2025

VIRGINIA PRETRIAL DATA PROJECT:

FINDINGS FROM THE 2023 COHORT

VIRGINIA CRIMINAL
SENTENCING COMMISSION

Members of the Virginia Criminal Sentencing Commission

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

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Virginia Criminal Sentencing Commission

December 1, 2025

TO: The Honorable S. Bernard Goodwyn
Chief Justice of Virginia

The Honorable Glenn Youngkin
Governor of Virginia

The Honorable Members of the General Assembly of Virginia

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

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

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

Sincerely,

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Executive Summary

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

This year, the Sentencing Commission examined individuals with pretrial contact events during Calendar Year (CY) 2023. A contact event is the point at which an individual comes into contact with the criminal justice system is charged with a criminal offense, thus beginning the pretrial process. As in previous years, for individuals with more than one contact event during the calendar year, only the first event was selected; however, the defendant's first contact event in a calendar year was excluded if it was identified as a pretrial outcome for an event that occurred during the previous calendar year. Individuals were tracked through disposition of the case or the end of the 15-month follow-up period, whichever came first. The Sentencing Commission adhered to the previously established data collection methods. Data for the Project was obtained from eight different data systems.[2] Compiling the data into a unified dataset requires numerous iterations of matching, merging, and data cleaning to ensure accuracy when linking information from the respective data systems to each defendant in the cohort. More than 500 data elements were captured for each defendant, including demographics, charging details, criminal history records, pretrial release status, bond type and amount, court appearance by the defendant, new criminal arrest during the pretrial period, and final dispositions.

The Sentencing Commission's data analysis, presented in this report, focuses on adult defendants whose contact event included a charge for a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer (i.e., a magistrate or judge). Other defendants, such as those released on a summons, were not

[1] See Virginia State Crime Commission. (2021). *Virginia Pretrial Data Project: Final Report*.

[2] Alexandria Circuit Court system completed switching back to the Court Case Management System in Virginia in the end of 2024. Therefore, the Commission did not make a separate data request to the Clerk of Alexandria Circuit Court.

analyzed for this report. This report presents various descriptive findings for the selected defendants, their key characteristics, how they proceeded through the pretrial system, and outcomes. This report also compares several measures across multiple years of data now available. When examining pretrial outcomes, it is important to consider what factors or combination of factors may be associated with success or failure while on pretrial release. Empirically based risk assessment tools are commonly used to estimate the likelihood of success or failure in the community during the pretrial period. For the purposes of the Project, the Public Safety Assessment (PSA), a pretrial risk assessment tool developed by Arnold Ventures, is utilized. Using the PSA allows the Commission to calculate risk scores for all defendants in the cohort based on available automated data.

To provide a comprehensive account of defendants' criminal histories both within and outside the Commonwealth of Virginia, the Commission has undertaken significant efforts to obtain out-of-state criminal history records from the Federal Bureau of Investigation (FBI). The Commission first submitted data request in early 2023 and received the returned data from FBI in late 2024 for the CY2022 cohort. The Commission then established a protocol to standardize and analyze textual data from FBI records. It was found that about 30% of the defendants in the main CY2022 cohort data have out-of-state criminal history. In June 2025, the FBI Institutional Review Board approved the Commission's request of out-of-state criminal history for CY2023 cohorts. However, due to administrative procedures at FBI, the Commission had not received returned data by the end of September. Federal government shutdown starting on October 1st further exacerbated the situation. Therefore, the Commission was not able to include such information in the CY2023 dataset.

This year, the Sentencing Commission conducted a special study to examine the association between pretrial services supervision and pretrial outcomes (failure to appear -FTA- or new criminal arrest -NCA- for jailable offense). Currently, 35 pretrial service agencies serve 116 of Virginia's 133 cities and counties. The Commission utilized both descriptive statistics and advanced statistical methods to provide the findings about the pretrial services supervision and its association with failure to appear and new criminal arrest during the pretrial period.

Virginia's Pretrial Data Project continues to serve as a valuable resource for policy makers, practitioners, and academics. Findings from the Commission's ongoing analyses as well as other researchers may be used to inform policy and practice and provide a platform for discussion of pretrial matters in the Commonwealth today and in the years to come.

KEY FINDINGS

Presented below are key descriptive findings from the Commission's analysis of **CY2021-CY2023 pretrial data**. The findings demonstrate year-to-year consistency, with emerging trends highlighted below.

- The vast majority of defendants are ultimately released from custody during the pretrial period. While approximately one in ten defendants were detained throughout the pretrial period during 2020 and 2021, the overall pretrial release rate has increased from 87.7% in CY2019 to 89.5% in CY2020, when the COVID pandemic began. The overall pretrial release rate has since declined to 87.2% in CY2023. CY2023 marked the first year that the overall release rate was lower than the pre-pandemic CY2019 level.

- Over half of defendants each year were released on a personal recognizance or unsecured bond. The percentage of defendants released on personal recognizance or unsecured bond decreased from 59.1% in CY2021 to 57.9% in CY2023.

- Overall, secured bond amounts at the time of release were consistent from CY2021 to CY2023. Secured bond amounts generally did not vary widely across sex, race, age, assigned counsel type, or year of release.

- About 46% of defendants were charged with a felony offense, while about 55% were charged with a misdemeanor or special class offense as the most serious offense in the contact event. Throughout CY2021-CY2023, the most common felony charge was a drug offense. Since CY2020, assault has been the most common misdemeanor charge.

- The pretrial release rate for defendants charged with felony offenses is lower than the release rate for those charged with misdemeanors. During CY2022 and CY2023, roughly 79% of individuals facing felony charges were released pretrial. Among those charged with felonies, individuals with felony charges for drugs, assault, burglary, kidnapping, or other crimes against a person were more likely to be detained throughout the pretrial period.

- When charged with a felony or violent offense, females were more likely than males to be released and Whites were released more often than Blacks. The defendants not assigned with court-appointed attorneys or public defenders were much more likely to be released than the defendants assigned with court-appointed attorneys or public defenders especially when they are charged with a felony or violent offense. It is important to note that many factors, including prior record, affect pretrial release rates.

- Of released defendants, based on the data (CY2021-CY2023), between 16.8% and 18.6% each year were ordered to receive supervision from a Pretrial Services Agency. A larger percentage of defendants placed under pretrial supervision

requirements received a secured bond compared to those who were released but not placed under pretrial supervision.

- Across each year examined, a small percentage of released defendants were charged with failure to appear at court proceedings for the offense(s) in the contact event. The FTA rate decreased from 16.6% in CY2021 to 13.9% in CY2023; however, the rate remains higher than in CY2019 (12.6%).

- Similarly, a relatively small portion of released defendants were arrested during the pretrial period for an in-state offense punishable by incarceration. The new-arrest rate decreased from a high of 23.5% in CY2020 to 18.6% in CY2023. The CY2023 new-arrest rate is lower than the rate observed during the pre-pandemic period (CY2019).

- During CY2021-CY2023, between 52% and 54% of defendants were convicted of at least one offense in the contact event (original or reduced charge). The conviction rate has been fairly consistent since CY2020.

- Public Safety Assessment (PSA) scores for both failure to appear (FTA) and new criminal arrest (NCA) were quite similar across the CY2021-CY2023 cohort groups. For both FTA and NCA measures, the largest share of defendants was classified as low risk, having a score of 1 or 2.

- Each year, defendants with higher PSA scores were less likely to be released than those with lower scores. A larger percentage of defendants classified as high risk (PSA scores of 5 or 6) were released in CY2021 than in recent years (CY2022-CY2023); this percentage has since constantly declined.

- The percentage of released defendants charged with failure to appear or who were arrested for a new in-state offense punishable by incarceration during the pretrial period increased as the defendants' PSA scores increased, suggesting that the PSA may be a useful tool in pretrial release decision making.

- While overall rates for failure to appear and new in-state arrest have decreased since CY2020, the rate for new in-state arrest for individuals classified as high risk (PSA NCA scores of 5 or 6) has decreased markedly.

- Results of a sophisticated empirical study conducted by the Commission indicate that defendants who receive pretrial service supervision have lower rates of new FTA than those who did not receive it; this finding is highly statistically significant. On the other hand, the association between pretrial services supervision and new criminal arrest (new in-state offense punishable by incarceration) is found to be statistically insignificant.

  However, when the analyses are focused on the released defendants whose assigned PSA score is 3 or higher, the statistical findings show that the likelihood of

NCA for the defendants with pretrial services supervision is lower and highly statistically significant than those (PSA score of 3 or higher) without the supervision.

- The caution regarding this study is that those findings do not imply the distinctive and definite inferences about the Virginia pretrial service supervision because there would be qualitative and functional differences in the pretrial services in Virginia. In particular, this study only analyzed the subset of the entire pretrial defendants and the many potential unobservable factors, often difficult to operationalize, were not taken into account in this analysis.

Introduction

Virginia's Pretrial Data Project was established in 2018 under the direction of the Virginia State Crime Commission as part of the Crime Commission's broader study of the pretrial system in the Commonwealth.[3] The Crime Commission discovered that many critical questions regarding Virginia's pretrial system could not be answered due to the significant lack of data available; the Pretrial Data Project was created to address this need. The Project was an unprecedented, collaborative effort among numerous state and local agencies representing the Executive, Legislative and Judicial branches. The Project laid the groundwork for the collection of comprehensive data to better understand all aspects of the pretrial process. The Crime Commission's study focused on a cohort of individuals charged with a criminal offense during a one-month period (October 2017). The work was well-received by lawmakers, and the 2021 General Assembly (Special Session I) passed legislation (House Bill 2110 and Senate Bill 1391) directing the Virginia Criminal Sentencing Commission to continue this work on an annual basis. The legislation, now codified in § 19.2-134.1, requires the Sentencing Commission to submit a report on the Pretrial Data Project each December 1. The Sentencing Commission also must create and maintain an interactive data dashboard tool on its website that will display aggregated data based on characteristics or factors selected by the user. Lastly, the Project datasets (with all personal/case identifiers removed) must be made available on the Commission's website. The Pretrial Data Project will provide valuable data for policy makers, agency and program administrators, and academic researchers and could become a model for other states interested in examining the pretrial process.

