criminal history records due to FBI restrictions on the dissemination of federal and out of state records for non-criminal justice (non-investigative) purposes (see *Overview of Methodology* section of this report for additional information). Thus, federal out-of-state criminal history records could not be obtained for the Project and are not captured in the tables in this report.

The statewide descriptive analysis in this section focuses only on the new arrest outcomes for the 83,481 defendants in the cohort who were ultimately released during the pretrial period.



## NEW ARREST OUTCOMES FOR RELEASED DEFENDANTS

Table 41 delineates the overall new arrest outcomes for the 83,481 defendants in the cohort who were ultimately released during the pretrial period.<sup>37</sup> As indicated below, the large majority of these defendants were not arrested for a new in-state offense punishable by incarceration during the pretrial period. Fewer than one in four (22.4%) of released defendants had such an arrest. The majority of the new arrests were for misdemeanor offenses; only 8.2% of released defendants were charged with a new felony, with 2.2% being charged with a new violent felony offense, as defined in § 17.1-805.

**Table 41: Statewide New Arrest Outcomes for Released Defendants<sup>38</sup>**

	Number of Defendants	Percentage
<i>Arrested for Any New In-State Offense Punishable by Incarceration</i>		
Yes	18,682	22.4%
No	64,799	77.6%
<i>Arrested for New In-State Misdemeanor Offense</i>		
Yes	16,677	20.0%
No	66,804	80.0%
<i>Arrested for New In-State Felony Offense</i>		
Yes	6,825	8.2%
No	76,656	91.8%
<i>Arrested for New In-State Violent Felony Offense (§ 17.1-805)</i>		
Yes	1,812	2.2%
No	81,669	97.8%
<b>Total Released Defendants</b>	<b>83,481</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

<sup>37</sup> New arrests were based on arrest for offenses alleged to have been committed during the pretrial period.

<sup>38</sup> The percentages of defendants arrested for new in-state offenses cannot be added for purposes of determining the overall public safety outcome because these defendants may have been arrested for both felony and misdemeanor offenses during the pre-trial period. The overall percentage of defendants arrested for a “new in-state offense punishable by incarceration” is smaller than the sum of percentages for defendants arrested for a “new in-state felony offense” and a “new in-state misdemeanor offense.” The larger percentages account for defendants who were arrested for both a felony and misdemeanor offense during the pre-trial period; whereas, the percentage of defendants arrested for a “new in-state offense punishable by incarceration” accounts for defendants who were arrested for *at least one* new in-state offense punishable by incarceration during the pre-trial period. Furthermore, the percentage of defendants arrested for a “new in-state violent felony offense (§ 17.1-805)” is a subset of the overall percentage of defendants arrested for a “new in-state felony offense.”

Note: Data from the Project also captured the new arrest outcomes for each of the 12,654 of 96,135 defendants who were detained the entire pretrial period. The data revealed that 6.3% (801 of 12,654) of these defendants had new in-state offense charge punishable by incarceration during the pretrial period.

## DEFENDANT DEMOGRAPHICS

Table 42 documents the new arrest outcomes and the demographics for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, most defendants were not arrested for a new in-state offense punishable by incarceration during the pretrial period regardless of demographic group; however, younger defendants were arrested for new offenses at significantly higher rates than older defendants. Similar to court appearance outcomes, a higher proportion of indigent defendants were arrested for a new in-state offense punishable by incarceration as compared to defendants who were not classified as indigent.

Due to the inability to obtain out-of-state criminal history records for the Project dataset, caution is urged in interpreting the much lower proportion of out-of-state residents arrested for a new in-state offense punishable by incarceration.

**Table 42: New Arrest Outcomes and Released Defendant Demographics**

	<i>Arrested for Any New In-State Offense Punishable by Incarceration</i>		<b>Number of Defendants</b>
	<b>Yes</b>	<b>No</b>	
<b>Sex</b>			
Male	13,536 (23.2%)	44,700 (76.8%)	58,236
Female	5,096 (20.4%)	19,863 (79.6%)	24,959
Unknown	50 (17.5%)	236 (82.5%)	286
<b>Race</b>			
White	10,568 (21.9%)	37,615 (78.1%)	48,183
Black	7,594 (23.9%)	24,150 (76.1%)	31,744
Asian/Pacific Islander	103 (10.0%)	929 (90.0%)	1,032
Amer. Indian/Alaskan Native	6 (17.1%)	29 (82.9%)	35
Unknown	411 (16.5%)	2,076 (83.5%)	2,487
<b>Age Group at Contact Event</b>			
18-25 years old	5,539 (25.7%)	16,014 (74.3%)	21,553
26-35 years old	6,701 (24.4%)	20,722 (75.6%)	27,423
36-45 years old	3,534 (21.3%)	13,048 (78.7%)	16,582
46-55 years old	2,006 (18.3%)	8,955 (81.7%)	10,961
56-65 years old	777 (14.1%)	4,745 (85.9%)	5,522
>65 years old	123 (8.6%)	1,299 (91.4%)	1,422
Unknown	2 (11.1%)	16 (88.9%)	18
<b>Indigency Status</b>			
Indigent	13,265 (28.6%)	33,042 (71.4%)	46,307
Not Indigent	4,868 (14.2%)	29,534 (85.8%)	34,402
Unknown	549 (19.8%)	2,223 (80.2%)	2,772
<b>Residency Status</b>			
Virginia Resident	17,099 (23.4%)	56,127 (76.6%)	73,226
Out-of-State Resident	749 (11.0%)	6,091 (89.0%)	6,840
Unknown	834 (24.4%)	2,581 (75.6%)	3,415
<b>Pretrial Services Agency Supervision Status</b>			
Received Supervision	3,444 (26.5%)	9,556 (73.5%)	13,000
Did Not Receive Supervision	15,238 (21.6%)	55,243 (78.4%)	70,481
<b>Total</b>	<b>18,682 (22.4%)</b>	<b>64,799 (77.6%)</b>	<b>83,481</b>

Note: Due to the inability to include out-of-state criminal history records in the Project dataset, caution is urged in interpreting the much lower proportion of out-of-state residents arrested for a new in-state offense punishable by incarceration.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Table 43 delineates the new arrest outcomes and the Public Safety Assessment (PSA) scores for New Criminal Arrest (NCA) assigned to the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, most defendants were not arrested for a new in-state offense punishable by incarceration during the pretrial period regardless of assigned PSA score for New Criminal Arrest. However, the proportion of defendants arrested for a new in-state offense increased as the assigned PSA scores for New Criminal Arrest increased.

