



**VIRGINIA CRIMINAL
SENTENCING COMMISSION**

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

November 2, 2022



Virginia Pretrial Data Project Overview



The **PRETRIAL DATA PROJECT** was established in 2018 to address the *significant lack of data available* to answer questions regarding various pre-trial release mechanisms, conditions of pretrial release, appearance at court proceedings, and public safety.



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



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

The Commission's first report is due
December 1, 2022.



Virginia Pretrial Data Project Overview



E-Magistrate System

- Defendants brought before magistrates



Pretrial and Community Corrections (PTCC) Case Management System

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



Court Case Management Systems

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



Central Criminal Records Exchange

- New in-state arrests
- FTA



Circuit Court Case Management System

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



Corrections Information System (CORIS)

- Defendants on active state probation



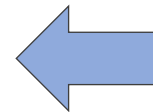
Circuit Court Case Management System

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



Compensation Board- Local Inmate Data System (LIDS)

- Jail committals and releases
- Lengths of stay



Data for the Project is obtained from numerous agencies.

Compiling the data requires numerous iterations of data cleaning, merging, and matching to ensure accuracy when linking information from each data system to each defendant in the cohort.



This process is intensive and requires meticulous attention to detail.



Virginia Pretrial Data Project Cohort Selection



NEW COHORT

Commission staff selected individuals with pretrial contact events during CY2018.

This will provide a pre-COVID baseline.

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

FOLLOW-UP PERIOD

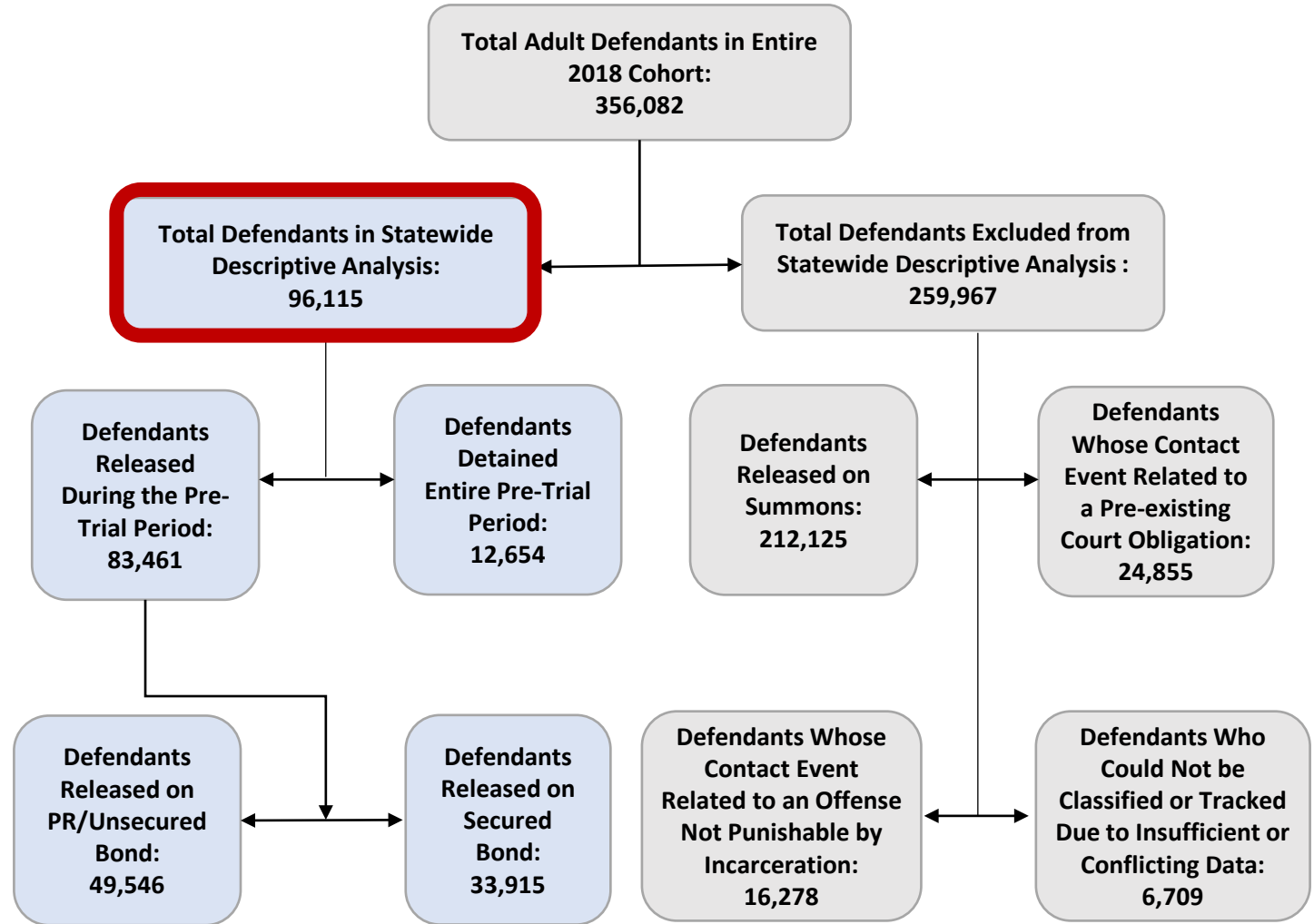
Individuals are tracked for a minimum of 15 months (same as a previous study).