The Sentencing Commission's first report on Virginia's pretrial data collection project was submitted to the General Assembly in 2022.[4] The study focused on individuals with pretrial contact events during Calendar Year (CY) 2018 in order to establish a baseline of pretrial data. Establishing a baseline allows researchers to better assess the impact of subsequent events (such as the COVID-19 pandemic) or changes in laws or policies (such as the elimination of the presumptive denial of bail from the *Code of Virginia*). The report submitted in 2023 reflected individuals with pretrial contact events during CY2019 and CY2020.[5] Last year, the Commission again published the report reflecting CY2021 and CY2022 cohorts.[6] For the newest study this year, individuals with pretrial contact events during CY2023 were selected. A contact event is the point at which an

[3] Virginia State Crime Commission. (2021). *Virginia Pretrial Data Project: Final Report.*
[4] Virginia Criminal Sentencing Commission. (2022). *Virginia Pretrial Data Project: Findings from the 2018 Cohort.*
[5] Virginia Criminal Sentencing Commission. (2023). *Virginia Pretrial Data Project: Findings from the 2019 and 2020 Cohorts.*
[6] Virginia Criminal Sentencing Commission. (2024). *Virginia Pretrial Data Project: Findings from the 2021 and 2022 Cohorts.*

individual comes into contact with the criminal justice system and is charged with a criminal offense, thus beginning the pretrial process. As in previous years, for individuals with more than one contact event during the calendar year, only the first event was selected; however, the defendant's first contact event in a calendar year was excluded if it was identified as a pretrial outcome for an event that occurred during the previous calendar year. This enhancement to the selection criteria is discussed in further detail in the *Overview of Methodology* chapter. To be consistent with prior analyses, individuals in the cohorts were tracked until the disposition of the case or the end of the 15-month follow-up period, whichever occurred first.

Data for the Project were again obtained from multiple criminal justice agencies in Virginia. The Sentencing Commission's data collection approach continues to utilize the methods established for the original study overseen by the Crime Commission. Compiling the data into a unified dataset requires numerous iterations of matching, merging, and data cleaning to ensure accuracy when linking information from the respective data systems to each defendant in the cohort. This process is intensive and requires meticulous attention to detail. More than 500 data elements were captured for each defendant, including demographics, charging details, criminal history records, pretrial release status, bond type and amount, court appearance by the defendant, new criminal arrest during the pretrial period, and final dispositions.

The Commission excluded one pretrial measure on defendant's indigency status for CY2023 cohort data. Since the very first Pretrial Data Project, the data and the tables throughout annual reports have provided indigency status. It is a proxy measure based on whether the attorney type at case closure in the Court Case Management System was noted as a public defender or court-appointed attorney. Several Commission members raised the concern that this measure does not accurately reflect defendants' indigency status. Thus, until the Commission obtains the reliable data source that directly determines defendant's indigency status, the Commission decided to stop providing this measure. Nevertheless, the Commission still collects the information about attorney types from the Court Case Management System. Thus, for any outside users and researchers who still want to continue to examine defendant's socio-economic status by utilizing historical pretrial datasets, it is advised to utilize attorney type.

Overall, the CY2023 cohort contains more than 300,000 adult defendants. Defendants were categorized based on the nature of their first contact event. Similar to previous reports, this report focuses on defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer (i.e., a magistrate or judge). Other defendants, such as those released on a summons or whose contact was related to a pre-existing court obligation, were not analyzed for this report. Defendants who could not be classified or tracked due to

insufficient or conflicting data were also excluded from subsequent analyses.

The next chapter in this report presents a descriptive analysis of pretrial defendants from the multi-year dataset (CY2021-2023), including demographic characteristics, the most serious charged offense, pretrial release mechanisms, pretrial release rates, secured bond amount, pretrial supervision status, risk assessment scores, pretrial outcomes (failure to appear or new criminal arrest), and final disposition of the charges. The report provides a snapshot of pretrial defendants at key points in the pretrial process. Trends or differences across years are discussed. It is important to note that descriptive analysis such as this cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships. Additional research is necessary to provide a deeper understanding of the relationships among factors and the impact each factor may have on pretrial decision making and outcomes.

The chapter following the descriptive analysis examines the association of Virginia pretrial service agency supervision with pretrial release decisions and outcomes. The findings from the Sentencing Commission's analysis on this topic will contribute to the general understanding of the complex dynamics within the interplay among pretrial service operations, decisions, and outcomes.

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

Overview of Methodology

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

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

SELECTION OF STUDY COHORT

For the previous studies, the Sentencing Commission examined individuals with pretrial contact events from CY2018. The Commission began with CY2018 to establish a baseline and to allow researchers to better assess the impact of subsequent events (such as the COVID-19 pandemic) and subsequent changes in laws or policies (such as the elimination of the presumptive denial of bail from the *Code of Virginia*). For the current study, the Sentencing Commission selected individuals with pretrial contact events during CY2023. The continued accumulation of the pretrial data allows for comparisons across years regarding pretrial decision making and outcomes.

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

The Commission established and added another selection criterion, which was also utilized for the current study. For CY2019-CY2023 cohorts, the first contact event in a calendar year was excluded if it was identified as a pretrial outcome for an event that occurred during the previous calendar year. For example, this may occur if an individual had a contact event in one year that resulted in his release during the pretrial period and, while on pretrial release, the individual was arrested for a new criminal offense sometime during the following calendar year. The new criminal arrest during the pretrial release period is considered an outcome of the original event. The Sentencing Commission previously found that events excluded for this reason accounted for only 6% of all defendants initially selected for the descriptive analysis; moreover, the underlying demographic characteristics of the excluded defendants were not different from the overall cohort. While the CY2018 cohort does not have the benefit of data from previous years, the general insights about year-to-year changes in pretrial measures and outcomes are not significantly affected by the exclusion of cases based on this new criterion.

Overall, the CY2023 cohorts contains 300,961 adult defendants. Defendants were categorized based on the nature of their first contact event. As with previous reports, the Sentencing Commission's analysis focuses on defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer (i.e., a magistrate or judge). Other defendants, such as those released on a summons or whose contact was related to a pre-existing court obligation, were not analyzed. See Charts 2 and 3 for additional detail regarding types of contact events that were excluded from the descriptive analysis.

DATA COLLECTION

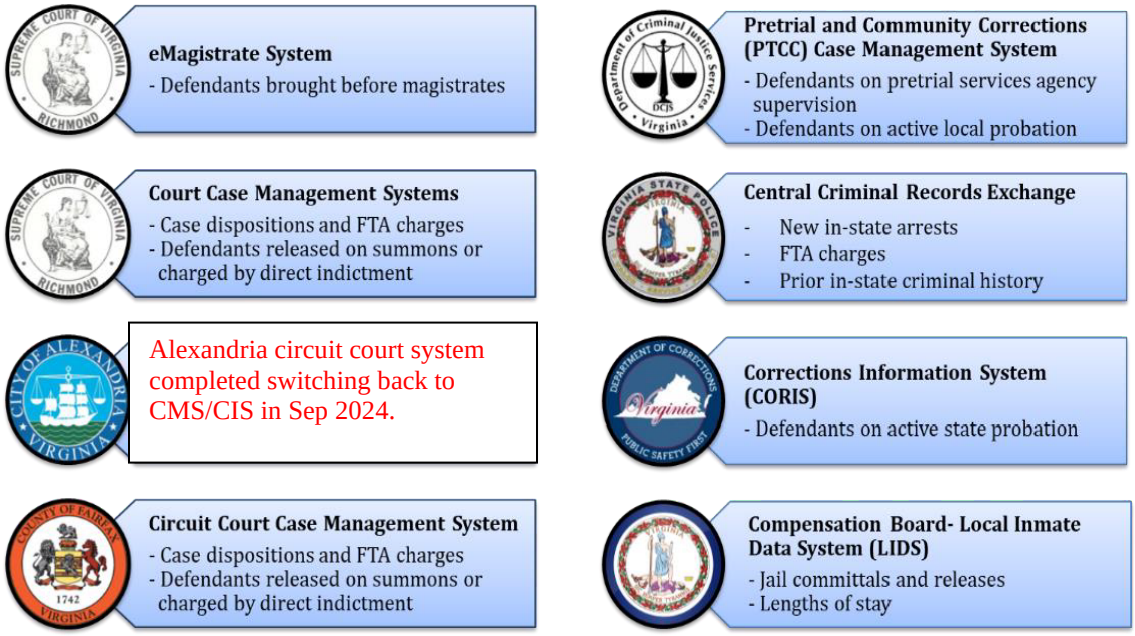
During the development of the Pretrial Data Project in 2018, the Sentencing Commission identified state and local agency data systems that contain relevant and reliable information on pretrial defendants and the pretrial process. The Commission has continued to request data from almost the same state and local agencies for the current study. These agencies included:

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

It is important to note that Alexandria Circuit Court system did complete integrating back their court database into statewide Court Case Management System at the end of last year (CY2024). Because of this, the Commission did not make a separate request to Alexandria Circuit Court for additional information related to the current Cohort study.

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

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



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

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

Beginning with the CY2018 cohort, the Sentencing Commission improved methods for

identifying summons cases. These improvements were necessitated by missing dates in the General District Court Case Management System. These improvements resulted in more comprehensive data for cases initiated by summons.

MATCHING AND MERGING RECORDS

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

The Court Case Management Systems and the e-Magistrate system are charge based, meaning that every charge is a separate record in the system. The inclusion of a charge in the study was based on the date the individual appeared before a magistrate, or the summons date for individuals issued a summons (or, if missing, the court filing date), or the arrest date (or, if missing, the court filing date) for individuals directly indicted in Circuit Court. These contact dates were used regardless of the date on which the criminal offense was alleged to have been committed. Charges were then collapsed into contact events, so that all charges associated with the same person on the same contact date were grouped together.[7] This process was challenging due to the lack of universal personal identifiers across all state agencies, missing information, and human error when the data were entered into the system (e.g., slight misspelling of the defendant's name or the inversion of two digits in the birthdate).

To address these issues, Sentencing Commission staff used an algorithm based on a similarity index to match records with a high degree of accuracy (although no such algorithm can guarantee 100% accuracy). Through this process, the Sentencing Commission identified the individuals for the study cohort. For individuals with more than one contact event during a calendar year, only the first event in the calendar year was selected. This allows for easier tracking of the individual through the pretrial process without the complexities that may arise due to subsequent, and possible overlapping, pretrial processes for the same defendant. As noted in the previous section, a small percentage of individuals also were excluded because the first contact event in the calendar year was identified as a pretrial outcome for an event that occurred during the previous year. Previous analysis revealed that, out of all the charge-based records, about 70% were associated with first contact events; this indicates that about 30% of criminal charges were associated with persons arrested multiple times during the year.

[7] For example, for an individual brought by law enforcement to appear before a magistrate, the contact event includes all charges against an individual heard together in the same jurisdiction on the same day and having the same CBR number ("Commit, Bond, Release") in the e-Magistrate System.

Information from the various data systems was then used to track each defendant through the pretrial process to final disposition of the case or the end of the follow-up period, whichever came first. For the CY2023 cohort, the follow-up period ended on March 31, 2025. For example, the e-Magistrate system provided considerable detail regarding the initial bail decision of the magistrate and, for many defendants, bail information at release. The Local Inmate Data System (LIDS) was used to confirm whether a defendant was released from jail during the pretrial period. The Pretrial and Community Corrections (PTCC) Case Management System was used to identify defendants who received pretrial supervision. Records from the Court Case Management Systems were used to determine final disposition for the charges in the contact event.

Data provided by the Virginia State Police Central Criminal Records Exchange (CCRE) was used to compute various measures of prior record for each defendant. In addition, the Commission has been working hard to collect defendant's out-of-state criminal history records from the FBI. However, extended administrative procedures together with unexpected government shutdown delayed data exchange with FBI this year. The Commission will continue the effort in the coming years.