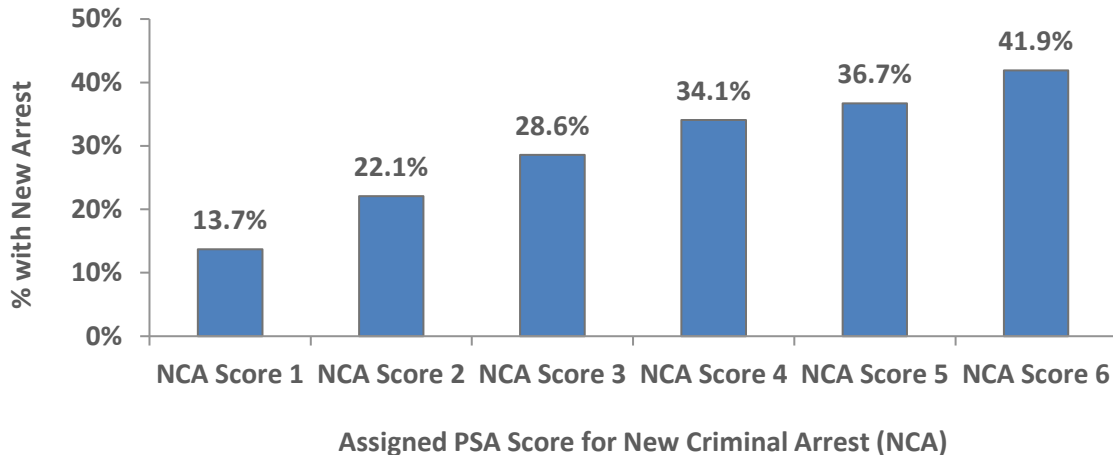
**Table 43: New Arrest Outcomes and Assigned Public Safety Assessment (PSA) Score for New Criminal Arrest (NCA) for Released Defendants**

	Arrested for Any New In-State Offense Punishable by Incarceration		Number of Defendants
	Yes	No	
NCA Score 1 (Lowest)	4,097 (13.7%)	25,869 (86.3%)	29,966
NCA Score 2	5,874 (22.1%)	20,757 (77.9%)	26,631
NCA Score 3	3,637 (28.6%)	9,062 (71.4%)	12,699
NCA Score 4	2,883 (34.1%)	5,570 (65.9%)	8,453
NCA Score 5	1,476 (36.7%)	2,551 (63.3%)	4,027
NCA Score 6 (Highest)	715 (41.9%)	990 (58.1%)	1,705
<b>Total</b>	<b>18,682 (22.4%)</b>	<b>64,799 (77.6%)</b>	<b>83,481</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 See Appendix A for definitions of each variable used in this report.

Chart 8 illustrates the percentage of defendants *within* each assigned PSA score for New Criminal Arrest who were arrested for a new in-state offense punishable by incarceration during the pretrial period (as seen in Table 43).

**Chart 8: Percentage of Released Defendants Arrested for a New In-State Offense Punishable by Incarceration by Assigned PSA Score for New Criminal Arrest**



## NUMBER OF DAYS BETWEEN PRETRIAL RELEASE & NEW IN-STATE OFFENSE

Table 44 indicates the number of days between pretrial release date and the date of the new offense for the 18,682 released defendants who were arrested for a new in-state offense punishable by incarceration during the pretrial period. As seen here, 31.0% (5,795 of 18,682) of these defendants were arrested for a new in-state offense punishable by incarceration that was alleged to have occurred within 30 days of their pretrial release.

**Table 44: Number of Days Between Pretrial Release and New In-State Offense Punishable by Incarceration for Released Defendants**

	Number of Defendants	Percentage
0 to 15 days	3,482	18.6%
16 to 30 days	2,313	12.4%
31 to 60 days	3,349	17.9%
61 to 90 days	2,269	12.1%
91 to 120 days	1,757	9.4%
121 to 150 days	1,133	6.1%
151 to 180 days	846	4.5%
Over 180 days	3,208	17.2%
Undetermined	325	1.7%
<b>Total</b>	<b>18,682</b>	<b>100%</b>

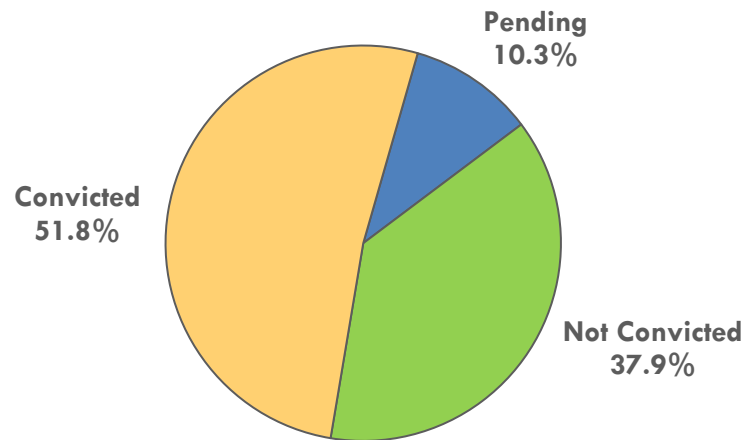
Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

In addition to the information in Table 44, data from the Project captured the number of days between the date on which the defendant was alleged to have committed the new in-state offense punishable by incarceration and the date on which the defendant was arrested for this new offense. Data revealed that 36.6% (6,845 of 18,682) of defendants were arrested on the same day as the new offense occurred. Data further revealed that 80.0% (14,950 of 18,682) of defendants were arrested within 30 days of the date of the new offense.

## DISPOSITION OF NEW OFFENSE FOR DEFENDANTS ARRESTED FOR NEW IN-STATE OFFENSE DURING PRETRIAL PERIOD

Data was collected to determine whether defendants who were arrested for a new in-state offense punishable by incarceration during the pretrial period were ultimately convicted of that new charge. As seen in Chart 9, the dispositions for the 18,682 defendants in the cohort who were arrested for a new in-state offense punishable by incarceration during the pretrial period were as follows: 51.8% (9,677 of 18,682) were convicted, 37.9% (7,080 of 18,682) were not convicted, and 10.3% (1,924 of 18,682) were pending as of March 31, 2020.

**Chart 9: Final Disposition of New Offense for 18,682 Defendants Arrested for a New In-State Offense Punishable by Incarceration during Pretrial Period**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## NEW ARREST OUTCOMES FOR RELEASED DEFENDANTS – NEW FELONY ARRESTS ONLY

Table 45 notes the new arrest outcomes of the 83,481 defendants in the cohort who were ultimately released during the pretrial period and whether they were arrested for a new in-state felony offense during the pretrial period. Only 8.2% of released defendants were charged with a new felony and only 2.2% were charged with a new violent felony offense, as defined in § 17.1-805.