Follow-up period will run through March 2020.



Pretrial Data Project CY2018 Cohort

The study focuses on the 96,115 adult defendants whose contact event included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer.



CY2018 Cohort Characteristics

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

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

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

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

	Number	Percentage
Gender		
Male	69,110	71.9%
Female	26,649	27.7%
Unknown	356	0.4%
Race		
White	54,726	56.9%
Black	37,267	38.8%
Other/Unknown	4,122	4.3%
Age Group		
18-25 years old	24,260	25.2%
26-35 years old	31,905	33.2%
36-45 years old	19,461	20.2%
46-55 years old	12,679	13.2%
>55 years old	7,788	8.1%
Indigency Status		
Indigent	56,874	59.2%
Not Indigent	36,353	37.8%
Undetermined	2,888	3.0%
Total	96,115	100.0%

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



CY2018 Cohort Characteristics

Just over half (54.1%) of the individuals in the cohort were charged with misdemeanors.

The most common felony charge was a drug offense, while the most common misdemeanor charge is DUI.

More than half (55.9%) of the cohort were charged with a single offense count, but nearly one-fourth had a total of two counts.

	Number	Percentage
<i>Most Serious Charge</i>		
Felony	43,968	45.7%
Misdemeanor	51,999	54.1%
Special/Undetermined	148	0.2%
<i>Most Serious Felony Offense Types</i>		
Drug	14,097	32.1%
Larceny	8,258	18.8%
Assault	4,678	10.6%
Fraud	3,548	8.1%
Weapon/Firearm	1,954	4.4%
Other Felonies	11,438	26.0%
<i>Most Serious Misdemeanor Offense Types</i>		
DUI	16,547	31.8%
Assault	16,415	31.6%
Larceny	2,666	5.1%
Obstruction Of Justice	1,759	3.4%
Drug	1,713	3.3%
Other Misdemeanors	12,899	24.8%
<i>Total Number of Counts in Event</i>		
1 Total Offense Count	53,755	55.9%
2 Total Offense Counts	23,308	24.3%
3+ Total Offense Counts	19,052	19.8%
Total	96,115	100.0%



CY2018 Cohort Characteristics

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

Data only capture Virginia in-state criminal history records.

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

	Number	Percentage
<i>Prior In-State Felony Conviction</i>		
Yes	25,309	26.3%
No	70,806	73.7%
<i>Prior In-State Violent Felony Conviction (§17.1-805)</i>		
Yes	7,872	8.2%
No	88,243	91.8%
<i>Prior In-State Misdemeanor Conviction</i>		
Yes	49,561	51.6%
No	46,554	48.4%
<i>Prior Term of Incarceration of ≥ 14 days</i>		
Yes	28,226	29.4%
No	67,889	70.6%
<i>On State Probation at Time of 2018 Contact Event</i>		
Yes	9,419	9.8%
No	86,696	90.2%
<i>Prior Failure to Appear Charge</i>		
Yes	21,234	22.1%
No	74,881	77.9%
Total	96,115	100.0%