At the end of this report, "Challenges" provides more detailed discussions about the issues that the Commission experienced during pretrial data collection this year.

QUALITY CONTROL AND DATA CLEANING

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

ESTIMATING RISK

When examining pretrial outcomes, it is important to consider what factors or combination of factors may be associated with success or failure while on pretrial release. Empirically-based risk assessment tools are commonly used at various stages within the criminal justice system to assist in making decisions related to individual defendants.[8] Studies have consistently found that validated actuarial risk assessment tools combined with professional judgment produce better outcomes than subjective professional judgment alone.[9] Pretrial assessment tools have been used in a variety of places to assist judicial officers during the bail determination process in evaluating defendants' probability for court appearance or the likelihood of remaining arrest-free if released.[10]

For initiatives like Virginia's Pretrial Data Project, it is critical to estimate the likelihood of success or failure in the community during the pretrial period in a uniform manner across all defendants so that comparisons can be made between similarly-situated defendants. For the purposes of the Project, the Public Safety Assessment (PSA) was used. The PSA is an actuarial pretrial assessment tool developed by Arnold Ventures that has been validated in a number of states/localities outside of Virginia.[11] Unlike some other tools, the PSA does not require an interview with the defendant. Using available automated data, the Sentencing Commission retroactively applied PSA calculations across the entire cohort using defendants' current offenses and in-state

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

[9] 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.

[10] 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.

[11] See Advancing Pretrial Policy & Research (APPR). About the Public Safety Assessment at https://advancingpretrial.org/psa/about/

criminal history. For each defendant, the Commission computed a score for each of the three PSA scales: the likelihood of Failure to Appear (FTA), the likelihood of New Criminal Arrest (NCA), and the likelihood of New Violent Criminal Arrest (NVCA).[12]

For the original study, the Crime Commission consulted with the Virginia Criminal Sentencing Commission, the Virginia Department of Criminal Justice Services, and Arnold Ventures (formerly the Laura and John Arnold Foundation) to develop a list of violent offenses for purposes of assigning PSA scores to defendants in the cohort. The Virginia Department of Criminal Justice Services (DCJS) is currently pilot testing the PSA instrument in select jurisdictions in the Commonwealth. DCJS established a PSA workgroup, consisting of numerous stakeholders, to assist in this process. The Sentencing Commission has consulted with the PSA workgroup to refine and update the list of the violent offenses.

There are two limitations to using the PSA to measure risk. First, while the FBI recently approved the Commission's request for out-of-state records, due to the aforementioned issues above, out-of-state criminal history was not delivered at a timely manner. Thus, the retroactive calculation of PSA scoring does not include out-of-state arrests and convictions for this year's project. Second, the retroactive application of PSA scoring does not include all court responses to a defendant's failure to appear. For the purposes of the PSA, failure to appear refers to a person missing a pretrial court hearing and the court, in response, issuing a warrant or capias or taking similar action.[13] Due to current data limitations, retroactive application of PSA scoring can only identify failure to appear if a charge for failure to appear, or a charge for contempt of court for failure to appear, is filed. The Sentencing Commission is working to address these limitations to the extent possible as the Project moves forward.

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

[12] 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. 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.

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

TRACKING OUTCOMES

Two primary measures of pretrial outcomes were calculated for the Pretrial Data Project. The first outcome measure captures whether or not the defendant appeared at all court proceedings for the charges associated with the contact event. For this measure, the Sentencing Commission examined the data to determine if the defendant was charged with failure to appear, or contempt of court for failing to appear, during the pretrial period.[14]

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

The two outcomes are separate and distinct. Any new charge that was specifically for failure to appear or a contempt of court charge that contained descriptive information indicating that it related specifically to failure to appear was analyzed as part of the court appearance outcomes. These charges are excluded to the extent possible from the new arrest outcome measure. However, there may have been new charges stemming from a failure to appear that were analyzed within the new arrest outcomes because it was not clear that the charge specifically related to failure to appear. For example, a new charge under the general contempt statute (§ 18.2-456) could have been related

[14] Charges of failure to appear include violations of §§ 19.2-128, 18.2-456, 16.1-69.24, 29.1-210, 46.2-936, 46.2-938, or 19.2-152.4:1 alleging that the defendant failed to appear prior to the final disposition of the contact event. Charges under §§ 16.1-69.24 and 46.2-938, as well as general contempt of court charges under § 18.2-456, were only included if the charge description indicated that offense charge was based on a failure to appear. A methodology could not be developed to determine if all failure to appear charges for defendants in the cohort were directly related to charges in the target contact event. However, in a previous study, the Sentencing Commission was able to determine that approximately 80% of defendants charged with failure to appear during the pretrial period did not have a pending criminal charge at the time of the contact event. Approximately 20% of the defendants charged with failure to appear during the pretrial period did have a pending charge at the time of their target contact event, but it was unclear if the new failure to appear charge was related to a pending criminal charge or to the target contact event. It was also determined that, at most, 6% of failure to appear charges during the pretrial period may have been related to a civil matter (i.e., failure to pay child support). Finally, if the defendant was arrested for a new offense and subsequently charged with failure to appear for that offense during the pretrial period, the Commission was not able to clearly determine whether the failure to appear charge was related to the target contact event or to the new offense.

to failure to appear or to failure to comply with an order of the court, such as a pretrial supervision violation. If the new charge under the general contempt statute did not indicate the specific basis of the charge, then the new contempt charge was included within the new arrest outcomes. The Crime Commission identified this issue during its study of the pretrial process and ultimately endorsed legislation that was enacted in 2019 to clarify whether charges under § 18.2-456 related to failure to appear or to some other form of contempt of court. *See* 2019 Va. Acts. Ch. 708.

LIMITATIONS

In addition to the limitations described above, other limitations should be noted. Due to the limitations of existing data systems, the Project dataset does not include many elements that might be useful in a comprehensive study of the pretrial system. Furthermore, the data elements that are included in the dataset may be subject to limitations based on how each factor is defined or represented. This may affect how the findings should be interpreted and the extent to which statewide findings can be generalized.

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

While aggregate findings presented in this report are an excellent method to examine a statewide snapshot of pretrial defendants at key points in the pretrial process, this approach cannot address variations across localities. Therefore, statewide descriptive findings should not be generalized to the individual locality level. In particular, caution is urged when examining localities or groups with a very small number of contact events. Small size implies larger variance, and a few outliers may influence the distribution. To make inferences on groups with small size, more data or more advanced statistical methods are needed to overcome the potential issue of large variance.

This limitation affects the measurement of prior record, the estimation of risk based on instruments such as the PSA, and outcome measures related to new criminal arrests. Locality-level data for jurisdictions bordering other states and the District of Columbia may be particularly susceptible to this limitation. However, in-state criminal history may

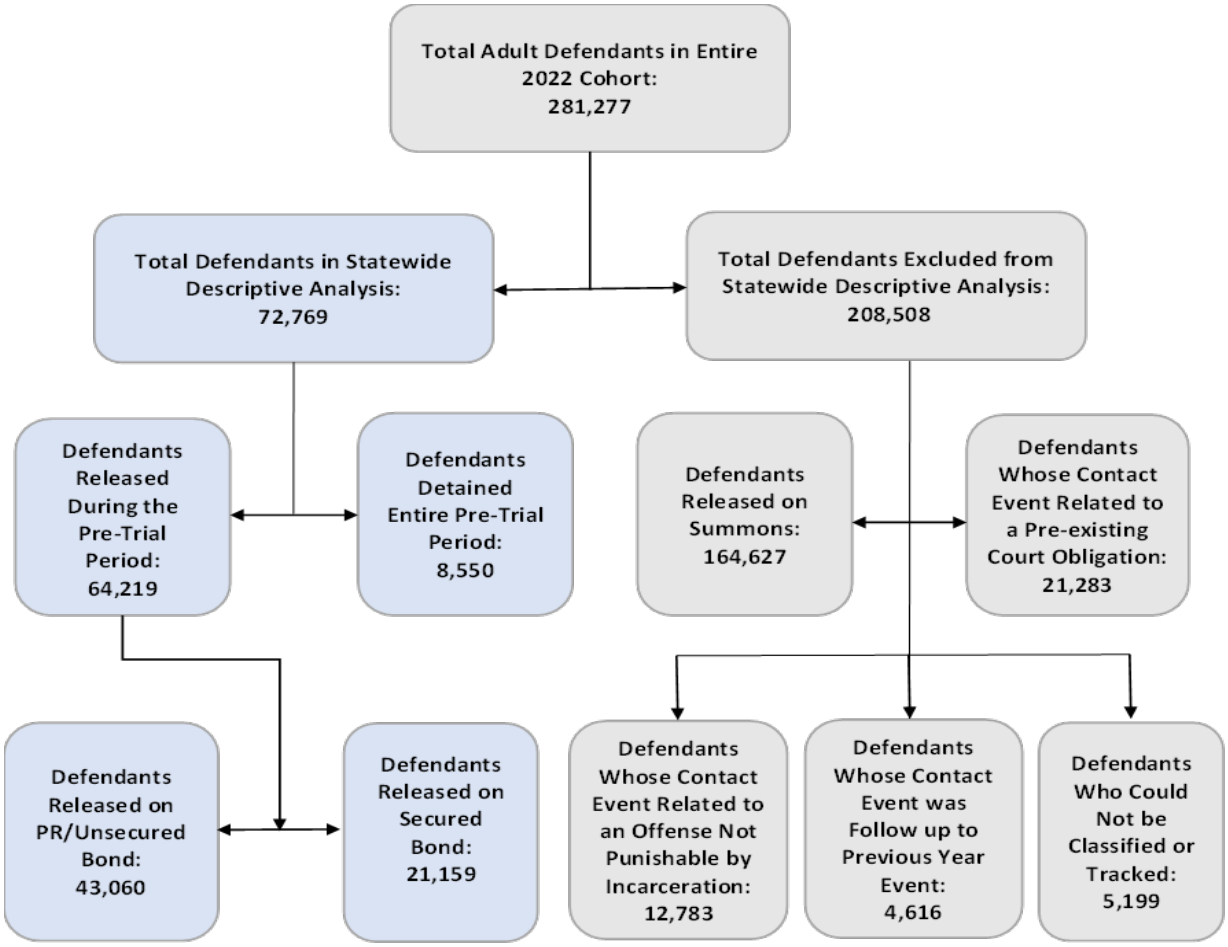
also be incomplete as some individuals charged with an offense may not have been fingerprinted, meaning that particular charge/conviction would not be associated with the individual in the State Police CCRE system (State Police use fingerprints to associate arrests/convictions with individuals).