**Table 45: New Arrest Outcomes for Released Defendants  
(New In-State Felony Arrests)**

Arrested for New In-State Felony Offense	Number of Defendants	Percentage
Yes	6,825	8.2%
No	76,656	91.8%
<b>Total</b>	<b>83,481</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## DEFENDANT DEMOGRAPHICS

Table 46 provides further detail for new in-state *felony* arrests and the demographics for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, the overwhelming majority of these defendants were not arrested for a new in-state felony offense during the pretrial period regardless of demographic group. Similar to court appearance and overall new arrest outcomes, a higher proportion of indigent defendants were arrested for a new in-state felony offense as compared to defendants who were not indigent.



**Table 46: New Arrest Outcomes (New In-State Felony Arrests) and Released Defendant Demographics**

	<i>Arrested for New In-State Felony Offense</i>		<b>Number of Defendants</b>
	<b>Yes</b>	<b>No</b>	
<b>Sex</b>			
Male	5,042 (8.7%)	53,194 (91.3%)	58,236
Female	1,766 (7.1%)	23,193 (92.9%)	24,959
Unknown	17 (5.9%)	269 (94.1%)	286
<b>Race</b>			
White	3,934 (8.2%)	44,249 (91.8%)	48,183
Black	2,735 (8.6%)	29,009 (91.4%)	31,744
Asian/Pacific Islander	28 (2.7%)	1,004 (97.3%)	1,032
Amer. Indian/Alaskan Native	3 (8.6%)	32 (91.4%)	35
Unknown	125 (5.0%)	2,362 (95.0%)	2,487
<b>Age Group at Contact Event</b>			
18-25 years old	1,975 (9.2%)	19,578 (90.8%)	21,553
26-35 years old	2,486 (9.1%)	24,937 (90.9%)	27,423
36-45 years old	1,359 (8.2%)	15,223 (91.8%)	16,582
46-55 years old	725 (6.6%)	10,236 (93.4%)	10,961
56-65 years old	246 (4.5%)	5,276 (95.5%)	5,522
>65 years old	33 (2.3%)	1,389 (97.7%)	1,422
Unknown	1 (5.6%)	17 (94.4%)	18
<b>Indigency Status</b>			
Indigent	5,280 (11.4%)	41,027 (88.6%)	46,307
Not Indigent	1,439 (4.2%)	32,963 (95.8%)	34,402
Unknown	106 (3.8%)	2,666 (96.2%)	2,772
<b>Residency Status</b>			
Virginia Resident	6,292 (8.6%)	66,934 (91.4%)	73,226
Out-of-State Resident	249 (3.6%)	6,591 (96.4%)	6,840
Unknown	284 (8.3%)	3,131 (91.7%)	3,415
<b>Defendant Pretrial Services Agency Supervision Status</b>			
Received Supervision	1,489 (11.5%)	11,511 (88.5%)	13,000
Did Not Receive Supervision	5,336 (7.6%)	65,145 (92.4%)	70,481
<b>Total</b>	<b>6,825 (8.2%)</b>	<b>76,656 (91.8%)</b>	<b>83,481</b>

Note: Due to the inability to include out-of-state criminal history records in the Project dataset, caution is urged in interpreting the much lower proportion of out-of-state residents arrested for a new in-state offense punishable by incarceration.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

## OFFENSE CATEGORIES OF NEW IN-STATE FELONY ARRESTS

Table 47 displays the offense categories for each of the 6,825 defendants in the cohort who were ultimately released during the pretrial period and arrested for a new in-state felony.<sup>39</sup> As seen in this table, 56.3% (3,847 of 6,825) of the new in-state felony arrests were related to drug and larceny offense categories.

**Table 47: New In-State Felony Arrests by Offense Category for Released Defendants**

Felony Offense Category	Number of Defendants	Percentage
Drug	2,418	35.4%
Larceny	1,429	20.9%
Assault	618	9.1%
Weapon/Firearm	400	5.9%
Fraud	397	5.8%
Burglary	159	2.3%
Traffic - All Others <sup>40</sup>	155	2.3%
Traffic - Driving While Intoxicated	134	2.0%
Traffic - Hit and Run	118	1.7%
Vandalism, Damage Property	116	1.7%
Robbery	109	1.6%
Kidnapping	97	1.4%
Family Offense	90	1.3%
Traffic - Operator's License	89	1.3%
Prisoner Offenses	77	1.1%
Protective Orders	66	1.0%
Arson, Explosives, Bombs	54	0.8%
Sexual Assault/Obscenity	38	0.6%
Sex Offender & Crimes Against Minors Registry	35	0.5%
Rape	34	0.5%
All Others	192	2.8%
<b>Total</b>	<b>6,825</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Percentages may not total 100% due to rounding.

See Appendix A for definitions of each variable used in this report.

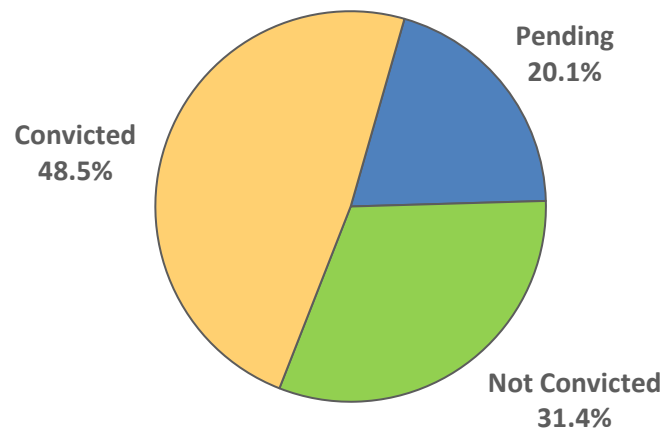
<sup>39</sup> Offense categories are mainly based on VCC prefix of new arrest. See Virginia Criminal Sentencing Commission. 2022 VCC *Virginia Crime Codes*. Retrieved from: <http://www.vcsc.virginia.gov/worksheets2021/2022VCCBookfinal.pdf>.

<sup>40</sup> Traffic – All Others refer to those traffic offenses excluding hit and run, reckless driving, DWI, and operator's license

## DISPOSITION OF NEW FELONY OFFENSE FOR DEFENDANTS ARRESTED FOR IN-STATE FELONY OFFENSES DURING PRETRIAL PERIOD

Data was collected to determine whether defendants with a new in-state felony during the pretrial period were ultimately convicted of that new charge. As seen in Chart 10, the dispositions of the new arrests for the 6,825 defendants in the cohort who were arrested for a new in-state felony during the pretrial period were as follows: 48.5% (3,310 of 6,825) were convicted, 31.4% (2,143 of 6,825) were not convicted, and 20.1% (1,372 of 6,825) were pending as of March 31, 2020.