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



Pretrial Risk Assessment

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

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

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

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



RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

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

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

CY2018 Cohort Characteristics

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

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

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

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

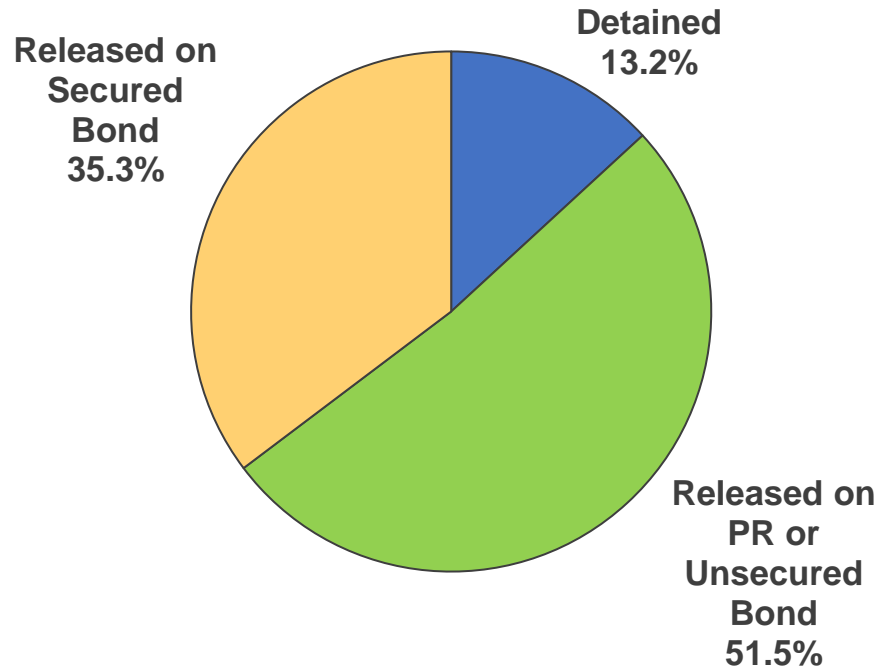
	Number	Percentage
Assigned PSA Risk Level for Failure to Appear		
FTA Risk Level 1 (Lowest Risk)	42,084	43.8%
FTA Risk Level 2	29,836	31.0%
FTA Risk Level 3	13,122	13.7%
FTA Risk Level 4	8,298	8.6%
FTA Risk Level 5	2,308	2.4%
FTA Risk Level 6 (Highest Risk)	467	0.5%
Assigned PSA Risk Level for New Criminal Activity		
NCA Risk Level 1 (Lowest Risk)	32,252	33.6%
NCA Risk Level 2	28,700	29.9%
NCA Risk Level 3	15,130	15.7%
NCA Risk Level 4	11,410	11.9%
NCA Risk Level 5	5,838	6.1%
NCA Risk Level 6 (Highest Risk)	2,785	2.9%
Total	96,115	100.0%

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



CY2018 Cohort Release Status

Pre-Trial Release Status of Defendants in Cohort



Classification of Most Serious Offense	Pretrial Release Status		Defendants
	Released	Detained	
Felony	77.7%	22.3%	43,968
Misdemeanor	94.7%	5.3%	51,999
Special/Undetermined	39.2%	60.8%	148
Number of Defendants	86.8%	13.2%	96,115

Of the 83,461 defendants released pretrial, 85.6% were released within 3 days.

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



CY2018 Cohort Release Status and Defendant Characteristics

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

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

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

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%).

	Pretrial Release Status		Defendants
	Released	Detained	
Gender			
Male	84.2%	15.8%	69,110
Female	93.6%	6.4%	26,649
Unknown	79.5%	20.5%	356
Race			
White	88.0%	12.0%	54,726
Black	85.2%	14.8%	37,267
Other/Unknown	86.1%	13.9%	4,122
Age Group			
18-25 years old	88.8%	11.2%	24,260
26-35 years old	85.9%	14.1%	31,905
36-45 years old	85.2%	14.8%	19,461
46-55 years old	86.4%	13.6%	12,679
>55 years old	89.1%	10.9%	7,810
Indigency Status			
Indigent	81.4%	18.6%	56,874
Not Indigent	94.6%	5.4%	36,353
Undetermined	95.9%	4.1%	2,888
Total	86.8%	13.2%	96,115