Classification of Defendants in the CY2022 and CY2023 Cohorts

This report presents results from the CY2022 and CY2023 cohorts. Charts 2 and 3 use the classification scheme developed by the Sentencing Commission to categorize defendants based on the nature of their first contact event. The CY2022 cohort, compiled last year, contained 281,277 individuals (Chart 2). These defendants were categorized as follows:

- 72,769 defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer;
- 164,627 defendants whose contact event was for a new criminal offense punishable by incarceration for which the defendant was released by a law enforcement officer on a summons;
- 21,283 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;
- 12,783 defendants whose contact event was for a new criminal offense that was not punishable by incarceration;
- 4,616 defendants whose contact event was later identified as a follow-up to a previous year's contact event; and,
- 5,199 defendants who could not be classified or tracked due to insufficient data.

Chart 2: Classification of Defendants in the CY2022 Cohort



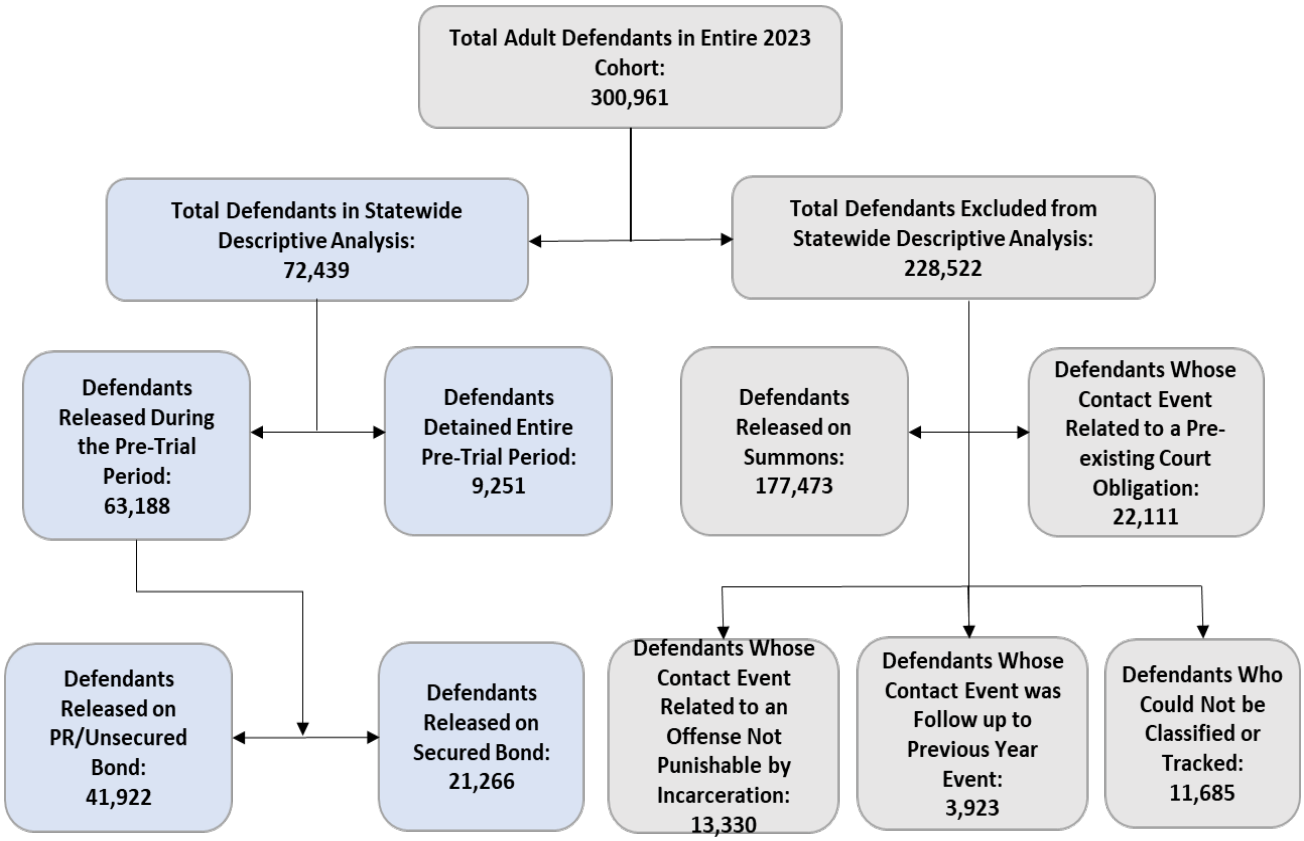
The new CY2023 cohort, compiled this year, contained 300,961 individuals (Chart 3). These defendants were categorized as follows:

- 72,439 defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer;
- 177,473 defendants whose contact event was for a new criminal offense punishable by incarceration for which the defendant was released by a law enforcement officer on a summons;
- 22,111 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;
- 13,330 defendants whose contact event was for a new criminal offense that was not punishable by incarceration;
- 3,923 defendants whose contact event was later identified as a follow-up to

a previous year's contact event; and,

- 11,685 defendants who could not be classified or tracked due to insufficient data.

Chart 3: Classification of Defendants in the CY2023 Cohort



Scope of Report

This report has two purposes. The first is to provide an overview of the findings across multiple years of pretrial data. The second is to examine the relationship between Virginia pretrial services supervision and pretrial outcomes, such as new FTA and NCA. Both analyses focus on adult defendants whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer (magistrate or judge).

There are five categories of defendants not included in aggregate analyses discussed

in this report. First, in general, the analyses did not include defendants 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. Second, the analyses also did not include defendants 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 analyses because their contact event was clearly related to a previous charge. As a result, the experiences that these defendants had during the pretrial period were likely different than the experiences of the defendants who began the pretrial period as a result of a new charge. Third, similarly, for this year's study, a defendant's first contact event in a calendar year was excluded if it was identified as a pretrial outcome for an event that occurred during the previous calendar year. Fourth, furthermore, the analyses excluded defendants 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 contact event that could result in the pretrial detention and/or post-trial incarceration of the defendant. Fifth, the analyses exclude defendants who could not be reliably classified or tracked due to missing, incomplete, or conflicting information. While these five categories of defendants were not included within the scope of this report, they did contribute to the overall pretrial caseloads in CY2023 and are included in the final datasets available to the public.

Appendices. The Sentencing Commission's previous report presented several tables with descriptive findings based on the previous cohorts for CY2018 through CY2022. Appendix A replicates all the same tables for the CY2023 cohort. This enables comparisons across years of pretrial defendants. As with the aggregate analyses discussed in the main body of this report, the tables presented in the Appendices reflect adult defendants in the CY2023 cohort whose contact event included a new criminal offense punishable by incarceration where the bail determination was made by a judicial officer (magistrate or judge). In general, the tables in the Appendices focus on the characteristics of pretrial defendants, the flow of defendants through the pretrial system, and outcomes. Specifically, they provide:

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

While statewide descriptive findings presented in this report are an excellent method for examining aspects of Virginia's pretrial process overall, variations across localities are prevalent. Appendix B presents locality-specific descriptive findings for the CY2023 cohort.

Appendix C contains the *Pretrial Data Codebook*, which defines each factor and describes how it was captured within the data system that contributed the information.

All Appendices are available on the Sentencing Commission's website at
http://www.vcsc.virginia.gov/pretrialdataproject.html

Findings from Multi-Year Cohorts (CY2021 - CY2023)

This chapter presents descriptive findings from multiple years of pretrial data, focusing on contact events occurring in CY2021, CY2022 and CY2023. Just like the previous reports, the analysis included only adult defendants whose contact events include a charge for a new criminal offense punishable by incarceration where bail determination was made by a judicial officer (magistrate or judge). The multi-year tables presented in this chapter provide information regarding Virginia's pretrial process, including defendants' demographic and legal characteristics, pretrial release status, release mechanisms, bond amount, pretrial supervision status, risk scores, and pretrial/disposition outcomes. As these descriptive analyses are based on multi-year cohorts (slowly distancing from CY2020, when the COVID-19 pandemic began), the findings are expected to yield important insights about the changes or persistence in various aspects of pretrial case processing in Virginia during the post-pandemic period.

DEFENDANTS DEMOGRAPHICS

Table 1 presents the underlying demographic characteristics of defendants in the CY2021-CY2023 cohorts. The largest share of defendants was male, white, between the ages of 18 to 35, and categorized as being assigned with a court-appointed attorney or public defender. The distributions of the demographic characteristics have been very similar across calendar years since the inception of the Virginia Pretrial Data Project; any percentage difference under any particular category is less than five percentage points.

For this table and similar tables throughout this report, Court-Appointed/Public Defender assignment indicates 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 reflect any changes to the attorney type that occurred before case closure.

Table 1: Defendant Demographics, CY2021-CY2023

	Number of Defendant (Percentage)		
	2021	**2022**	**2023**
Defendant Sex			
Male	51,127 (72.7%)	52,986 (72.8%)	52,523 (72.5%)
Female	18,854 (26.8%)	19,419 (26.7%)	19,630 (27.1%)
Unknown	330 (0.5%)	364 (0.5%)	286 (0.4%)
Defendant Race			
White	40,249 (57.2%)	40,954 (56.3%)	40,334 (55.7%)
Black	26,979 (38.4%)	28,486 (39.1%)	28,837 (39.8%)
Asian or Pacific Islander	748 (1.1%)	867 (1.2%)	875 (1.2%)
American Indian or Alaskan Native	38 (0.1%)	30 (0.0%)	23 (0.0%)
Unknown	2,297 (3.3%)	2,432 (3.3%)	2,370 (3.3%)
Defendant Age Group			
18-25 years old	14,756 (21.0%)	15,138 (20.8%)	14,809 (20.4%)
26-35 years old	23,328 (33.2%)	23,750 (32.6%)	22,964 (31.7%)
36-45 years old	16,504 (23.5%)	17,583 (24.2%)	17,944 (24.8%)
46-55 years old	9,196 (13.1%)	9,347 (12.8%)	9,527 (13.2%)
56-65 years old	5,127 (7.3%)	5,357 (7.4%)	5,553 (7.7%)
>65 years old	1,386 (2.0%)	1,580 (2.2%)	1,636 (2.3%)
Unknown	14 (0.0%)	14 (0.0%)	6 (0.0%)
Defendant Attorney Assignment Status			
Court-Appointed/Public Defender	38,462 (54.7%)	41,183 (56.6%)	41,355 (57.1%)
Other	29,232 (41.6%)	28,944 (39.8%)	27,288 (37.7%)
Unknown	2,617 (3.7%)	2,642 (3.6%)	3,796 (5.2%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

MOST SERIOUS OFFENSE CATEGORY

Table 2 presents information on the most serious charged offense in the CY2021-CY2023 cohorts. More defendants were charged with a misdemeanor as the most serious offense than a felony and the pattern has been consistent over years. For example, in CY2022, the percentage difference between the defendants having a felony as their most serious offense and the ones having a misdemeanor as the most serious offense is approximately 9.6% while it was 8% during CY2023.

Table 2 further reveals that, for 28.5% to 29.3% of the defendants charged with a felony, the most serious offense was a felony drug offense[15]. The three most common felony offenses (drug, larceny, and assault) accounted for more than half of the most serious felony charges.