**Chart 10: Final Disposition of New Felony Offense for 6,825 Defendants Arrested for a New In- State Felony during Pretrial Period**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## NEW ARREST OUTCOMES FOR RELEASED DEFENDANTS – NEW IN-STATE MISDEMEANOR ARRESTS ONLY

Table 48 examines the new arrest outcomes of the 83,481 defendants in the cohort who were ultimately released during the pretrial period and whether they were arrested for a new in-state misdemeanor offense punishable by incarceration during the pretrial period. Data reveal that only one in five of the released defendants had such an arrest.

**Table 48: New Arrest Outcomes for Released Defendants –  
(New In-State Misdemeanor Arrests)**

Arrested for New In-State Misdemeanor Offense Punishable by Incarceration	Number of Defendants	Percentage
Yes	16,677	20.0%
No	66,804	80.0%
<b>Total</b>	<b>83,481</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## DEFENDANT DEMOGRAPHICS

Table 49 illustrates the new arrest outcomes in relation to new in-state *misdemeanor* arrests and the demographics for the 83,481 defendants in the cohort who were ultimately released during the pretrial period. Overall, most defendants were not arrested for a new in-state misdemeanor punishable by incarceration during the pretrial period regardless of demographic group. Younger defendants were arrested for new misdemeanors at significantly higher rates than older defendants. Consistent with other findings, a higher proportion of indigent defendants were arrested for a new in-state misdemeanor offense as compared to defendants who were not indigent.

**Table 49: New Arrest Outcomes (New Misdemeanor Arrests) and Released Defendant Demographics**

	<i>Arrested for New In-State Misdemeanor Punishable by Incarceration</i>		<b>Number of Defendants</b>
	<b>Yes</b>	<b>No</b>	
<b>Sex</b>			
Male	12,100 (20.8%)	46,136 (79.2%)	58,236
Female	4,533 (18.2%)	20,426 (81.8%)	24,959
Unknown	44 (15.4%)	242 (84.6%)	286
<b>Race</b>			
White	9,447 (19.6%)	38,736 (80.4%)	48,183
Black	6,759 (21.3%)	24,985 (78.7%)	31,744
Asian/Pacific Islander	89 (8.6%)	943 (91.4%)	1,032
Amer. Indian/Alaskan Native	5 (14.3%)	30 (85.7%)	35
Unknown	377 (15.2%)	2,110 (84.8%)	2,487
<b>Age Group at Contact Event</b>			
18-25 years old	5,034 (23.4%)	16,519 (76.6%)	21,553
26-35 years old	5,990 (21.8%)	21,433 (78.2%)	27,423
36-45 years old	3,121 (18.8%)	13,461 (81.2%)	16,582
46-55 years old	1,739 (15.9%)	9,222 (84.1%)	10,961
56-65 years old	684 (12.4%)	4,838 (87.6%)	5,522
>65 years old	107 (7.5%)	1,315 (92.5%)	1,422
Unknown	2 (11.1%)	16 (88.9%)	18
<b>Indigency Status</b>			
Indigent	11,741 (25.4%)	34,566 (74.6%)	46,307
Not Indigent	4,412 (12.8%)	29,990 (87.2%)	34,402
Unknown	524 (18.9%)	2,248 (81.1%)	2,772
<b>Residency Status</b>			
Virginia Resident	15,282 (20.9%)	57,944 (79.1%)	73,226
Out-of-State Resident	646 (9.4%)	6,194 (90.6%)	6,840
Unknown	749 (21.9%)	2,666 (78.1%)	3,415
<b>Defendant Pretrial Services Agency Supervision Status</b>			
Received Supervision	2,986 (23.0%)	10,014 (77.0%)	13,000
Did Not Receive Supervision	13,691 (19.4%)	56,790 (80.6%)	70,481
<b>Total</b>	<b>16,677 (20.0%)</b>	<b>66,804 (80.0%)</b>	<b>83,481</b>

Note: Due to the inability to include out-of-state criminal history records in the Project dataset, caution is urged in interpreting the much lower proportion of out-of-state residents arrested for a new in-state offense punishable by incarceration.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## OFFENSE CATEGORIES OF NEW IN-STATE MISDEMEANOR ARRESTS

Table 50 documents the offense categories for the 16,677 defendants in the cohort who were ultimately released during the pretrial period and arrested for a new in-state misdemeanor punishable by incarceration.<sup>41</sup> As seen in this table, 49.0% (8,178 of 16,677) of the new in-state misdemeanor arrests were related to contempt of court, driver's license violations, or assault offense categories.

**Table 50: New In-State Misdemeanor Arrests by Offense Category for Released Defendants**

Misdemeanor Offense Category	Number of Defendants	Percentage
Contempt of Court <sup>42</sup>	3,243	19.4%
Traffic - Operator's License	2,927	17.6%
Assault	2,008	12.0%
Drug	1,500	9.0%
Traffic - Reckless/Aggressive Driving	1,206	7.2%
Traffic - Driving While Intoxicated	1,001	6.0%
Protective Orders	898	5.4%
Larceny	762	4.6%
Trespass	562	3.4%
Obstruction Of Justice	469	2.8%
Traffic - All Others	394	2.4%
Vandalism, Damage Property	306	1.8%
Weapon/Firearm	285	1.7%
Fraud	251	1.5%
Pretrial Violations	137	0.8%
Alcohol	108	0.6%
Family Offense	97	0.6%
Disorderly Conduct	89	0.5%
Telephone	86	0.5%
Desertion And Nonsupport	56	0.3%
All Others	292	1.8%
<b>Total</b>	<b>16,677</b>	<b>100%</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

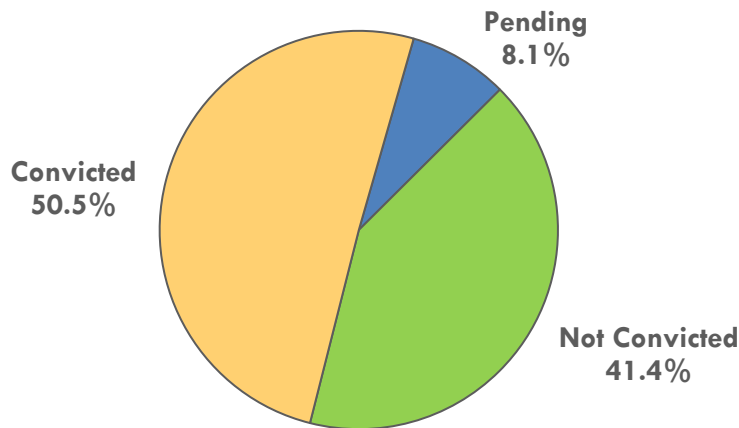
<sup>41</sup> Offense categories are mainly based on VCC prefix of new arrest. See Virginia Criminal Sentencing Commission. 2022 VCC *Virginia Crime Codes*. Retrieved from: <http://www.vcsc.virginia.gov/worksheets2021/2022VCCBookfinal.pdf>.

