

# VIRGINIA STATE CRIME COMMISSION



## *Virginia Pre-Trial Data Project: Final Report*

**SEPTEMBER 2021**



## Table of Contents

Classification of Defendants in October 2017 Cohort.....	1
Key Findings.....	2
Executive Summary.....	3
Project Overview and Methodology.....	7
Scope of Report.....	10
Overview of Defendants and October 2017 Contact Events.....	13
Pre-Trial Release Status of Defendants.....	22
Defendants Released During the Pre-Trial Period.....	33
Defendants Released on Secured Bond.....	42
Defendants Detained on Secured Bond For Entire Pre-Trial Period.....	49
Statewide Court Appearance Outcomes.....	57
Statewide Public Safety Outcomes.....	63
Final Disposition of October 2017 Contact Events.....	77
Locality Findings.....	83
Limitations.....	84
Crime Commission Recommendations.....	86
Acknowledgements.....	88

Appendix A: Virginia Pre-Trial Data Project: Abbreviated Data Codebook

Appendix B: Virginia Pre-Trial Data Project: Statewide and Locality Descriptive Findings

Appendix C: Supplemental Tables

**Appendices available at:** <http://vscc.virginia.gov/virginiapretrialdataproject.asp>

# List of Tables

## *Overview of Defendant Demographics and Contact Events*

Table 1: Defendant Demographics

Table 2: Number of Specific Offense Types in Contact Event

Table 3: Classification of Most Serious Offense in Contact Event

Table 4: Most Serious Felony Offense Category in Contact Event

Table 5: Most Serious Misdemeanor Offense Category in Contact Event

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

Table 7: Assigned Public Safety Assessment (PSA) Risk Levels

## *Pre-Trial Release Status of Defendants*

Table 8: Pre-Trial Release Status of Defendants in Cohort

Table 9: Pre-Trial Release Status and Defendant Demographics

Table 10: Pre-Trial Release Status and Number of Specific Offense Types in Contact Event

Table 11: Pre-Trial Release Status and Classification of Most Serious Offense in Contact Event

Table 12: Pre-Trial Release Status and Most Serious Felony Offense Category in Contact Event

Table 13: Pre-Trial Release Status and Most Serious Misdemeanor Offense Category in Contact Event

Table 14: Pre-Trial Release Status and Prior In-State Criminal History Records of Defendants

Table 15: Pre-Trial Release Status and Assigned Public Safety Assessment (PSA) Risk Levels

Table 16: Pre-Trial Release Status by Locality Specific Factors and Type of Attorney

## *Defendants Released During the Pre-Trial Period*

Table 17: Number of Days between Contact Event and Pre-Trial Release

Table 18: Bond Type at Release and Defendant Demographics

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

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

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

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

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

Table 24: Bond Type at Release and Assigned Public Safety Assessment (PSA) Risk Levels

### ***Defendants Released on Secured Bond***

Table 25: Secured Bond Amount at Release and Defendant Demographics

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

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

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

Table 29: Secured Bond Amount at Release and Most Serious Misdemeanor Offense Category in Contact Event

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

### ***Defendants Detained on Secured Bond for Entire Pre-Trial Period***

Table 31: Initial Secured Bond Amount and Detained Defendant Demographics

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

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

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

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

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

### ***Statewide Court Appearance Outcomes***

Table 37: Statewide Court Appearance Outcomes for Released Defendants

Table 38: Court Appearance Outcomes and Released Defendant Demographics

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

Table 40: Number of Days Between Pre-Trial Release and Failure to Appear for Released Defendants

### ***Statewide Public Safety Outcomes***

Table 41: Statewide Public Safety Outcomes for Released Defendants

Table 42: Public Safety Outcomes (All New In-State Arrests) and Released Defendant Demographics

Table 43: Public Safety Outcomes and Assigned Public Safety Assessment (PSA) Risk Level of New Criminal Activity (NCA) for Released Defendants

Table 44: Number of Days between Pre-Trial Release and New In-State Offense Punishable by Incarceration for Released Defendants

Table 45: Public Safety Outcomes for Released Defendants – New In-State Felony Arrests

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

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

Table 48: Public Safety Outcomes for Released Defendants – Misdemeanor Arrests

Table 49: Public Safety Outcomes (New Misdemeanor Arrests) and Released Defendant Demographics

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

### ***Final Disposition of October 2017 Contact Events***

Table 51: Final Disposition of Contact Events

Table 52: Final Disposition of Contact Events and Defendant Demographics

Table 53: Final Disposition of Contact Events and Pre-Trial Release Status of Defendants

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

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

# List of Charts

- Chart 1: Virginia State and Local Agencies Contributing to *Project* Dataset
- Chart 2: Virginia State and Local Agency Data Systems in *Project* Dataset
- Chart 3: Pre-Trial Release Status of Defendants in Cohort
- Chart 4: Percentage of Defendants Released/Detained During the Pre-Trial Period by Assigned PSA Risk of Failure to Appear
- Chart 5: Percentage of Defendants Released/Detained During the Pre-Trial Period by Assigned PSA Risk of New Criminal Activity
- Chart 6: Percentage of Released Defendants Charged with Failure to Appear During the Pre-Trial Period by Assigned PSA Risk of Failure to Appear
- Chart 7: Final Disposition of Failure to Appear (FTA) Charges for 1,354 Defendants Charged with FTA during Pre-Trial Period
- Chart 8: Percentage of Released Defendants Arrested for a New In-State Offense Punishable by Incarceration by Assigned PSA Risk of New Criminal Activity
- Chart 9: Final Disposition of New Offense for 2,299 Defendants Arrested for a New In-State Offense Punishable by Incarceration during the Pre-Trial Period
- Chart 10: Final Disposition of New Felony Offense for 908 Defendants Arrested for a New In-State Felony during Pre-Trial Period
- Chart 11: Final Disposition of New Misdemeanor Offense for 2,029 Defendants Arrested for a New In-State Misdemeanor Offense Punishable by Incarceration during Pre-Trial Period

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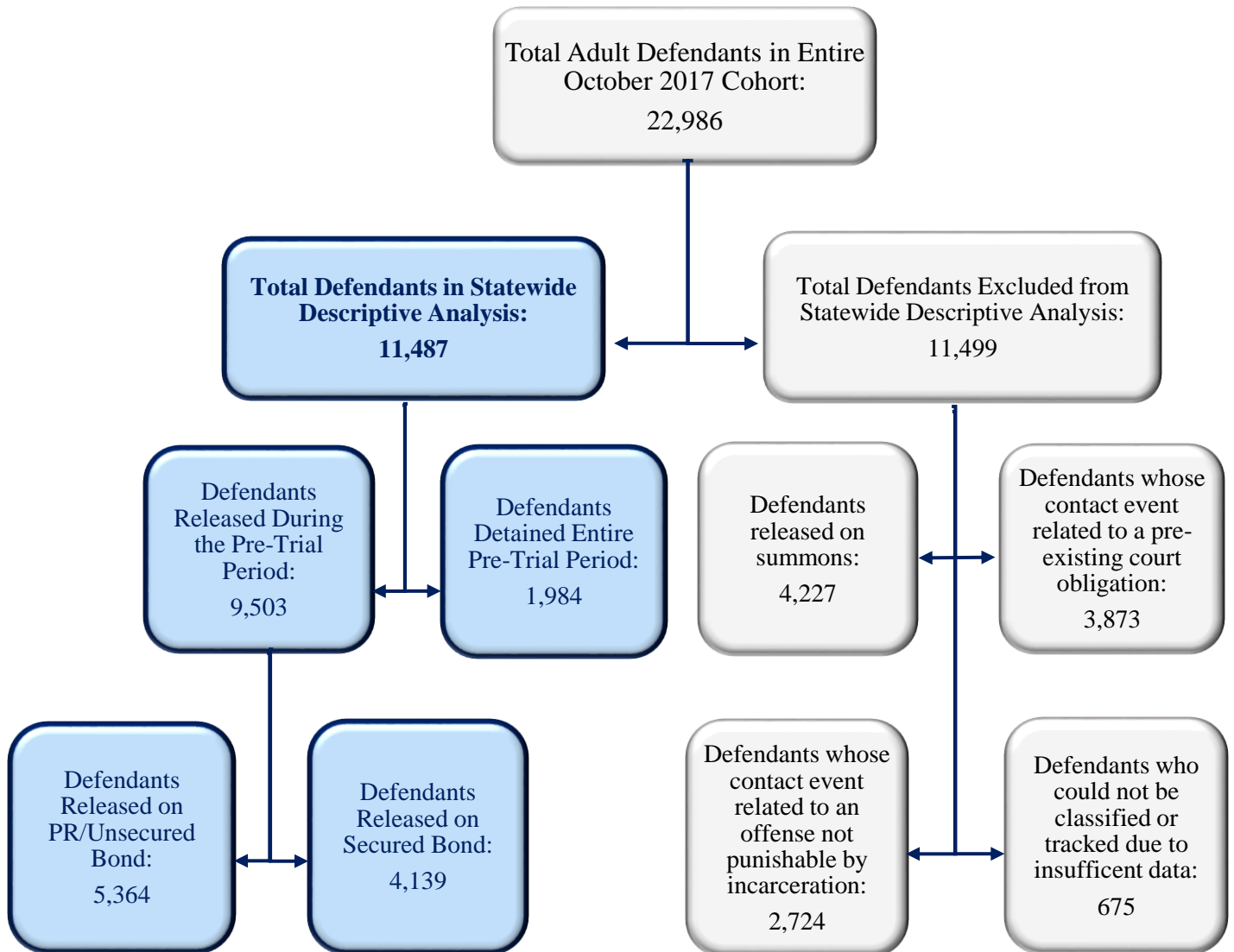
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# Classification of Defendants in October 2017 Cohort

**This report represents a statewide descriptive analysis for the 11,487 defendants in the *Virginia Pre-Trial Data Project* dataset whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.**





## Key Findings

The *Virginia Pre-Trial Data Project* (“*Project*”) was developed to identify statewide data that could be used to answer many important questions related to the overall pre-trial process in Virginia. The *Project* involved collecting and merging data from numerous government agencies into a singular dataset that resulted in a cohort of nearly 23,000 adult defendants charged with a criminal offense during October 2017 (referred to as the “contact event”). Of the nearly 23,000 defendants in the *Project* dataset, the contact event for approximately half (11,487) of these defendants included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer. This report represents a statewide descriptive analysis of these 11,487 defendants. Key findings from this statewide descriptive analysis are as follows:

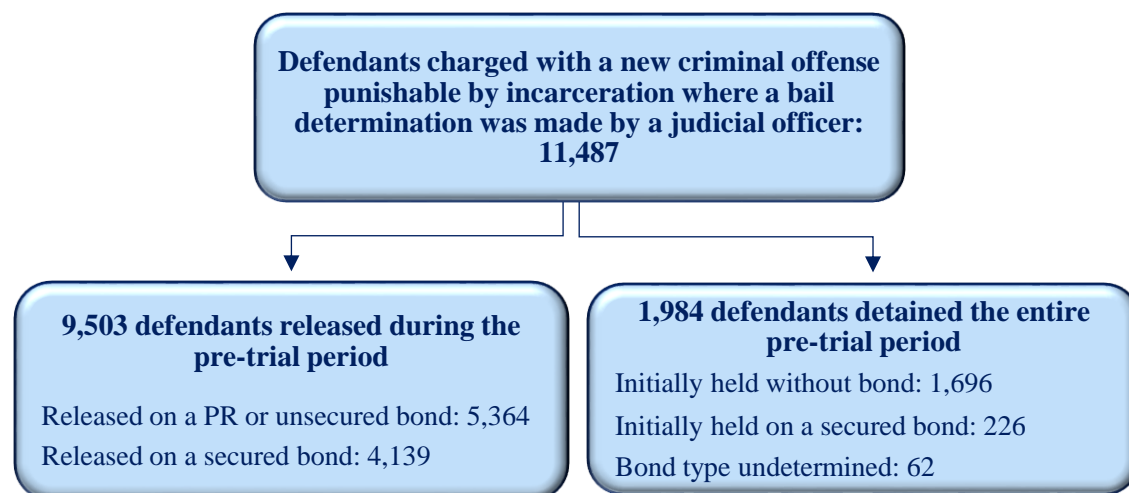
- The majority of defendants were ultimately released from custody during the pre-trial period. Most defendants were released within 3 days of their contact event (Tables 8 and 17).
- The majority of defendants were male, White, between the ages of 18 to 35, indigent, and residents of Virginia; however, defendants who were male, Black, or between the ages of 18 to 35 were significantly overrepresented as compared to their overall representation within Virginia’s population (Table 1).
- A large majority of released defendants were not charged with failure to appear and were not arrested for a new in-state offense punishable by incarceration during the pre-trial period; however, a higher proportion of indigent defendants were charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period as compared to defendants who were not indigent (Tables 37, 38, 41, and 42).
- The proportion of released defendants charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period increased as the defendants’ assigned Public Safety Assessment (PSA) risk level of failure to appear or new criminal activity increased (Tables 39 and 43; Charts 6 and 8).
- 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, residency status, or whether the defendant received pretrial services agency supervision (Table 25).
- Conviction rates were similar across sex, race, and indigency and residency status (Table 52).
- Defendants who remained detained the entire pre-trial period had higher conviction rates as compared to defendants who were released during the pre-trial period (Table 53).
- Defendants represented by a retained attorney at case closure were released at a higher rate during the pre-trial period as compared to defendants represented by a public defender or court appointed attorney at case closure; however, the conviction rates of defendants were nearly identical across all three of these attorney types (Tables 16 and 54).

## Executive Summary

The Crime Commission has been studying various aspects of the pre-trial process since 2016.<sup>1</sup> During the course of this study, staff found that there was a significant lack of data readily available to answer many important questions related to the pre-trial process in Virginia. As a result, the *Virginia Pre-Trial Data Project* (“*Project*”) was developed and represents an unprecedented, collaborative effort across all three branches of government to examine matters related to the pre-trial process. The *Project* focused on the pre-trial period, which includes the various stages of a criminal case from the time a defendant is charged with an offense until the final disposition (trial and/or sentencing) of the matter.

The *Project* involved collecting and merging data from numerous state and local government agencies into a singular dataset that resulted in a cohort of 22,986 adult defendants charged with a criminal offense during October 2017 (referred to as the “contact event”). These defendants were tracked during the pre-trial period until the final disposition of their contact event or December 31, 2018, whichever date occurred first. Up to 850 variables were captured for each of the defendants in the *Project* dataset, such as demographics, offense details, criminal history records, bond amounts, court appearance and public safety rates, assigned risk levels, and final dispositions.

This report focuses on the 11,487 of the 22,986 defendants in the *Project* dataset whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer. Staff only conducted a statewide descriptive analysis involving these 11,487 defendants. In conducting this analysis, staff attempted to identify the most important variables and relationships therein based on current literature and stakeholder interests. The statewide descriptive findings in this report only summarize information in the *Project* dataset and do not provide explanations as to *why* any differences may exist between variables or groups of defendants within the dataset.



***Main findings for the 11,487 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, indigent, and residents of Virginia (Table 1).
- Defendants who were male, Black, or between the ages of 18 to 35 were significantly overrepresented as compared to their overall representation within Virginia’s population (Table 1).
- Approximately half of these defendants had a felony as the most serious offense in their contact event, while the other half had a misdemeanor or special class offense as the most serious offense in their contact event (Tables 3, 4, and 5).
- Most defendants were ultimately released during the pre-trial 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).
- While most defendants were ultimately released during the pre-trial period regardless of their assigned Public Safety Assessment (PSA) risk level of failure to appear or new criminal activity, the proportion of defendants released during the pre-trial period decreased as their assigned PSA risk levels increased (Table 15; Charts 4 and 5).
- Defendants represented by a retained attorney at case closure were released at a higher rate during the pre-trial period (93%) as compared to defendants represented by a public defender or court-appointed attorney at case closure (78% and 77%, respectively); however, the proportion of defendants who were ultimately convicted of at least one charge in their contact event was nearly identical across all three of these attorney types (61% to 63%) (Tables 16 and 54).
- The proportion of defendants convicted of at least one charge in their contact event did not vary significantly across sex, race, indigency status, and residency status (Table 52).
- A significantly larger proportion of defendants who remained detained the entire pre-trial period were convicted of at least one charge in their contact event (77%) as compared to defendants who were ultimately released during the pre-trial period (56%) (Table 53).
- Nearly half of the defendants who were convicted of at least one charge in their contact event were not sentenced to an active term of incarceration (Table 55).
- Slightly over half of the defendants who were convicted of at least one charge in their contact event (52%) were sentenced to an active term of incarceration, with a median jail sentence of 1 month and a median prison sentence of 24 months (Table 55).

***Main findings for the 9,503 defendants ultimately released during the pre-trial period on a personal recognizance (PR), unsecured, or secured bond:***

- Most defendants (81%) were released within 3 days of their contact event (Table 17).
- Overall, 56% of defendants were released on a PR or unsecured bond and 44% were released on a secured bond (Table 18).
- 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 1,651 defendants in this group who received pretrial services agency supervision as a condition of their bond during the pre-trial period, 62% were released on a secured bond and 38% were released on a PR or unsecured bond (Table 18).
- A large majority of released defendants were not charged with failure to appear and were not arrested for a new in-state offense punishable by incarceration during the pre-trial period (Tables 37 and 41).
- A higher proportion of indigent defendants were charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period as compared to defendants who were not indigent (Tables 38 and 42).
- The proportion of defendants charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period increased as the defendant's assigned PSA risk level of failure to appear or new criminal activity increased (Tables 39 and 43; Charts 6 and 8).

***Main findings for the 4,139 defendants ultimately released during the pre-trial 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).
- The secured bond amounts at the time of release generally did not vary widely across sex, race, indigency status, residency status, or whether the defendant received pretrial services agency supervision (Table 25).
- The secured bond amounts at the time of release for defendants whose most serious offense in their contact event was a felony ranged from \$50 to \$200,000, with an average of \$4,839 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 \$200 to \$75,000, with an average of \$2,549 and a median of \$2,000 (Table 29).
- While the proportion of defendants released on a secured bond increased as the assigned PSA risk levels for failure to appear and new criminal activity increased, the median secured bond amounts did not vary across these risk levels (Tables 24 and 30).

***Main findings for the 226 defendants detained on a secured bond the entire pre-trial period:***

- Defendants detained on a secured bond for the entire pre-trial period were largely male, White, indigent, and residents of Virginia (Table 31).
- The median initial secured bond amounts did not vary widely across sex, race, indigency status, or residency status, or across the various classes of felonies and misdemeanors or the assigned PSA risk levels for failure to appear or new criminal activity (Tables 31, 33, and 36).
- The initial secured bond amounts for defendants whose most serious offense in their contact event was a felony ranged from \$500 to \$30,000, with an average of \$4,496 and a median of \$3,000 (Table 34).
- The initial secured bond amounts for defendants whose most serious offense in their contact event was a misdemeanor ranged from \$100 to \$58,529, with an average of \$2,656 and a median of \$2,000 (Table 35).

While these aggregate statewide descriptive findings are an excellent method for examining overall trends in the pre-trial process in Virginia, this approach does not fully account for variations across localities. Statewide findings can look quite different, if not opposite, when compared to an individual locality. Staff reviewed the locality descriptive findings and found that localities vary greatly across numerous measures within the *Project* dataset. These statewide and locality descriptive findings are provided in Appendix B.

The statewide descriptive findings contained within this report are by no means exhaustive due to the sheer number of variables contained within the *Project* dataset. This report represents the start of a larger discussion on the full capabilities of the *Project* dataset and how the collection and reporting of data across the criminal justice system can continue to be improved. As such, staff recommended that legislation be enacted to require the Virginia Criminal Sentencing Commission (VCSC) to annually collect and report on pre-trial data and to make such data publicly available as an electronic dataset and an interactive data dashboard tool. The Crime Commission endorsed staff's recommendation which was enacted into law during the 2021 Special Session I of the General Assembly.

## PROJECT OVERVIEW AND METHODOLOGY

The *Virginia Pre-Trial Data Project* (“*Project*”) was an unprecedented, collaborative effort between numerous state and local agencies representing all three branches of government to examine matters related to the pre-trial process based upon available data. The *Project* consisted of two phases: (i) developing a cohort of adult defendants charged with a criminal offense in Virginia during October 2017 (referred to as the “contact event”) and (ii) tracking various outcomes within that cohort. Data for the *Project* was obtained from the following seven agencies:

- Alexandria Circuit Court;<sup>2</sup>
- Fairfax County Circuit Court;<sup>3</sup>
- Compensation Board;<sup>4</sup>
- Office of the Executive Secretary of the Supreme Court of Virginia;<sup>5</sup>
- Virginia Department of Corrections;<sup>6</sup>
- Virginia Department of Criminal Justice Services;<sup>7</sup> and,
- Virginia State Police.<sup>8</sup>

Chart 1 illustrates how the Virginia Criminal Sentencing Commission (VCSC) acted as the central repository for the data provided by these agencies.

**Chart 1: Virginia State and Local Agencies Contributing to Project Dataset**



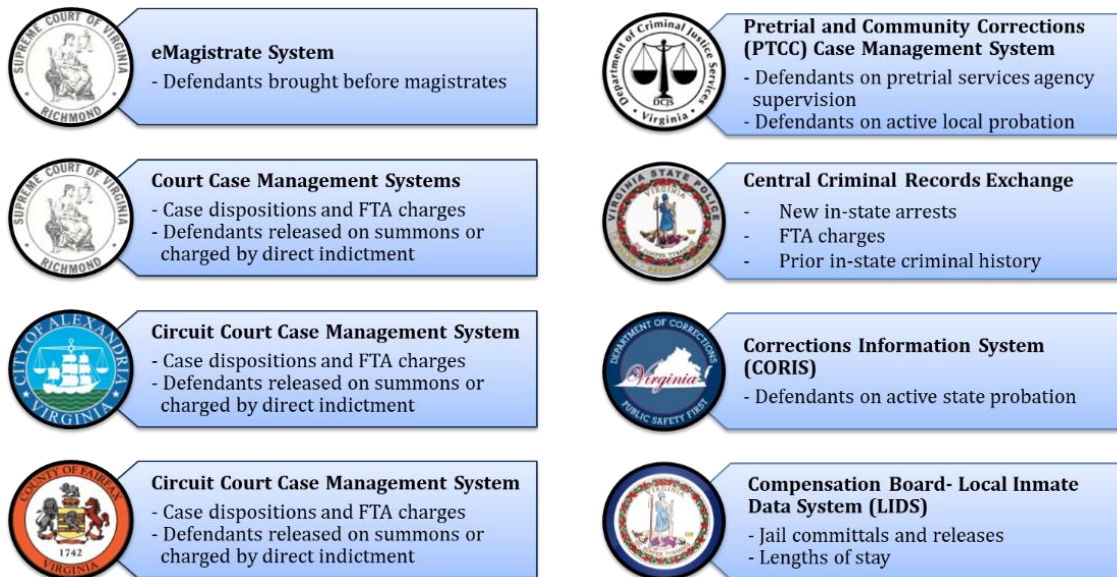
Source: Chart prepared by Crime Commission staff.



A number of challenges had to be overcome in order to create a singular dataset for the *Project*. The primary challenges included (i) identifying state and local agency data systems which contained relevant and reliable information related to the pre-trial process; (ii) determining a reliable means for merging hundreds of variables from these state and local agency data systems into a singular dataset for analysis; and, (iii) developing a dependable methodology for matching information from these state and local agency data systems to unique defendants in the cohort.

The VCSC spent a tremendous amount of time developing a singular dataset for analysis. The development of this singular dataset required numerous iterations of data cleaning, merging, and matching to ensure accuracy when linking information from each unique data system to each specific defendant in the *Project* cohort. This process was manually intensive and required meticulous attention to detail as Virginia does not have a uniform, statewide data system to conduct an automated merging of such information. Crime Commission staff worked closely with VCSC staff to finalize the variables included in this singular dataset. Chart 2 details the specific data systems of the agencies that contributed to the *Project* dataset.

**Chart 2: Virginia State and Local Agency Data Systems in Project Dataset**



Source: Chart prepared by Crime Commission staff.

Crime Commission staff met with all of the agencies that provided data, along with numerous practitioners and stakeholders to discuss the methodology, variables, and limitations of the dataset for the *Project*. Appendix A contains the *Abbreviated Data Codebook*, which provides detailed information on each variable included in the main body of this report and in the statewide and locality descriptive findings contained in Appendix B. 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.

As a result of the aforementioned efforts of Crime Commission and VCSC staff, along with input from other government agencies, practitioners, and stakeholders, a cohort of 22,986 adult defendants charged with a criminal offense during a one-month period (October 2017) was developed.<sup>9</sup> It was determined with the highest degree of confidence that this cohort was not unique in terms of the number and types of defendants charged; therefore, the cohort is generalizable to and representative of any other month in Virginia prior to January 2020.<sup>10</sup> The cohort was tracked until final case disposition or December 31, 2018, whichever came first. The *Project* dataset contains up to 850 variables for each of the 22,986 defendants in the cohort, such as demographics, pending charges, state or local probation status, nature of the October 2017 charge(s), bond type, release status, whether the defendant received pretrial services agency supervision, prior criminal history, assigned risk level, final disposition, and aggregate locality characteristics. By merging all of this information into a singular dataset, comparisons can be made between similarly situated defendants within the cohort.

Specifically, the cohort of 22,986 adult defendants was categorized based on the nature of each defendant's October 2017 contact event as follows:

- 11,487 defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer;<sup>11</sup>
- 4,227 defendants whose contact event was for a new criminal offense punishable by incarceration where the defendant was released on a summons;
- 3,873 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;
- 2,724 defendants whose contact event was for a new criminal offense that was not punishable by incarceration; and,
- 675 defendants who could not be classified or tracked due to insufficient data.