The report last year indicated that assault became the most common misdemeanor charge after CY2020 while the most common misdemeanor prior to CY2020 was driving under the influence (DUI). Table 2 suggests that such trend continues as the most common misdemeanor charge is assault in CY2023. It should be noted that assault misdemeanor offense also includes misdemeanor domestic violence, the number of which significantly increased during the COVID-19 pandemic and subsequent stay-at-home orders (Mohler et al., 2020; Piquero et al., 2020; Demir and Park, 2022; Kourti et al., 2023).

[15] The grouping of the offense category is primarily based on the prefix of the Virginia Crime Code (VCC). For instance, if a charge has a VCC starting with NAR or PHA, its offense category is drug. Similarly, if a charge's VCC code starts with ASL, its category is assault.

Table 2: Most Serious Offense in Contact Event, CY2021-CY2023

	Number of Defendant (Percentage)		
	2021	**2022**	**2023**
Most Serious Charge			
Felony	32,402 (46.1%)	32,798 (45.1%)	33,325 (46.0%)
Misdemeanor	37,898 (53.9%)	39,934 (54.9%)	39,083 (54.0%)
Special/Undetermined	11 (0.0%)	37 (0.1%)	31 (0.0%)
Felonies			
Drug	9,508 (29.3%)	9,301 (28.4%)	9,497 (28.5%)
Larceny	4,378 (13.5%)	4,188 (12.8%)	4,156 (12.5%)
Assault	4,501 (13.9%)	4,694 (14.3%)	4,786 (14.4%)
Fraud	1,666 (5.1%)	1,801 (5.5%)	2,015 (6.0%)
Weapon/Firearm	2,527 (7.8%)	2,597 (7.9%)	2,561 (7.7%)
Other Felonies	9,822 (30.3%)	10,217 (31.2%)	10,310 (30.9%)
Misdemeanors			
DUI	12,528 (33.1%)	12,891 (32.3%)	12,876 (32.9%)
Assault	14,100 (37.2%)	14,344 (35.9%)	13,580 (34.7%)
Larceny	1,394 (3.7%)	1,909 (4.8%)	2,001 (5.1%)
Obstruction Of Justice	1,114 (2.9%)	1,294 (3.2%)	1,309 (3.3%)
Drug	268 (0.7%)	205 (0.5%)	173 (0.4%)
Other Misdemeanors	8,494 (22.4%)	9,291 (23.3%)	9,144 (23.4%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

PRETRIAL RELEASE STATUS OF DEFENDANTS

The vast majority of defendants were ultimately released from custody during the pretrial period. As shown in Chart 4, the overall pretrial release rate peaked at 89.5% in CY2020, when the COVID pandemic began. Since then, the overall pretrial release rate has declined to 87.2% in CY2023. This may suggest that the release rate gradually settled into the pre-pandemic level. The future data will provide much clearer insight into the longer-term trend in pretrial release in Virginia.

Chart 4: Pretrial Release Rate, CY2019-CY2023 Contact Events

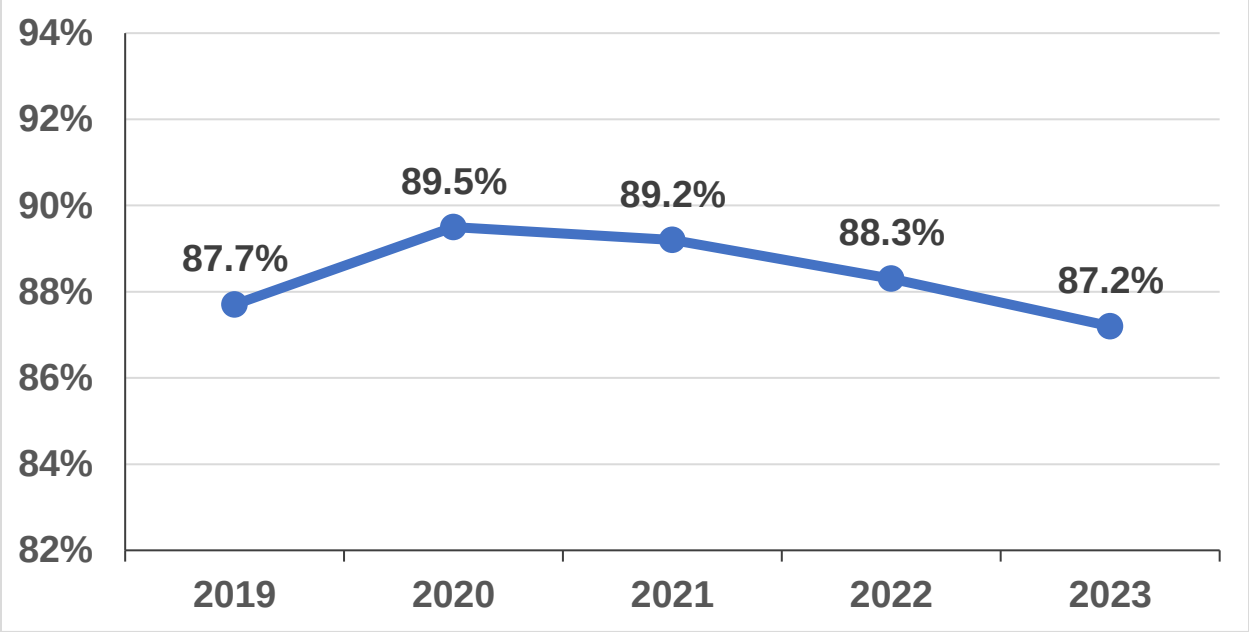
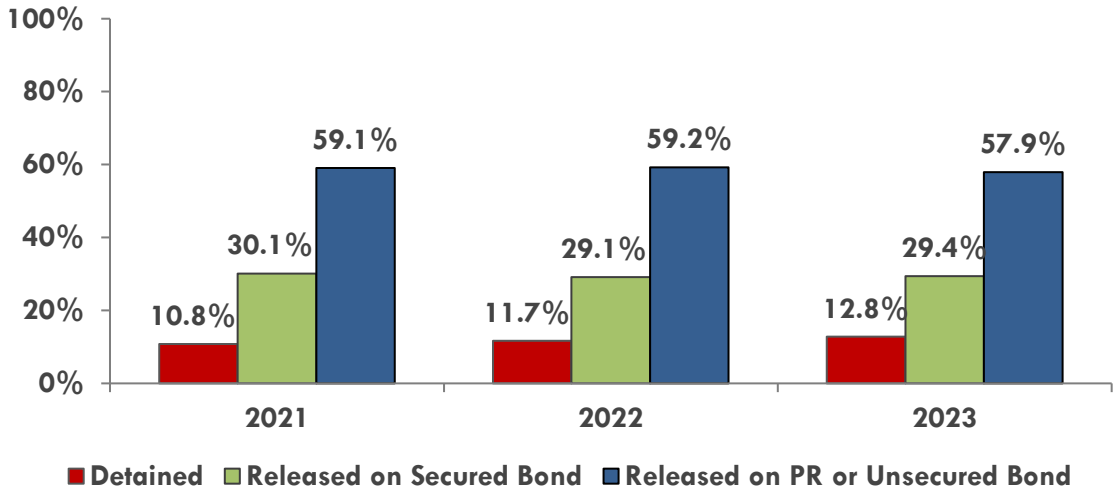


Table 3 and Chart 5 present more detailed information about the pretrial release status for defendants during the study period (CY2021-CY2023). The "Detained" category indicates that a defendant was detained throughout the entire pretrial period until the final disposition of the criminal charge(s). "Released on Secured Bond" means that a defendant was released on secured bond by paying cash, securing payment through a bail bondsman, or offering property as collateral as a guarantee to appear in court. Lastly, "Released on PR or Unsecured Bond" means that a defendant was released on personal recognizance or on an unsecured bond, which requires no financial obligation at the time of release.

Table 3: Pretrial Release Type in Contact Event, CY2021-CY2023

	Number of Defendant (Percentage)		
	2021	**2022**	**2023**
Detained	7,602 (10.8%)	8,550 (11.7%)	9,251 (12.8%)
Released on Secured Bond	21,149 (30.1%)	21,159 (29.1%)	21,266 (29.4%)
Released on PR or Unsecured Bond	41,560 (59.1%)	43,060 (59.2%)	41,922 (57.9%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

Chart 5: Pretrial Release Type in Contact Event, CY2021-CY2023



As shown in Table 3 and Chart 5, throughout CY2021-CY2023, most defendants were ultimately released from custody during the pretrial period. Approximately one in ten defendants were detained throughout the pretrial period. It is interesting to note that eliminating presumptive denial of bail under § 19.2-120 (Senate Bill 1266) went in effect in July 2021 and there has been higher pretrial detention rates in CY2022 and CY2023. Data also reveal that, among the defendants who were ultimately released during the pretrial period, the percentage of those released within three days does not really vary from CY2021 through CY2023. For instance, the percentages are 84.4% in CY2021, 84.2% in CY2022, and 83.2 in CY2023.

Just as overall release rates continued to decrease slightly during the three-year period, the percentage of defendants released on personal recognizance or unsecured bond also decreased from 59.1% in CY2021 to 57.9% in CY2023. On the other hand, the rate at which defendants were released on secured bond did not vary from CY2021 to CY2023, staying between 29% and 30%.

PRETRIAL RELEASE STATUS AND MOST SERIOUS OFFENSE

The pretrial release rate for individuals charged with felony offenses is lower than the overall release rate. Overall release rates have ranged from 87.2% to 89.5% in the recent three-year period. During CY2022 and CY2023, between 78% and 79% of individuals facing felony charges were released pretrial. As shown in Tables 4 and 5, release rates vary by the type of felony offense charged. Individuals with felony charges for drug, assault, burglary, kidnapping, or other crimes against a person were more likely to be detained throughout the pretrial period. The highest pretrial detention rate shown in the tables is for the category labeled "All Other Felony Charges." Because they are less common, many of the violent felony offenses are grouped into this category, resulting in the highest detention rate among the offense categories.

Table 4: Pre-Trial Release Status and Most Serious Felony Offense Category in Contact Event, 2022

	Pretrial Release Status		Number of Defendants
	Released	Detained	
Drug	7,439 (80.0%)	1,859 (20.0%)	9,298
Assault	3,678 (78.4%)	1,016 (21.6%)	4,694
Larceny	3,574 (85.3%)	614 (14.7%)	4,188
Weapon/Firearm	2,225 (85.7%)	372 (14.3%)	2,597
Fraud	1,559 (86.6%)	242 (13.4%)	1,801
Burglary	1,059 (74.7%)	359 (25.3%)	1,418
Traffic - Hit and Run	890 (91.6%)	82 (8.4%)	972
Family Offense	742 (91.7%)	67 (8.3%)	809
Kidnapping	595 (78.0%)	168 (22.0%)	763
Vandalism, Damage Property	686 (91.8%)	61 (8.2%)	747
All Other Felony Charges	3,517 (63.8%)	1,994 (36.2%)	5,511
Total	**25,964 (79.2%)**	**6,834 (20.8%)**	**32,798**

Note: Many factors not shown in the tables affect pretrial release rates.