<sup>42</sup> Any new charge that was specifically for failure to appear or contained descriptive information indicating that it related to failure to appear was analyzed as part of the court appearance outcomes. However, there may have been new charges stemming from a failure to appear that were analyzed within the new arrest outcomes because it was not clear that the charge related to failure to appear. The VSCC identified this issue during its study on the pretrial process and ultimately endorsed legislation that was enacted in 2019 to clarify whether charges under § 18.2-456 related to failure to appear or to some other form of contempt. See 2019 Va. Acts. Ch. 708.

## DISPOSITION OF NEW MISDEMEANOR OFFENSE FOR DEFENDANTS ARRESTED FOR IN-STATE MISDEMEANOR DURING PRETRIAL PERIOD

Data was collected to determine whether defendants who were arrested for a new in-state misdemeanor punishable by incarceration during the pretrial period were ultimately convicted of that charge. The dispositions of the new arrests for the 16,677 in the cohort who were arrested for a new in-state misdemeanor punishable by incarceration during the pretrial period are shown in Chart 11 and were as follows: 50.5% (8,422 of 16,677) were convicted, 41.4% (6,904 of 16,677) were not convicted, and 8.1% (1,351 of 16,677) were pending as of March 31, 2020.

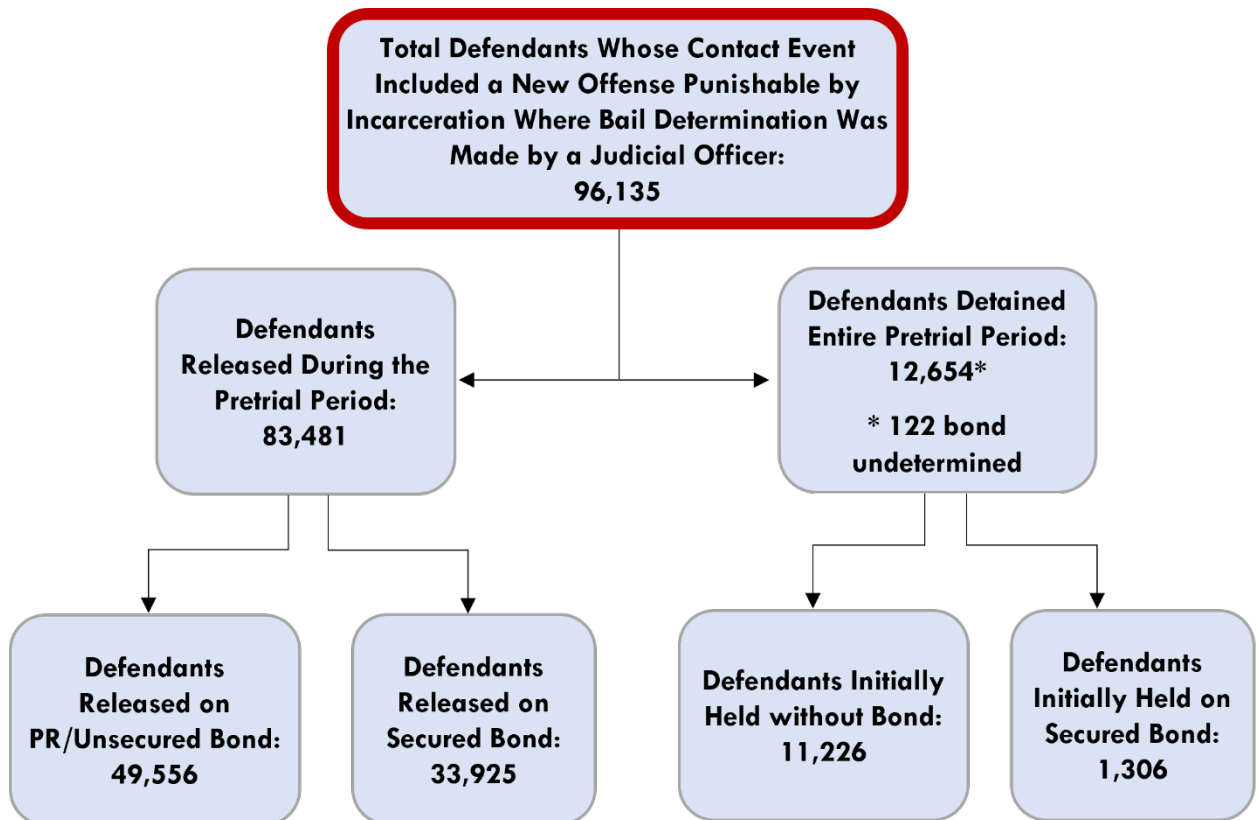
**Chart 11: Final Disposition of New Misdemeanor Offense for 16,677 Defendants Arrested for a New In-State Misdemeanor Punishable by Incarceration during Pretrial Period**



Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
Percentages may not total 100% due to rounding.  
See Appendix A for definitions of each variable used in this report.

## Final Disposition of CY2018 Contact Events

The statewide descriptive analysis in this section focuses on the final disposition of contact events for all 96,135 defendants in the CY2018 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.





As previously noted, the CY2018 contact events were tracked until final disposition or March 31, 2020, whichever came first. The final dispositions of the contact events were classified as follows:

- Convicted: the defendant was found guilty of at least one charge in the contact event;
- Dismissed, *nolle prosequi*, or found not guilty: the defendant was not convicted of any charges in the contact event;<sup>43</sup>
- Other<sup>44</sup>: the defendant had a final disposition other than what was classified as convicted, dismissed, *nolle prosequi*, not guilty, or pending; and,
- Pending: if any charge in the contact event had not reached a final disposition by March 31, 2020, the contact event was classified as pending.<sup>45</sup>

The final disposition of “dismissed” may include a contact event where a charge was dismissed prior to trial, during trial, or after trial following a deferred disposition. For example, if a defendant was charged with first offense possession of marijuana and that charge was deferred and dismissed pursuant to Virginia’s first offender drug statute (§ 18.2-251, as effective 2017), that contact event will be classified as “dismissed.”<sup>46</sup> The reason for this classification is because the Project was able to capture data on the final disposition of a charge; however, due to constraints within the Court Case Management Systems, the Project could not capture hearing level data for each charge. The hearing level data is necessary in order to distinguish between charges that are dismissed and charges that are deferred and dismissed. Because that distinction cannot be made based on the available data for the Project, both of these dispositions are classified under the final disposition of “dismissed.”