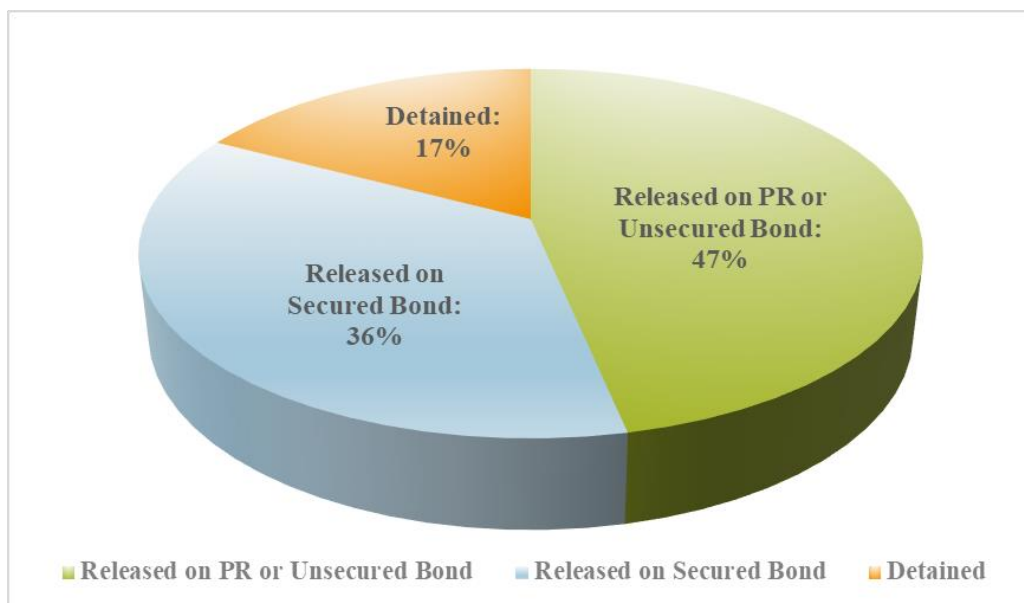


## SCOPE OF REPORT

The primary purpose of this report is to provide an overview of the 11,487 of 22,986 defendants in the October 2017 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.<sup>12</sup> As seen in Chart 3, these 11,487 defendants were classified based upon their ultimate pre-trial release status as follows:<sup>13</sup>

- 47% (5,364 of 11,487) were released on a personal recognizance (PR) or unsecured bond during the pre-trial period;<sup>14</sup>
- 36% (4,139 of 11,487) were released on a secured bond during the pre-trial period; and,
- 17% (1,984 of 11,487) were detained for the entire pre-trial period.

**Chart 3: Pre-Trial Release Status of Defendants in Cohort**



Source: Virginia Pre-Trial Data Project. Chart prepared by Crime Commission staff.

Chart 3 reflects the ultimate pre-trial release status of the 11,487 defendants in the cohort. It is significant to note that a defendant's pre-trial release status may have been modified between the time that they were initially brought before a judicial officer and the time of their pre-trial release.<sup>15</sup> For example, 53% (1,895 of 3,591) of defendants who were *initially held without bond* were later released on a secured, unsecured, or PR bond, while 47% (1,696 of 3,591) remained detained for the entire pre-trial period. Similarly, when looking at the 3,180 defendants who were *initially held on a secured bond*, 84% (2,665 of 3,180) of these defendants were later released on a secured bond, 9% (289 of 3,180) were released on a PR or unsecured bond, and 7% (226 of 3,180) remained detained the entire pre-trial period.<sup>16</sup>

The remainder of this report is a statewide descriptive analysis of the 11,487 defendants in the cohort (as referenced in Chart 3), with a focus on the following:

- Demographics of defendants;
- Comparisons between released and detained defendants;
- Comparisons between defendants released on a 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 pre-trial period;
- Court appearance and public safety outcomes of released defendants; and,
- Final dispositions of October 2017 contact events for defendants.

This report does not provide a statewide descriptive analysis for the 4,227 of 22,986 defendants in the October 2017 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. While these defendants were not included in the analysis of this report, additional information about these defendants is available statewide and across specific localities within Appendix B.

Similarly, this report does not provide a statewide descriptive analysis for the 3,873 of 22,986 defendants in the October 2017 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 charge that was either pending or had been adjudicated prior to October 2017. As a result, the experiences that these defendants had during the pre-trial period were different than the experiences of the defendants who began the pre-trial period as a result of a new charge in October 2017. These two groups of defendants are distinct and should be examined separately.

Likewise, this report does not provide a statewide descriptive analysis for the 2,724 of 22,986 defendants in the October 2017 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 October 2017 contact event that could result in the pre-trial detention and/or post-trial incarceration of a defendant.

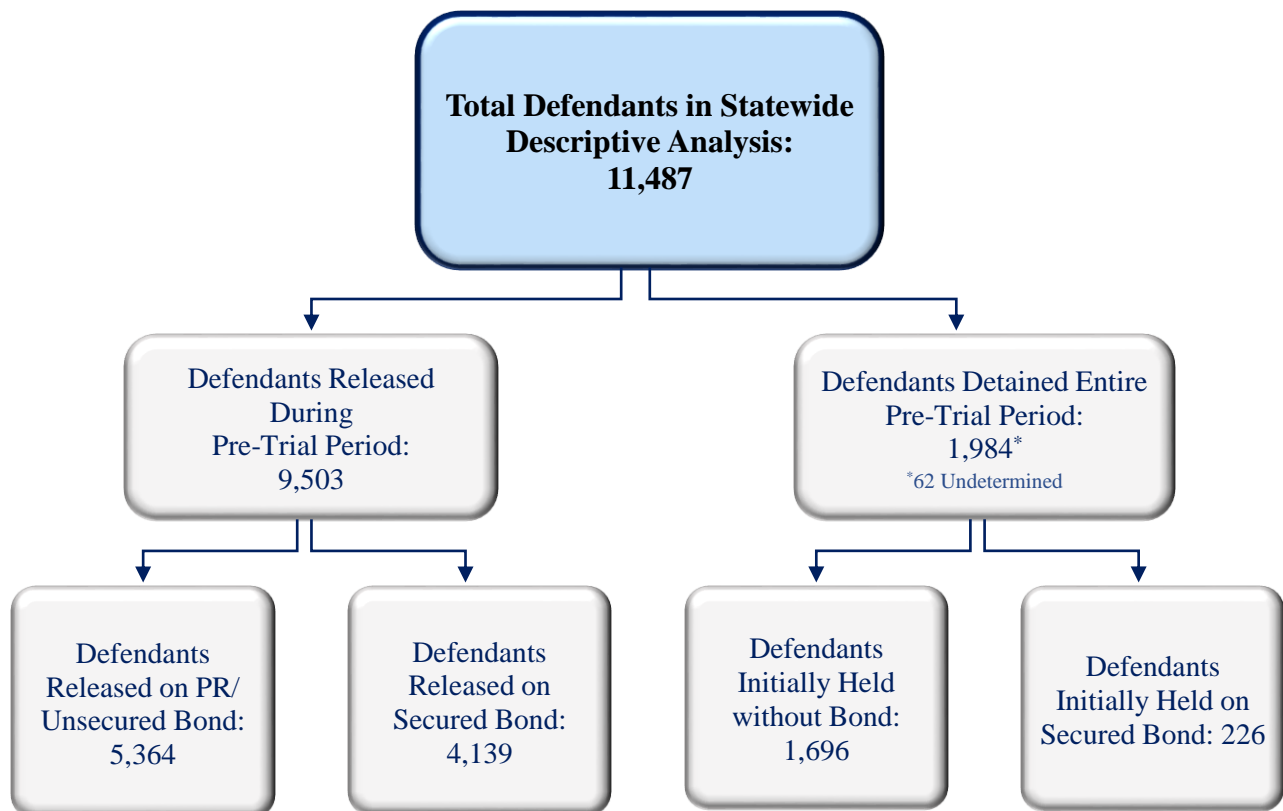
Lastly, this report does not provide a statewide descriptive analysis for the 675 of 22,986 defendants in the October 2017 cohort who could not be reliably classified or tracked due to insufficient data. The primary barriers faced when trying to classify or track these defendants included instances when no criminal or court record was found for a particular defendant, or when the criminal or court record contained missing, incomplete, or conflicting information. In these

instances, defendants could not be confidently matched to the criminal or court record and were therefore excluded from the analysis.

While these four categories of defendants were not included within the scope of this report, further examination of these defendants could prove beneficial, as all of the defendants in the cohort contributed to the overall pre-trial caseload within the criminal justice system.

# OVERVIEW OF DEFENDANTS AND OCTOBER 2017 CONTACT EVENTS

The statewide descriptive analysis in this section is based on all 11,487 defendants in the October 2017 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer.



### *Defendant Demographics*

Table 1 illustrates the demographics of the 11,487 defendants in the cohort whose October 2017 contact event included a new criminal offense punishable by incarceration.<sup>17</sup> The majority of these defendants were male, White, between the ages of 18 to 35, indigent, and residents of Virginia. A comparison between the demographics of these defendants and of Virginia’s overall statewide population in October 2017 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>18</sup>

	Number of Defendants	Percentage
<i>Defendant Sex</i>		
Male	8,383	73%
Female	3,104	27%
<i>Defendant Race<sup>20</sup></i>		
White	6,657	58%
Black	4,625	40%
Asian or Pacific Islander	150	1%
American Indian or Alaskan Native	2	< 1%
Unknown	53	< 1%
<i>Defendant Age</i>		
18-25 years old	3,227	28%
26-35 years old	3,831	33%
36-45 years old	2,201	19%
46-55 years old	1,426	12%
56-65 years old	644	6%
>65 years old	158	1%
<i>Defendant Indigency Status<sup>21</sup></i>		
Indigent	6,818	59%
Not Indigent	4,224	37%
Undetermined	445	4%
<i>Defendant Residency Status<sup>22</sup></i>		
Virginia Resident	9,749	85%
Out-of-State Resident	760	7%
Undetermined	978	9%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding.

*October 2017 Contact Events – Number of Specific Offense Types*

Table 2 displays the total number of specific offense types in the October 2017 contact event for each of the 11,487 defendants in the cohort. For purposes of this table and similar tables later in this report, it should be noted that a defendant could have more than one *count* of a specific offense type.<sup>23</sup> For example, if a defendant was charged with three counts of grand larceny, that defendant would have three charges for grand larceny but only one specific offense type. Similarly, if a defendant was charged with two counts of grand larceny and two counts of burglary, that defendant would have four charges but would be categorized as having two specific offense types. As seen in this table, 85% (9,784 of 11,487) of defendants had 1 or 2 specific offense types in their October 2017 contact event.

**Table 2: Number of Specific Offense Types in Contact Event<sup>24</sup>**

	Number of Defendants	Percentage
1 Specific Offense Type	7,028	61%
2 Specific Offense Types	2,756	24%
3 Specific Offense Types	1,054	9%
4 Specific Offense Types	403	4%
5 Specific Offense Types	134	1%
6+ Specific Offense Types	112	1%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Classification of Most Serious Offense*

Table 3 specifies the classification of the most serious offense in the October 2017 contact event for each of the 11,487 defendants in the cohort.<sup>25</sup> As seen in this table, 47% (5,403 of 11,487) of defendants had a Class 1 misdemeanor as the most serious offense in their contact event. When looking at the overall breakdown by the most serious offense in the contact event, the analysis found that:

- Approximately half (5,697 of 11,487) of the defendants had a felony as their most serious offense;
- Approximately half (5,772 of 11,487) of the defendants had a misdemeanor or special class offense as their most serious offense; and,
- The classification of the most serious offense could not be determined for less than 1% (18 of 11,487) of the defendants.

**Table 3: Classification of Most Serious Offense in Contact Event<sup>26</sup>**

	Number of Defendants	Percentage
Class 1 Felony (F1)	2	< 1%
Class 2 Felony (F2)	80	1%
Class 3 Felony (F3)	240	2%
Class 4 Felony (F4)	109	1%
Class 5 Felony (F5)	1,591	14%
Class 6 Felony (F6)	1,405	12%
Unclassified Felony (F9)*	2,270	20%
Class 1 Misdemeanor (M1)	5,403	47%
Class 2 Misdemeanor (M2)	40	< 1%
Unclassified Misdemeanor (M9)*	97	1%
Special Class Offense (S9)*	232	2%
Undetermined Classification	18	< 1%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. \* 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.

*October 2017 Contact Events – Most Serious Offense Category*

Table 4 provides more specific detail for the 5,697 of 11,487 defendants in the cohort whose most serious offense in their October 2017 contact event was a felony.<sup>27</sup> As seen in this table, 52% (2,966 of 5,697) of the contact events for these defendants were for categories of felony narcotics or grand larceny offenses.<sup>28</sup>

**Table 4: Most Serious Felony Offense Category in Contact Event<sup>29</sup>**

	Number of Defendants	Percentage
Narcotics <sup>30</sup>	1,639	29%
Grand Larceny <sup>31</sup>	1,322	23%
Assault <sup>32</sup>	630	11%
Fraud <sup>33</sup>	439	8%
Burglary <sup>34</sup>	260	5%
Weapons <sup>35</sup>	236	4%
Robbery <sup>36</sup>	126	2%
Driving While Intoxicated <sup>37</sup>	102	2%
Vandalism/Damage to Property <sup>38</sup>	91	2%
Rape <sup>39</sup>	81	1%
Kidnapping <sup>40</sup>	78	1%
Murder <sup>41</sup>	41	1%
Obscenity/Pornography <sup>42</sup>	32	1%
<i>All Other Felony Charges<sup>43</sup></i>	620	11%
<b>Total Defendants</b>	<b>5,697</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.



Table 5 provides more specific detail for the 5,772 of 11,487 defendants in the cohort whose most serious offense in their October 2017 contact event was a misdemeanor.<sup>44</sup> As seen in this table, 61% (3,532 of 5,772) of the contact events for these defendants were for categories of misdemeanor assault or driving while intoxicated offenses.

	Number of Defendants	Percentage
Assault <sup>45</sup>	1,816	31%
Driving While Intoxicated <sup>46</sup>	1,716	30%
Trespassing <sup>47</sup>	227	4%
Obstruction of Justice <sup>48</sup>	217	4%
Petit Larceny <sup>49</sup>	216	4%
Traffic- Driver's License <sup>50</sup>	201	3%
Protective Order Violation <sup>51</sup>	198	3%
Narcotics <sup>52</sup>	136	2%
Alcohol <sup>53</sup>	130	2%
Fraud <sup>54</sup>	101	2%
Weapons <sup>55</sup>	97	2%
Vandalism/Damage to Property <sup>56</sup>	89	2%
<i>All Other Misdemeanor Charges</i> <sup>57</sup>	628	11%
<b>Total Defendants</b>	<b>5,772</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Prior In-State Criminal History Records*

Table 6 details the prior in-state criminal history records for each of the 11,487 defendants in the cohort at the time of their October 2017 contact event.<sup>58</sup> 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.<sup>59</sup> It is important to note that data from the *Project* only included the Virginia *in-state* criminal history records of the defendants in the cohort. 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. As such, out-of-state criminal history records were not included in the dataset of the *Project* or in the analysis in this report.

	Number of Defendants	Percentage
<i>Pending Charge(s)</i>		
Yes	1,849	16%
No	9,638	84%
<i>On State Probation Supervision</i>		
Yes	1,270	11%
No	10,217	89%
<i>On Local Community Corrections Supervision</i>		
Yes	644	6%
No	10,843	94%
<i>Prior Term of Incarceration of <math>\geq 14</math> days</i>		
Yes	3,924	34%
No	7,563	66%
<i>Prior In-State Misdemeanor Conviction</i>		
Yes	6,478	56%
No	5,009	44%
<i>Prior In-State Felony Conviction (Any Felony)</i>		
Yes	3,339	29%
No	8,148	71%
<i>Prior In-State Violent Felony Conviction (§ 17.1-805)<sup>61</sup></i>		
Yes	995	9%
No	10,492	91%
<i>Prior Failure to Appear Charge</i>		
Yes	3,022	26%
No	8,465	74%
<i>Prior Failure to Appear Conviction</i>		
Yes	1,735	15%
No	9,752	85%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Risk Levels Assigned to Defendants*

Risk assessment tools are commonly used at various stages within the criminal justice system to assist in making decisions relating to individual defendants.<sup>62</sup> Studies have consistently found that validated actuarial risk assessment tools combined with professional judgement produce better outcomes than subjective professional judgement alone.<sup>63</sup> Pretrial risk assessment tools were first developed in the 1960s and have since been increasingly implemented across the United States at the federal, state, and locality levels to primarily assist judicial officers during the bail determination process in evaluating defendants' risk of failure to appear and risk to public safety.<sup>64</sup>

Recently, strong debates have arisen over the use of pretrial risk assessment tools.<sup>65</sup> Specifically, proponents argue that utilizing a pretrial risk assessment tool results in improved objectivity and fairness by reducing inconsistent or unpredictable decision-making by judicial officers.<sup>66</sup> Proponents also contend that the use of these tools allow for more defendants to be released and for jail populations to be reduced while still maintaining public safety.<sup>67</sup> Conversely, opponents argue that the tools result in biased outcomes and reinforce disparities across certain racial, ethnic, and socioeconomic populations in the criminal justice system due to the reliance on data collected from a biased system (i.e., bias in – bias out).<sup>68</sup> Further, opponents claim that these tools reduce judicial discretion and result in increased pre-trial detention.<sup>69</sup>

This report does not offer a position on the use of pretrial risk assessment tools. However, for purposes of the *Project*, it was imperative to identify a uniform mechanism to measure risk of failure to appear and public safety across all defendants in a consistent manner so that comparisons could be made between similarly situated defendants. The first risk assessment tool considered was the Virginia Pretrial Risk Assessment Instrument (VPRAI), which is the tool currently used by Virginia pretrial services agencies to assist judicial officers in determining an overall *combined* risk of failure to appear and public safety.<sup>70</sup> In order to fully complete the VPRAI, an interview must be conducted with the defendant. While many of the risk factors on the VPRAI could be scored using data from the *Project*, staff was unable to fully complete the VPRAI because interviews would have been required with all defendants in the cohort in order to reliably determine whether each defendant was “unemployed at time of arrest” or had a “history of drug abuse”.

The second risk assessment tool considered was the Public Safety Assessment (PSA) which, unlike the VPRAI, does not require an interview with the defendant and is able to provide *distinct* risk levels of failure to appear and new criminal activity, along with a flag for risk of new violent criminal activity, for use by judicial officers.<sup>71</sup> While the PSA has not been adopted in Virginia, staff was able to retroactively apply this tool across the entire cohort in order to assign a score to each defendant for risk of failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA).<sup>72</sup> The PSA was used for conducting the statewide descriptive analysis in this report because of its ability to measure distinct risk levels across all defendants in the cohort in a uniform manner.<sup>73</sup>

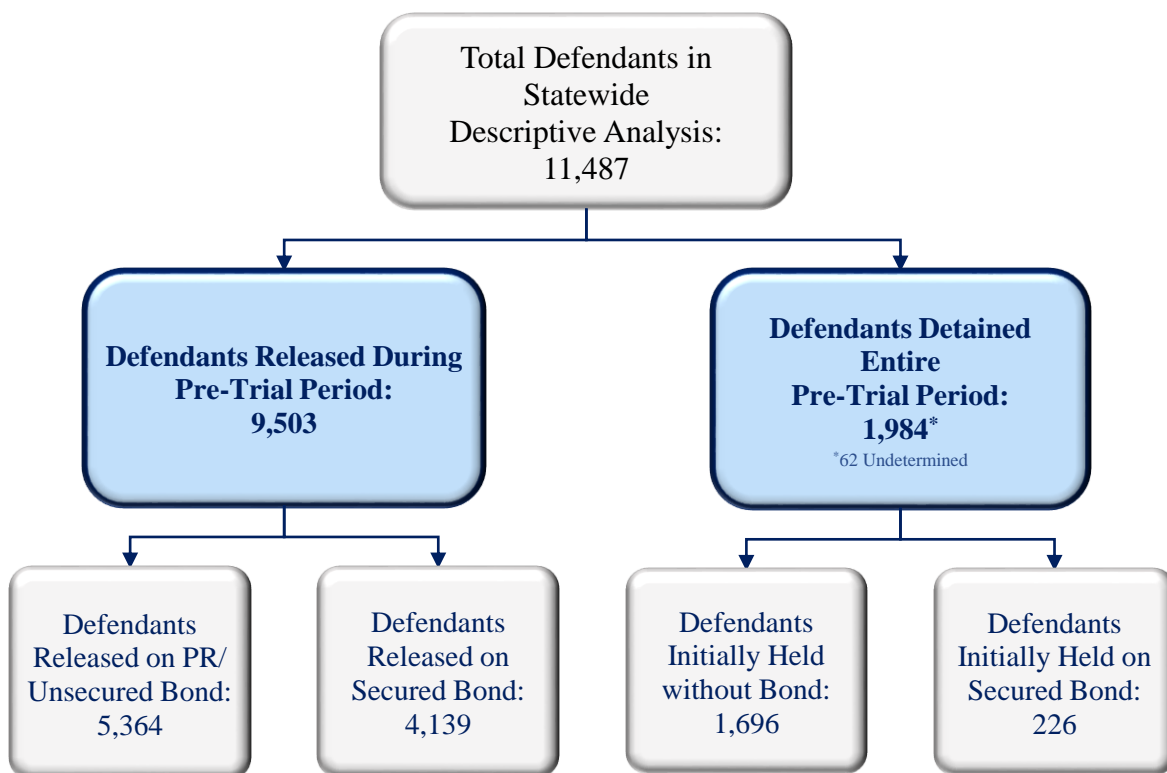
Table 7 delineates the PSA risk levels of failure to appear (FTA) and new criminal activity (NCA) assigned to each of the 11,487 defendants in the cohort.<sup>74</sup> Most of the defendants were classified as Risk Level 1 (lowest risk) or Risk Level 2 for either failure to appear or new criminal activity. Furthermore, few defendants were assigned the PSA risk of new violent criminal activity (NVCA) flag.<sup>75</sup>

<b>Table 7: Assigned Public Safety Assessment (PSA) Risk Levels<sup>76</sup></b>		
	Number of Defendants	Percentage
<i>Assigned PSA Risk Level of FTA</i>		
FTA Risk Level 1 (lowest risk)	4,255	37%
FTA Risk Level 2	3,348	29%
FTA Risk Level 3	1,854	16%
FTA Risk Level 4	1,413	12%
FTA Risk Level 5	482	4%
FTA Risk Level 6 (highest risk)	135	1%
<i>Assigned PSA Risk Level of NCA</i>		
NCA Risk Level 1 (lowest risk)	3,086	27%
NCA Risk Level 2	2,986	26%
NCA Risk Level 3	2,085	18%
NCA Risk Level 4	1,634	14%
NCA Risk Level 5	1,068	9%
NCA Risk Level 6 (highest risk)	628	5%
<i>Assigned PSA NVCA Flag</i>		
Yes	1,732	15%
No	9,755	85%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Note: failure to appear (FTA); new criminal activity (NCA); new violent criminal activity (NVCA).

## PRE-TRIAL RELEASE STATUS OF DEFENDANTS

The statewide descriptive analysis in this section is based on all 11,487 defendants in the October 2017 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer, with a specific comparison between the 9,503 defendants who were released during the pre-trial period and the 1,984 defendants who were detained the entire pre-trial period.



**Pre-Trial Release Status**

Table 8 specifies the ultimate pre-trial release status for each of the 11,487 defendants in the cohort. This table shows that 83% (9,503 of 11,487) of defendants were ultimately released during the pre-trial period.<sup>77</sup>

**Table 8: Pre-Trial Release Status of Defendants in Cohort<sup>78</sup>**

	Number of Defendants	Percentage
Released During Pre-Trial Period (“Released”)	9,503	83%
Detained Entire Pre-Trial Period (“Detained”)	1,984	17%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

**Defendant Demographics**

Table 9 illustrates the pre-trial release status and the demographics of the 11,487 defendants in the cohort. As seen in this table, most defendants were ultimately released during the pre-trial period regardless of their demographic group.

**Table 9: Pre-Trial Release Status and Defendant Demographics**

	Pre-Trial Release Status		Number of Defendants
	Released	Detained	
<i>Defendant Sex</i>			
Male	6,658 (79%)	1,725 (21%)	<b>8,383</b>
Female	2,845 (92%)	259 (8%)	<b>3,104</b>
<i>Defendant Race</i>			
White	5,633 (85%)	1,024 (15%)	<b>6,657</b>
Black	3,681 (80%)	944 (20%)	<b>4,625</b>
Asian or Pacific Islander	138 (92%)	12 (8%)	<b>150</b>
American Indian or Alaskan Native	2 (100%)	0 (0%)	<b>2</b>
Unknown	49 (92%)	4 (8%)	<b>53</b>
<i>Defendant Indigency Status</i>			
Indigent	5,267 (77%)	1,551 (23%)	<b>6,818</b>
Not Indigent	3,810 (90%)	414 (10%)	<b>4,224</b>
Undetermined	426 (96%)	19 (4%)	<b>445</b>
<i>Defendant Residency Status</i>			
Virginia Resident	8,287 (85%)	1,462 (15%)	<b>9,749</b>
Out-of-State Resident	618 (81%)	142 (19%)	<b>760</b>
Undetermined	598 (61%)	380 (39%)	<b>978</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Number of Specific Offense Types*

Table 10 displays the pre-trial release status for each of the 11,487 defendants in the cohort and the total number of specific offense types in their October 2017 contact event. As seen in this table, while most defendants were released during the pre-trial period regardless of the number of specific offense types in their contact event, the proportion of defendants who were detained for the entire pre-trial period increased as the number of specific offense types in their contact event increased.

**Table 10: Pre-Trial Release Status and Number of Specific Offense Types in Contact Event**

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Number of Specific Offense Types</i>			
1 Specific Offense Type	6,165 (88%)	863 (12%)	<b>7,028</b>
2 Specific Offense Types	2,205 (80%)	551 (20%)	<b>2,756</b>
3 Specific Offense Types	744 (71%)	310 (29%)	<b>1,054</b>
4 Specific Offense Types	255 (63%)	148 (37%)	<b>403</b>
5 Specific Offense Types	84 (63%)	50 (37%)	<b>134</b>
6+ Specific Offense Types	50 (45%)	62 (55%)	<b>112</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Classification of Most Serious Offense*

Table 11 specifies the pre-trial release status for each of the 11,487 defendants in the cohort and the classification of the most serious offense in their October 2017 contact event. With the exception of defendants who were charged with Class 1 and Class 2 felonies, most defendants were ultimately released during the pre-trial period regardless of the classification of the most serious offense in their contact event.