Table 5: Pre-Trial Release Status and Most Serious Felony Offense Category in Contact Event, 2023

	Pretrial Release Status		Number of Defendants Released
	Released	Detained	
Drug	7,545 (79.4%)	1,952 (20.6%)	9,497
Assault	3,653 (76.3%)	1,133 (23.7%)	4,786
Larceny	3,589 (86.4%)	567 (13.6%)	4,156
Weapon/Firearm	2,106 (82.2%)	455 (17.8%)	2,561
Fraud	1,740 (86.4%)	275 (13.6%)	2,015
Burglary	1,058 (73.5%)	381 (26.5%)	1,439
Traffic - Hit and Run	878 (90.1%)	97 (9.9%)	975
Kidnapping	641 (74.2%)	223 (25.8%)	864
Traffic - All Others	660 (81.4%)	151 (18.6%)	811
Family Offense	715 (91.3%)	68 (8.7%)	783
All Other Felony Charges	3,462 (63.7%)	1,976 (36.3%)	5,438
Total	**26,047 (78.2%)**	**7,278 (21.8%)**	**33,325**

Note: Many factors not shown in the tables affect pretrial release rates.

PRETRIAL RELEASE STATUS AND DEFENDANT DEMOGRAPHICS

Table 6 presents the pretrial release rates disaggregated by the demographic characteristics of the defendants. Overall, in each year, most defendants were ultimately released during the pretrial period regardless of their demographic characteristics. Females, however, were more likely to be released than males and Whites were more

likely to be released than Blacks. Interestingly, Asian or Pacific Islander constantly shows the highest releases rates during the three period among defendant race groups. Furthermore, defendants between the ages of 18 and 25 and those older than 55 were more likely to be released than other age groups. Lastly, the table shows that the defendants not assigned with Court-Appointed/Public Defender were more likely to be released than defendants assigned with other types of attorneys. These differences have been largely consistent since the beginning of the Pretrial Data Project.

Table 6: Pretrial Release Rate Among Demographic Groups, CY2021-CY2023

	Pretrial Release Rate		
	2021	**2022**	**2023**
Defendant Sex			
Male	87.2%	86.2%	85.0%
Female	94.6%	94.0%	93.3%
Unknown	82.1%	82.1%	86.4%
Defendant Race			
White	89.9%	89.4%	88.5%
Black	88.0%	86.6%	85.3%
Asian or Pacific Islander	96.4%	93.9%	94.3%
American Indian or Alaskan Native	86.8%	93.3%	87.0%
Unknown	87.7%	86.6%	86.8%
Defendant Age Group			
18-25 years old	90.4%	90.5%	89.3%
26-35 years old	88.4%	87.2%	86.5%
36-45 years old	87.8%	86.9%	85.8%
46-55 years old	90.2%	87.9%	86.7%
56-65 years old	90.8%	89.7%	88.0%
>65 years old	94.1%	94.1%	93.2%
Unknown	92.9%	78.6%	100.0%
Defendant Attorney Assignment Status			
Court-Appointed/Public Defender	84.9%	83.3%	82.2%
Other	94.2%	94.6%	94.0%
Unknown	95.8%	95.6%	92.8%
Total	**70,311**	**72,769**	**72,439**

Note: Many factors not shown in the table, including the charged offense and prior record, affect pretrial release rates.

The information presented in two-dimensional tables such as the one above should be interpreted with caution, as several factors affect the release decision, including the charged offense and the defendant's prior record. Additional analyses were conducted to examine pretrial release rates for different demographic groups after controlling for

the type and seriousness of the offense charged. Tables 6-1 through 6-2 summarize the results. This approach does not isolate the independent influence of a defendant's demographic characteristics on release rates, but it does provide a richer understanding of these relationships.

As Tables 6-1 suggests, if a defendant's primary offense charge is a misdemeanor, different demographic characteristics, such as gender, race, age, or assigned attorney typically do not play a significant role in the pretrial release rate. If a defendant's most serious charge is a felony, the general inference drawn from Table 6 still holds true. That is, a female charged with a felony as a primary offense would be more likely to be released than a male defendant charged with a felony (Table 6-1). Table 6-1 also suggests that White defendants charged with a felony as the most serious offense are slightly more likely to be released than Black defendants, but such difference is very minimal. According to same table, defendants between ages 18 and 25 and those older than 55 charged with a felony were more likely to be released than other age groups. Lastly, a larger percentage of defendants not assigned with court-appointed attorney or public defender were released during the pretrial period as compared to the defendants assigned with court-appointed attorney or public defender when they were charged with felonies.

Table 6-1: Pretrial Release Rate by Demographics and Case Type (CY2021-CY2023)

	Number of Defendants (Pretrial Release Rate)	
	Felony	**Misdemeanor**
Defendant Sex		
Male	73,694 (76.2%)	82,894 (95.0%)
Female	24,224 (88.9%)	33,649 (97.7%)
Unknown	607 (76.4%)	372 (94.6%)
Defendant Race		
White	52,361 (80.4%)	69,117 (96.0%)
Black	42,146 (77.9%)	42,138 (95.3%)
Asian or Pacific Islander	773 (86.7%)	1,716 (98.4%)
American Indian or Alaskan Native	31 (71.0%)	60 (98.3%)
Unknown	3,214 (77.3%)	3,884 (95.1%)
Defendant Age Group		
18-25 years old	20,104 (81.6%)	24,587 (97.0%)
26-35 years old	32,665 (77.9%)	37,350 (95.7%)
36-45 years old	24,384 (77.6%)	27,623 (95.0%)
46-55 years old	12,842 (80.0%)	15,216 (95.3%)
56-65 years old	6,830 (81.6%)	9,203 (95.3%)
>65 years old	1,693 (88.2%)	2,909 (97.0%)
Unknown	7 (100.0%)	27 (85.2%)
Defendant Attorney Assignment Status		
Court-Appointed/Public Defender	64,288 (75.2%)	56,653 (92.9%)
Other	31,520 (87.1%)	53,930 (98.5%)
Unknown	2,717 (86.7%)	6,332 (97.9%)
Total	**98,525 (79.3%)**	**116,915 (95.8%)**

Tables 6-2 shows pretrial release rates for different demographic groups based on the nature of the charged offense (i.e., whether the most serious charge is categorized as violent or not). Categorization of an offense as violent is based on a list of violent offenses provided by Virginia Department of Criminal Justice Services (DCJS). DCJS is currently using this list in conjunction with its pilot test of the Public Safety Assessment (PSA) instrument in select jurisdictions in the Commonwealth. This list of violent offenses includes both felonies and misdemeanors.

Overall, pretrial release rates vary across different demographic groups even after

considering the nature of the most serious offense. For example, female defendants charged with a violent offense remain more likely to be released during the pretrial period than a male defendant charged with a violent offense (Table 6-2). White defendants are more likely to be released than Black defendants when charged with a violent offense. However, release rates do not significantly vary across age groups when defendants are charged with a violent offense, except that the oldest age group (those older than 65) have a higher release rate. Lastly, among those charged with a violent offense, defendants with no court-appointed attorney or public defender remain more likely to be released than defendants with court-appointed attorney or public defender.

Table 6-2: Pretrial Release Rate by Demographics and Violent Crime, CY2021-CY2023

	Number of Defendants (Pretrial Release Rate)	
	Non-Violent	**Violent**
Defendant Sex		
Male	100,204 (87.6%)	56,432 (83.5%)
Female	36,053 (92.9%)	21,850 (95.7%)
Unknown	677 (84.2%)	303 (81.5%)
Defendant Race		
White	80,185 (89.7%)	41,352 (88.4%)
Black	50,365 (87.7%)	33,937 (85.0%)
Asian or Pacific Islander	1,528 (94.6%)	962 (95.1%)
American Indian or Alaskan Native	56 (91.1%)	35 (85.7%)
Unknown	4,800 (88.2%)	2,299 (84.4%)
Defendant Age Group		
18-25 years old	27,541 (92.2%)	17,162 (86.6%)
26-35 years old	43,654 (88.1%)	26,388 (86.2%)
36-45 years old	33,344 (86.8%)	18,687 (86.9%)
46-55 years old	18,512 (88.5%)	9,558 (87.7%)
56-65 years old	10,931 (90.2%)	5,106 (87.8%)
>65 years old	2,936 (94.7%)	1,666 (92.1%)
Unknown	16 (81.2%)	18 (94.4%)
Defendant's Attorney Types		
Court-Appointed/Public Defender	74,170 (83.6%)	46,830 (83.1%)
Other	60,033 (95.4%)	25,431 (91.6%)
Unknown	2,731 (91.9%)	6,324 (95.6%)
Total	**136,934 (89.0%)**	**78,585 (86.9%)**

While the tables presented (Table 6-1 through 6-2) provide important insights about the complex dynamics of pretrial decisions, more sophisticated statistical analyses should be conducted (e.g., multivariate regression analysis) to validate the suggested effects of the demographic characteristics on release rates. That is, statistically estimating the independent effects of the demographic characteristics on a release rate while simultaneously controlling all other factors that may confound such relationships will enable researchers to make a generalized inference about demographic characteristics with a high level of statistical confidence.

SECURED BOND AMOUNT AT RELEASE AND DEFENDANT DEMOGRAPHICS

Table 7 summarizes mean and median secured bond amounts by demographic characteristics and year. Despite some variations, differences across years are not large in general, except in some categories that commonly have a smaller number of cases (e.g., the Unknown gender category). In addition, around 89.3% of defendants released on a secured bond utilized the services of a bail bondsman during these three years.

Table 7: Secured Bond Amount at Release, CY2021-CY2023

	Mean Bond Amount (Median)		
	2021	**2022**	**2023**
Defendant Sex			
Male	$4,098 ($2,500)	$3,921 ($2,500)	$3,774 ($2,500)
Female	$2,916 ($2,000)	$2,790 ($2,000)	$2,845 ($2,000)
Unknown	$5,231 ($2,500)	$3,730 ($2,500)	$4,364 ($2,500)
Defendant Race			
White	$3,613 ($2,500)	$3,486 ($2,500)	$3,432 ($2,500)
Black	$3,986 ($2,500)	$3,814 ($2,500)	$3,625 ($2,500)
Other/Unknown	$5,307 ($2,500)	$4,489 ($2,500)	$4,469 ($2,500)
Defendant Age Group			
18-25 years old	$3,904 ($2,500)	$3,787 ($2,500)	$3,781 ($2,500)
26-35 years old	$3,773 ($2,500)	$3,688 ($2,500)	$3,508 ($2,500)
36-45 years old	$3,773 ($2,500)	$3,597 ($2,500)	$3,549 ($2,500)
46-55 years old	$3,715 ($2,500)	$3,548 ($2,500)	$3,488 ($2,500)
56-65 years old	$4,184 ($2,000)	$3,624 ($2,000)	$3,286 ($2,500)
>65 years old	$4,939 ($2,000)	$4,120 ($2,000)	$4,006 ($2,500)
Unknown	$7,600 ($2,500)	$2,500 ($2,500)	$2,500 ($2,500)
Defendant Attorney Types			
Court-Appointed/Public Defender	$3,234 ($2,000)	$3,205 ($2,500)	$3,105 ($2,500)
Other	$4,727 ($2,500)	$4,365 ($2,500)	$4,245 ($2,500)
Unknown	$2,496 ($2,000)	$3,096 ($2,000)	$3,774 ($2,500)
Total	**$3,835 ($2,500)**	**$3,665 ($2,500)**	**$3,558 ($2,500)**

PUBLIC SAFETY ASSESSMENT (PSA) SCORES ASSIGNED TO DEFENDANTS

Empirically based risk assessment tools are commonly used in the criminal justice system to assist in making decisions related to individual defendants.[16] For the purposes of the Project, the Public Safety Assessment (PSA) was selected to estimate risk across all defendants in a uniform manner. For additional information about the PSA, refer to the *Overview of Methodology* section of this report.[17]

Using available automated data, the Sentencing Commission retroactively applied the PSA and computed a score for each defendant on each of the three PSA scales: the likelihood of Failure to Appear (FTA), the likelihood of New Criminal Arrest (NCA), and the likelihood of New Violent Criminal Arrest (NVCA).[18] Higher scores on the PSA indicate a higher likelihood of failing to appear or having a new criminal arrest during the pretrial period.