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<sup>43</sup> If multiple charges in the contact event were heard on the same day and resulted in varying final dispositions of dismissed, *nolle prosequi*, or not guilty, then the following hierarchy rule applies for classification of the final disposition of the contact event: not guilty, dismissed, *nolle prosequi*, other. If multiple charges in the contact event were heard on different days and resulted in varying final dispositions of dismissed, *nolle prosequi*, or not guilty, then the contact event was classified using the most recent final disposition. Codes of mistrial (M), RES (resolved), withdrawn (W), and complied with law (CL) were classified as “dismissed.” The code of not guilty by reason of insanity (NGRI) was classified as “not guilty.”

<sup>44</sup> Examples of ‘other’ codes included bond forfeited (BF), certified misdemeanor (CM), extradition ordered (EO), extradition waived (EW), certified to grand jury (GJ), granted (GR), adjudicated habitual offender (HO), or defendant cannot be found (NF).

<sup>45</sup> The “pending” classification includes contact events that had not reached a final disposition as of March 31, 2020, such as charges that had not been brought to trial and charges that were under a deferred disposition status. OES Court Case Management System codes of fugitive file (FF) and remanded (REM) were classified as “pending.”

<sup>46</sup> Legislation adopted by the 2021 General Assembly (Special Session I) legalized possession of up to one ounce of marijuana by persons who are 21 years of age or older and also permitted persons 21 years of age or older to cultivate up to four marijuana plants for personal use, effective July 1, 2021. In CY2018, possession of marijuana was still a misdemeanor.

## FINAL DISPOSITION OF CONTACT EVENTS FOR 96,135 DEFENDANTS

Table 51 indicates the final disposition of the CY2018 contact event for the 96,135 defendants in the cohort. As seen in this table, 91.1% (87,618 of 96,135) of contact events reached a final disposition on or before March 31, 2020. More than 60% (57,754 of 96,135) of defendants were convicted of at least one charge in their CY2018 contact event. For nearly one in five defendants, charges in the CY2018 contact event were ultimately nolle prosequi (i.e., prosecution did not go forward).

**Table 51: Final Disposition of Contact Events**

	Number of Defendants	Percentage
Convicted	57,754	60.1%
Dismissed	9,382	9.8%
Nolle Prosequi	18,021	18.7%
Not Guilty	2,436	2.5%
Other	25	0.0%
Pending as of March 31, 2020	8,517	8.9%
<b>Total</b>	<b>96,135</b>	<b>100%</b>

Note: The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## DEFENDANT DEMOGRAPHICS

Table 52 details the final disposition of the CY2018 contact event and the demographics for 96,110 of the 96,135 defendants in the cohort (25 defendants with disposition of ‘other’ were excluded due to space restrictions).<sup>47</sup> Conviction rates varied somewhat across sex, race, and indigency status, with males, Whites and non-indigent defendants convicted at slightly higher rates than defendants in other categories.

<sup>47</sup> The 25 defendants with disposition of ‘other’ are excluded.

**Table 52: Final Disposition of Contact Events and Defendant Demographics**

	<i>Final Disposition of Contact Events</i>				<b>Pending as of Mar 31, 2020</b>	<b>Number of Defendants</b>
	<b>Convicted</b>	<b>Dismissed</b>	<b>Nolle Prosequi</b>	<b>Not Guilty</b>		
<b>Sex</b>						
Male	42,817 (62%)	6,090 (9%)	12,536 (18%)	1,658 (2%)	6,006 (9%)	69,107
Female	14,738 (55%)	3,254 (12%)	5,404 (20%)	764 (3%)	2,484 (9%)	26,644
Unknown	199 (55%)	38 (11%)	81 (23%)	14 (4%)	27 (8%)	359
<b>Race</b>						
White	33,983 (62%)	5,069 (9%)	9,320 (17%)	1,266 (2%)	5,083 (9%)	54,721
Black	21,335 (57%)	3,908 (11%)	7,947 (21%)	1,058 (3%)	3,018 (8%)	37,266
Asian/Pacific Islander	658 (59%)	86 (8%)	230 (21%)	24 (2%)	113 (10%)	1,111
Amer. Indian/ Alaskan Native	24 (55%)	2 (5%)	11 (25%)	1 (2%)	6 (14%)	44
Unknown	1,754 (59%)	317 (11%)	513 (17%)	87 (3%)	297 (10%)	2,968
<b>Age Group at Contact Event</b>						
18-25 yrs old	14,511 (60%)	2,684 (11%)	4,478 (19%)	487 (2%)	2,103 (9%)	24,263
26-35 yrs old	19,106 (60%)	2,896 (9%)	6,096 (19%)	807 (3%)	2,997 (9%)	31,902
36-45 yrs old	11,594 (60%)	1,799 (9%)	3,718 (19%)	550 (3%)	1,799 (9%)	19,460
46-55 yrs old	7,749 (61)	1,186 (9%)	2,328 (18%)	366 (3%)	1,048 (8%)	12,677
56-65 yrs old	3,863 (62%)	639 (10%)	1,099 (18%)	176 (3%)	467 (8%)	6,244
>65 yrs old	921 (60%)	175 (11%)	296 (19%)	49 (3%)	101 (7%)	1,542
Unknown	10 (46%)	3 (14%)	6 (27%)	1 (5%)	2 (9%)	22
<b>Indigency Status</b>						
Indigent	34,119 (60%)	5,113 (9%)	11,351 (20%)	1,279 (2%)	5,022 (9%)	56,884
Not Indigent	23,239 (64%)	3,646 (10%)	5,591 (15%)	949 (3%)	2,918 (8%)	36,343
Unknown	396 (14%)	623 (22%)	1,079 (38%)	208 (7%)	577 (20%)	2,883
<b>Residency Status</b>						
Virginia Resident	49,592 (60%)	8,374 (10%)	15,452 (19%)	2,251 (3%)	7,027 (9%)	82,696
Out-of-State Resident	5,056 (62)	524 (6%)	1,449 (18%)	81 (1%)	1,055 (13%)	8,165
Unknown	3,106 (59%)	484 (9)	1,120 (21%)	104 (2%)	435 (8%)	5,249
<b>Defendant Pretrial Services Agency Supervision Status</b>						
Received Supervision	8,198(63%)	818 (6%)	2,298 (18%)	183 (1%)	1,503 (12%)	13,000
Did Not Receive Supervision	49,556(60%)	8,564(10%)	15,723(19%)	2,253(3%)	7,014 (8%)	83,110
<b>Total</b>	<b>57,754 (60%)</b>	<b>9,382 (10%)</b>	<b>18,021 (19%)</b>	<b>2,436 (3%)</b>	<b>8,517 (9%)</b>	<b>96,110</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset

Some percentages may not total 100% due to rounding.