CY2018 Cohort Release Status and Attorney Type

	Pretrial Release Status		Defendants
	Released	Detained	
Type of Attorney at Case Closure			
Court-Appointed Attorney	80.9%	19.1%	34,724
Public Defender	83.0%	17.0%	21,406
Both Court-Appointed & Public Defender	56.6%	3.4%	744
Retained Attorney	94.5%	5.5%	32,050
Waived	93.8%	6.2%	1,886
Unknown/Other	96.2%	3.8%	5,305
Total	86.8%	13.2%	96,115

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

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



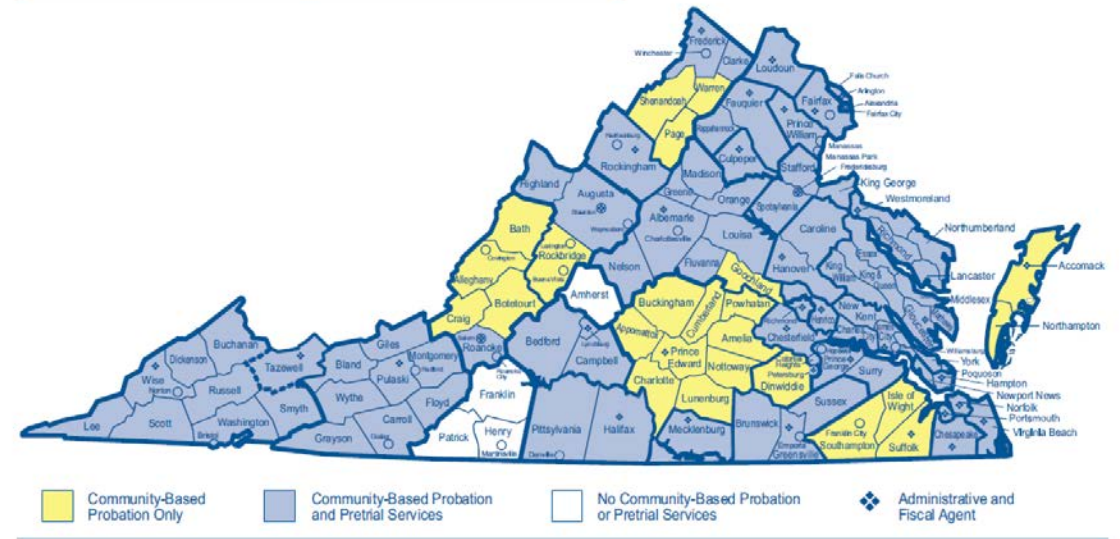
CY2018 Cohort Release Status and Availability of Pretrial Services

	Pretrial Release Status		Defendants
	Released	Detained	
<i>Pretrial Supervision Services Agency Available in Locality</i>			
Yes	86.9%	13.1%	91,964
No	85.9%	14.1%	4,151
Total	86.8%	13.2%	96,115

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

Community-Based Probation and Pretrial Services

Administrative & Fiscal Agents and Localities Served



Source: Virginia Department of Criminal Justice Services



CY2018 Cohort Bond Type at Release

Of the 96,115 contact events that included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer, **83,461 defendants were released during the pretrial period.**

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

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

	Bond Type at Release		Released Defendants
	PR or Unsecured	Secured	
Gender			
Male	56.2%	43.8%	58,225
Female	66.7%	33.3%	24,953
Unknown	63.6%	36.4%	283
Race			
White	61.9%	38.1%	48,172
Black	55.1%	44.9%	31,738
Other/Unknown	63.8%	36.2%	3,551
Age Group			
18-25 years old	63.6%	36.4%	21,547
26-35 years old	57.3%	42.7%	27,419
36-45 years old	55.5%	44.5%	16,576
46-55 years old	58.3%	41.7%	10,957
>55 years old	65.2%	34.8%	6,962
Indigency Status			
Indigent	54.6%	45.4%	46,289
Not Indigent	64.1%	35.9%	34,401
Undetermined	80.0%	20.0%	2,771
Total	59.4%	40.6%	83,461

This analysis is based on the 83,461 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period.