Tables 8 and 9 present the computed PSA scores for Failure to Appear (FTA) and New Criminal Arrest (NCA) calculated for defendants in each of the cohorts. Consistent with previous years, the largest share of defendants was classified with a Score of 1 (lowest) or 2 for both FTA and NCA. Less than 1% of the defendants were classified in Level 6 (the highest score) for FTA, and less than 4.1% were classified in Level 6 (the highest score) for NCA.

Distributions of calculated PSA scores for both FTA and NCA are fairly consistent from year to year during this study period. This suggests that defendants in the CY2021-CY2023 cohorts are similar in terms of the likelihood of failing to appear in court or incurring a new criminal arrest during the pretrial period. Nevertheless, Table 9 suggests that the number of defendants assigned with high PSA NCA scores (5-6) notably increased in 2023. The Commission will continue to monitor the trend if the proportion of the defendants with higher NCA scores continue to increase in a future.

[16] *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.

[17] *See also* Advancing Pretrial Policy & Research (APPR). *About the Public Safety Assessment* at https://advancingpretrial.org/psa/factors/

[18] The Sentencing Commission followed the protocols for computing PSA scores established during the original study directed by the Crime Commission. See *Overview of Methodology* section of this report for more information.

Table 8: Assigned Public Safety Assessment (PSA) Scores for Failure to Appear (FTA), CY2021-CY2023

	Number of Defendants (Percentage)		
	2021	**2022**	**2023**
PSA FTA Score 1	31,246 (44.4%)	33,152 (45.6%)	31,532 (43.5%)
PSA FTA Score 2	21,410 (30.5%)	21,487 (29.5%)	20,171 (27.8%)
PSA FTA Score 3	9,541 (13.6%)	9,993 (13.7%)	11,137 (15.4%)
PSA FTA Score 4	5,947 (8.5%)	6,103 (8.4%)	7,589 (10.5%)
PSA FTA Score 5	1,771 (2.5%)	1,638 (2.3%)	1,538 (2.1%)
PSA FTA Score 6	396 (0.6%)	396 (0.5%)	472 (0.7%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

FTA= Failure to appear; NCA= New Criminal Arrest; NVCA= New Violent Criminal Arrest

Table 9: Assigned Public Safety Assessment (PSA) Scores for New Criminal Arrest (NCA), CY2021-CY2023

	Number of Defendants (Percentage)		
	2021	**2022**	**2023**
PSA NCA Score 1	25,012 (35.6%)	26,348 (36.2%)	25,125 (34.7%)
PSA NCA Score 2	19,491 (27.7%)	20,138 (27.7%)	19,740 (27.3%)
PSA NCA Score 3	11,276 (16.0%)	11,122 (15.3%)	10,635 (14.7%)
PSA NCA Score 4	8,037 (11.4%)	8,169 (11.2%)	7,280 (10.0%)
PSA NCA Score 5	4,453 (6.3%)	4,830 (6.6%)	6,683 (9.2%)
PSA NCA Score 6	2,042 (2.9%)	2,162 (3.0%)	2,976 (4.1%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

FTA= Failure to appear; NCA= New Criminal Arrest; NVCA= New Violent Criminal Arrest

Table 10 examines the relationship between defendants' assigned FTA and NCA scores for the entire study period (CY2021-2023). Low, medium, and high PSA groups were created by combining individual scores together (1-2 for low, 3-4 for medium, and 5-6 for high). Overall, about 73% of defendants fall into the same score group for both FTA and NCA. For example, 59.6% of defendants are in the low scoring group for FTA and the low scoring group for NCA. A relatively small percentage of defendants were identified as scoring low on one scale but high on the other scale.

Table 10: Public Safety Assessment (PSA) Score Range for Failure to Appear (FTA) and New Criminal Arrest (NCA)

	Number of Defendants (Percentage)			
	Low PSA NCA Score	**Mid PSA NCA Score**	**High PSA NCA Score**	**Total**
Low PSA FTA Score	128,404 (59.6%)	30,369 (14.1%)	225 (0.1%)	158,998 (73.8%)
Mid PSA FTA Score	7,441 (3.5%)	24,300 (11.3%)	18,569 (8.6%)	50,310 (23.3%)
High PSA FTA Score	9 (0.0%)	1,850 (0.9%)	4,352 (2.0%)	6,211 (2.9%)
Total	**135,854 (63.0%)**	**56,519 (26.2%)**	**23,146 (10.7%)**	**215,519 (100.0%)**

FTA= Failure to appear; NCA= New Criminal Arrest; NVCA= New Violent Criminal Arrest

PRETRIAL RELEASE STATUS AND PUBLIC SAFETY ASSESSMENT (PSA) SCORES

Tables 11 and 12 show the pretrial release status (release rate) of defendants along with the assigned PSA scores for FTA and NCA for each year of study. As both tables show, the proportion of defendants who were released during the pretrial period consistently decreased as the PSA scores increased.

Just like the previous reports, Tables 11 and 12 also show the continuing trend after the COVID pandemic (after CY2020) that release rates gradually decreased across all PSA scores. As can be seen from the tables below, the decrease in release rates was generally larger for defendants with higher PSA scores.

Table 11: Pretrial Release Rate by Assigned Public Safety Assessment (PSA) Failure to Appear (FTA) Score

	Pretrial Release Rate		
	2021	**2022**	**2023**
PSA FTA Score 1	94.1%	93.7%	92.8%
PSA FTA Score 2	89.6%	88.4%	88.7%
PSA FTA Score 3	83.9%	81.7%	80.8%
PSA FTA Score 4	77.5%	76.8%	75.3%
PSA FTA Score 5	70.4%	65.9%	67.2%
PSA FTA Score 6	66.2%	60.1%	59.3%
Total	**70,311**	**72,769**	**72,439**

Table 12: Pretrial Release Rate by Assigned Public Safety Assessment (PSA) New Criminal Arrest (NCA) Score

	Pretrial Release Rate		
	2021	**2022**	**2023**
PSA NCA Score 1	94.2%	93.7%	92.7%
PSA NCA Score 2	94.3%	93.7%	93.4%
PSA NCA Score 3	87.1%	85.4%	85.3%
PSA NCA Score 4	77.2%	75.9%	76.4%
PSA NCA Score 5	75.4%	74.2%	73.8%
PSA NCA Score 6	67.6%	63.6%	63.3%
Total	**70,311**	**72,769**	**72,439**

STATEWIDE PRETRIAL OUTCOMES

Two primary measures of pretrial outcomes are calculated for the Pretrial Data Project. The first outcome measure evaluates if the defendant appeared at all court proceedings for the charges associated with the contact event. For this measure, the Sentencing Commission examined the data to determine if the defendant was charged with failure to appear, or contempt of court for failing to appear, during the pretrial period.[19] The second outcome measure for the Project captures if the defendant had a new in-state arrest for an offense punishable by incarceration during the pretrial period. The Sentencing Commission took steps to ensure, to the extent possible, that the new arrests were associated with alleged offenses committed during the pretrial period (i.e., the arrest was not associated with an offense committed prior to the current pretrial period).

As for CY2023 cohort, Project data was still limited to Virginia (in-state) criminal history records, as out-of-state criminal records from FBI were unavailable yet (see *Overview of Methodology* section of this report for additional information). Consistent with the methodology used in previous years, individuals were tracked through disposition of the case or the end of the 15-month follow-up period, whichever came first. This section focuses only on outcomes for the defendants in the cohorts who were ultimately released during the pretrial period.

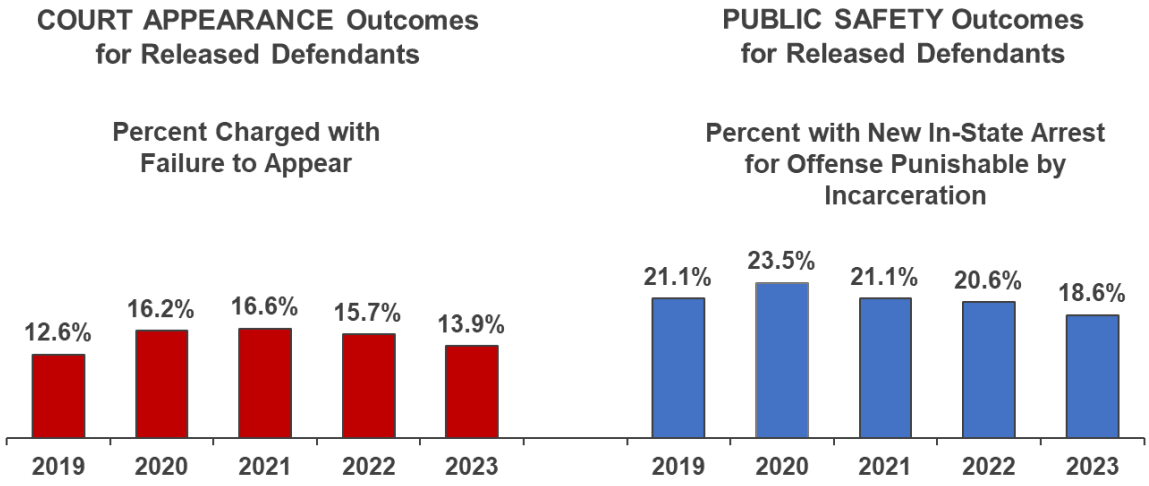
Chart 6 illustrates, for each year, the overall failure to appear rate and the new criminal

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

arrest rate from CY2019 through CY2023. As the chart indicates, the failure to appear rate jumped to 16.2% in CY2020 and continued to rise to 16.6% in CY2021. After that, the failure to appear rate dropped continuously to 13.9% in CY2023. The rate for failure to appear in CY2023 suggests the continuous decline into pre-COVID rates (CY2019). The new criminal arrest rate peaked in CY2020 at 23.5% and decreased further down into 18.6% by CY2023. Unlike the failure to appear rate, the CY2023 new criminal arrest rate is the lowest of the five-year period analyzed.