**Table 11: Pre-Trial Release Status and Classification of Most Serious Offense in Contact Event**

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Classification of Most Serious Offense</i>			
Class 1 Felony (F1)	0 (0%)	2 (100%)	<b>2</b>
Class 2 Felony (F2)	27 (35%)	53 (65%)	<b>80</b>
Class 3 Felony (F3)	151 (63%)	89 (37%)	<b>240</b>
Class 4 Felony (F4)	85 (78%)	24 (22%)	<b>109</b>
Class 5 Felony (F5)	1,289 (81%)	302 (19%)	<b>1,591</b>
Class 6 Felony (F6)	1,030 (73%)	375 (27%)	<b>1,405</b>
Unclassified Felony (F9)	1,619 (71%)	651 (29%)	<b>2,270</b>
Class 1 Misdemeanor (M1)	4,953 (92%)	450 (8%)	<b>5,403</b>
Class 2 Misdemeanor (M2)	35 (88%)	5 (12%)	<b>40</b>
Unclassified Misdemeanor (M9)	92 (95%)	5 (5%)	<b>97</b>
Special Class Offense (S9)	205 (88%)	27 (12%)	<b>232</b>
Undetermined Classification	17 (94%)	1 (6%)	<b>18</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.



*October 2017 Contact Events – Most Serious Offense Category*

Table 12 provides more specific detail on the pre-trial release status for the 5,697 of 11,487 defendants in the cohort whose most serious offense in their October 2017 contact event was a felony. Most of these defendants were ultimately released during the pre-trial period, with the exception of defendants whose most serious offense was for a category of murder, rape, or robbery.

**Table 12: Pre-Trial Release Status and Most Serious Felony Offense Category in Contact Event**

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Most Serious Felony Offense Category</i>			
Narcotics	1,278 (78%)	361 (22%)	<b>1,639</b>
Grand Larceny	1,054 (80%)	268 (20%)	<b>1,322</b>
Assault	411 (65%)	219 (35%)	<b>630</b>
Fraud	357 (81%)	82 (19%)	<b>439</b>
Burglary	172 (66%)	88 (34%)	<b>260</b>
Weapons	178 (75%)	58 (25%)	<b>236</b>
Robbery	47 (37%)	79 (63%)	<b>126</b>
Driving While Intoxicated	70 (69%)	32 (31%)	<b>102</b>
Vandalism/Damage to Property	82 (90%)	9 (10%)	<b>91</b>
Rape	32 (40%)	49 (60%)	<b>81</b>
Kidnapping	50 (64%)	28 (36%)	<b>78</b>
Murder	8 (20%)	33 (80%)	<b>41</b>
Obscenity/Pornography	17 (53%)	15 (47%)	<b>32</b>
<i>All Other Felony Charges</i>	445 (72%)	175 (28%)	<b>620</b>
<b>Total Defendants</b>	<b>4,201</b>	<b>1,496</b>	<b>5,697</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

Table 13 provides more specific detail on the pre-trial release status for the 5,772 of 11,487 defendants in the cohort whose most serious offense in their October 2017 contact event was a misdemeanor. Most of these defendants were ultimately released during the pre-trial period. When specifically examining defendants in this group who were detained for the entire pre-trial period, defendants whose most serious offense related to categories of alcohol, fraud, or protective order offenses were detained at higher rates as compared to defendants detained for other misdemeanor offense categories.

**Table 13: Pre-Trial Release Status and Most Serious Misdemeanor Offense Category in Contact Event**

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Most Serious Misdemeanor Offense Category</i>			
Assault	1,717 (95%)	99 (5%)	<b>1,816</b>
Driving While Intoxicated	1,654 (96%)	62 (4%)	<b>1,716</b>
Trespassing	193 (85%)	34 (15%)	<b>227</b>
Petit Larceny	196 (91%)	20 (9%)	<b>216</b>
Obstruction of Justice	188 (87%)	29 (13%)	<b>217</b>
Traffic- Driver's License	187 (93%)	14 (7%)	<b>201</b>
Protective Order Violation	152 (77%)	46 (23%)	<b>198</b>
Narcotics	124 (91%)	12 (9%)	<b>136</b>
Alcohol	92 (71%)	38 (29%)	<b>130</b>
Fraud	76 (75%)	25 (25%)	<b>101</b>
Weapons	94 (97%)	3 (3%)	<b>97</b>
Vandalism/Damage to Property	79 (89%)	10 (11%)	<b>89</b>
<i>All Other Misdemeanor Charges</i>	533 (85%)	95 (15%)	<b>628</b>
<b>Total Defendants</b>	<b>5,285</b>	<b>487</b>	<b>5,772</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Prior In-State Criminal History Records*

Table 14 details the pre-trial release status for each of the 11,487 defendants in the cohort and their prior in-state criminal history records at the time of their October 2017 contact event. Most defendants were released during the pre-trial period regardless of their prior in-state criminal history record.

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

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Pending Charge(s)</i>			
Yes	1,269 (69%)	580 (31%)	<b>1,849</b>
No	8,234 (85%)	1,404 (15%)	<b>9,638</b>
<i>On State Probation Supervision</i>			
Yes	749 (59%)	521 (41%)	<b>1,270</b>
No	8,754 (86%)	1,463 (14%)	<b>10,217</b>
<i>On Local Community Corrections Supervision</i>			
Yes	443 (69%)	201 (31%)	<b>644</b>
No	9,060 (84%)	1,783 (16%)	<b>10,843</b>
<i>Prior Term of Incarceration of <math>\geq 14</math> Days</i>			
Yes	2,675 (68%)	1,249 (32%)	<b>3,924</b>
No	6,828 (90%)	735 (10%)	<b>7,563</b>
<i>Prior In-State Misdemeanor Conviction</i>			
Yes	5,002 (77%)	1,476 (23%)	<b>6,478</b>
No	4,501 (90%)	508 (10%)	<b>5,009</b>
<i>Prior In-State Felony Conviction (Any Felony)</i>			
Yes	2,280 (68%)	1,059 (32%)	<b>3,339</b>
No	7,223 (89%)	925 (11%)	<b>8,148</b>
<i>Prior In-State Violent Felony Conviction (§17.1-805)</i>			
Yes	586 (59%)	409 (41%)	<b>995</b>
No	8,917 (85%)	1,575 (15%)	<b>10,492</b>
<i>Prior Failure to Appear Charge</i>			
Yes	2,121 (70%)	901 (30%)	<b>3,022</b>
No	7,382 (87%)	1,083 (13%)	<b>8,465</b>
<i>Prior Failure to Appear Conviction</i>			
Yes	1,181 (68%)	554 (32%)	<b>1,735</b>
No	8,322 (85%)	1,430 (15%)	<b>9,752</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

***Risk Levels Assigned to Defendants***

Table 15 provides the pre-trial release status for each of the 11,487 defendants in the cohort and delineates their assigned Public Safety Assessment (PSA) risk levels of failure to appear (FTA) and new criminal activity (NCA). While most defendants in the cohort were ultimately released during the pre-trial period regardless of their assigned PSA risk level for failure to appear or new criminal activity, the proportion of defendants who were detained the entire pre-trial period increased as their assigned PSA risk levels increased. Additionally, defendants assigned the PSA new violent criminal activity (NVCA) flag were more likely to be detained the entire pre-trial period than defendants who were not assigned the flag.

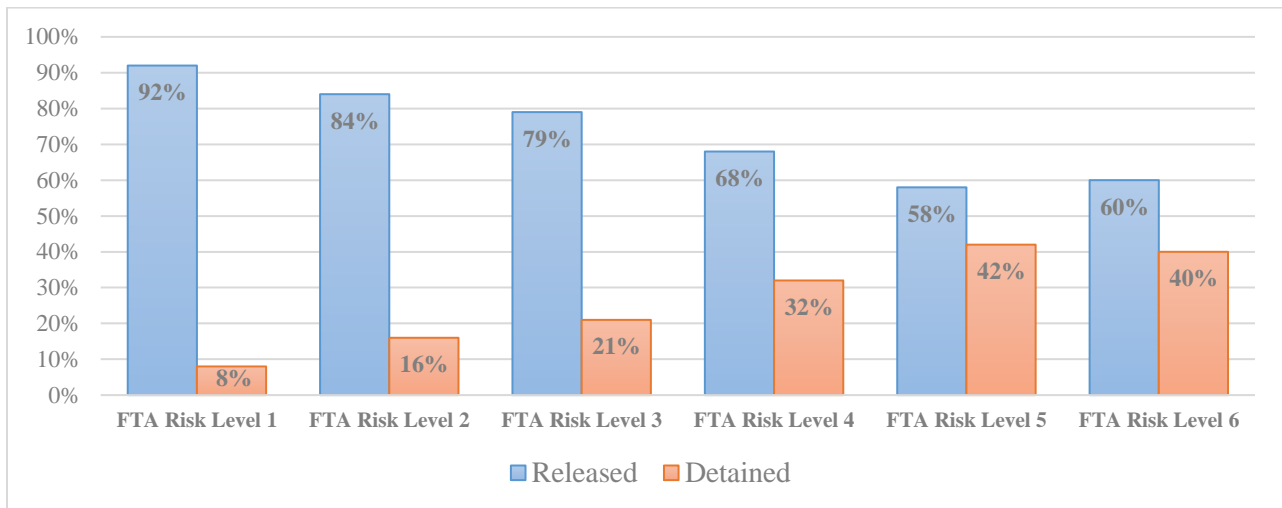
***Table 15: Pre-Trial Release Status and Assigned Public Safety Assessment (PSA) Risk Levels***

	<u>Pre-Trial Release Status</u>		Number of Defendants
	<b>Released</b>	<b>Detained</b>	
<i>Assigned PSA Risk Level of FTA</i>			
FTA Risk Level 1 (lowest risk)	3,895 (92%)	360 (8%)	<b>4,255</b>
FTA Risk Level 2	2,824 (84%)	524 (16%)	<b>3,348</b>
FTA Risk Level 3	1,458 (79%)	396 (21%)	<b>1,854</b>
FTA Risk Level 4	967 (68%)	446 (32%)	<b>1,413</b>
FTA Risk Level 5	278 (58%)	204 (42%)	<b>482</b>
FTA Risk Level 6 (highest risk)	81 (60%)	54 (40%)	<b>135</b>
<i>Assigned PSA Risk Level of NCA</i>			
NCA Risk Level 1 (lowest risk)	2,826 (92%)	260 (8%)	<b>3,086</b>
NCA Risk Level 2	2,737 (92%)	249 (8%)	<b>2,986</b>
NCA Risk Level 3	1,719 (82%)	366 (18%)	<b>2,085</b>
NCA Risk Level 4	1,164 (71%)	470 (29%)	<b>1,634</b>
NCA Risk Level 5	690 (65%)	378 (35%)	<b>1,068</b>
NCA Risk Level 6 (highest risk)	367 (58%)	261 (42%)	<b>628</b>
<i>Assigned PSA NVCA Flag</i>			
Yes	1,197 (69%)	535 (31%)	<b>1,732</b>
No	8,306 (85%)	1,449 (15%)	<b>9,755</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Note: failure to appear (FTA); new criminal activity (NCA); new violent criminal activity (NVCA).

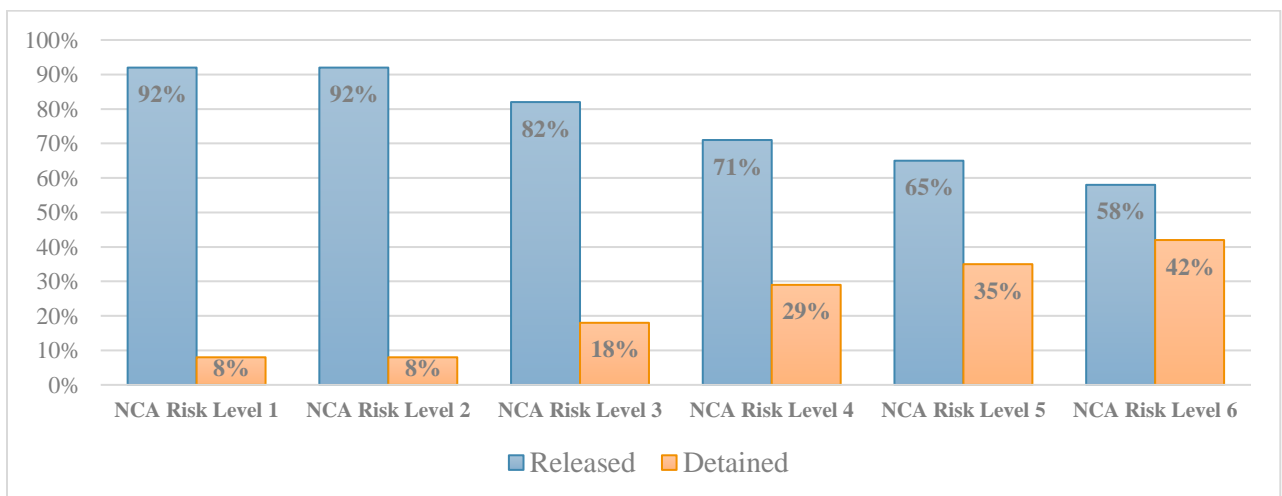
Charts 4 and Chart 5 specifically illustrate the percentage of defendants *within* each assigned PSA risk level of failure to appear (Chart 4) and new criminal activity (Chart 5) that were released versus detained during the pre-trial period. In general, the proportion of defendants released during the pre-trial period decreased as assigned PSA risk levels increased. Accordingly, the proportion of defendants detained during the entire pre-trial period increased as assigned PSA risk levels increased.

**Chart 4: Percentage of Defendants Released/Detained During Pre-Trial Period by Assigned PSA Risk of Failure to Appear**



Source: Virginia Pre-Trial Data Project. Analysis completed and chart prepared by VSCC staff.

**Chart 5: Percentage of Defendants Released/Detained During the Pre-Trial Period by Assigned PSA Risk of New Criminal Activity**



Source: Virginia Pre-Trial Data Project. Analysis completed and chart prepared by VSCC staff.

### *Locality Specific Factors and Type of Attorney*

During the course of the *Project*, stakeholders expressed interest in whether pre-trial release decisions, at an aggregate-level, were potentially impacted by factors such as (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. Table 16 outlines the pre-trial release status for each of the 11,487 defendants in the cohort in relation to these three factors.

It is important to underscore that one should not immediately draw a correlation between a defendant's ultimate pre-trial release status and the presence of a public defender office, availability of pretrial services agency supervision, or the type of attorney representing a defendant at case closure, as data from the *Project* does not show what influence, 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.

As seen in Table 16, the overall pre-trial release status of these defendants at a statewide descriptive level did not vary considerably across localities with a public defender office or pretrial services agency supervision as compared to localities without these services.<sup>79</sup> However, the overall pre-trial release status did vary by the type of attorney representing these defendants at the conclusion of the case. As seen in this table, 93% (2,962 of 3,181) of the defendants in the cohort represented by a retained attorney at case closure were released during the pre-trial period as compared to only 78% (2,001 of 2,561) of defendants represented by a public defender at case closure and 77% (3,223 of 4,183) of defendants represented by a court-appointed attorney at case closure. Staff found that this trend was consistent across many of the most serious felony and misdemeanor offenses in the October 2017 contact events for these defendants.

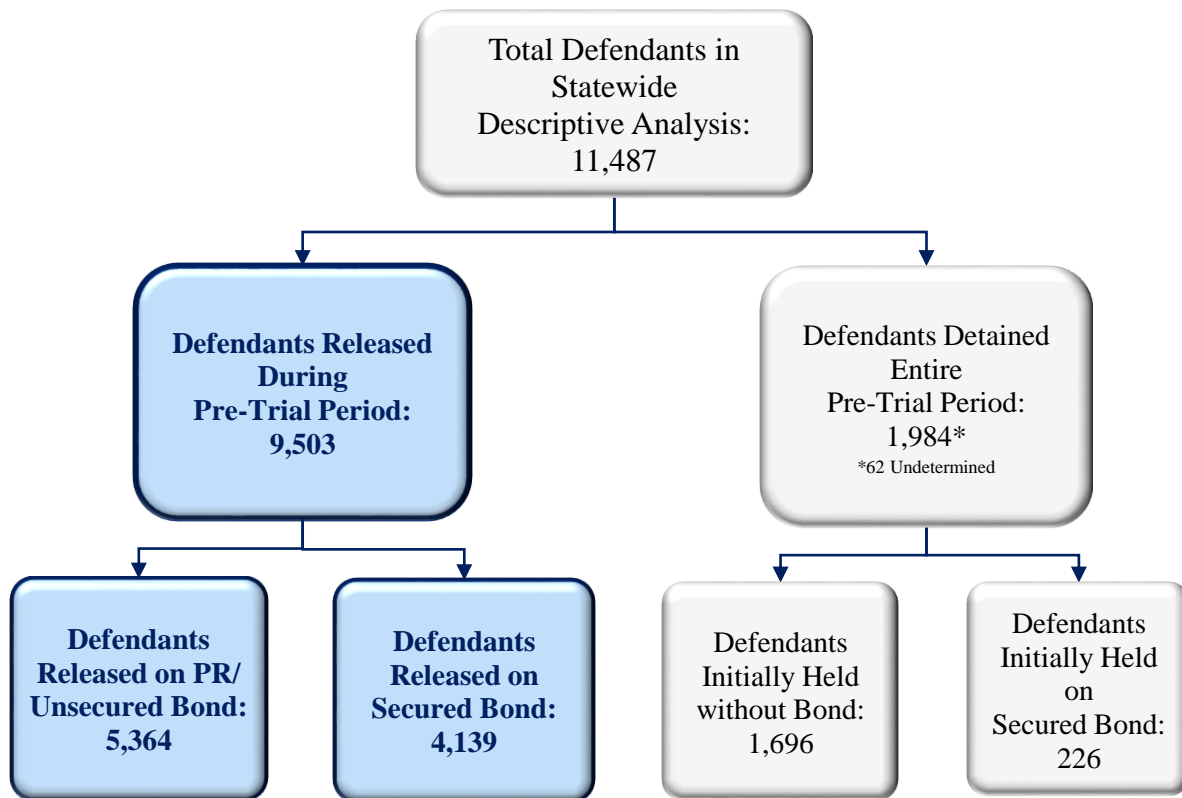
**Table 16: Pre-Trial Release Status by Locality Specific Factors and Type of Attorney<sup>80</sup>**

	Pre-Trial Release Status		Number of Defendants
	Released	Detained	
<i>Public Defender Office in Locality</i>			
Yes	6,168 (83%)	1,274 (17%)	<b>7,442</b>
No	3,322 (82%)	710 (18%)	<b>4,032</b>
Undetermined Locality	13 (100%)	0 (0%)	<b>13</b>
<i>Pretrial Services Agency Supervision in Locality</i>			
Yes	8,448 (83%)	1,743 (17%)	<b>10,191</b>
No	1,042 (81%)	241 (19%)	<b>1,283</b>
Undetermined Locality	13 (100%)	0 (0%)	<b>13</b>
<i>Type of Attorney (at case closure)</i>			
Court-Appointed Attorney	3,223 (77%)	960 (23%)	<b>4,183</b>
Public Defender	2,001 (78%)	560 (22%)	<b>2,561</b>
Both Court-Appointed and Public Defender	43 (58%)	31 (42%)	<b>74</b>
Retained Attorney	2,962 (93%)	219 (7%)	<b>3,181</b>
Waived	192 (89%)	24 (11%)	<b>216</b>
Undetermined	1,082 (85%)	190 (15%)	<b>1,272</b>
<b>Total Defendants</b>	<b>9,503</b>	<b>1,984</b>	<b>11,487</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

## DEFENDANTS RELEASED DURING THE PRE-TRIAL PERIOD

The statewide descriptive analysis in this section is only based on the 9,503 defendants in the October 2017 cohort who were ultimately released during the pre-trial period, with a specific comparison between the 5,364 defendants who were released on a PR or unsecured bond and the 4,139 defendants who were released on a secured bond.





### *Length of Time until Pre-Trial Release*

A growing body of research emphasizes not only the importance of whether a defendant is ultimately released during the pre-trial period, but also the importance of how *quickly* a defendant is released after being charged.<sup>81</sup>

Table 17 sets forth the number of days between the date of the October 2017 contact event and the date of pre-trial release for each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period.<sup>82</sup> Overall, 81% (7,739 of 9,503) of these defendants were released *within 3 days* of their contact event.<sup>83</sup>

**Table 17: Number of Days Between Contact Event and Pre-Trial Release<sup>84</sup>**

	Number of Defendants	Percentage
0 days	6,165	65%
1 day	1,144	12%
2 days	246	3%
3 days	184	2%
4 days	157	2%
5 days	119	1%
6-10 days	424	4%
11-15 days	235	2%
16-20 days	134	1%
21-25 days	94	1%
26-30 days	58	1%
Over 30 days	445	5%
<i>Undetermined</i>	98	1%
<b>Total Defendants</b>	<b>9,503</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*Defendant Demographics*

Table 18 illustrates the bond type at release and the demographics for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Of these 9,503 defendants, 56% (5,364 of 9,503) were released on a personal recognizance (PR) or unsecured bond and 44% (4,139 of 9,503) were released on a secured bond. A larger proportion of the defendants released on a *secured* bond were male, Black, or indigent, as compared to the proportion of defendants from other demographic groups who were released on a secured bond. Additionally, 62% (1,019 of 1,651) of the defendants who received pretrial services agency supervision were released on a secured bond, as compared to 38% (632 of 1,651) of defendants who received pretrial services agency supervision that were released on a PR or unsecured bond.

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

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Defendant Sex</i>			
Male	3,557 (53%)	3,101 (47%)	<b>6,658</b>
Female	1,807 (64%)	1,038 (36%)	<b>2,845</b>
<i>Defendant Race</i>			
White	3,292 (58%)	2,341 (42%)	<b>5,633</b>
Black	1,942 (53%)	1,739 (47%)	<b>3,681</b>
Asian or Pacific Islander	96 (70%)	42 (30%)	<b>138</b>
American Indian or Alaskan Native	0 (0%)	2 (100%)	<b>2</b>
Unknown	34 (69%)	15 (31%)	<b>49</b>
<i>Defendant Indigency Status</i>			
Indigent	2,708 (51%)	2,559 (49%)	<b>5,267</b>
Not Indigent	2,349 (62%)	1,461 (38%)	<b>3,810</b>
Undetermined	307 (72%)	119 (28%)	<b>426</b>
<i>Defendant Residency Status</i>			
Virginia Resident	4,747 (57%)	3,540 (43%)	<b>8,287</b>
Out-of-State Resident	304 (49%)	314 (51%)	<b>618</b>
Undetermined	313 (52%)	285 (48%)	<b>598</b>
<i>Defendant Pretrial Services Agency Supervision Status<sup>85</sup></i>			
Received Supervision	632 (38%)	1,019 (62%)	<b>1,651</b>
Did Not Receive Supervision	4,732 (60%)	3,120 (40%)	<b>7,852</b>
<b>Total Defendants</b>	<b>5,364</b>	<b>4,139</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Number of Specific Offense Types*

Table 19 displays the bond type at release and the total number of specific offense types in the October 2017 contact event for each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period. As seen in this table, the proportion of defendants who were released on a secured bond increased as the number of specific offense types in their contact event increased.

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

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Number of Specific Offense Types</i>			
1 Specific Offense Type	4,008 (65%)	2,157 (35%)	<b>6,165</b>
2 Specific Offense Types	1,006 (46%)	1,199 (54%)	<b>2,205</b>
3 Specific Offense Types	252 (34%)	492 (66%)	<b>744</b>
4 Specific Offense Types	63 (25%)	192 (75%)	<b>255</b>
5 Specific Offense Types	26 (31%)	58 (69%)	<b>84</b>
6+ Specific Offense Types	9 (18%)	41 (82%)	<b>50</b>
<b>Total Defendants</b>	5,364	4,139	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 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 October 2017 contact event for each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial 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 significantly 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**

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Classification of Most Serious Offense</i>			
Class 1 Felony (F1)	0 (0%)	0 (0%)	<b>0</b>
Class 2 Felony (F2)	7 (26%)	20 (74%)	<b>27</b>
Class 3 Felony (F3)	38 (25%)	113 (75%)	<b>151</b>
Class 4 Felony (F4)	23 (27%)	62 (73%)	<b>85</b>
Class 5 Felony (F5)	510 (40%)	779 (60%)	<b>1,289</b>
Class 6 Felony (F6)	357 (35%)	673 (65%)	<b>1,030</b>
Unclassified Felony (F9)	680 (42%)	939 (58%)	<b>1,619</b>
Class 1 Misdemeanor (M1)	3,572 (72%)	1,381 (28%)	<b>4,953</b>
Class 2 Misdemeanor (M2)	29 (83%)	6 (17%)	<b>35</b>
Unclassified Misdemeanor (M9)	67 (73%)	25 (27%)	<b>92</b>
Special Class Offense (S9)	76 (37%)	129 (63%)	<b>205</b>
Undetermined Classification	5 (29%)	12 (71%)	<b>17</b>
<b>Total Defendants</b>	<b>5,364</b>	<b>4,139</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Most Serious Offense Category*

When specifically examining the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period, data revealed that 4,201 of these defendants had a felony as the most serious offense in their October 2017 contact event. Table 21 provides more specific detail on the bond type at release for these 4,201 defendants. 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 grand larceny, fraud, or vandalism/damage to property.

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

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Most Serious Felony Offense Category</i>			
Narcotics	469 (37%)	809 (63%)	<b>1,278</b>
Grand Larceny	505 (48%)	549 (52%)	<b>1,054</b>
Assault	115 (28%)	296 (72%)	<b>411</b>
Fraud	169 (47%)	188 (53%)	<b>357</b>
Burglary	59 (34%)	113 (66%)	<b>172</b>
Weapons	57 (32%)	121 (68%)	<b>178</b>
Robbery	14 (30%)	33 (70%)	<b>47</b>
Driving While Intoxicated	12 (17%)	58 (83%)	<b>70</b>
Vandalism/Damage to Property	44 (54%)	38 (46%)	<b>82</b>
Rape	5 (16%)	27 (84%)	<b>32</b>
Kidnapping	10 (20%)	40 (80%)	<b>50</b>
Murder	3 (38%)	5 (62%)	<b>8</b>
Obscenity/Pornography	5 (29%)	12 (71%)	<b>17</b>
<i>All Other Felony Charges</i>	148 (33%)	297 (67%)	<b>445</b>
<b>Total Defendants</b>	<b>1,615</b>	<b>2,586</b>	<b>4,201</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

When specifically examining the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period, data revealed that 5,285 of these defendants had a misdemeanor as the most serious offense in their October 2017 contact event. Table 22 provides more specific detail on the bond type at release for these 5,285 defendants. 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, regardless of the specific misdemeanor with which they were charged.