CY2018 Cohort Bond Type at Release

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

	Bond Type at Release		Released Defendants
	PR or Unsecured	Secured	
Prior In-State Felony Conviction			
Yes	36.3%	63.7%	18,532
No	66.0%	34.0%	64,929
Prior In-State Violent Felony Conviction (§17.1-805)			
Yes	34.5%	65.5%	5,208
No	61.0%	39.0%	78,253
Prior In-State Misdemeanor Conviction			
Yes	48.7%	51.3%	40,807
No	69.6%	30.4%	42,654
Prior Term of Incarceration of ≥ 14 days			
Yes	39.4%	60.6%	20,880
No	66.0%	34.0%	62,581
On State Probation at Time of 2018 Contact Event			
Yes	39.4%	60.6%	20,880
No	66.0%	34.0%	62,581
Prior Failure to Appear Charge			
Yes	39.4%	60.6%	20,880
No	66.0%	34.0%	62,581
Total	59.4%	40.6%	83,461

This analysis is based on the 83,461 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period.



CY2018 Cohort Secured Bond Amount at Release

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

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

In addition to the information in this table, data for the *Project* showed that **92%** of defendants released on a secured bond utilized the services of a bail bondsman.

	Mean	Median	Defendants
Defendant Sex			
Male	\$3,995	\$2,500	25,504
Female	\$3,059	\$2,000	8,308
Unknown	\$5,439	\$2,500	103
Defendant Race			
White	\$3,682	\$2,500	18,371
Black	\$3,803	\$2,500	14,260
Other/Unknown	\$4,649	\$2,500	1,284
Defendant Age Group			
18-25 years old	\$3,786	\$2,500	7,841
26-35 years old	\$3,823	\$2,500	11,712
36-45 years old	\$3,762	\$2,500	7,374
46-55 years old	\$3,543	\$2,500	4,571
>55 years old	\$3,912	\$2,500	2,415
Defendant Indigency Status			
Indigent	\$3,379	\$2,500	21,016
Not Indigent	\$4,480	\$2,500	12,345
Unknown	\$2,771	\$2,000	554
Total	\$3,770	\$2,500	33,915

This analysis is based on the 33,915 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released on secured bond.



CY2018 Cohort

Pretrial Supervision by a Pretrial Services Agency

	Pretrial Release Status		Defendants
	PR or Unsecured	Secured	
<i>Pretrial Services Agency Supervision Status</i>			
Received Supervision	38.3%	61.7%	13,483
Did Not Receive Supervision	63.4%	36.6%	69,978
Total	59.4%	40.6%	96,115

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

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



Pretrial Data Project Outcome Measures

COURT APPEARANCE OUTCOME

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

PUBLIC SAFETY OUTCOME

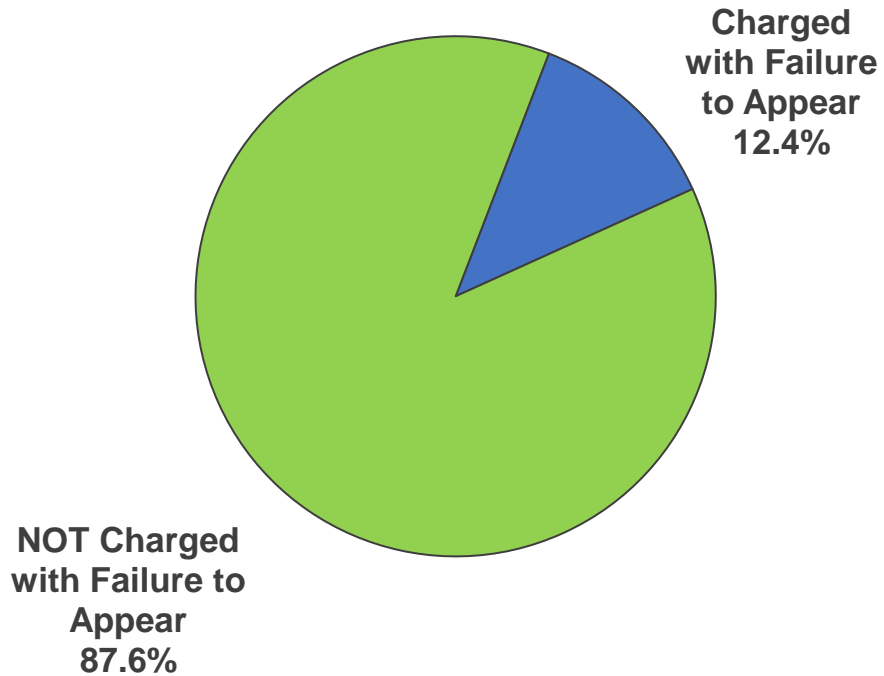
Whether the released defendant had a new in-state arrest for an offense punishable by incarceration during the pretrial period (excluding FTA and probation violations, etc.)