See Appendix A for definitions of each variable used in this report.

## FINAL DISPOSITION OF CONTACT EVENTS AND PRETRIAL RELEASE STATUS

Table 53 specifies the final disposition of the CY2018 contact event and the pretrial release status for 96,110 of the 96,135 defendants in the cohort.<sup>48</sup> As seen in this table, a much larger proportion of defendants who remained detained the entire pretrial period were convicted of at least one charge in their CY2018 contact event (76.4%), as compared to those defendants who were ultimately released during the pretrial period (57.6%).

**Table 53: Final Disposition of Contact Events and Pretrial Release Status of Defendants**

	<i>Final Disposition of Contact Events</i>				Pending as of Mar 31, 2020	Number of Defendants
	Convicted	Dismissed	Nolle Prosequi	Not Guilty		
Released	48,091 (58%)	8,926 (11%)	16,231 (19%)	2,328 (3%)	7,882 (9%)	83,458
Detained	9,663 (76%)	456 (4%)	1,790 (14%)	108 (1%)	635 (5%)	12,652
<b>Total</b>	<b>57,754 (60%)</b>	<b>9,382 (10%)</b>	<b>18,021 (19%)</b>	<b>2,436 (3%)</b>	<b>8,517 (9%)</b>	<b>96,110</b>

Note: The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
Some percentages may not total 100% due to rounding

<sup>48</sup> The 25 defendants with disposition of ‘other’ are excluded.

## FINAL DISPOSITION OF CONTACT EVENTS AND TYPE OF ATTORNEY

Table 54 reveals the final disposition of the CY2018 contact event and the type of attorney assigned at case closure for 96,110 of the 96,135 defendants in the cohort.<sup>49</sup> As seen in the table, defendants represented by a retained attorney were convicted of at least one offense in the contact event at a slightly higher rate (65.0%) than defendants represented by a public defender or court-appointed attorney, with conviction rates of 57.6% and 61.0%, respectively.

These outcomes are notable in relation to the findings in Table 16, which showed that a much larger proportion of defendants who were represented by a retained attorney at case closure were released during the pretrial period as compared to defendants who were represented by a court-appointed attorney or public defender at case closure.

There may be several reasons why the representation by retained attorney generally has a higher conviction rate. For instance, the defendants represented by either court-appointed attorney or public defender are generally charged with most serious offenses which would incur more case-processing times. Therefore, such defendants may have final conviction dates beyond the follow-up period in this Project (15 months). Also, the nature of the charges (felony versus misdemeanor, violent versus nonviolent, etc.) may vary across different types of attorneys. Indeed, the comparison only based on the conviction rate does not provide a complete picture of all factors that may affect disposition of the case. For this reason, conclusions should not be drawn based on this table alone. Additional research is necessary to fully understand the relationships among all factors in the Project dataset.

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<sup>49</sup> The 25 defendants with disposition of 'other' are excluded.

**Table 54: Final Disposition of Contact Events and Type of Attorney**

Type of Attorney	Final Disposition of Contact Events					Number of Defendants
	Convicted	Dismissed	Nolle Prosequi	Not Guilty	Pending as of Mar 31, 2020	
Court-Appointed	21,203 (61%)	2,883 (8%)	6,900 (20%)	734 (2%)	3,019 (9%)	34,739
Public Defender (PD)	12,335 (58%)	2,197 (10%)	4,398 (21%)	537 (3%)	1,934 (9%)	21,401
Both Court Apptd. and PD	581 (78%)	33 (4%)	53 (7%)	8 (1%)	69 (9%)	744
Retained Attorney	20,835 (65%)	2,959 (9%)	4,888 (15%)	821 (3%)	2,538 (8%)	32,041
Waived	1,265 (67%)	275 (15%)	224 (12%)	83 (4%)	39 (2%)	1,886
Other	1,535 (29%)	1,035 (20%)	1,558 (29%)	253 (5%)	918 (17%)	5,299
<b>Total</b>	<b>57,754 (60%)</b>	<b>9,382 (10%)</b>	<b>18,021 (19%)</b>	<b>2,436 (3%)</b>	<b>8,517 (9%)</b>	<b>96,110</b>

Note: The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
 Some percentages may not total 100% due to rounding  
 See Appendix A for definitions of each variable used in this report.

## CONVICTED DEFENDANTS AND TERM OF INCARCERATION

Table 55 presents the active term of incarceration imposed for the 57,754 defendants in the cohort who were convicted of at least one charge in their CY2018 contact event. As shown below, more than half (30,591 of 57,754) of the convicted defendants were not sentenced to an active term of incarceration for any of the charges in their contact event. For those defendants who were convicted and sentenced to an active term of incarceration, 81.7% (22,184 of 27,163) were ordered to serve a jail sentence of up to 12 months and 18.3% (4,979 of 27,163) were ordered to serve one year or more in prison. The median jail sentence was 1 month and the median prison sentence was 24 months. The term of incarceration is based on the active period of confinement that the defendant was ordered to serve and does not reflect any additional period of confinement that may have been suspended by the court at the time of sentencing.

**Table 55: Total Active Term of Incarceration for Contact Event Charges Resulting in a Conviction**

	<b>Number of Defendants</b>	<b>Percentage</b>	<b>Average Term of Incarceration</b>	<b>Median Term of Incarceration</b>
Probation/No Incarceration	30,591	53.0%	---	---
Jail up to 12 Months	22,184	38.4%	2.4 Months	1.0 Months
Prison 1 Year or More	4,979	8.6%	46.7 Months	24.0 Months
<b>Total</b>	<b>57,754</b>	<b>100%</b>	<b>10.6 Months</b>	<b>1.3 Months</b>

Source: Virginia Pretrial Data Project, CY2018 Cohort Dataset  
See Appendix A for definitions of each variable used in this report.