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

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Most Serious Misdemeanor Offense Category</i>			
Assault	1,284 (75%)	433 (25%)	<b>1,717</b>
Driving While Intoxicated	1,172 (71%)	482 (29%)	<b>1,654</b>
Trespassing	154 (79%)	44 (21%)	<b>198</b>
Petit Larceny	143 (72%)	58 (28%)	<b>201</b>
Obstruction of Justice	112 (59%)	79 (41%)	<b>191</b>
Traffic- Driver's License	108 (56%)	87 (44%)	<b>195</b>
Protective Order Violation	81 (53%)	71 (47%)	<b>152</b>
Narcotics	91 (73%)	35 (27%)	<b>126</b>
Alcohol	68 (74%)	24 (26%)	<b>92</b>
Fraud	50 (66%)	26 (34%)	<b>76</b>
Weapons	57 (61%)	37 (39%)	<b>94</b>
Vandalism/Destruction of Property	63 (78%)	17 (22%)	<b>80</b>
<i>All Other Misdemeanor Charges</i>	361 (71%)	148 (29%)	<b>509</b>
<b>Total Defendants</b>	<b>3,744</b>	<b>1,541</b>	<b>5,285</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Prior In-State Criminal History Records*

Table 23 details the bond type at release for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period in relation to their prior in-state criminal history records at the time of their October 2017 contact event. A larger proportion of defendants who were released on a *secured* bond during the pre-trial 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.

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

	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Pending Charge at Time of Contact Event</i>			
Yes	522 (41%)	747 (59%)	<b>1,269</b>
No	4,842 (59%)	3,392 (41%)	<b>8,234</b>
<i>On State Probation Supervision</i>			
Yes	248 (33%)	501 (67%)	<b>749</b>
No	5,116 (58%)	3,638 (42%)	<b>8,754</b>
<i>On Local Community Corrections Supervision</i>			
Yes	207 (47%)	236 (53%)	<b>443</b>
No	5,157 (57%)	3,903 (43%)	<b>9,060</b>
<i>Prior Term of Incarceration of <math>\geq 14</math> Days</i>			
Yes	1,059 (40%)	1,616 (60%)	<b>2,675</b>
No	4,305 (63%)	2,523 (37%)	<b>6,828</b>
<i>Prior In-State Misdemeanor Conviction</i>			
Yes	2,316 (46%)	2,686 (54%)	<b>5,002</b>
No	3,048 (68%)	1,453 (32%)	<b>4,501</b>
<i>Prior In-State Felony Conviction (Any Felony)</i>			
Yes	836 (37%)	1,444 (63%)	<b>2,280</b>
No	4,528 (63%)	2,695 (37%)	<b>7,223</b>
<i>Prior In-State Violent Felony Conviction (§ 17.1-805)</i>			
Yes	184 (31%)	402 (69%)	<b>586</b>
No	5,180 (58%)	3,737 (42%)	<b>8,917</b>
<i>Prior Failure to Appear Charge</i>			
Yes	866 (41%)	1,255 (59%)	<b>2,121</b>
No	4,498 (61%)	2,884 (39%)	<b>7,382</b>
<i>Prior Failure to Appear Conviction</i>			
Yes	461 (39%)	720 (61%)	<b>1,181</b>
No	4,903 (59%)	3,419 (41%)	<b>8,322</b>
<b>Total Defendants</b>	<b>5,364</b>	<b>4,139</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

***Risk Levels Assigned to Defendants***

Table 24 delineates the bond type at release for each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period in relation to their assigned Public Safety Assessment (PSA) risk levels of failure to appear (FTA) and new criminal activity (NCA). The proportion of defendants released on a secured bond increased as the assigned risk levels for failure to appear and new criminal activity increased. Similarly, a higher proportion of defendants who were assigned the PSA new violent criminal activity (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) Risk Levels***

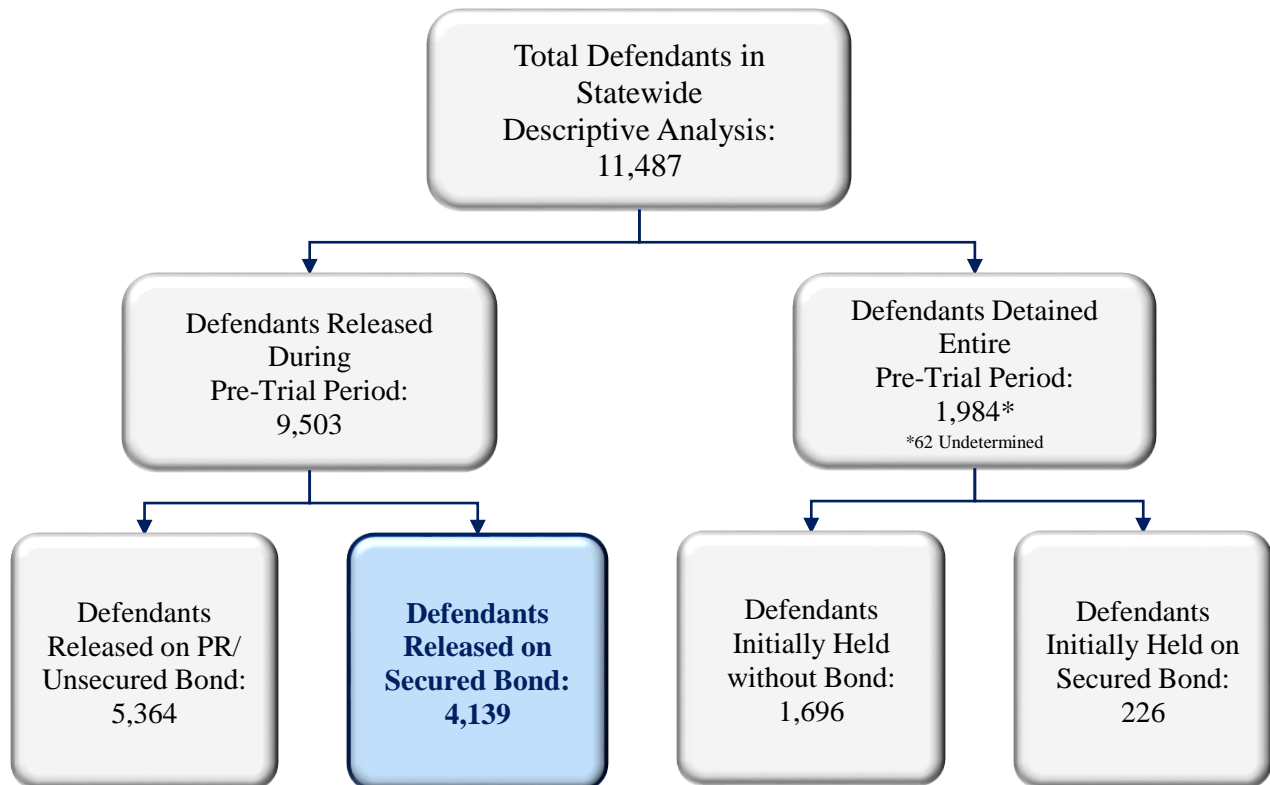
	Bond Type at Release		Number of Defendants
	PR or Unsecured Bond	Secured Bond	
<i>Assigned PSA Risk Level of FTA</i>			
FTA Risk Level 1 (lowest risk)	2,751 (71%)	1,144 (29%)	<b>3,895</b>
FTA Risk Level 2	1,467 (52%)	1,357 (48%)	<b>2,824</b>
FTA Risk Level 3	624 (43%)	834 (57%)	<b>1,458</b>
FTA Risk Level 4	401 (41%)	566 (59%)	<b>967</b>
FTA Risk Level 5	93 (33%)	185 (67%)	<b>278</b>
FTA Risk Level 6 (highest risk)	28 (35%)	53 (65%)	<b>81</b>
<i>Assigned PSA Risk Level of NCA</i>			
NCA Risk Level 1 (lowest risk)	2,002 (71%)	824 (29%)	<b>2,826</b>
NCA Risk Level 2	1,686 (62%)	1,051 (38%)	<b>2,737</b>
NCA Risk Level 3	831 (48%)	888 (52%)	<b>1,719</b>
NCA Risk Level 4	447 (38%)	717 (62%)	<b>1,164</b>
NCA Risk Level 5	272 (39%)	418 (61%)	<b>690</b>
NCA Risk Level 6 (highest risk)	126 (34%)	241 (66%)	<b>367</b>
<i>Assigned PSA NVCA Flag</i>			
Yes	541 (45%)	656 (55%)	<b>1,197</b>
No	4,823 (58%)	3,483 (42%)	<b>8,306</b>
<b>Total Defendants</b>	<b>5,364</b>	<b>4,139</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Note: failure to appear (FTA); new criminal activity (NCA); new violent criminal activity (NVCA).



## DEFENDANTS RELEASED ON SECURED BOND

The statewide descriptive analysis in this section is only based on the 4,139 defendants in the October 2017 cohort who were ultimately released on a secured bond during the pre-trial period.



### *Defendant Demographics*

A total of 4,139 defendants of the 11,487 defendants in the cohort were ultimately released on a secured bond during the pre-trial period. Secured bond amounts were available for 97% (4,017 of 4,139) of these particular defendants. The secured bond amounts at the time of release for this group of 4,017 defendants ranged from \$50 to \$200,000, with an average of \$3,965 and a median of \$2,500.<sup>86</sup> Table 25 provides more specific detail on the secured bond amount at the time of release and the demographics for each of these 4,017 defendants. 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. In addition to the information in this table, data for the *Project* showed that 92% (3,685 of 4,017) of defendants released on a secured bond utilized the services of a bail bondsman.

**Table 25: Secured Bond Amount at Release and Defendant Demographics<sup>87</sup>**

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
<i>Defendant Sex</i>				
Male	\$4,278	\$2,500	\$50 to \$200,000	<b>3,016</b>
Female	\$3,023	\$2,000	\$100 to \$50,000	<b>1,001</b>
<i>Defendant Race</i>				
White	\$3,784	\$2,500	\$100 to \$100,000	<b>2,276</b>
Black	\$4,242	\$2,500	\$50 to \$200,000	<b>1,683</b>
Asian or Pacific Islander	\$3,030	\$2,500	\$250 to \$10,000	<b>41</b>
American Indian or Alaskan Native	\$3,250	\$3,250	\$1,500 to \$5,000	<b>2</b>
Unknown	\$3,017	\$2,000	\$750 to \$10,000	<b>15</b>
<i>Defendant Indigency Status</i>				
Indigent	\$3,549	\$2,500	\$50 to \$100,000	<b>2,468</b>
Not Indigent	\$4,754	\$2,500	\$100 to \$200,000	<b>1,431</b>
Undetermined	\$3,101	\$2,000	\$500 to \$50,000	<b>118</b>
<i>Defendant Residency Status</i>				
Virginia Resident	\$3,942	\$2,500	\$50 to \$200,000	<b>3,479</b>
Out-of-State Resident	\$4,319	\$2,500	\$250 to \$80,000	<b>313</b>
Undetermined	\$3,825	\$2,500	\$200 to \$50,000	<b>225</b>
<i>Defendant Pretrial Services Agency Supervision Status</i>				
Received Supervision	\$5,435	\$3,000	\$50 to \$80,000	<b>984</b>
Did Not Receive Supervision	\$3,488	\$2,000	\$100 to \$200,000	<b>3,033</b>
<b>Total</b>	<b>\$3,965</b>	<b>\$2,500</b>	<b>\$50 to \$200,000</b>	<b>4,017</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Secured bond amounts were not summed across charges (aggregate amount shown for all charges in contact event). Missing  $n = 122$ .

*October 2017 Contact Events – Number of Specific Offense Types*

Table 26 displays the secured bond amount at the time of release and the total number of specific offense types in the October 2017 contact event for each of the 4,017 of 11,487 defendants in the cohort who were ultimately released on a secured bond during the pre-trial period. The median secured bond amounts generally increased as the number of specific offense types in the contact event increased.

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

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
1 Specific Offense Type	\$3,209	\$2,000	\$100 to \$100,000	<b>2,100</b>
2 Specific Offense Types	\$4,144	\$2,500	\$50 to \$80,000	<b>1,160</b>
3 Specific Offense Types	\$5,076	\$3,000	\$100 to \$75,000	<b>472</b>
4 Specific Offense Types	\$6,547	\$3,500	\$500 to \$200,000	<b>188</b>
5 Specific Offense Types	\$7,580	\$5,000	\$500 to \$30,000	<b>56</b>
6 Specific Offense Types	\$6,810	\$5,000	\$1,000 to \$25,000	<b>25</b>
7 Specific Offense Types	\$10,000	\$5,000	\$2,500 to \$50,000	<b>10</b>
8 Specific Offense Types	\$10,000	\$8,500	\$1,500 to \$25,000	<b>6</b>
<b>Total</b>	<b>\$3,965</b>	<b>\$2,500</b>	<b>\$50 to \$200,000</b>	<b>4,017</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Missing  $n = 122$ .

*October 2017 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 October 2017 contact event for each of the 4,017 of 11,487 defendants in the cohort who were ultimately released on a secured bond during the pre-trial period. The median secured bond amounts did not vary considerably across misdemeanors, special class offenses, Class 5 felonies, or Class 6 felonies; however, the median secured bond amounts were higher for defendants whose most serious offense was a Class 2, Class 3, or Class 4 felony.

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

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
Class 1 Felony (F1)	---	---	---	<b>0</b>
Class 2 Felony (F2)	\$15,533	\$7,500	\$2,500 to \$100,000	<b>15</b>
Class 3 Felony (F3)	\$7,545	\$5,000	\$250 to \$50,000	<b>109</b>
Class 4 Felony (F4)	\$7,034	\$3,000	\$500 to \$100,000	<b>59</b>
Class 5 Felony (F5)	\$4,313	\$2,500	\$50 to \$200,000	<b>754</b>
Class 6 Felony (F6)	\$4,509	\$2,500	\$100 to \$80,000	<b>651</b>
Unclassified Felony (F9)	\$4,876	\$2,500	\$400 to \$75,000	<b>900</b>
Class 1 Misdemeanor (M1)	\$2,544	\$2,000	\$200 to \$75,000	<b>1,358</b>
Class 2 Misdemeanor (M2)	\$1,800	\$1,500	\$250 to \$3,500	<b>5</b>
Unclassified Misdemeanor (M9)	\$1,768	\$1,200	\$500 to \$7,500	<b>25</b>
Special Class Offense (S9)	\$2,762	\$2,500	\$500 to \$10,000	<b>129</b>
Undetermined Classification	---	---	---	<b>12</b>
<b>Total</b>	<b>\$3,965</b>	<b>\$2,500</b>	<b>\$50 to \$200,000</b>	<b>4,017</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Missing  $n = 122$ .

*October 2017 Contact Events – Most Serious Offense Category*

Data revealed that 2,488 of the 4,017 defendants who were ultimately released on a secured bond during the pre-trial period had a felony as the most serious offense in their October 2017 contact event. Table 28 provides more specific detail on the secured bond amount at the time of release and the most serious felony offense category in the contact event for these 2,488 defendants. Overall, the secured bond amounts across all felonies ranged from \$50 to \$200,000, with an average of \$4,839 and a median of \$2,500. When looking at specific types of felony offense categories, the median secured bond amounts ranged from \$2,000 (grand larceny) to \$15,000 (rape).

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

<i>Felony Offense Category</i>	<b>Average</b>	<b>Median</b>	<b>Range</b>	Number of Defendants
Narcotics	\$4,581	\$2,500	\$50 to \$200,000	<b>788</b>
Grand Larceny	\$2,974	\$2,000	\$100 to \$30,000	<b>527</b>
Assault	\$6,615	\$5,000	\$100 to \$100,000	<b>283</b>
Fraud	\$4,098	\$2,550	\$500 to \$25,000	<b>178</b>
Burglary	\$5,310	\$3,750	\$500 to \$50,000	<b>108</b>
Weapons	\$5,169	\$3,000	\$500 to \$50,000	<b>114</b>
Robbery	\$6,766	\$5,000	\$1,000 to \$25,000	<b>32</b>
Driving While Intoxicated	\$6,382	\$5,000	\$1,000 to \$80,000	<b>57</b>
Vandalism/Damage to Property	\$5,811	\$2,500	\$500 to \$100,000	<b>37</b>
Rape	\$17,058	\$15,000	\$2,500 to \$75,000	<b>26</b>
Kidnapping	\$9,597	\$7,500	\$1,000 to \$50,000	<b>36</b>
Murder	\$6,250	\$5,000	\$5,000 to \$10,000	<b>4</b>
Obscenity/Pornography	\$11,050	\$8,750	\$1,000 to \$25,000	<b>10</b>
<i>All Other Felony Charges</i>	---	---	\$500 to \$80,000	<b>288</b>
<b>Total</b>	<b>\$4,839</b>	<b>\$2,500</b>	<b>\$50 to \$200,000</b>	<b>2,488</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Missing  $n = 98$ .

Data revealed that 1,517 of the 4,017 defendants who were ultimately released on a secured bond during the pre-trial period had a misdemeanor as the most serious offense in their October 2017 contact event. Table 29 provides more specific detail on the secured bond amount at the time of release and the most serious misdemeanor offense category in the contact event for these 1,517 defendants. The secured bond amounts for these defendants ranged from \$200 to \$75,000, with an average of \$2,549 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**

<i>Misdemeanor Offense Category</i>	<b>Average</b>	<b>Median</b>	<b>Range</b>	Number of Defendants
Assault	\$2,588	\$1,500	\$250 to \$75,000	<b>431</b>
Driving While Intoxicated	\$2,813	\$2,000	\$500 to \$50,000	<b>480</b>
Trespassing	\$1,536	\$1,000	\$200 to \$5,000	<b>40</b>
Petit Larceny	\$2,391	\$1,500	\$250 to \$14,500	<b>53</b>
Obstruction of Justice	\$2,477	\$2,000	\$250 to \$10,000	<b>75</b>
Traffic- Driver's License	\$2,235	\$2,000	\$250 to \$8,000	<b>82</b>
Protective Order Violation	\$2,568	\$2,000	\$500 to \$10,000	<b>70</b>
Narcotics	\$1,677	\$1,500	\$500 to \$7,500	<b>31</b>
Alcohol	\$1,833	\$1,500	\$500 to \$4,000	<b>24</b>
Fraud	\$2,604	\$2,500	\$1,000 to \$7,500	<b>24</b>
Weapons	\$2,300	\$2,000	\$1,000 to \$7,500	<b>35</b>
Vandalism/Damage to Property	\$2,441	\$2,500	\$500 to \$5,000	<b>17</b>
<i>All Other Misdemeanor Charges</i>	---	---	\$500 to \$25,000	<b>155</b>
<b>Total</b>	<b>\$2,549</b>	<b>\$2,000</b>	<b>\$200 to \$75,000</b>	<b>1,517</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Missing  $n = 24$ .

### *Risk Levels Assigned to Defendants*

Table 30 delineates the secured bond amount at the time of release in relation to the assigned Public Safety Assessment (PSA) risk levels of failure to appear (FTA) and new criminal activity (NCA) for each of the 4,017 of 11,487 defendants in the cohort who were ultimately released on a secured bond during the pre-trial period. As seen in this table, the median secured bond amounts did not vary across the failure to appear or new criminal activity risk levels.

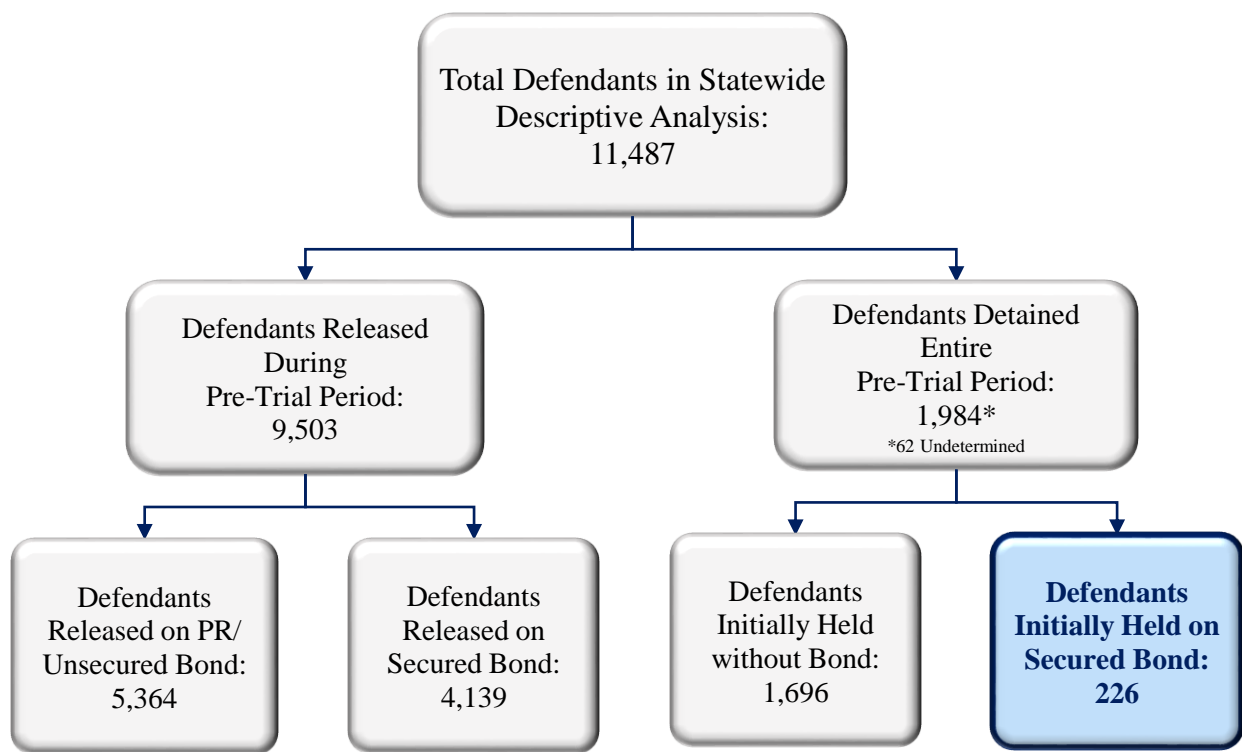
**Table 30: Secured Bond Amount at Release and Assigned Public Safety Assessment (PSA) Risk Levels**

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
<i>Assigned PSA Risk Level of FTA</i>				
FTA Risk Level 1 (lowest risk)	\$4,250	\$2,500	\$100 to \$200,000	<b>1,114</b>
FTA Risk Level 2	\$3,714	\$2,500	\$200 to \$100,000	<b>1,317</b>
FTA Risk Level 3	\$3,932	\$2,500	\$100 to \$75,000	<b>813</b>
FTA Risk Level 4	\$4,287	\$2,500	\$50 to \$80,000	<b>548</b>
FTA Risk Level 5	\$3,462	\$2,500	\$100 to \$25,000	<b>174</b>
FTA Risk Level 6 (highest risk)	\$3,014	\$2,500	\$200 to \$15,000	<b>51</b>
<i>Assigned PSA Risk Level of NCA</i>				
NCA Risk Level 1 (lowest risk)	\$4,232	\$2,500	\$100 to \$200,000	<b>803</b>
NCA Risk Level 2	\$3,749	\$2,500	\$250 to \$100,000	<b>1,024</b>
NCA Risk Level 3	\$4,009	\$2,500	\$100 to \$100,000	<b>860</b>
NCA Risk Level 4	\$3,766	\$2,500	\$250 to \$50,000	<b>694</b>
NCA Risk Level 5	\$4,150	\$2,500	\$100 to \$80,000	<b>404</b>
NCA Risk Level 6 (highest risk)	\$4,111	\$2,500	\$50 to \$30,000	<b>232</b>
<i>Assigned PSA NVCA Flag</i>				
Yes	\$4,464	\$2,500	\$50 to \$75,000	<b>638</b>
No	\$3,871	\$2,500	\$100 to \$200,000	<b>3,379</b>
<b>Total</b>	<b>\$3,965</b>	<b>\$2,500</b>	<b>\$50 to \$200,000</b>	<b>4,017</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Missing  $n = 122$ . Note: failure to appear (FTA); new criminal activity (NCA); new violent criminal activity (NVCA).

## DEFENDANTS DETAINED ON SECURED BOND FOR ENTIRE PRE-TRIAL PERIOD

The statewide descriptive analysis in this section is only based on the 226 defendants in the October 2017 cohort who were initially held on a secured bond and detained for the entire pre-trial period.





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## Overview

A common topic in relation to bail reform centers on defendants for whom a secured bond was set but who remained detained on that secured bond for the entire pre-trial period.<sup>88</sup> Data from the *Project* revealed that 226 of the 11,487 defendants in the cohort were *initially* held on a secured bond and detained for the entire pre-trial period. Data in the *Project* captured both the *initial* bond amount and the bond amount at the time a defendant was *released* during the pre-trial period. However, because these 226 defendants were not released during the pre-trial 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 pre-trial period.

It is important to note that more than 226 defendants in the cohort may have ultimately been detained on a secured bond and not released during the pre-trial 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 pre-trial period, that defendant will not be accounted for amongst these 226 defendants who were *initially* detained on a secured bond for the entire pre-trial period.<sup>89</sup>

*Defendant Demographics*

Table 31 provides more specific detail on the initial secured bond amount and the demographics for each of the 226 defendants in the cohort who were detained on a secured bond for the entire pre-trial period. The initial secured bond amount for this group of 226 defendants ranged from \$100 to \$58,529, with an average of \$3,552 and a median of \$2,500. The demographics for this group of defendants was largely male, White, indigent, and residents of Virginia. In general, the median initial secured bond amounts did not vary widely across sex, race, indigency status, or residency status.