Both offense date and arrest date must be between the first contact event date and final disposition date.

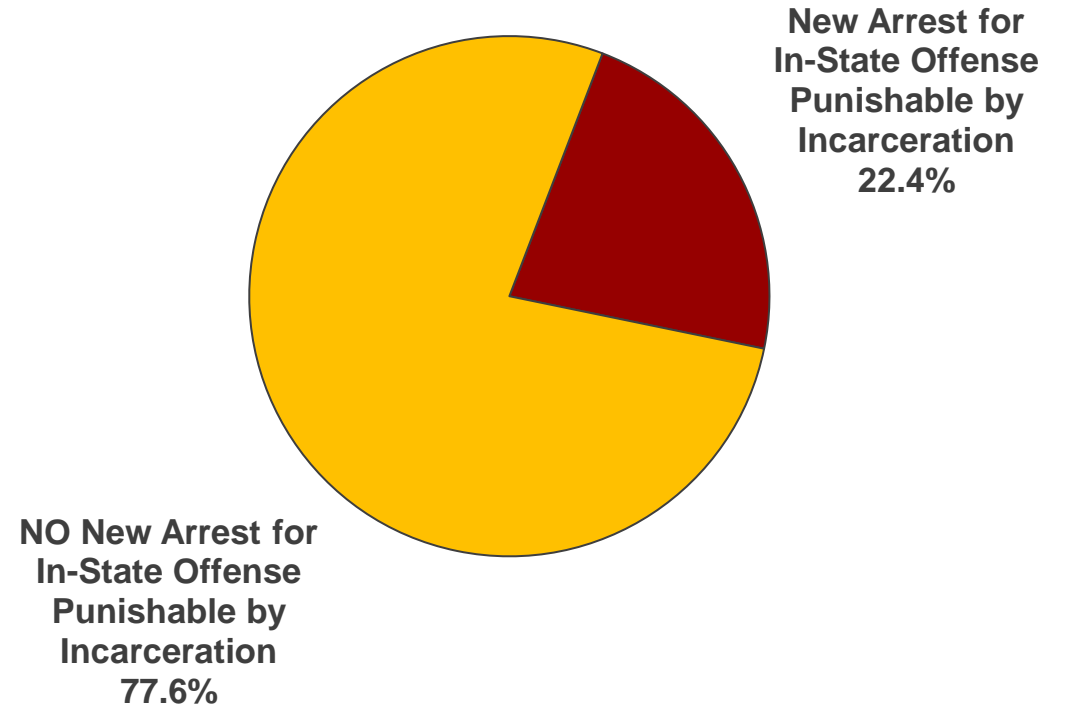


CY2018 Cohort Outcomes

COURT APPEARANCE Outcomes for Released Defendants



PUBLIC SAFETY Outcomes for Released Defendants

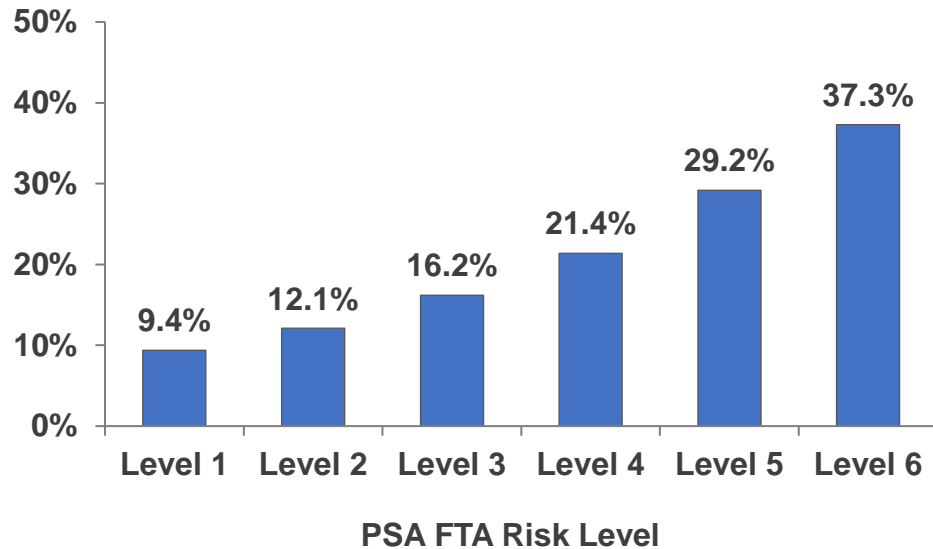


This analysis is based on the 83,461 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period.