## Locality Findings

Descriptive findings for each locality in Virginia are provided in **Appendix B: Statewide and Locality Descriptive Findings**. Ultimately, examination of the data revealed that localities varied across numerous measures within the dataset. Virginia is a diverse Commonwealth with a population of over 8.5 million<sup>50</sup> across 133 localities<sup>51</sup>. Localities differ on many factors, such as population size and density, demographics, economic conditions and employment availability, median household income, cultural factors, education, religious characteristics, and climate, including seasonal weather conditions. Localities also vary in terms of judicial officers, court practices, total number of sworn law enforcement officers, Pretrial Services Agencies, bail bondsmen, other practitioners, and services (e.g., mental health and substance use treatment) available during the pretrial period. For instance, Pretrial Services Agencies vary in terms of the number of localities served, funding, total number of investigations and supervision placements, average daily caseload, and overall success rates. Additionally, when examining individual localities, factors that may impact the type and volume of crime in the locality must also be taken into account, as these considerations ultimately impact the workload of law enforcement, courts, prosecutors, defense attorneys, Pretrial Services Agencies, bail bondsmen, and correctional facilities.

**Appendix B: Statewide and Locality Descriptive Findings** is available on the Sentencing Commission's website at . <http://www.vcsc.virginia.gov/pretrialdataport.html> .

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<sup>50</sup> U.S. Census Bureau, 2018 population estimates. Available at <https://www.census.gov/newsroom/press-kits/2018/pop-estimates-national-state.html> .

<sup>51</sup> There are 95 counties and 38 independent cities in Virginia.



## Challenges

During the course of the Project, the Sentencing Commission encountered several challenges that are worth noting in this report. Criminal justice data systems are not integrated in Virginia. As has been discussed previously in this report, compiling the data for the Project requires numerous iterations of matching, merging and data cleaning to ensure accuracy when connecting information from the respective data systems to individual defendants in the cohort. The Sentencing Commission also had to address issues related to the accuracy and completeness of data in criminal justice data systems. For example, the Sentencing Commission found a relatively high percentage of missing data and data containing errors in personal information in charge-based court records, including birthdate, name, and social security numbers. This makes it difficult to group charges by individuals and determine contact events. Sometimes, inaccurate information is recorded due to human error. It is relatively common to find that birthdate and defendant's name were incorrectly typed into the system. One person with typos in his or her name across different charges on the same day may be mistakenly viewed as different individuals. To address this data quality problem, the Sentencing Commission employed a computerized algorithm to calculate similarity indexes of personal fields, which enabled the identification of the same defendant despite minor typos or missing information. However, no algorithm provides perfect accuracy. The data quality issue is not exclusive to personal information. The Sentencing Commission found a significant amount of missing Virginia Crime Codes (VCCs) in both e-Magistrate and Court Case Management Systems. VCCs uniquely identify each offense defined in the *Code of Virginia* and, without them, the Sentencing Commission had to rely on recorded statute codes and offense descriptions to fill in the missing offense VCCs to the extent possible.

Furthermore, tracing a case from contact event date to the final disposition is challenging, given the lack of uniformity in Virginia's criminal justice systems. For instance, while an Offense Tracking Number (OTN) is assigned to each charge as a unique charge identifier, some Circuit Court clerks assign new OTNs when the case is filed in the Circuit Court in their jurisdiction (e.g., when a charge at the General District Court level is certified to the Circuit Court). Similarly, if the case is transferred to another jurisdiction, a new OTN is assigned to the same charge. When the OTN was changed, the Sentencing Commission had to use other details, such as contact date, names, birthdate, or VCC, to locate the same charge information in other systems, which increases the possibility of inaccurate results due to human error at data entry.

Given these issues, the Sentencing Commission recommends that, as future criminal justice data systems are designed, agencies collaborate on the development of an integrated system that utilizes uniform identifiers for individuals as well as for charges across all criminal justice systems in the Commonwealth.

## Future Research

Virginia's Pretrial Data Project has laid the groundwork for the collection of comprehensive data for the purpose of developing a fuller understanding of all aspects of the pretrial process in the Commonwealth. The work to date has focused on descriptive analysis of the data. This type of analysis provides a snapshot of pretrial defendants at key points in the pretrial process.

While descriptive findings at the aggregate level help policy makers, agency and program administrators and researchers understand the general trends of pretrial process in Virginia, this approach has its limitations. Descriptive analysis such as that presented in this report cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. That is to say, descriptive findings based on the relationships between two or more groups or categories do not imply the statistically important causal associations.

To address the limitations of descriptive analysis, more sophisticated approaches using multivariate statistical techniques are necessary. In order to determine a statistically unbiased significance, it is important to control for all factors, as some factors may have confounding and/or moderating effects on others or on the outcomes of interest. Moreover, there would be temporal changes over the years, such as trends in certain aspects of the system, and time-invariant differences in judicial characteristics across jurisdictions in Virginia that should be controlled for in a multivariate model.

In the coming months, the Sentencing Commission plans to conduct additional aggregate analysis of the pretrial dataset using multivariate statistical techniques, including regression analysis. A number of research questions may be examined with this type of analysis. These research questions include:

- What factors are correlated with failure to appear or new criminal arrest?
- What factors impact how quickly a new criminal arrest 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 affect the decision to release defendants pretrial?
- What factors affect the decision on type of bond?
- What has been the impact of policy changes and other events such as the Covid 19 pandemic on the overall pretrial process?
- How might changes in penalties in Virginia law affect Public Safety Assessment (PSA) scoring and how sensitive is the PSA to such changes?

The Sentencing Commission is particularly interested in testing the predictive validity of PSA scores. The CY2018 Project shows that the rates of failure to appear and new criminal arrest consistently increase along with the computed PSA scores. Building on these initial findings, the Sentencing Commission plans to conduct more advanced research to determine the statistically validated predictive power of the PSA instrument.

In addition, the Sentencing Commission will seek input from policy makers, agency and program administrators, and academics regarding additional research questions. As this work is completed, the Sentencing Commission will issue supplemental reports presenting the findings.

## Additional Resources

To assist users who may wish to utilize the CY2018 Pretrial Dataset, additional resources are available . These are described below.

**Appendix A: Virginia Pretrial Data Project: Abbreviated Data Codebook** provides detailed information on each variable included in the main body of this report. The *Abbreviated Data Codebook* defines each variable and describes how it was captured within its respective data system in order to provide context to the generalizability and limitations of the descriptive findings.

**Appendix B: Virginia Pretrial Data Project: Statewide and Locality Descriptive Findings** provides key socio-economic profiles, defendants' demographics, most serious charge in the contact event, prior criminal history, Public Safety Assessment (PSA) score, bond information, and public safety outcome information for the state of Virginia as well as individual localities. While this report provides a snapshot based on statewide findings, there is wide variation among localities. For detailed locality descriptive findings, please refer to Appendix B.

**Appendix C: Supplemental Tables** summarizes statewide information on bond modification, interplay between race and sex, race and indigency status, and demographics and Public Safety Assessment (PSA) scores.

All of these resources are available on the Sentencing Commission's website at .  
<http://www.vcsc.virginia.gov/pretrialdatapoint.html>