**Table 31: Initial Secured Bond Amount and Detained Defendant Demographics<sup>90</sup>**

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
<i>Defendant Sex</i>				
Male	\$3,647	\$2,500	\$100 to \$58,529	186 (82%)
Female	\$3,108	\$2,000	\$500 to \$15,000	40 (18%)
<i>Defendant Race</i>				
White	\$3,773	\$2,500	\$100 to \$30,000	131 (58%)
Black	\$3,263	\$2,000	\$500 to \$58,529	93 (41%)
Asian or Pacific Islander	---	---	---	0 (0%)
American Indian or Alaskan Native	---	---	---	0 (0%)
Unknown	\$2,500	\$2,500	\$2,000 to \$3,000	2 (1%)
<i>Defendant Indigency Status</i>				
Indigent	\$3,568	\$2,500	\$100 to \$58,529	188 (83%)
Not Indigent	\$3,613	\$2,500	\$500 to \$20,000	35 (16%)
Undetermined	\$1,833	\$2,000	\$1,500 to \$2,000	3 (1%)
<i>Defendant Residency Status</i>				
Virginia Resident	\$3,950	\$2,500	\$500 to \$58,529	168 (74%)
Out-of-State Resident	\$3,886	\$2,000	\$1,000 to \$25,000	22 (10%)
Undetermined	\$1,489	\$1,000	\$100 to \$5,000	36 (16%)
<b>Total</b>	<b>\$3,552</b>	<b>\$2,500</b>	<b>\$100 to \$58,529</b>	<b>226 (100%)</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Number of Specific Offense Types*

Table 32 displays the initial secured bond amount and the total number of specific offense types in the October 2017 contact event for each of the 226 of 11,487 defendants in the cohort who were detained on a secured bond for the entire pre-trial period. This table shows that 87% (196 of 226) of these defendants had two or fewer specific offense types in their contact event. The median initial secured bond amounts generally increased as the number of specific offense types in the contact event increased.

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

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
1 Specific Offense Type	\$3,153	\$2,000	\$100 to \$58,529	144 (64%)
2 Specific Offense Types	\$3,829	\$2,000	\$500 to \$30,000	52 (23%)
3 Specific Offense Types	\$3,425	\$3,000	\$1000 to \$6,500	20 (9%)
4 Specific Offense Types	\$8,900	\$5,000	\$1,000 to \$20,000	5 (2%)
5 Specific Offense Types	\$9,750	\$9,750	\$1,500 to \$18,000	2 (1%)
6 Specific Offense Types	\$3,500	\$3,500	---	1 (< 1%)
7 Specific Offense Types	\$6,750	\$6,750	\$3,500 to \$10,000	2 (1%)
<b>Total</b>	<b>\$3,552</b>	<b>\$2,500</b>	<b>\$100 to \$58,529</b>	<b>226 (100%)</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 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 October 2017 contact event for each of the 226 of 11,487 defendants in the cohort who were detained on a secured bond for the entire pre-trial period. Nearly half of the defendants in this group (111 of 226) 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 the one defendant in the group whose most serious offense was a Class 3 felony.

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

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
Class 1 Felony (F1)	---	---	---	0 (0%)
Class 2 Felony (F2)	---	---	---	0 (0%)
Class 3 Felony (F3)	\$8,000	\$8,000	---	1 (<1%)
Class 4 Felony (F4)	\$3,500	\$3,500	---	1 (<1%)
Class 5 Felony (F5)	\$4,617	\$2,500	\$500 to \$25,000	30 (13%)
Class 6 Felony (F6)	\$3,281	\$3,000	\$500 to \$10,000	34 (15%)
Unclassified Felony (F9)	\$5,295	\$3,000	\$1,000 to \$30,000	44 (19%)
Class 1 Misdemeanor (M1)	\$2,587	\$2,000	\$100 to \$58,529	111 (49%)
Class 2 Misdemeanor (M2)	---	---	---	0 (0%)
Class 3 Misdemeanor (M3)	---	---	---	0 (0%)
Class 4 Misdemeanor (M4)	---	---	---	0 (0%)
Unclassified Misdemeanor (M9)	---	---	---	0 (0%)
Special Class Offense (S9)	\$4,200	\$2,500	\$1,500 to \$10,000	5 (2%)
Undetermined Classification	---	---	---	0 (0%)
<b>Total</b>	<b>\$3,552</b>	<b>\$2,500</b>	<b>\$100 to \$58,529</b>	<b>226 (100%)</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*October 2017 Contact Events – Most Serious Offense Category*

Data revealed that 110 of the 226 defendants in the cohort who were detained on a secured bond for the entire pre-trial period had a felony as the most serious offense in their October 2017 contact event. Table 34 provides more specific detail on the initial secured bond amount and the most serious felony offense category in the contact event for each of these 110 defendants. As seen in this table, 60% (66 of 110) of the contact events for these defendants related to felony grand larceny or narcotics offense categories. Overall, the initial secured bond amounts across all felonies ranged from \$500 to \$30,000, with an average of \$4,496 and a median of \$3,000. When looking at specific felony offense categories, the median initial secured bond amounts ranged from \$2,500 (assault and vandalism/damage to property) to \$10,000 (murder and obscenity/pornography).

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

<i>Felony Offense Category</i>	<b>Average</b>	<b>Median</b>	<b>Range</b>	Number of Defendants
Narcotics	\$6,000	\$3,000	\$1,000 to \$30,000	25 (23%)
Grand Larceny	\$3,263	\$3,000	\$500 to \$10,000	41 (37%)
Assault	\$2,750	\$2,500	\$750 to \$5,000	3 (3%)
Fraud	\$4,098	\$2,550	\$500 to \$25,000	12 (11%)
Burglary	\$10,625	\$6,250	\$2,500 to \$25,000	8 (7%)
Weapons	---	---	---	0 (0%)
Robbery	---	---	---	0 (0%)
Driving While Intoxicated	\$4,250	\$4,250	\$1,000 to \$7,500	2 (2%)
Vandalism/Damage to Property	\$2,333	\$2,500	\$1,500 to \$3,000	3 (3%)
Rape	---	---	---	0 (0%)
Kidnapping	---	---	---	0 (0%)
Murder	\$10,000	\$10,000	---	1 (1%)
Obscenity/Pornography	\$10,000	\$10,000	---	1 (1%)
<i>All Other Felony Charges</i>	---	---	\$500 to \$10,000	14 (13%)
<b>Total</b>	<b>\$4,496</b>	<b>\$3,000</b>	<b>\$500 to \$30,000</b>	<b>110 (100%)</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

Data revealed that 116 of the 226 defendants in the cohort who were detained on a secured bond for the entire pre-trial period had a misdemeanor as the most serious offense in their October 2017 contact event. Table 35 provides more specific detail on the initial secured bond amount and the most serious misdemeanor offense category in the contact event for each of these 116 defendants. As seen in this table, 56% (65 of 116) of the contact events for these defendants related to misdemeanor assault, trespassing, or driving while intoxicated offense categories. Overall, the initial secured bond amounts for these defendants ranged from \$100 to \$58,529, with an average of \$2,656 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**

<i>Misdemeanor Offense Category</i>	<b>Average</b>	<b>Median</b>	<b>Range</b>	Number of Defendants
Assault	\$2,832	\$2,500	\$750 to \$15,000	30 (26%)
Driving While Intoxicated	\$2,875	\$2,000	\$1,000 to \$10,000	16 (14%)
Trespassing	\$1,158	\$1,000	\$100 to \$2,500	19 (16%)
Petit Larceny	\$1,750	\$1,500	\$1,000 to \$3,000	8 (7%)
Obstruction of Justice	\$2,625	\$2,000	\$1,500 to \$5,000	4 (3%)
Traffic- Driver's License	\$2,500	\$2,500	---	1 (< 1%)
Protective Order	\$2,000	\$1,250	\$500 to \$5,000	4 (3%)
Narcotics	\$1,800	\$2,500	\$500 to \$2,500	5 (4%)
Alcohol	\$1,814	\$1,000	\$700 to \$3,500	7 (6%)
Fraud	\$2,000	\$2,000	---	1 (< 1%)
Weapons	\$1,000	\$1,000	---	1 (< 1%)
Vandalism/Damage to Property	\$2,500	\$2,500	\$2,000 to \$3,000	3 (3%)
<i>All Other Misdemeanor Charges</i>	---	---	\$500 to \$58,529	17 (15%)
<b>Total</b>	<b>\$2,656</b>	<b>\$2,000</b>	<b>\$100 to \$58,529</b>	<b>116 (100%)</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Risk Levels Assigned to Defendants*

Table 36 delineates the initial secured bond amount in relation to the assigned Public Safety Assessment (PSA) risk levels of failure to appear (FTA) and new criminal activity (NCA) for each of the 226 of 11,487 defendants in the cohort who were detained on a secured bond for the entire pre-trial period. As seen in the table, the initial secured bond amounts did not vary considerably across the various failure to appear or new criminal activity risk levels.

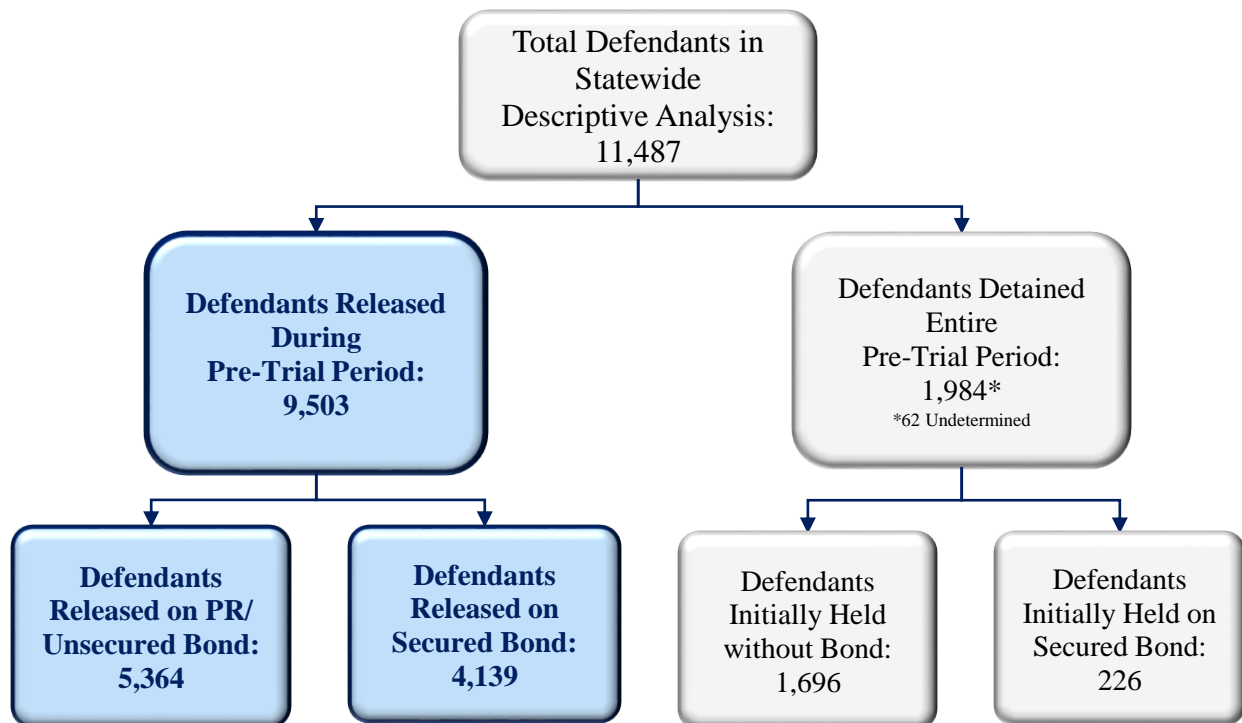
**Table 36: Initial Secured Bond Amount and Assigned Public Safety Assessment (PSA) Risk Levels for Detained Defendants**

	<b>Average</b>	<b>Median</b>	<b>Range</b>	<b>Number of Defendants</b>
<i>Assigned PSA Risk Level of FTA</i>				
FTA Risk Level 1 (lowest risk)	\$3,048	\$2,200	\$500 to \$15,000	50
FTA Risk Level 2	\$4,042	\$2,500	\$500 to \$30,000	55
FTA Risk Level 3	\$4,699	\$2,500	\$500 to \$58,529	49
FTA Risk Level 4	\$2,216	\$1,500	\$100 to \$10,000	37
FTA Risk Level 5	\$3,455	\$2,250	\$500 to \$25,000	28
FTA Risk Level 6 (highest risk)	\$2,714	\$1,000	\$500 to \$7,500	7
<i>Assigned PSA Risk Level of NCA</i>				
NCA Risk Level 1 (lowest risk)	\$3,048	\$2,000	\$500 to \$15,000	42
NCA Risk Level 2	\$3,204	\$2,500	\$500 to \$10,000	28
NCA Risk Level 3	\$2,962	\$2,000	\$500 to \$20,000	39
NCA Risk Level 4	\$5,378	\$2,500	\$100 to \$58,529	59
NCA Risk Level 5	\$2,403	\$2,000	\$500 to \$7,500	31
NCA Risk Level 6 (highest risk)	\$2,878	\$2,500	\$500 to \$10,000	27
<i>Assigned PSA NVCA Flag</i>				
Yes	\$3,761	\$2,500	\$500 to \$20,000	38
No	\$3,509	\$2,000	\$100 to \$58,529	188
<b>Total</b>	<b>\$3,552</b>	<b>\$2,500</b>	<b>\$100 to \$58,529</b>	<b>226</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Note: failure to appear (FTA); new criminal activity (NCA); new violent criminal activity (NVCA).

## STATEWIDE COURT APPEARANCE OUTCOMES

The 11,487 defendants in the cohort were tracked during the pre-trial period from the date of their October 2017 contact event until the final disposition of their contact event, or December 31, 2018, whichever came first, to determine court appearance outcomes. Court appearance was measured by whether the defendant was *charged* with failure to appear during the pre-trial period.<sup>91</sup> The statewide descriptive analysis in this section focuses only on the court appearance outcomes for the 9,503 defendants in the cohort who were ultimately released during the pre-trial period.





### *Court Appearance Outcomes for Released Defendants*

Table 37 delineates the overall court appearance outcomes for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period.<sup>92</sup> In sum, the large majority of these defendants were not charged with failure to appear during the pre-trial period.<sup>93</sup>

	Number of Defendants	Percentage
<i>Charged with Failure to Appear<sup>95</sup></i>		
Yes	1,354	14%
No	8,149	86%
<b>Total Defendants</b>	<b>9,503</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*Defendant Demographics*

Table 38 illustrates the court appearance outcomes and the demographics for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Overall, most defendants were not charged with failure to appear during the pre-trial period regardless of demographic group. The proportions of defendants charged with failure to appear during the pre-trial 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 indigent. While findings from the *Project* do not reflect the specific reasons *why* a higher proportion of indigent defendants were charged with failure to appear, existing literature consistently points to a variety of challenges that indigent defendants face when required to appear for court, such as transportation issues, employment, childcare, etc.<sup>96</sup>

	Charged with Failure to Appear		Number of Defendants
	YES	NO	
<i>Defendant Sex</i>			
Male	978 (15%)	5,680 (85%)	<b>6,658</b>
Female	376 (13%)	2,469 (87%)	<b>2,845</b>
<i>Defendant Race</i>			
White	785 (14%)	4,848 (86%)	<b>5,633</b>
Black	554 (15%)	3,127 (85%)	<b>3,681</b>
Asian or Pacific Islander	9 (6%)	129 (94%)	<b>138</b>
American Indian or Alaskan Native	0 (0%)	2 (100%)	<b>2</b>
Unknown	6 (12%)	43 (88%)	<b>49</b>
<i>Defendant Indigency Status</i>			
Indigent	989 (19%)	4,278 (81%)	<b>5,267</b>
Not Indigent	301 (8%)	3,509 (92%)	<b>3,810</b>
Undetermined	64 (15%)	362 (85%)	<b>426</b>
<i>Defendant Residency Status</i>			
Virginia Resident	1,165 (14%)	7,122 (86%)	<b>8,287</b>
Out-of-State Resident	87 (14%)	531 (86%)	<b>618</b>
Undetermined	102 (17%)	496 (83%)	<b>598</b>
<i>Defendant Pretrial Services Agency Supervision Status</i>			
Received Supervision	223 (14%)	1,428 (86%)	<b>1,651</b>
Did Not Receive Supervision	1,131 (14%)	6,721 (86%)	<b>7,852</b>
<b>Total Defendants</b>	<b>1,354</b>	<b>8,149</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

**Risk Levels Assigned to Defendants**

Table 39 delineates the court appearance outcomes and the Public Safety Assessment (PSA) risk levels of failure to appear (FTA) assigned to each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Overall, most defendants were not charged with failure to appear during the pre-trial period regardless of assigned PSA risk level of failure to appear. However, the proportion of defendants charged with failure to appear increased as the assigned PSA risk level of failure to appear increased.

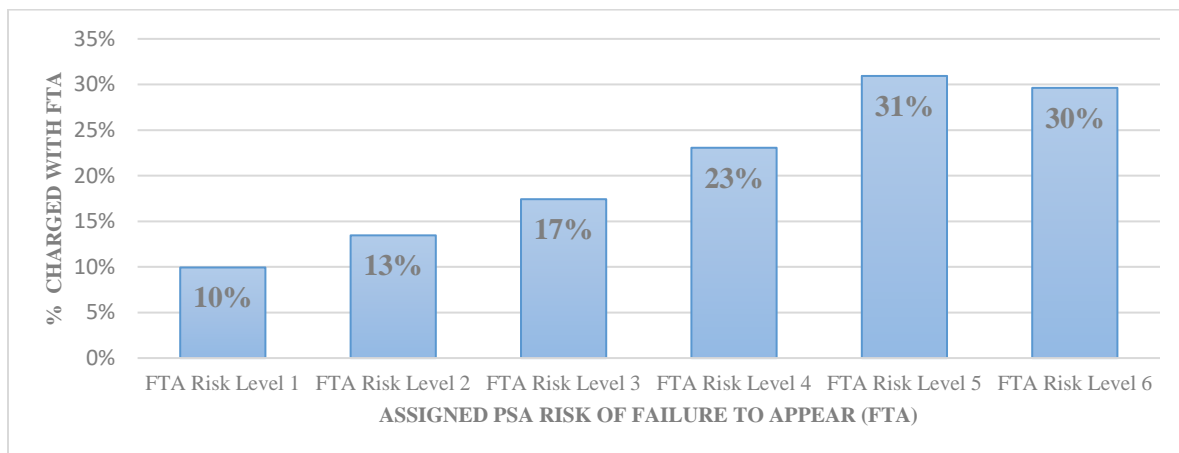
**Table 39: Court Appearance Outcomes and Assigned Public Safety Assessment (PSA) Risk Level of Failure to Appear (FTA) for Released Defendants**

	Charged with Failure to Appear		Number of Defendants
	YES	NO	
<i>Assigned PSA Risk Level of FTA</i>			
FTA Risk Level 1 (lowest risk)	387 (10%)	3,508 (90%)	<b>3,895</b>
FTA Risk Level 2	380 (13%)	2,444 (87%)	<b>2,824</b>
FTA Risk Level 3	254 (17%)	1,204 (83%)	<b>1,458</b>
FTA Risk Level 4	223 (23%)	744 (77%)	<b>967</b>
FTA Risk Level 5	86 (31%)	192 (69%)	<b>278</b>
FTA Risk Level 6 (highest risk)	24 (30%)	57 (70%)	<b>81</b>
<b>Total Defendants</b>	<b>1,354</b>	<b>8,149</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

Chart 6 specifically illustrates the percentage of defendants *within* each assigned PSA risk level of failure to appear who were charged with failure to appear during the pre-trial period (as seen in Table 39).

**Chart 6: Percentage of Released Defendants Charged with Failure to Appear During Pre-Trial Period by Assigned PSA Risk of Failure to Appear**



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Number of Days between Pre-Trial Release and Failure to Appear*

Table 40 illustrates the number of days between pre-trial release and failure to appear for each of the 1,354 of 9,503 released defendants who were charged with failure to appear during the pre-trial period (see Table 37). As seen in this table, nearly one-third (446 of 1,354) of these defendants were charged with failure to appear within 30 days of their pre-trial release.

**Table 40: Number of Days Between Pre-Trial Release and Failure to Appear Charge for Released Defendants<sup>97</sup>**

	Number of Defendants	Percentage
0 to 15 days	287	21%
16 to 30 days	159	12%
31 to 60 days	230	17%
61 to 90 days	157	12%
91 to 120 days	136	10%
121 to 150 days	96	7%
151 to 180 days	59	4%
Over 180 days	185	14%
<i>Undetermined</i>	45	3%
<b>Total Defendants</b>	<b>1,354</b>	<b>100%</b>

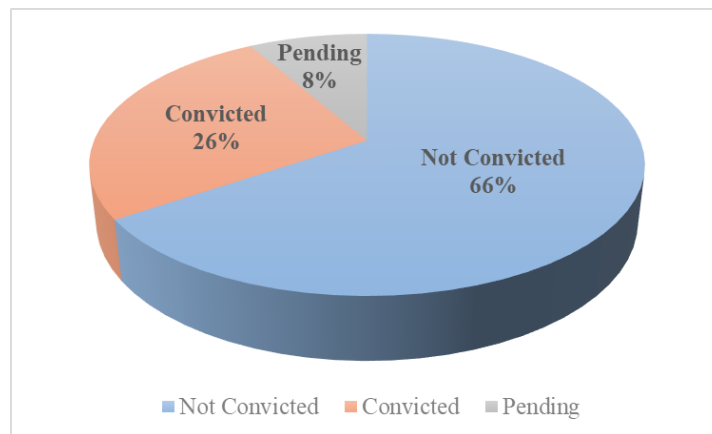
Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Date of failure to appear is measured by the date on which the defendant was alleged to have failed to appear in court as ordered.

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 30% (402 of 1,354) of defendants were arrested on the same day as the alleged failure to appear occurred. Data further revealed that 79% (1,065 of 1,354) 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 Pre-Trial Period***

Finally, data from the *Project* also revealed that most defendants who were charged with failure to appear during the pre-trial period were not ultimately convicted of that charge. Specifically, as seen in Chart 7 the dispositions of the failure to appear charges for each of the 1,354 of 9,503 defendants in the cohort who were charged with failure to appear during the pre-trial period were as follows: 66% (887 of 1,354) were not convicted, 26% (355 of 1,354) were convicted, and 8% (112 of 1,354) were pending as of December 31, 2018.

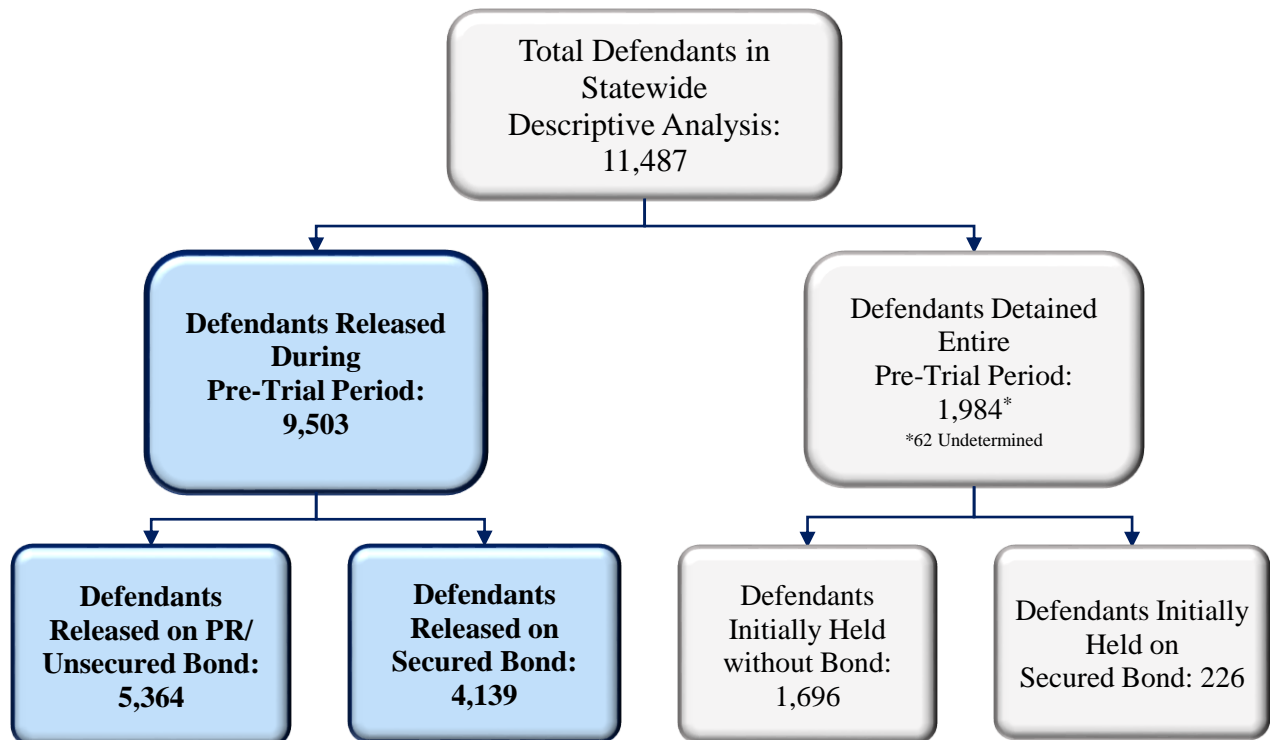
***Chart 7: Final Disposition of Failure to Appear (FTA) Charge for 1,354 Defendants Charged with FTA During Pre-Trial Period***



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

## STATEWIDE PUBLIC SAFETY OUTCOMES

The 11,487 defendants in the cohort were tracked during the pre-trial period from the date of their October 2017 contact event until the final disposition of their contact event, or December 31, 2018, whichever came first, to capture public safety outcomes. Public safety was measured by whether the defendant was *arrested* for a new in-state offense punishable by incarceration during the pre-trial period.<sup>98</sup> The statewide descriptive analysis in this section focuses only on the public safety outcomes for the 9,503 defendants in the cohort who were ultimately released during the pre-trial period.