CY2018 Cohort Outcomes

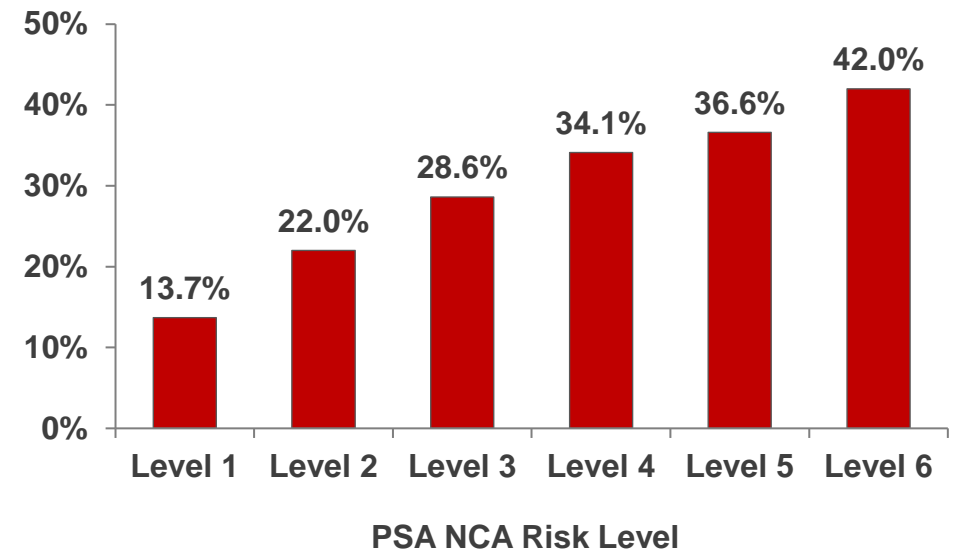
COURT APPEARANCE Outcomes by Assigned Public Safety Assessment (PSA) Risk Level

Failure to Appear Rates by Risk Level



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

New Criminal Activity Rates by Risk Level



This analysis is based on the 83,461 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period.

CY2018 Cohort Outcomes

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

COURT APPEARANCE

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

PUBLIC SAFETY

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

This analysis is based on the 83,461 defendants who were charged with a criminal offense punishable by incarceration and, following a bail determination made by a judicial officer, were released during the pretrial period.



CY2018 Cohort Outcomes

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

COURT APPEARANCE

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

PUBLIC SAFETY

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

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



Pretrial Data Project

Examples of Potential Future Research Questions



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



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

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

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

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



Pretrial Data Project Data Dashboard Demonstration

2018 Virginia Pretrial Data Project Data Dashboard (test) by [Virginia Criminal Sentencing Commission](#)



Virginia Pretrial Data Project

Age Group At Contact Event
(All)

Overview

Release Status

Release Type

Bond

Maps

New FTA

New NCA

PSA

Sex
(Multiple values)

Pretrial Release Status of Defendants

Race
(Multiple values)

Age Group: All; Sex: Female & Male; Race: Asian, Black, American Indian and 1 more;
Attorney Type At Case Closure: All;
Public Defender Office Presence: All; Pretrial Agency Presence: All;
Region: All; Locality: All

Indigency Status
(All)

Attorney Type At Case Closure
(All)

Public Defender Office Presence
(All)

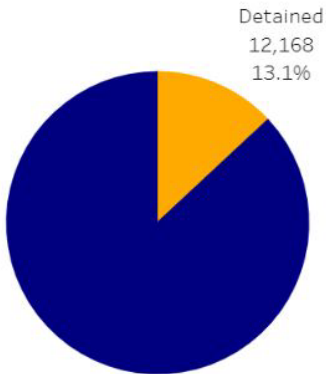
Pretrial Services Agency Presen...
(All)

Region
(All)

Locality
(All)

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Released
80,955
86.9%



Detained
12,168
13.1%

Note: 'Detained' refers to those who are detained during the pretrial period, and 'Released' refers to those who are released during the pretrial period.

Contact Information:

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[Dashboard Link](#)





VIRGINIA CRIMINAL SENTENCING COMMISSION



Questions



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