### *Public Safety Outcomes for Released Defendants*

Table 41 delineates the overall public safety outcomes for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period.<sup>99</sup> In sum, the large majority of these defendants were not arrested for a new in-state offense punishable by incarceration during the pre-trial period.<sup>100</sup>

<b>Table 41: Statewide Public Safety Outcomes for Released Defendants<sup>101</sup></b>		
	Number of Defendants	Percentage
<b>Arrested for Any New In-State Offense Punishable by Incarceration<sup>102</sup></b>		
Yes	2,299	24%
No	7,204	76%
<b>Arrested for New In-State Misdemeanor Offense</b>		
Yes	2,029	21%
No	7,474	79%
<b>Arrested for New In-State Felony Offense (Any Felony)</b>		
Yes	908	10%
No	8,595	90%
<b>Arrested for New In-State Violent Felony Offense (§ 17.1-805)</b>		
Yes	262	3%
No	9,241	97%
<b>Total Defendants</b>	<b>9,503</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

*Defendant Demographics*

Table 42 illustrates the public safety outcomes and the demographics for the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Overall, most defendants were not arrested for a new in-state offense punishable by incarceration during the pre-trial period regardless of demographic group. 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 indigent. 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.

**Table 42: Public Safety Outcomes (All New In-State Arrests) and Released Defendant Demographics**

	Arrested for Any New In-State Offense Punishable by Incarceration		Number of Defendants
	YES	NO	
<i>Defendant Sex</i>			
Male	1,662 (25%)	4,996 (75%)	<b>6,658</b>
Female	637 (22%)	2,208 (78%)	<b>2,845</b>
<i>Defendant Race</i>			
White	1,332 (24%)	4,301 (76%)	<b>5,633</b>
Black	949 (26%)	2,732 (74%)	<b>3,681</b>
Asian or Pacific Islander	14 (10%)	124 (90%)	<b>138</b>
American Indian or Alaskan Native	0 (0%)	2 (100%)	<b>2</b>
Unknown	4 (8%)	45 (92%)	<b>49</b>
<i>Defendant Indigency Status</i>			
Indigent	1,580 (30%)	3,687 (70%)	<b>5,267</b>
Not Indigent	575 (15%)	3,235 (85%)	<b>3,810</b>
Undetermined	144 (34%)	282 (66%)	<b>426</b>
<i>Defendant Residency Status</i>			
Virginia Resident	2,090 (25%)	6,197 (75%)	<b>8,287</b>
Out-of-State Resident*	74 (12%)	544 (88%)	<b>618</b>
Undetermined	135 (14%)	463 (47%)	<b>598</b>
<i>Defendant Pretrial Services Agency Supervision Status</i>			
Received Supervision	465 (28%)	1,186 (72%)	<b>1,651</b>
Did Not Receive Supervision	1,834 (23%)	6,018 (77%)	<b>7,852</b>
<b>Total Defendants</b>	<b>2,299</b>	<b>7,204</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. \* 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.



**Assigned Risk Levels to Defendants**

Table 43 delineates the public safety outcomes and the Public Safety Assessment (PSA) risk levels of new criminal activity (NCA) assigned to each of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period.<sup>103</sup> Overall, most defendants were not arrested for a new in-state offense punishable by incarceration during the pre-trial period regardless of assigned PSA risk level of new criminal activity. However, the proportion of defendants arrested for a new in-state offense increased as the assigned PSA risk level of new criminal activity increased.

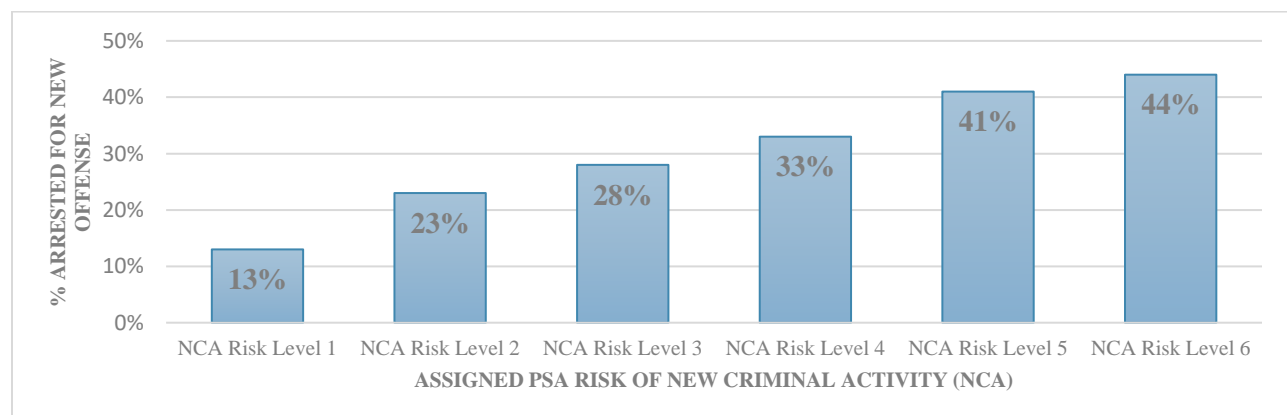
**Table 43: Public Safety Outcomes and Assigned Public Safety Assessment (PSA) Risk Level of New Criminal Activity (NCA) for Released Defendants**

	Arrested for New In-State Offense Punishable by Incarceration		Number of Defendants
	YES	NO	
<i>Assigned PSA Risk Level of NCA</i>			
NCA Risk Level 1 (lowest risk)	367 (13%)	2,459 (87%)	<b>2,826</b>
NCA Risk Level 2	628 (23%)	2,109 (77%)	<b>2,737</b>
NCA Risk Level 3	474 (28%)	1,245 (72%)	<b>1,719</b>
NCA Risk Level 4	387 (33%)	777 (67%)	<b>1,164</b>
NCA Risk Level 5	280 (41%)	410 (59%)	<b>690</b>
NCA Risk Level 6 (highest risk)	163 (44%)	204 (56%)	<b>367</b>
<b>Total Defendants</b>	<b>2,299</b>	<b>7,204</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

Chart 8 specifically illustrates the percentage of defendants *within* each assigned PSA risk level of new criminal activity who were arrested for a new in-state offense punishable by incarceration during the pre-trial 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 Risk of New Criminal Activity**



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Number of Days between Pre-Trial Release and New In-State Offense*

Table 44 illustrates the number of days between pre-trial release and the date of the new offense for each of the 2,299 of 9,503 released defendants who were arrested for a new in-state offense punishable by incarceration during the pre-trial period. As seen in this table, 32% (733 of 2,299) 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 pre-trial release.

**Table 44: Number of Days Between Pre-Trial Release and New In-State Offense Punishable by Incarceration for Released Defendants<sup>104</sup>**

	Number of Defendants	Percentage
0 to 15 days	450	20%
16 to 30 days	283	12%
31 to 60 days	418	18%
61 to 90 days	272	12%
91 to 120 days	224	10%
121 to 150 days	151	7%
151 to 180 days	106	5%
Over 180 days	327	14%
<i>Missing</i>	68	3%
<b>Total Defendants</b>	<b>2,299</b>	<b>100%</b>

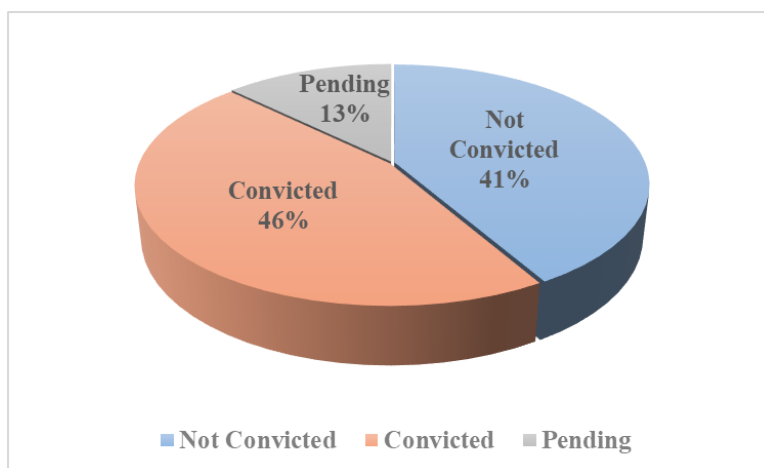
Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Date of new in-state offense is measured by the date on which the defendant was alleged to have committed the new in-state offense punishable by incarceration.

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 37% (857 of 2,299) of defendants were arrested on the same day as the new offense occurred. Data further revealed that 80% (1,845 of 2,299) 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 Pre-Trial Period***

Data from the *Project* tracked whether defendants who were arrested for a new in-state offense punishable by incarceration during the pre-trial period were ultimately convicted of that new charge. As seen in Chart 9, the dispositions of the new arrests for each of the 2,299 of 9,503 defendants in the cohort who were arrested for a new in-state offense punishable by incarceration during the pre-trial period were as follows: 41% (957 of 2,299) were not convicted, 46% (1,049 of 2,299) were convicted, and 13% (293 of 2,299) were pending as of December 31, 2018.

***Chart 9: Final Disposition of New Offense for 2,299 Defendants Arrested for a New In-State Offense Punishable by Incarceration During Pre-Trial Period***



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

***Public Safety Outcomes for Released Defendants – New Felony Arrests Only***

Table 45 specifically notes the public safety outcomes of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period and whether they were arrested for a new in-state felony offense during the pre-trial period.

<b><i>Table 45: Public Safety Outcomes for Released Defendants- New In-State Felony Arrests</i></b>		
	Number of Defendants	Percentage
<b>Arrested for New In-State Felony Offense</b>		
Yes	908	10%
No	8,595	90%
<b>Total Defendants</b>	<b>9,503</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### *Defendant Demographics*

Table 46 specifically illustrates the public safety outcomes in relation to new in-state *felony* arrests and the demographics for the 9,503 of the 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Overall, most defendants were not arrested for a new in-state felony offense during the pre-trial period regardless of demographic group. Similar to court appearance and overall public safety 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: Public Safety Outcomes (New In-State Felony Arrests) and Released Defendant Demographics**

	Arrested for New In-State Felony Offense		Number of Defendants
	YES	NO	
<i>Defendant Sex</i>			
Male	683 (10%)	5,975 (90%)	<b>6,658</b>
Female	225 (8%)	2,620 (92%)	<b>2,845</b>
<i>Defendant Race</i>			
White	554 (10%)	5,079 (90%)	<b>5,633</b>
Black	350 (10%)	3,331 (90%)	<b>3,681</b>
Asian or Pacific Islander	4 (3%)	134 (97%)	<b>138</b>
American Indian or Alaskan Native	0 (0%)	2 (100%)	<b>2</b>
Unknown	0 (0%)	49 (100%)	<b>49</b>
<i>Defendant Indigency Status</i>			
Indigent	662 (13%)	4,605 (87%)	<b>5,267</b>
Not Indigent	195 (5%)	3,615 (95%)	<b>3,810</b>
Undetermined	51 (12%)	375 (88%)	<b>426</b>
<i>Defendant Residency Status</i>			
Virginia Resident	839 (10%)	7,448 (90%)	<b>8,287</b>
Out-of-State Resident*	22 (4%)	596 (96%)	<b>618</b>
Undetermined	47 (8%)	551 (92%)	<b>598</b>
<i>Defendant Pretrial Services Agency Supervision Status</i>			
Received Supervision	218 (13%)	1,433 (87%)	<b>1,651</b>
Did Not Receive Supervision	690 (9%)	7,162 (91%)	<b>7,852</b>
<b>Total Defendants</b>	<b>908</b>	<b>8,595</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. \* 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 felony offense.

*Offense Categories of New In-State Felony Arrests*

Table 47 delineates the offense categories of the new in-state *felony* arrests for each of the 908 of 9,503 defendants in the cohort who were ultimately released during the pre-trial period and arrested for a new in-state felony.<sup>105</sup> As seen in this table, 58% (527 of 908) of the new in-state felony arrests were related to narcotics and grand larceny offense categories.

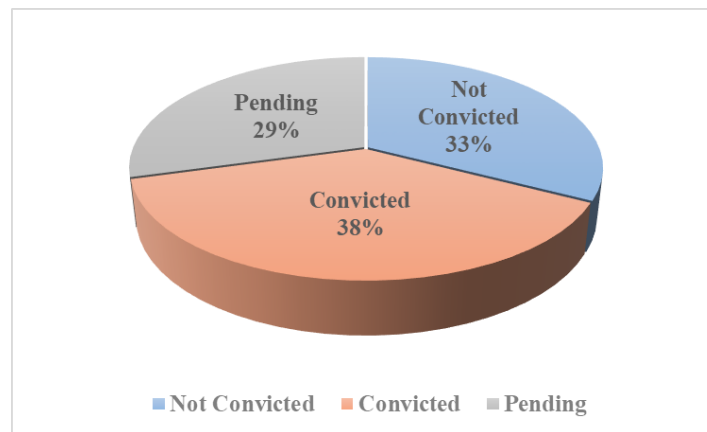
<i>Felony Offense Category</i>	<b>Number of Defendants</b>	<b>Percentage</b>
Narcotics	282	31%
Grand Larceny	245	27%
Assault	73	8%
Weapons	63	7%
Fraud	48	5%
Kidnapping	20	2%
Traffic- Reckless Driving	18	2%
Driving While Intoxicated	17	2%
Traffic- Hit and Run	17	2%
Robbery	17	2%
Vandalism/Damage to Property	17	2%
Burglary	16	2%
Protective Order Violations	12	1%
Traffic- Driver's License	9	1%
Family Offense	8	1%
Pretrial Services- Contempt	8	1%
Extortion	7	1%
Rape	7	1%
Arson	5	1%
Sex Offender Registry Violation	5	1%
Prisoner Offense	4	< 1%
Murder	2	< 1%
Accessory After the Fact	1	< 1%
Bribery	1	< 1%
Contempt of Court	1	< 1%
Escape	1	< 1%
Obstruction of Justice	1	< 1%
Traffic- Registration Violation	1	< 1%
Sex Offense	1	< 1%
Violent Activities	1	< 1%
<b>Total Defendants</b>	<b>908</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### ***Disposition of New Felony Offense for Defendants Arrested for In-State Felony Offenses During Pre-Trial Period***

Data from the *Project* tracked whether defendants who were arrested for a new in-state felony during the pre-trial period were ultimately convicted of that new charge. As seen in Chart 10, the dispositions of the new arrests for each of the 908 of 9,503 defendants in the cohort who were arrested for a new in-state felony during the pre-trial period were as follows: 33% (296 of 908) were not convicted, 38% (346 of 908) were convicted, and 29% (266 of 908) were pending as of December 31, 2018.

***Chart 10: Final Disposition of New Felony Offense for 908 Defendants Arrested for a New In-State Felony During Pre-Trial Period***



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

***Public Safety Outcomes for Released Defendants – New In-State Misdemeanor Arrests Only***

Table 48 specifically examines the public safety outcomes of the 9,503 of 11,487 defendants in the cohort who were ultimately released during the pre-trial period and whether they were arrested for a new in-state misdemeanor offense punishable by incarceration during the pre-trial period.

<b><i>Table 48: Public Safety Outcomes for Released Defendants – Misdemeanor Arrests</i></b>		
	Number of Defendants	Percentage
<b><i>Arrested for New In-State Misdemeanor Offense Punishable by Incarceration</i></b>		
Yes	2,029	21%
No	7,474	79%
<b>Total Defendants</b>	<b>9,503</b>	<b>100%</b>



### *Defendant Demographics*

Table 49 specifically illustrates the public safety outcomes in relation to new in-state *misdemeanor* arrests and the demographics for the 9,503 of the 11,487 defendants in the cohort who were ultimately released during the pre-trial period. Overall, most defendants were not arrested for a new in-state misdemeanor punishable by incarceration during the pre-trial period regardless of demographic group. Similar to court appearance and overall public safety outcomes, 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: Public Safety Outcomes (New Misdemeanor Arrests) and Released Defendant Demographics**

	Arrested for New In-State Misdemeanor Punishable by Incarceration		Number of Defendants
	YES	NO	
<i>Defendant Sex</i>			
Male	1,472 (22%)	5,186 (78%)	<b>6,658</b>
Female	557 (20%)	2,288 (80%)	<b>2,845</b>
<i>Defendant Race</i>			
White	1,176 (21%)	4,457 (79%)	<b>5,633</b>
Black	836 (23%)	2,845 (77%)	<b>3,681</b>
Asian or Pacific Islander	13 (9%)	125 (91%)	<b>138</b>
American Indian or Alaskan Native	0 (0%)	2 (100%)	<b>2</b>
Unknown	4 (8%)	45 (92%)	<b>49</b>
<i>Defendant Indigency Status</i>			
Indigent	1,374 (26%)	3,893 (74%)	<b>5,267</b>
Not Indigent	521 (14%)	3,289 (86%)	<b>3,810</b>
Undetermined	134 (31%)	292 (69%)	<b>426</b>
<i>Defendant Residency Status</i>			
Virginia Resident	1,840 (22%)	6,447 (78%)	<b>8,287</b>
Out-of-State Resident*	65 (11%)	553 (89%)	<b>618</b>
Undetermined	124 (21%)	474 (79%)	<b>598</b>
<i>Defendant Pretrial Services Agency Supervision Status</i>			
Received Supervision	406 (25%)	1,245 (75%)	<b>1,651</b>
Did Not Receive Supervision	1,623 (21%)	6,229 (79%)	<b>7,852</b>
<b>Total Defendants</b>	<b>2,029</b>	<b>7,474</b>	<b>9,503</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. \* 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 felony offense.

*Offense Categories of New In-State Misdemeanor Arrests*

Table 50 delineates the offense categories of the new in-state misdemeanor arrests for each of the 2,029 of 9,503 defendants in the cohort who were ultimately released during the pre-trial period and arrested for a new in-state misdemeanor punishable by incarceration. As seen in this table, 52% (1,061 of 2,029) of the new in-state misdemeanor arrests were related to contempt of court, traffic driver's license violations, or assault offense categories.

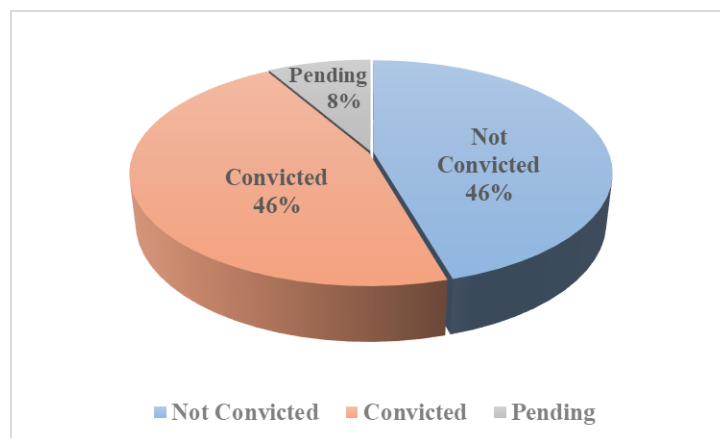
<i>Misdemeanor Offense Category</i>	<b>Number of Defendants</b>	<b>Percentage</b>
Contempt of Court <sup>107</sup>	447	22%
Traffic- Driver's License	343	17%
Assault	271	13%
Narcotics	132	7%
Driving While Intoxicated	111	5%
Protective Order	104	5%
Larceny	98	5%
Trespassing	95	5%
Traffic- Reckless Driving	80	4%
Obstruction of Justice	58	3%
Vandalism/Damage to Property	44	2%
Paraphernalia	38	2%
Fraud	37	2%
Traffic- Registration	35	2%
Weapons	31	2%
Family Offense	15	1%
Pretrial Services- Contempt	15	1%
Desertion and Nonsupport	11	1%
Telephone Harassment	11	1%
Alcohol	10	< 1%
Traffic- Hit and Run	8	< 1%
Computer Crime	6	< 1%
Stalking	6	< 1%
Disorderly Conduct	4	< 1%
Highway Law	4	< 1%
Animal Law	3	< 1%
Drug/Alcohol Screening	3	< 1%
Traffic- Equipment	2	< 1%
Sex Offense	2	< 1%
Health Law	1	< 1%
Professional Licensing	1	< 1%
Sexual Battery	1	< 1%
Sex Offender Registry	1	< 1%
Treason (type unclear)	1	< 1%
<b>Total Defendants</b>	<b>2,029</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

### ***Disposition of New Misdemeanor Offense for Defendants Arrested for In-State Misdemeanor during Pre-Trial Period***

Data from the *Project* tracked whether defendants who were arrested for a new in-state misdemeanor punishable by incarceration during the pre-trial period were ultimately convicted of that charge. As seen in Chart 11, the dispositions of the new arrests for each of the 2,029 of 9,503 defendants in the cohort who were arrested for a new in-state misdemeanor punishable by incarceration during the pre-trial period were as follows: 46% (924 of 2,029) were not convicted, 46% (935 of 2,029) were convicted, and 8% (170 of 2,029) were pending as of December 31, 2018.

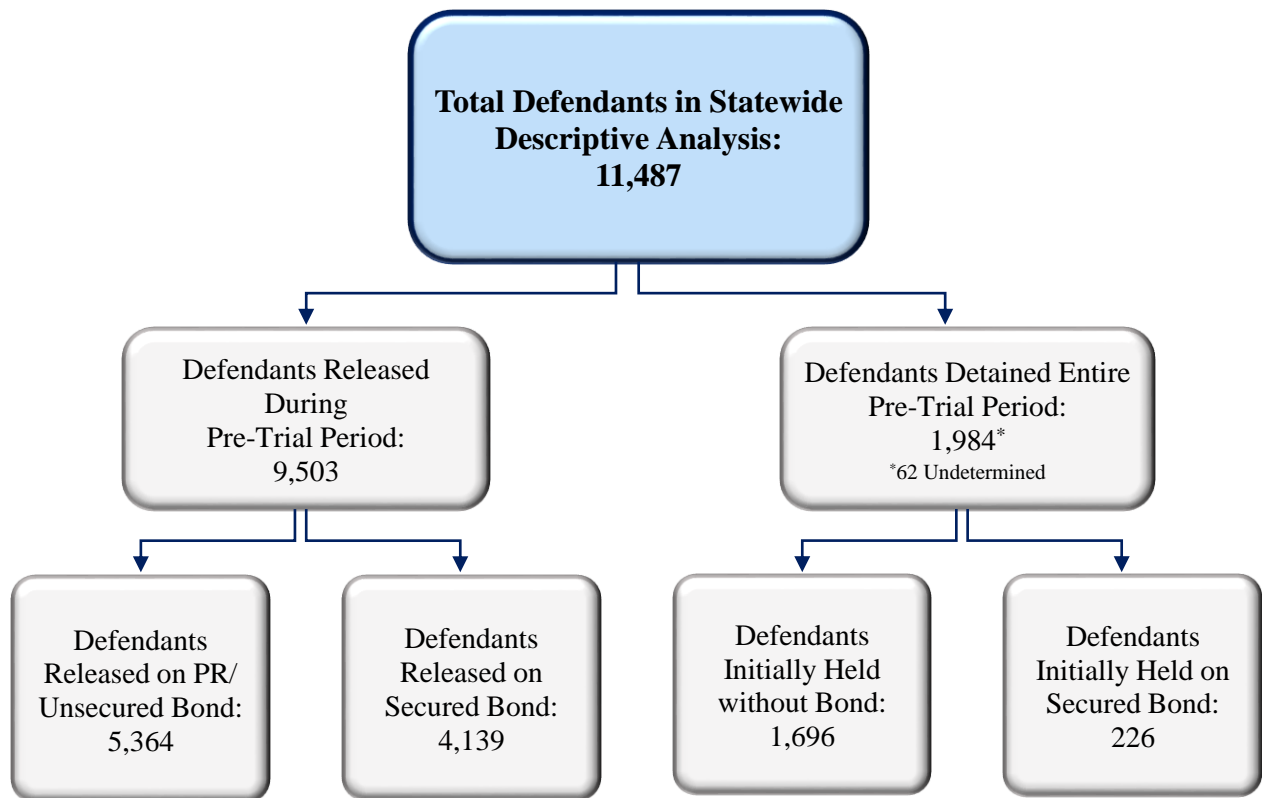
***Chart 11: Final Disposition of New Misdemeanor Offense for 2,029 Defendants Arrested for a New In-State Misdemeanor Punishable by Incarceration during Pre-Trial Period***



Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

## FINAL DISPOSITION OF OCTOBER 2017 CONTACT EVENTS

The statewide descriptive analysis in this section focuses on the final disposition of contact events for all 11,487 defendants in the October 2017 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 October 2017 contact events were tracked until final disposition or December 31, 2018, 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 not guilty: the defendant was not convicted of any charges in the contact event;<sup>108</sup>
- Other: the defendant had a final disposition other than what was classified as convicted, dismissed, *nolle prosequi*, not guilty, or pending;<sup>109</sup> and,
- Pending: if any charge in the contact event had not reached a final disposition by December 31, 2018, the contact event was classified as pending.<sup>110</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,<sup>111</sup> then that contact event will be classified as “dismissed.” 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, both of these dispositions are classified under the final disposition of “dismissed.”

### *Final Disposition of Contact Events for 11,487 Defendants*

Table 51 illustrates the final disposition of the October 2017 contact events for each of the 11,487 defendants in the cohort. As seen in this table, 89% (10,235 of 11,487) of contact events reached a final disposition on or before December 31, 2018. Furthermore, 59% (6,797 of 11,487) of defendants were convicted of at least one charge in their October 2017 contact event.

	Number of Defendants	Percentage
Convicted	6,797	59%
Dismissed*	990	9%
<i>Nolle Prosequi</i>	2,134	19%
Not Guilty	306	3%
Other	8	< 1%
Pending	1,252	11%
<b>Total Defendants</b>	<b>11,487</b>	<b>100%</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. \*The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

***Defendant Demographics***

Table 52 details the final disposition of the October 2017 contact event and the demographics for 11,479 of the 11,487 of the defendants in the cohort.<sup>113</sup> As seen in this table, the proportion of defendants convicted of at least one charge in their contact event did not vary significantly across sex, race, indigency status, or residency status.

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

	Final Disposition of Contact Events					Number of Defendants
	Convicted	Dismissed*	<i>Nolle Prosequi</i>	Not Guilty	Pending	
<b><i>Defendant Sex</i></b>						
Male	5,040 (60%)	682 (8%)	1,553 (19%)	212 (3%)	892 (11%)	<b>8,379</b>
Female	1,757 (57%)	308 (10%)	581 (19%)	94 (3%)	360 (12%)	<b>3,100</b>
<b><i>Defendant Race</i></b>						
White	4,060 (61%)	511 (8%)	1,116 (17%)	179 (3%)	788 (12%)	<b>6,654</b>
Black	2,617 (57%)	457 (10%)	977 (21%)	123 (3%)	446 (10%)	<b>4,620</b>
Asian/Pacific Islander	91 (61%)	15 (10%)	27 (18%)	3 (2%)	14 (9%)	<b>150</b>
Am. Indian/Alaskan Nat.	2 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	<b>2</b>
Unknown	27 (51%)	7 (13%)	14 (26%)	1 (2%)	4 (8%)	<b>53</b>
<b><i>Whether Defendant was Indigent</i></b>						
Indigent	4,222 (62%)	551 (8%)	1,303 (19%)	172 (3%)	566 (8%)	<b>6,814</b>
Not Indigent	2,481 (59%)	437 (10%)	831 (20%)	133 (3%)	339 (8%)	<b>4,221</b>
Undetermined	94 (21%)	2 (< 1%)	0 (0%)	1 (< 1%)	347 (78%)	<b>444</b>
<b><i>Whether Defendant was a Virginia Resident</i></b>						
Virginia Resident	5,765 (59%)	859 (9%)	1,784 (18%)	274 (3%)	1,060 (11%)	<b>9,742</b>
Out-of-State Resident	446 (59%)	45 (6%)	150 (20%)	14 (2%)	105 (14%)	<b>760</b>
Undetermined	586 (60%)	86 (9%)	200 (20%)	18 (2%)	87 (9%)	<b>977</b>
<b>Total Defendants</b>	<b>6,797</b>	<b>990</b>	<b>2,134</b>	<b>306</b>	<b>1,252</b>	<b>11,479</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Table does not include the 8 defendants with disposition of “other” due to space restrictions. \*The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

### *Final Disposition of Contact Events and Pre-Trial Release Status*

Table 53 illustrates the final disposition of the October 2017 contact events and the pre-trial release status for 11,479 of the 11,487 defendants in the cohort.<sup>114</sup> As seen in this table, a significantly larger proportion of defendants who remained detained the entire pre-trial period were convicted of at least one charge in their October 2017 contact event (77%), as compared to those defendants who were ultimately released during the pre-trial period (56%).

**Table 53: Final Disposition of Contact Events and Pre-Trial Release Status of Defendants**

	<b>Final Disposition of Contact Events</b>					Number of Defendants
	Convicted	Dismissed*	<i>Nolle Prosequi</i>	Not Guilty	Pending	
<i>Pre-Trial Release Status</i>						
Released	5,269 (56%)	908 (10%)	1,862 (20%)	283 (3%)	1,173 (12%)	<b>9,495</b>
Detained	1,528 (77%)	82 (4%)	272 (14%)	23 (1%)	79 (4%)	<b>1,984</b>
<b>Total Defendants</b>	6,797	990	2,134	306	1,252	<b>11,479</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Table does not include the 8 defendants with disposition of “other” due to space restrictions. \*The “dismissed” category includes charges that were either dismissed or deferred and dismissed.

*Final Disposition of Contact Events and Type of Attorney*

Table 54 illustrates the final disposition of the October 2017 contact events and the type of attorney assigned at case closure for 11,479 of the 11,487 defendants in the cohort.<sup>115</sup> As seen in this table, the proportion of defendants convicted was very similar across defendants represented by court-appointed attorneys (61%), public defenders (63%), and retained attorneys (62%). 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 pre-trial period as compared to defendants who were represented by a court-appointed attorney or public defender at case closure.

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

	Final Disposition of Contact Events					Number of Defendants
	Convicted	Dismissed*	<i>Nolle Prosequi</i>	Not Guilty	Pending	
<i>Type of Attorney (at case closure)</i>						
Court-Appointed	2,562 (61%)	306 (7%)	844 (20%)	104 (3%)	365 (9%)	<b>4,181</b>
Public Defender (PD)	1,605 (63%)	240 (9%)	453 (18%)	68 (3%)	193 (8%)	<b>2,559</b>
Court-Appointed <u>and</u> PD	55 (74%)	5 (7%)	6 (8%)	0 (0%)	8 (11%)	<b>74</b>
Retained Attorney	1,972 (62%)	270 (9%)	596 (19%)	95 (3%)	246 (8%)	<b>3,179</b>
Waived	127 (59%)	39 (18%)	32 (15%)	13 (6%)	5 (2%)	<b>216</b>
Undetermined	476 (37%)	130 (10%)	203 (16%)	26 (2%)	435 (34%)	<b>1,270</b>
<b>Total Defendants</b>	<b>6,797</b>	<b>990</b>	<b>2,134</b>	<b>306</b>	<b>1,252</b>	<b>11,479</b>

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff. Some percentages do not total 100 due to rounding. Table does not include the 8 defendants with disposition of “other” due to space restrictions. \*The “dismissed” category includes charges that were either dismissed or deferred and dismissed.



### *Convicted Defendants and Term of Incarceration*

Table 55 illustrates the term of incarceration imposed on each of the 6,797 of 11,487 defendants in the cohort who were convicted of at least one charge in their October 2017 contact event. 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. For example, if a defendant was convicted of burglary and sentenced to a term of 10 years in prison with 7 years suspended, then the active term of incarceration for purposes of Table 50 would be 3 years and would not include the 7 years of suspended time. Similarly, if a defendant was convicted of two counts of burglary and sentenced to a term of 10 years in prison with 7 years suspended on each count, then the active term of incarceration for purposes of Table 50 would be 6 years.

As seen in this table, nearly half (3,250 of 6,797) 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, 82% (2,920 of 3,547) were ordered to serve a jail sentence of up to 12 months and 18% (627 of 3,547) 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 average and median term of incarceration reflects 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**<sup>116</sup>

	Number of Defendants	Percentage	Average Term of Incarceration	Median Term of Incarceration
Probation/No Incarceration	3,250	48%	---	---
Jail up to 12 Months	2,920	43%	2.8 months	1 month
Prison 1 Year or More	627	9%	47 months	24 months
<b>Total Convicted Defendants</b>	<b>6,797</b>	<b>100%</b>		

Source: Virginia Pre-Trial Data Project. Analysis completed by VSCC staff.

## LOCALITY FINDINGS

Descriptive findings for each locality in Virginia are provided in Appendix B. Ultimately, when examining these locality descriptive findings, staff found that localities varied across numerous measures within the dataset. These variances were not surprising, as Virginia is an extremely diverse Commonwealth with a population of over 8.5 million<sup>117</sup> across 133 localities.<sup>118</sup> The following figures highlight some of the unique features across Virginia's localities based on 2017 figures:

- Populations ranged from 2,200 to 1.1 million;<sup>119</sup>
- Population density ranged from 5.6 per square mile to 9,300 per square mile;<sup>120</sup>
- Total sworn law enforcement officers ranged from 7 officers to 1,500 officers;<sup>121</sup>
- Total number of adult arrests ranged from 13 to 22,300 per year;<sup>122</sup>
- Median household income ranged from \$26,900 to \$129,800;<sup>123</sup> and,
- Percentage below poverty level (all individuals) ranged from 2.9% to 37.5%.<sup>124</sup>

Variances across localities in terms of demographics, judicial officers, court practices, pretrial services agencies, bail bondsmen, other practitioners, and services (e.g., mental health and substance use treatment) available during the pre-trial period are vital considerations. 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.<sup>125</sup> Bail bondsmen vary by type,<sup>126</sup> licensing requirements,<sup>127</sup> caseload, jurisdictions served, structure of organization/business,<sup>128</sup> and overall success rates.

Additionally, when examining specific localities, factors impacting 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. The annual report by the Virginia State Police, *Crime in Virginia*, highlights numerous factors impacting crime rates, including:<sup>129</sup>

- Population size, density, and degree of urbanization;
- Population variations in composition and stability;
- Economic conditions and employment availability;
- Cultural factors, education, and religious characteristics;
- Family cohesiveness;
- Climate, including seasonal weather conditions;
- Effective strength of law enforcement agencies;
- Administrative and investigative efficiency of law enforcement agencies;
- Organization and cooperation of adjoining and overlapping police jurisdictions;
- Attitudes and policies of the courts, prosecutors, and corrections;
- Citizen attitudes toward crime and law enforcement agencies; and,
- Crime reporting practices of individuals.

## LIMITATIONS

The findings in this report are based upon a statewide descriptive analysis of the dataset. While many of the concerns relating to sampling are eliminated because the cohort represents a specific population, limitations still exist relating to matters such as the aggregate nature of the dataset discussed above, definitions,<sup>130</sup> restriction to in-state arrests only,<sup>131</sup> timeframe,<sup>132</sup> data sources,<sup>133</sup> and exclusion categories.<sup>134</sup>

The findings presented in this report only summarize the information contained in the dataset. The findings do not provide explanations as to *why* any differences may exist between variables or groups of defendants within the dataset. Additional statistical analysis is required to determine whether there are other factors that moderate relationships between variables, and if so, the extent to which certain variables or combination of variables predict various outcomes. Moreover, factors that were not able to be included or considered in the dataset are certain to have an impact on outcomes. Additional research is needed to place these statewide and locality findings in context in order to obtain a more complete understanding of the pre-trial process in Virginia.

While the aggregate findings set forth in this report are an excellent method for examining overall trends, this approach does not fully account for variations across localities. Therefore, these statewide descriptive findings should not be generalized to the individual locality level as such findings do not necessarily reflect the demographics, risk levels, and outcomes of specific localities. Statewide findings can look quite different, if not opposite, when compared to an individual locality.

Caution is urged when examining localities with a very small number of contact events. While the *Project* dataset, as a whole, is generalizable to any given month, a locality with a small number of contact events in October 2017 could skew the “norm” for that locality (i.e., a particularly violent offense or obscure type of charge). This concern should be alleviated in future iterations of the *Project* by the Virginia Criminal Sentencing Commission, as pre-trial data collected and reported on in the future will be based on a full fiscal year cohort rather than a one-month cohort.

Furthermore, caution is also encouraged when examining public safety outcomes for Virginia localities that border other states or the District of Columbia since the *Project* dataset does not capture out-of-state criminal history records for the defendants in the cohort. This limitation could skew public safety outcomes in localities bordering other states.

The current report is by no means an exhaustive analysis, but rather a mechanism to demonstrate the basic capabilities of the *Project* dataset, as well as to identify gaps in the data to help improve the dataset each year. The October 2017 cohort should be viewed as an initial baseline dataset. A full annual baseline of data for the 2018 fiscal year will be published by the Virginia Criminal Sentencing Commission by December 1, 2022. Virginia is in a unique position to have the *Project*

baseline data available to meaningfully attempt to capture any changes in trends across the entire pre-trial system before and after the enactment of various pre-trial reform measures, other changes in law, or larger society issues (i.e., COVID-19, etc.). Ultimately, the annual replication of the *Project* dataset can be used to inform policy decisions and provide a platform for discussion on pre-trial matters in the Commonwealth for years to come.

## CRIME COMMISSION RECOMMENDATIONS

The work on the *Virginia Pre-Trial Data Project* led to the enactment of legislation to enhance data collection practices and continue statewide collection of pre-trial data in Virginia. The Crime Commission first endorsed a staff recommendation to create a new charge of contempt of court to more accurately identify and track charges of failure to appear that was enacted into law during the 2019 Regular Session of the General Assembly.<sup>135</sup> During the final phases of the *Project*, staff developed a plan and made a recommendation to continue the collection and public reporting of the statewide pre-trial data identified during the *Project* by requiring the Virginia Criminal Sentencing Commission (VCSC) to annually collect and report on pre-trial data and to make such data publicly available as an electronic dataset and through an interactive data dashboard tool. Staff selected the VCSC to be responsible for future iterations of the *Project* because that agency has already developed a methodology for obtaining pre-trial data and has a vast amount of experience in analyzing large datasets. Furthermore, the VCSC routinely provides sentencing data to the general public both through data requests and via an interactive dashboard on the agency website. Virginia is in the unique position of having such an entity, with VCSC staff possessing decades-worth of institutional knowledge and experience in working with nearly all the data systems involved in the *Project*.

The Crime Commission endorsed staff's recommendation to have the VCSC annually replicate the *Project* which was enacted into law during the 2021 Special Session I of the General Assembly.<sup>136</sup> The enacted legislation requires the VCSC to annually collect and report on pre-trial data for all adults charged with an offense punishable by incarceration in the Commonwealth. The VCSC must also make this data available to the public as an electronic dataset and on an interactive data dashboard tool that displays data at the statewide and locality level. Staff also worked with the legislature to ensure that the VCSC received necessary funding for staff and technology upgrades to fulfill this new responsibility.<sup>137</sup> The first report from the VCSC is due by December 1, 2022, and the requirement that the data be made publicly available takes effect on this same date. The data to be annually collected and reported on by the VCSC includes numerous variables, such as:

- Defendant demographics, such as sex, race, birth year, and residential zip code;
- Whether the defendant is indigent;
- Types and classifications of charges;
- Prior criminal history;
- Bond information;
- Time between the charge and release from custody;
- If released from custody, time between release and a new offense or failure to appear;
- Court appearance rates;
- Public safety rates (new arrest);

- Final case disposition; and,
- Any other data deemed relevant and reliable by the VCSC.

Additionally, the enacted legislation mandates that the Crime Commission provide the VCSC with the October 2017 dataset from the *Project*, which staff provided to the VCSC September 2021. The VCSC must make this October 2017 dataset publicly available as an electronic dataset by October 1, 2021.

Replications of the initial *Project* dataset will afford the ability to track any changes in pre-trial trends or outcomes in the future. Furthermore, making the data available to the public is vital for data transparency and for analyses to be more tailored to fit the needs of the end-user. The annual collection and reporting of pre-trial data can be used to inform discussions and decisions related to the pre-trial process for years to come.

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Compensation Board

Fairfax County Circuit Court Clerk's Office

Indigent Defense Commission

Office of the Executive Secretary of the Supreme Court of Virginia

Virginia Association of Commonwealth's Attorneys

Virginia Bail Association

Virginia Community Criminal Justice Association

Virginia Department of Corrections

Virginia Department of Criminal Justice Services

Virginia Sheriffs' Association

Virginia State Police

*The Crime Commission wishes to thank all Bail Bondsmen, City and County Administrators, Clerks of Court, Commonwealth's Attorneys, Court-Appointed Counsel, Judges, Local and Regional Jail Administrators, Magistrates, Pretrial Advocacy Groups, Pretrial Services Agency Directors, Managers, and Officers, Public Defenders, and Sheriffs who assisted in providing feedback on the Project.*

Finally, the Crime Commission wishes to thank the Virginia Criminal Sentencing Commission staff for their utmost professionalism and dedication in developing the initial baseline dataset for the *Virginia Pre-Trial Data Project*. Successful completion of the *Project* would have not been possible without the tremendous assistance of the Virginia Criminal Sentencing Commission staff.

## ENDNOTES

- <sup>1</sup> Virginia State Crime Commission. (2018). *2017 Annual Report: Pretrial Services Agencies*. Available at <http://vscc.virginia.gov/2018/2017%20Annual%20Report%20Pretrial.pdf>. Virginia State Crime Commission. (2019). *2018 Annual Report: Virginia Pre-Trial Data Project and Pre-Trial Process*. Available at <http://vscc.virginia.gov/2019/VSCC%202018%20Annual%20Report%20-%20Pre-trial%20Data%20Project%20and%20Pre-trial%20Process.pdf>. Virginia State Crime Commission. (Dec. 2019). *Virginia Pre-Trial Data Project Preliminary Findings*. Available at <http://vscc.virginia.gov/images/VSCC%20Pre-Trial%20Data%20Project%20Preliminary%20Findings.pdf>. The *Project* dataset was used to answer two research questions in the December 2019 report: (1) whether public safety and court appearance rates varied between defendants released on bond whose cases were heard in localities served by pretrial services agencies versus localities not served by pretrial services agencies; and, (2) for defendants released on bond whose cases were heard in localities served by pretrial services agencies, whether public safety and court appearance rates varied between defendants receiving pretrial services agency supervision and defendants not receiving pretrial service agency supervision.
- <sup>2</sup> Data source: Alexandria Circuit Court Case Management System.
- <sup>3</sup> Data source: Fairfax County Circuit Court Case Management System.
- <sup>4</sup> Data source: Local Inmate Data System (LIDS).
- <sup>5</sup> Data sources: eMagistrate system, district court case management systems, and circuit court case management systems (excludes Alexandria and Fairfax County Circuit Courts).
- <sup>6</sup> Data source: Corrections Information System (CORIS).
- <sup>7</sup> Data source: Pretrial and Community Corrections Case Management System (PTCC).
- <sup>8</sup> Data source: Central Criminal Records Exchange (CCRE)/Computerized Criminal History (CCH) Database.
- <sup>9</sup> Data is based on individual defendants at the time when a judicial officer made the initial decision to commit the defendant to custody or release the defendant (if released immediately) in October 2017. These initial decision records were then collapsed into judicial officer “decision events,” which includes all charges against an individual defendant heard together in the same jurisdiction on the same day with the same CBR number (“Commit, Bond, Release”) and refers to any one of these bail processes eMagistrate System. Over 33,000 records were collapsed in this manner in order to develop a singular dataset of 22,986 individual defendants. It was necessary for the unit of analysis to be at the individual defendant level in order to track outcomes. If a defendant had more than one contact event during the month of October 2017, only the first contact event was captured and tracked in the *Project* dataset.
- <sup>10</sup> The composition of the October 2017 cohort was exceptionally similar to a pilot cohort representing July 2015, as well as a 6-month timeframe cohort representing November 2017 through April 2018. As such, it is assumed that findings from the October 2017 cohort are generalizable to any other given month up until January 2020. After that time, the impacts of the COVID-19 pandemic along with the implementation of various criminal justice reforms limit the generalizability of the October 2017 cohort. The October 2017 cohort should be viewed as an initial baseline dataset, with a full annual baseline of data (FY18) forthcoming in the Virginia Criminal Sentencing Commission report to be published by December 1, 2022.
- <sup>11</sup> Nearly all of the 11,487 defendants whose contact event included a new criminal offense punishable by incarceration appeared before a judicial officer solely for the new criminal offense(s); however, 87 of these defendants had both a new criminal offense and an offense relating to a pre-existing court obligation in their October 2017 contact event, including: 19 probation violations (PRB), 4 supervision violations (SSV), and 64 failures to appear (FTA, PRE) for a charge unrelated to their October 2017 contact event.
- <sup>12</sup> A new criminal offense punishable by incarceration means that the defendant was initially arrested and brought before a judicial officer for the criminal offense during October 2017, regardless of the date on which the criminal offense was alleged to have occurred. Data revealed that 99% (11,378 of 11,487) of defendants in the cohort appeared before a magistrate and 1% (109 of 11,487) of defendants in the cohort were arrested following a direct indictment.
- <sup>13</sup> See Appendix A, pp. 10-12 (variables 5, 6, 7, 8, 9, and 10), for definitions of each pre-trial release and detention mechanism used for purposes of the *Project*. In a small number of cases, more than one type of bond was ordered for the charges in the defendant’s October 2017 contact event. In such instances, a hierarchy of the bond type from most restrictive to least restrictive was applied as follows: secured, unsecured, personal recognizance, and summons.
- <sup>14</sup> Of the 5,364 defendants released during the pre-trial period on a personal recognizance (PR) or unsecured bond, 93% (4,996 of 5,364) were released on an unsecured bond and 7% (368 of 5,364) were released on a PR bond.
- <sup>15</sup> See Appendix C - Table 1, 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 pre-trial release (if released).
- <sup>16</sup> Id.
- <sup>17</sup> See Appendix B for more detailed information on the statewide and locality variances of defendant demographics across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond. Locality was determined by the CBR commitment number, or if the CBR was not available, the CBR recognizance number. The locality refers to the jurisdiction in which the charge was heard, which may not be the same jurisdiction as where the magistrate conducted the initial bail hearing.



<sup>18</sup> Specifically, 73% (8,383 of 11,487) of defendants in the cohort were male, but males only comprised 49% of Virginia’s overall population in 2017. Likewise, 40% (4,625 of 11,487) of defendants in the cohort were Black, but Black persons only comprised approximately 20% of Virginia’s overall population in 2017. Although 25% of Virginia’s population was between the ages of 18 to 35 in 2017, 61% (7,058 of 11,487) of defendants in the cohort were between the ages of 18 to 35. For additional information relating to the interplay between the sex, race, and indigency status of defendants in the cohort, *see* Appendix C - Tables 2 and 3.

<sup>19</sup> *See* Appendix A, pp. 28-29 (variables 61, 62, 63, 64, and 65), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>20</sup> For this table and similar tables later in this report, note that 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. While the OES Court Case Management Systems have the capacity to capture the Hispanic ethnicity, 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>21</sup> For this table and similar tables later in this report, the indigency variable 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.

<sup>22</sup> For this table and similar tables later in this report, residency status was based on the zip code recorded by the magistrate in the eMagistrate system at the time of the October 2017 contact event.

<sup>23</sup> 91% (10,425 of 11,487) of the defendants in the cohort had only one *count* of their most serious offense type.

<sup>24</sup> *See* Appendix A, p. 30 (variable 68), for definition of the variable used in this Table for purposes of the *Project*.

<sup>25</sup> *See* VA. CODE ANN. §§ 18.2-9, 18.2-10, 18.2-11, 18.2-12, 18.2-13, and 18.2-14 (2020). *See also* Virginia Criminal Sentencing Commission. 2021 VCC Virginia Crime Codes. Retrieved from:

<http://www.vcsc.virginia.gov/VCCs/2021/VCCbook2021FINAL2.pdf> at page v. *See also* Appendix B for more detailed information on the statewide and locality variances of classification of most serious offenses across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond. For this table and similar tables later in this report, note that 87 defendants appeared before a judicial officer for both a new criminal offense punishable by incarceration and an offense relating to a pre-existing court obligation. For example, if a defendant appeared before a judicial officer for both a felony probation violation and a new misdemeanor narcotics 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 and that factors that a judicial officer took into consideration when determining bail.

<sup>26</sup> *See* Appendix A, p. 30 (variable 67), for definition of the variable used in this Table for purposes of the *Project*.

<sup>27</sup> Note that 42 of these 5,697 defendants had a contact event that included a new offense punishable by incarceration and an offense relating to a pre-existing court obligation.

<sup>28</sup> *See* Virginia Criminal Sentencing Commission. 2021 VCC Virginia Crime Codes. Retrieved from:

<http://www.vcsc.virginia.gov/VCCs/2021/VCCbook2021FINAL2.pdf>. Specifically: “VCCs are comprised of a combination of nine letters and numbers (e.g., BUR-2211-F3). The first three letters of each VCC represent an abbreviation of the broad offense title under which the crime falls. Thus, the prefix “BUR” is used for all burglary offenses, “ARS” for all arson offenses, “ASL” for all assault offenses, and so forth. The next four digits are an identification code unique to each crime. The last two positions of the VCC represent the seriousness index based on the statutory maximum penalty for the crime” at page i.

<sup>29</sup> *See* Appendix A, p. 24 (variable 55) and p. 30 (variable 66), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>30</sup> 60% (981 of 1,639) of these charges were violations of Va. Code § 18.2-250 (possession of controlled substances unlawfully), 26% (428 of 1,639) were violations of Va. Code § 18.2-248 (possessing controlled substances unlawfully with intent to distribute), and the remaining 230 charges were violations of other felony narcotics violation offenses.

<sup>31</sup> 48% (635 of 1,322) of these charges were violations of Va. Code § 18.2-95 (grand larceny), 13% (177 of 1,322) were violations of Va. Code § 18.2-103 (concealing or taking of merchandise/altering price tags), 10% (132 of 1,322) were violations of Va. Code § 18.2-96 (petit larceny – third or subsequent offense), and the remaining 378 charges were violations of other felony larceny offenses. Note that the *Code of Virginia* was amended in 2018 to increase the grand larceny and other property offenses threshold from \$200 to \$500 and was amended again in 2020 to increase this threshold from \$500 to \$1,000; however, the penalties and the Virginia Crime Codes (VCC) did not change. Since the *Project* dataset is based on October 2017 contact events, the offense categories are classified based on the pre-2018 threshold amount of \$200 for felony larceny and other property offenses. However, for purposes of tracking public safety outcomes for this report, any new arrests of defendants released during the pre-trial period for such larceny or property offenses committed between July 1, 2018 and December 31, 2018, reflect the increased \$500 threshold in distinguishing between misdemeanor and felony offenses.

<sup>32</sup> 35% (219 of 630) of these charges were violations of Va. Code § 18.2-51 (shooting, stabbing, etc., with intent to maim, kill, etc.), 24% (149 of 630) were violations of Va. Code § 18.2-57 (felony assault and battery), 19% (120 of 630) were violations of Va. Code § 18.2-51.6 (strangulation of another), 12% (78 of 630) were violations of Va. Code § 18.2-57.2 (felony assault against a family or household member), and the remaining 64 charges were violations of other felony assault offenses.

<sup>33</sup> 34% (148 of 439) of these charges were violations of Va. Code § 18.2-178 (obtaining money or signature, etc. by false pretense), 23% (102 of 439) were violations of Va. Code § 18.2-192 (credit card theft), 8% (36 of 439) were violations of Va. Code § 18.2-172 (forging, uttering, etc.), 7% (32 of 439) were violations of Va. Code § 18.2-168 (forging public records, etc.), 7% (31 of 439) were violations of Va. Code § 18.2-181 (issuing bad checks, etc.), and the remaining 90 charges were violations of other felony fraud offenses.

<sup>34</sup> 81% (210 of 260) of these charges were violations of Va. Code § 18.2-91 (entering dwelling house, etc., with intent to commit larceny, assault and battery or other felony) and the remaining 50 charges were violations of other felony burglary offenses.

<sup>35</sup> 47% (111 of 236) of these charges were violations of Va. Code § 18.2-308.2 (possession or transportation of firearms by convicted felons), 29% (68 of 236) were violations of Va. Code § 18.2-308.2:2 (violation of firearm background check law), and the remaining 57 charges were violations of other weapon law offenses.

<sup>36</sup> 91% (114 of 126) of these charges were violations of Va. Code § 18.2-58 (robbery), 9% (11 of 126) were violations of Va. Code § 18.2-58.1 (carjacking), and the remaining charge was a violation of another robbery offense.

<sup>37</sup> 87% (89 of 102) of these charges were violations of Va. Code § 18.2-266 (driving motor vehicle while intoxicated) and the remaining 13 charges were violations of other felony DWI offenses.

<sup>38</sup> 87% (79 of 91) of these charges were violations of Va. Code § 18.2-137 (felonious injuring, etc., any property, monument, etc.) and the remaining 12 charges were violations of other misdemeanor vandalism/damage to property offenses. The *Project* reflects the pre-2018 threshold amount of \$200 for felony larceny and other property offenses for contact events. *Supra* note 32.

<sup>39</sup> 32% (26 of 81) of these charges were violations of Va. Code § 18.2-61 (rape), 25% (20 of 81) were violations of Va. Code § 18.2-67.3 (aggravated sexual battery), 22% (18 of 81) were violations of Va. Code § 18.2-67.1 (forcible sodomy), and the remaining 17 charges were violations of other felony sexual assault offenses.

<sup>40</sup> 90% (70 of 78) of these charges were violations of Va. Code § 18.2-47 (abduction and kidnapping) and the remaining 8 charges were violations of other kidnapping offenses.

<sup>41</sup> 66% (27 of 41) of these charges were violations of Va. Code § 18.2-32 (first and second degree murder), 12% (5 of 41) were violations of Va. Code § 18.2-36 (involuntary manslaughter), 5% (2 of 41) were violations of Va. Code § 18.2-36.1 (certain conduct punishable by involuntary manslaughter), and the remaining 7 charges were violations of other homicide-related offenses.

<sup>42</sup> 50% (16 of 32) of these charges were violations of Va. Code § 18.2-374.1:1 (possession, reproduction, distribution, solicitation, and facilitation of child pornography), 38% (12 of 32) were violations of Va. Code § 18.2-374.3 (use of communications systems to facilitate certain offenses involving children), and the remaining 4 charges were violations of felony obscenity offenses.

<sup>43</sup> The remaining 620 felony charges (as the most serious offense in the October 2017 contact event) included offenses relating to the following VCC categories: 4 accessory after the fact (ACC); 12 animals (ANM); 44 arson (ARS); 2 computer crime (COM); 2 DMV violations (DMV); 2 escape correctional facility/supervision (ESC); 23 extortion (EXT); 19 failure to appear (FTA); 105 family-related offenses (FAM); 116 hit and run (HIT); 2 obstruction of justice (JUS); 48 traffic-driver's license (LIC); 3 lottery (LOT); 3 gangs (MOB); 5 money laundering (MON); 9 city/county ordinance (ORD); 17 perjury (PER); 19 probation violations (PRB); 2 pretrial services violations (PRE); 28 prison/prisoner violation (PRI); 15 protective order violations (PRT); 3 racketeering (RAC); 67 traffic- reckless driving (REC); 21 sex/sex trafficking (SEX); 29 sex offender registry (SOR); 2 supervision violation (SSV); 8 tax laws (TAX); 1 telephone/telephone threats (TEL); 1 terrorism (TER); 3 trade and commerce (TRC); 1 trespassing (TRS); 2 violent activities (VIO); and, 2 voting/elections (VOT). See Virginia Criminal Sentencing Commission. *2021 VCC Virginia Crime Codes*. Retrieved from: <http://www.vcsc.virginia.gov/VCCs/2021/VCCbook2021FINAL2.pdf>.

<sup>44</sup> For purposes of this table and similar tables throughout the report, the 232 special class offenses (see Table 3) are included within the misdemeanor offense category. Further, note that 45 of these 5,773 defendants had a contact event that included a new offense punishable by incarceration and an offense relating to a pre-existing court obligation.

<sup>45</sup> 70% (1,262 of 1,816) of these charges were violations of Va. Code § 18.2-57.2 (assault and battery against a family or household member), 29% (532 of 1,816) were violations of Va. Code § 18.2-57 (assault and battery), and the remaining 22 charges were violations of other misdemeanor assault offenses.

<sup>46</sup> 90% (1,547 of 1,716) of these charges were violations of Va. Code § 18.2-266 (driving motor vehicle while intoxicated) and the remaining 169 charges were violations of other misdemeanor DWI offenses.

<sup>47</sup> 77% (175 of 227) of these charges were violations of Va. Code § 18.2-119 (trespass) and the remaining 52 charges were violations of other misdemeanor trespassing offenses.

<sup>48</sup> 60% (131 of 217) of these charges were violations of Va. Code § 18.2-460 (obstructing justice; resisting arrest; fleeing from law enforcement officer), 16% (34 of 217) were violations of Va. Code § 19.2-82.1 (giving false identification to law enforcement officer), and the remaining 52 charges were violations of other misdemeanor obstruction of justice offenses.

<sup>49</sup> 60% (128 of 216) of these charges were violations Va. Code § 18.2-96 (petit larceny), 29% (61 of 216) were violations of Va. Code § 18.2-103 (concealing or taking of merchandise/altering price tags), and the remaining 27 charges were violations of other misdemeanor larceny offenses. The *Project* reflects the pre-2018 threshold amount of \$200 for felony larceny and other property offenses for contact events. *Supra* note 31.

<sup>50</sup> 80% (161 of 201) of these charges were violations of Va. Code § 46.2-301 (driving while license suspended or revoked), 14% (28 of 201) were violations of Va. Code § 46.2-300 (driving without license), and the remaining 12 charges were violations of other license-related offenses.

<sup>51</sup> 75% (149 of 198) of these charges were violations of Va. Code § 16.1-253.2 (violation of protective order) and 25% (49 of 198) were violations of Va. Code § 18.2-60.4 (violation of protective order).

<sup>52</sup> 71% (96 of 136) of charges were violations of Va. Code § 18.2-250.1 (possession of marijuana), 18% (24 of 136) were violations of Va. Code § 18.2-250 (possession of controlled substances unlawfully), and the remaining 16 charges were violations of other misdemeanor narcotics offenses.

<sup>53</sup> 61% (79 of 130) of these charges were violations of Va. Code § 4.1-305 (purchasing or possessing alcoholic beverages unlawfully), 37% (48 of 130) were violations of Va. Code § 4.1-322 (possession or consumption of alcoholic beverages by interdicted persons), and the remaining 3 charges were violations of other misdemeanor alcohol law violation offenses.

<sup>54</sup> 49% (49 of 101) of these charges were violations of Va. Code § 18.2-186.3 (identity theft), 25% (25 of 101) were violations of Va. Code § 18.2-178 (obtaining money or signature by false pretense), and the remaining 36 charges were for other misdemeanor fraud offenses.

<sup>55</sup> 40% (39 of 97) of these charges were violations of Va. Code § 18.2-282 (pointing, holding, or brandishing a firearm), 24% (23 of 97) were violations of Va. Code § 18.2-308 (carrying concealed weapon), 13% (13 of 97) were violations of Va. Code § 18.2-56.1 (reckless handling of firearm), and the remaining 22 charges were violations of other misdemeanor weapon law offenses.

<sup>56</sup> 83% (75 of 89) of these charges were violations of Va. Code § 18.2-137 (injuring, etc., any property, monument, etc.) and the remaining 14 charges were violations of other misdemeanor vandalism/damage to property offenses. The *Project* reflects the pre-2018 threshold amount of \$200 for felony larceny and other property offenses for contact events. *Supra* note 31.

<sup>57</sup> The remaining 628 misdemeanor charges (as the most serious offense in the October 2017 contact event) included offenses relating to the following VCC categories: 4 accessory after the fact (ACC), 4 animals (ANM), 1 arson (ARS), 4 bail violations (BND), 1 boating (BOT), 12 computer crime (COM), 9 contempt of court (CON), 72 desertion and nonsupport (DES), 95 disorderly conduct (DIS), 2 unemployment compensation (EMP), 1 traffic-equipment violations (EQU), 4 escape correctional facility/supervision (ESC), 1 extortion (EXT), 46 family offense (FAM), 36 failure to appear (FTA), 1 gambling (GAM), 3 health (HEA), 39 traffic- hit and run (HIT), 4 highway (HWY), 34 obscenity (OBS), 1 city/county ordinance (ORD), 21 paraphernalia (PHA), 13 pretrial services violation (PRE), 3 professions and occupations (PRO), 15 forcible sodomy (RAP), 55 traffic- reckless driving (REC), 38 traffic-registration (REG), 17 sex offenses (SEX), 4 sex offender registry (SOR), 2 supervision violation (SSV), 35 stalking (STK), 1 tax laws (TAX), 47 telephone/telephone threats (TEL), and 5 drug/alcohol testing (TST). See Virginia Criminal Sentencing Commission. *2021 VCC Virginia Crime Codes*. Retrieved from: <http://www.vcsc.virginia.gov/VCCs/2021/VCCbook2021FINAL2.pdf>.

<sup>58</sup> 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. As such, out-of-state criminal history records were not included in the dataset of the *Project*.

<sup>59</sup> See Appendix B for more detailed information on the statewide and locality variances amongst the in-state criminal history records of the defendants in the cohort based on the type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond.

<sup>60</sup> See Appendix A, pp. 31-34 (variables 69, 70, 71, 72, 73, 75, 77, 79, and 81), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>61</sup> For this table and similar tables later in this report, see VA. CODE ANN. § 17.1-805(C) (2015) for the specified violent felony offenses in effect during the study time frame.

<sup>62</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>63</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>64</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>65</sup> See, e.g., Pretrial Justice Institute (PJI). (2020, Feb. 7). *Updated position on pretrial risk assessment tools*. Retrieved from <https://www.pretrial.org/wp-content/uploads/Risk-Statement-PJI-2020.pdf>; Austin, J., Desmarais, S.L., & Monahan, J. (2020, Dec. 7). *Open letter to the Pretrial Justice Institute*. Retrieved from <http://www.jfa-associates.com/publications/Open%20Letter%20to%20the%20Pretrial%20Justice%20Institute.pdf>; Gideon’s Promise, National Legal Aid & Defender Association (NLADA)/NLADA Council of Chief Defenders, National Association of Public Defense, and National Association of Criminal Defense Lawyers (2019). *Joint statement: Pretrial risk assessment instruments* (Updated March 2019). Retrieved from <https://www.nacdl.org/getattachment/c80216bf-84e0-429d-9750-9e49f502913d/joint-statement-on-pretrial-risk-assessment-instruments-march-2019-.pdf>. See also, for general overview of evaluating such risk assessment tools, e.g., König, P.D., & Kraft, T.D. (2021). Evaluating the evidence in algorithmic evidence-based decision-making: The case of U.S. pretrial risk assessment tools. *Current Issues in Criminal Justice*, 33(3), 359-381; Lin, Z., Jung, J., Goel, S., & Skeem, J. (2020). The limits of human predictions of recidivism. *Science Advances*, 6(7), DOI: 10.1126/sciadv.aaz0652; McKay, C. (2019). Predicting risk in criminal procedure: Actuarial tools, algorithms, AI, and judicial decision making. *Current Issues in Criminal Justice*, 32(1), 22-39.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> For additional information relating to the VPRAI, see, e.g., Stanford Pretrial Risk Assessment Tools Factsheet Project. *Risk assessment factsheet: Virginia Pretrial Risk Assessment Instrument (VPRAI)* at <https://www-cdn.law.stanford.edu/wp-content/uploads/2019/06/VPRAI-Factsheet-FINAL-6-20.pdf>; Virginia Department of Criminal Justice Services. (2018). Virginia Pretrial Risk Assessment Instrument – (VPRAI) Instruction Manual – Version 4.3. Available at [https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/virginia-pretrial-risk-assessment-instrument-vprai\\_0.pdf](https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/virginia-pretrial-risk-assessment-instrument-vprai_0.pdf); Danner, M.J.E., VanNostrand, M., & Spruance, L.M. (2016). *Race and gender neutral pretrial risk assessment, release recommendations, and supervision: VPRAI and PRAXIS Revised*. Available at <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/race-and-gender-neutral-pretrial-risk-assessment-release-recommendations-and-supervision.pdf>.

<sup>71</sup> See, e.g., Advancing Pretrial Policy & Research (APPR). *About the Public Safety Assessment* at <https://advancingpretrial.org/psa/factors/>; For additional information relating to the PSA, see, e.g., Stanford Pretrial Risk Assessment Tools Factsheet Project. *Risk assessment factsheet: Public Safety Assessment (PSA)* at <https://www-cdn.law.stanford.edu/wp-content/uploads/2019/05/PSA-Sheet-CC-Final-5.10-CC-Upload.pdf>. Note that the terms Public Safety Assessment, PSA, and the PSA logo (collectively, the “PSA Marks”) are trademarks of the Laura and John Arnold Foundation (LJAF).

<sup>72</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>73</sup> *Supra* note 71.

<sup>74</sup> 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 risk levels of new criminal activity by assigned PSA risk levels of failure to appear.

<sup>75</sup> While the PSA has not been adopted in Virginia, Crime Commission staff consulted with the Virginia Criminal Sentencing Commission, the Virginia Department of Criminal Justice Services, and Arnold Ventures (formerly the Laura and John Arnold Foundation) in developing a list of violent offenses for purposes of assigning PSA risk levels to defendants in the cohort.

<sup>76</sup> See Appendix A, pp. 35-36 (variables 83, 84, and 85), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>77</sup> In addition to determining whether a defendant was released during the pre-trial period, data from the *Project* also captured whether each defendant served any *additional* jail time during the pre-trial period after their pre-trial release. Additional jail time refers to any period of time that a defendant was incarcerated after their pre-trial release prior to the final disposition of their October 2017 contact event. Additional jail time is independent (mutually exclusive) from any period of time that the defendant was initially incarcerated for their October 2017 contact event prior to their pre-trial release. Therefore, additional jail time may relate to the October 2017 contact event, but could also related to prior or subsequent charges that resulted in incarceration prior to the final disposition of a defendant’s October 2017 contact event. Of the 9,503 defendants released during the pre-trial period, 77% (7,286 of 9,503) served no additional jail time after their pre-trial release; 85% (8,092 of 9,503) served 10 days or less of additional jail time during the pre-trial period; 89% (8,502 of 9,503) served 30 days or less of additional jail time during the pre-trial period; and, 93% (8,803 of 9,503) served 60 days or less of additional jail time during the pre-trial period.



<sup>78</sup> See Appendix A, pp. 23-24 (variable 53 and 54), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>79</sup> Note that each locality was classified based on whether it had a public defender office and whether it was served by a pretrial services agency in October 2017. Since that time, public defender offices have been opened in Manassas City (2020), Manassas Park (2020), Prince William County (2020), and Chesterfield County (2021), and one additional pretrial services agency was established in Culpeper County (January 2018).

<sup>80</sup> See Appendix A, p. 14 (variable 17 and 18) and p. 42 (variable 99), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>81</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>82</sup> Time until release was calculated based on the number of days between the date the DC-352 (commitment order) was issued and the date the DC-330 (recognizance) 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 eMagistrate data system. For example, if a defendant appeared before a magistrate at 11:30 P.M. and was released at 12:05 A.M. (i.e., 35 minutes later), the length of time until release was recorded as 1 day.

<sup>83</sup> See Appendix B for more specific information on the statewide and locality variances in the number of days until pre-trial release across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond.

<sup>84</sup> See Appendix A, p. 38 (variable 89), for definition of the variable used in this Table for purposes of the *Project*.

<sup>85</sup> See Appendix A, p. 12 (variable 11), for definition of the variable for purposes of the *Project*.

<sup>86</sup> Secured bond amounts were not summed across charges, but rather the aggregate amount for all charges in the contact event was repeated in the data for each charge. For example, if a defendant was charged with three offenses, the *total* amount set by the judicial officer for all three charges will be shown.

<sup>87</sup> See Appendix A, p. 37 (variable 86), for definition of “bond amount at release” used in this Table for purposes of the *Project*.

<sup>88</sup> See, e.g., Justice Forward Virginia. *Bail reform*. Available at <https://justiceforwardva.com/bail-reform>; Mathews, J., & Curiel, F. (2019, November). Criminal justice debt problems. *ABA: Human Rights Magazine*, 44(3): Economic Justice. Retrieved from [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/economic-justice/criminal-justice-debt-problems/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-justice/criminal-justice-debt-problems/); Stevenson, M.T. (2018). Distortion of justice: How the inability to pail bail affects case outcomes. *Journal of Law, Economics, & Organization*, 34(4), 511-542.

<sup>89</sup> See also Appendix C - Table 1, 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 pre-trial release.

<sup>90</sup> See Appendix A, p. 37 (variable 87), for definition of the variable used in this Table for purposes of the *Project*.

<sup>91</sup> Charges of failure to appear include violations of Va. Code §§ 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 alleging that the defendant failed to appear prior to the final disposition of the contact event. Charges under Va. Code §§ 16.1-69.24 and 46.2-938, as well as general contempt of court charges under Va. Code § 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 October 2017 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 October 2017 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 October 2017 contact event; but, it was unclear if the new failure to appear charge was related to a pending criminal charge or to the October 2017 contact event. It was also determined that, at most, 6% of failure to appear charges during the pre-trial 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 pre-trial period, the methodology was not able to clearly determine whether the failure to appear charge was related to the October 2017 contact event or to the new offense.

<sup>92</sup> Data from the *Project* also captured the court appearance outcomes for each of the 1,984 of 11,487 defendants who were detained the entire pre-trial period. The data revealed that 3% (58 of 1,984) of these defendants were charged with failure to appear during the pre-trial 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>93</sup> See Appendix B for more detailed information on the statewide and locality variances amongst court appearance rates across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond.

<sup>94</sup> See Appendix A, p. 25 (variable 56), for definition of the variable used in this Table for purposes of the *Project*.

<sup>95</sup> See note 91.

<sup>96</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).

<sup>97</sup> See Appendix A, p. 39 (variable 90), for definition of the variable used in this Table for purposes of the *Project*.

<sup>98</sup> The new in-state offense punishable by incarceration must have been committed during the pre-trial period. 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." See also *supra* note 58 detailing why out-of-state arrests were not included in the *Project* dataset.

<sup>99</sup> Data from the *Project* also captured the public safety outcomes for each of the 1,984 of 11,487 defendants who were detained the entire pre-trial period. The data revealed that 6% (120 of 1,984) of these defendants were arrested for a new in-state offense punishable by incarceration during the pre-trial period. When specifically examining the 120 detained defendants who were arrested during the pre-trial period, data revealed that 36 defendants were arrested for a felony and 84 were arrested for a misdemeanor. The offense categories for the 36 detained defendants arrested for a new felony included: 12 assaults (ASL), 6 larcenies (LAR), 3 narcotics (NAR), 3 prison (PRI), 3 rape (RAP; 1 forcible rape, 1 object sexual penetration, and 1 aggravated sexual battery), 2 sex offender registry (SOR), 1 burglary (BUR), 1 escape (ESC), 1 fraud (FRD), 1 obscenity (OBS; production or publication of child pornography), and 1 vandalism (VAN). Of these 36 detained defendants, 47% (17 of 34) were convicted, 28% (10 of 34) were not convicted, and 25% (9 of 34) were still pending as of December 31, 2018. The offense categories for the 84 detained defendants arrested for a new misdemeanor included: 38 contempt of court (CON), 17 protective order violations (PRT), 8 assaults (ASL), 4 obstruction of justice (JUS), 3 obscenity (OBS; indecent exposure), 3 desertion (DES), 2 larcenies (LAR), 2 vandalism (VAN), 2 reckless operation (REC), 2 trespassing (TRS), 1 narcotics (NAR), 1 highway (HWY; dump trash on private property), and 1 stalking (STK). Of these 84 detained defendants, 36% (30 of 84) were convicted, 57% (48 of 84) were not convicted, and 7% (6 of 84) were still pending as of December 31, 2018.

<sup>100</sup> See Appendix B for more detailed information on the statewide and locality variances amongst public safety rates across type of bond at release and whether or not the defendant received pretrial services agency supervision as a condition of bond.

<sup>101</sup> See Appendix A, pp. 26-27 (variable 57, 58, 59, and 60), for definitions of each variable used in this Table for purposes of the *Project*.

<sup>102</sup> See note 98.

<sup>103</sup> See Appendix C - Table 8 for additional information on the interplay between the assigned PSA new violent criminal activity flag and whether released defendants were arrested for a new in-state "PSA violent offense" during the pre-trial period.

<sup>104</sup> See Appendix A, p. 39 (variable 91), for definition of the variable used in this Table for purposes of the *Project*.

<sup>105</sup> Offense categories based on VCC prefix of new arrest. See Virginia Criminal Sentencing Commission. *2021 VCC Virginia Crime Codes*. Retrieved from: <http://www.vscs.virginia.gov/VCCs/2021/VCCbook2021FINAL2.pdf>.

<sup>106</sup> *Id.*

<sup>107</sup> Efforts were made to distinguish between new charges of failure to appear for court appearance outcomes as opposed to public safety outcomes. Any new charge that was specifically for failure to appear or contained descriptive information indicating that it related specifically 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 public safety 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 (Va. Code § 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 pre-trial 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 public safety outcome analysis. The Crime Commission identified this issue during its study on the pre-trial process and ultimately endorsed legislation that was enacted in 2019 to clarify whether charges under Va. Code § 18.2-456 related to failure to appear or to some other form of contempt. See 2019 Va. Acts. Ch. 708.

<sup>108</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. For example, if one charge from the contact event resulted in a final disposition of not guilty on December 2, 2018, and another charge resulted in a final disposition of dismissed on October 15, 2018, then the contact event would be classified as "not guilty" because the most recent final disposition occurred in December 2018. 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>109</sup> There were 8 defendants in the cohort who had a final disposition code recorded in the OES court case management system that fell outside of the final disposition codes included in the other categories. Examples of such 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>110</sup> The “pending” classification includes contact events that had not reached a final disposition as of December 31, 2018, 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>111</sup> VA. CODE ANN. § 18.2-251 (2017).

<sup>112</sup> See Appendix A, p. 41 (variable 96), for definition of the variable used in this Table for purposes of the *Project*.

<sup>113</sup> Table does not include the 8 defendants with disposition of “other” due to space restrictions.

<sup>114</sup> Table does not include the 8 defendants with disposition of “other” due to space restrictions.

<sup>115</sup> Table does not include the 8 defendants with disposition of “other” due to space restrictions.

<sup>116</sup> See Appendix A, p. 42 (variables 97 and 98) for definitions of each variable used in this Table for purposes of the *Project*.

<sup>117</sup> U.S. Census Bureau, July 1, 2019, estimate.

<sup>118</sup> There are 95 counties and 38 independent cities in Virginia.

<sup>119</sup> U.S. Census Bureau, 2017 population estimates.

<sup>120</sup> *Id.*

<sup>121</sup> Virginia State Police, *Crime in Virginia - 2017*.

<sup>122</sup> *Id.*

<sup>123</sup> U.S. Census Bureau, 2017 estimates.

<sup>124</sup> *Id.*

<sup>125</sup> See Virginia Department of Criminal Justice Services. (2019). *Report on Pretrial Services Agencies-FY2019*. Retrieved from <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/community-corrections-act-and-pretrial-services-act-report-fy-2019.pdf>. For instance, some pretrial services agencies serve only one locality while others serve up to 11 localities. Some pretrial services agencies are funded 100% by state funds while others are funded 100% by their locality. In FY19, total investigations per year ranged from 40 to 5,647, total supervision placements per year ranged from 71 to 2,286, and average daily caseloads ranged from 28 to 854. Public safety rates ranged from 75% to 99%, appearance rates ranged from 87% to 100%, and compliance rates ranged from 67% to 98%.

<sup>126</sup> Virginia Department of Criminal Justice Services, email communication, November 2, 2018. As of November 2018, there were 375 actively licensed bail bondsmen in Virginia. This included 238 surety bail bondsmen, 51 property bail bondsmen, 56 agents, and an additional 30 individuals who had a combination of these licenses.

<sup>127</sup> VA. CODE ANN §§ 9.1-185, 9.1-185.5, 38.2-1800, and 38.2-1814 (2019).

<sup>128</sup> Some bail bondsmen operate their business individually while others have several bail bondsmen working as agents of their company.

<sup>129</sup> See Virginia State Police. *Crime in Virginia-2019*, at p. 3. Retrieved from [https://www.vsp.virginia.gov/downloads/Crime\\_in\\_Virginia/Crime%20In%20Virginia%202019.pdf](https://www.vsp.virginia.gov/downloads/Crime_in_Virginia/Crime%20In%20Virginia%202019.pdf).

<sup>130</sup> It is imperative to be aware of how each variable was captured within its respective data system in order to understand the extent to which the statewide findings contained in this report can be generalized, as well as any limitations that impact how these findings should be interpreted. See Appendix A for more specific information on definitions, measurements, data sources, and any limitations of the variables used in this statewide descriptive analysis.

<sup>131</sup> 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. As such, out-of-state criminal history records were not included in the dataset of the *Project*. This limitation could skew public safety outcomes in localities bordering other states.

<sup>132</sup> *Supra* note 9 and 10.

<sup>133</sup> Many of the data systems used to create the final *Project* dataset have limitations in how data is captured and/or defined. See Appendix A for more specific information on definitions, measurements, data sources, and any limitations of the variables used in this statewide descriptive analysis.

<sup>134</sup> See p. 14 for list and description of the defendants in the overall October 2017 cohort who were not included in the statewide descriptive analysis in this report.

<sup>135</sup> 2019 Va. Acts ch. 708. See also Virginia State Crime Commission. *2018 Annual Report: Virginia Pre-Trial Data Project and Pretrial Process*. Available at <http://vscc.virginia.gov/2019/VSCC%202018%20Annual%20Report%20-%20Pre-trial%20Data%20Project%20and%20Pre-trial%20Process.pdf>.

<sup>136</sup> 2021 Va. Acts, Sp. Sess. I, ch. 111 and 112. House Bill 2110 is available at <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=212&typ=bil&val=hb2110>. Senate Bill 1391 is available at <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=212&typ=bil&val=sb1391>.

<sup>137</sup> See *Joint Conference Committee Report on House Bill 1800*. Item 49 #1c. p. 14 (Feb. 25, 2021). Available at <https://budget.lis.virginia.gov/get/amendmentpdf/4387/>.