The higher failure to appear and new criminal arrest rates among the CY2020 and CY2021 cohorts are consistent with general expectations of pretrial outcomes during the pandemic as the previous report discussed in greater detail (Viglione et al., 2023). This may have led to more confusion among the released defendants regarding upcoming hearing dates. However, as observed by CY2023 data, both rates significantly dropped, suggesting that these outcomes are heading into the pre-pandemic states.
For defendants who incurred new criminal arrests during the pretrial period, most of the new arrests were for misdemeanor offenses. Beginning in CY2019, about one-third of new criminal arrests during the pretrial period were for felony offenses. Between CY2020 and CY2023, the percentage of new arrests that were felonies has remained at roughly 32% each year.

Chart 6: Statewide Pretrial Outcomes, CY2019-CY2023



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

Tables 13-14 and Charts 7-8 illustrate failure to appear rates and new criminal arrest rates broken down by pretrial release mechanism (i.e., personal recognizance (PR) or unsecured bond versus secured bond). In general, the percentages of defendants who failed to appear or who incurred a new criminal arrest are consistently higher for those released on secured bond, but CY2023 indicates that the new FTA rates are very similar between two pretrial mechanisms. The reason for this may be that new FTA rates were significantly lower in CY2023. Nevertheless, the overall data is in line with general expectations, as defendants released on secured bond scored higher, on average, on the PSA risk assessment tool than defendants released through other mechanisms.

Table 13: Statewide Court Appearance Outcomes for Released Defendants by Pretrial Release Type, CY2021-CY2023

	Failure to Appear Rate		
	2021	**2022**	**2023**
Released on PR or Unsecured Bond	15.7%	15.3%	13.9%
Released on Secured Bond	18.2%	16.4%	13.8%
Total Released	**62,709**	**64,219**	**63,188**

(PR=Personal Recognizance)

Table 14: Statewide New Arrest Outcomes for Released Defendants by Pretrial Release Type, CY2021-CY2023

	New Criminal Arrest Rate		
	2021	**2022**	**2023**
Released on PR or Unsecured Bond	18.9%	18.9%	17.3%
Released on Secured Bond	25.5%	24.2%	21.4%
Total Released	**62,709**	**64,219**	**63,188**

(PR=Personal Recognizance)

Chart 7: Statewide Court Appearance Outcomes for Released Defendants by Pretrial Release Type, CY2021-CY2023

Percentage of Defendants Charged with Failure to Appear by Pretrial Release Type

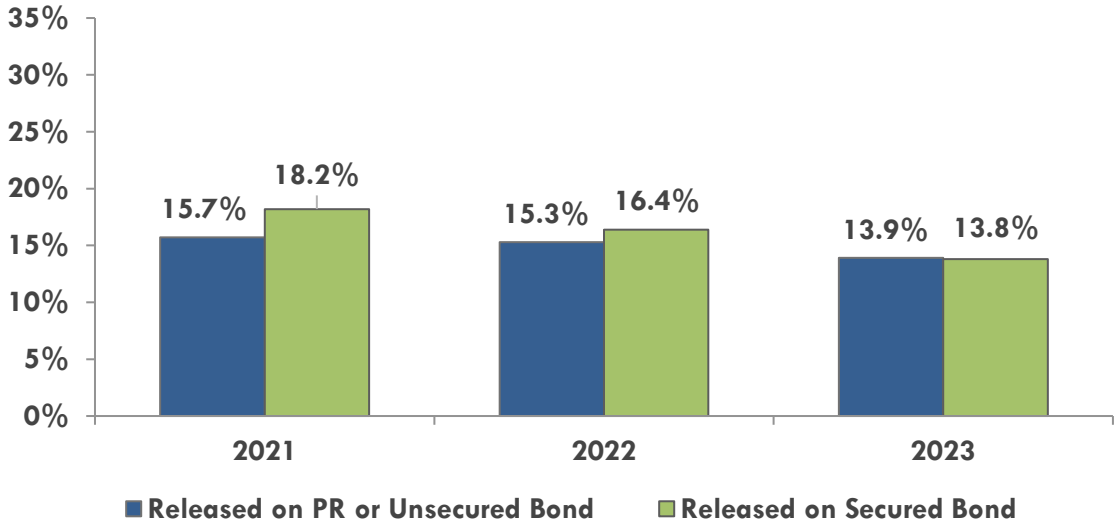


Chart 8: Statewide New Arrest Outcomes for Released Defendants by Pretrial Release Type, CY2021-CY2023

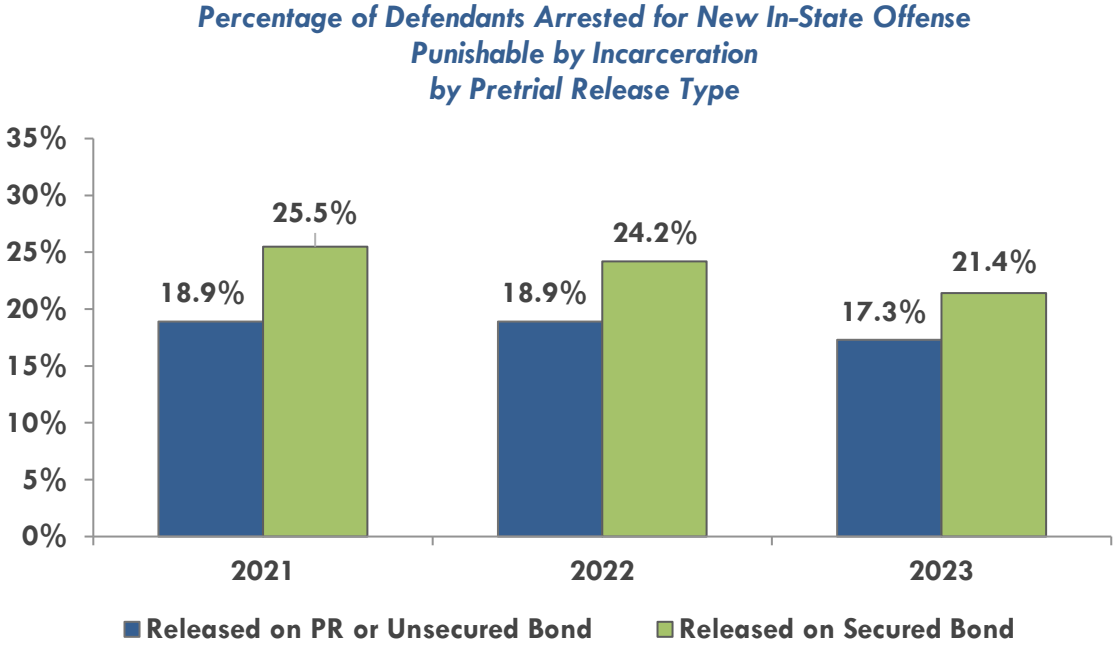


Table 15 shows the computed PSA FTA scores and the court appearance outcomes for defendants who were ultimately released during the pretrial period. Table 16 presents the computed PSA NCA scores and the new arrest outcomes for released individuals. Overall, most defendants were not charged with failure to appear during the pretrial period, regardless of the PSA FTA score. However, the proportion of defendants charged with failing to appear increased as the FTA scores increased. Similarly, most defendants were not arrested for a new in-state offense punishable by incarceration during the pretrial period, regardless of the PSA NCA score. The proportion of defendants arrested for a new in-state offense increased as the NCA scores increased.

Analysis revealed an interesting pattern in failure to appear rates. For defendants with PSA FTA and New Arrest Scores 1 through 6, the rates did not change much from CY2021 to CY2022. However, in CY2023, both measures of failure to appear and new criminal arrest rates significantly dropped. This suggests that both rates reached their highest level since the Pandemic during CY2020 and gradually going down afterwards.

Table 15: Statewide Court Appearance Outcomes for Released Defendants by Public Safety Assessment (PSA) Score for Failure to Appear (FTA)

	Failure to Appear Rate		
	2021	**2022**	**2023**
PSA FTA Score 1	12.4%	11.8%	10.7%
PSA FTA Score 2	16.2%	15.0%	12.6%
PSA FTA Score 3	22.1%	21.3%	17.6%
PSA FTA Score 4	28.2%	27.5%	23.7%
PSA FTA Score 5	35.0%	38.1%	32.9%
PSA FTA Score 6	43.9%	47.1%	40.4%
Total Released	**62,709**	**64,219**	**63,188**

Table 16: Statewide New Arrest Outcomes for Released Defendants by Public Safety Assessment (PSA) Score for New Criminal Arrest (NCA)

	New Criminal Arrest Rate		
	2021	**2022**	**2023**
PSA NCA Score 1	13.0%	12.8%	11.3%
PSA NCA Score 2	20.2%	20.0%	17.4%
PSA NCA Score 3	26.4%	25.5%	23.4%
PSA NCA Score 4	33.5%	32.4%	29.1%
PSA NCA Score 5	36.0%	36.4%	30.2%
PSA NCA Score 6	41.9%	41.2%	37.5%
Total Released	**62,709**	**64,219**	**63,188**

FINAL DISPOSITION OF CONTACT EVENTS

Table 17 indicates the final disposition of the CY2021-CY2023 contact events. As done previously, the defendants included in the analysis were tracked for 15 months or until final disposition of the case, whichever occurred first. In the table below, "Convicted" indicates that the defendant was found guilty of at least one charge in the contact event. "Dismissed," "Nolle prosequi," and "Not guilty" indicate that the defendant was not

convicted of any charges in the contact event.[20] "Other"[21] category indicates that a defendant had a final disposition other than what was classified as convicted, dismissed, nolle prosequi, not guilty, or pending. "Pending" means that none of the charges in the contact had reached a final disposition by the end of the follow-up period.[22]

As Table 17 shows, the conviction rates for the CY2021-CY2023 cohorts were between 52% and 54%. This conviction rate was considerably lower than the rates found in CY2018 and CY2019 (60.1% and 56.9%, respectively). While conviction rates have remained between 52% and 53% since CY2020, CY2023 shows that the rate went up to 54% The percentage of charges that were nolle prosequi (i.e., prosecution did not go forward) between CY2021 and CY2023 hovered between 22% and 23%; this has been the general trend since CY2020. Finally, the percentage of cases that were still pending at the end of the follow-up period has continued to decline since its peak in CY2020.

Table 17: Final Disposition of Contact Events, CY2021-CY2023

	Number of Defendants (Percentage)		
	2021	**2022**	**2023**
Convicted	36,812 (52.4%)	38,228 (52.5%)	39,118 (54.0%)
Dismissed	8,302 (11.8%)	8,990 (12.4%)	8,366 (11.5%)
Nolle prosequi	15,623 (22.2%)	16,228 (22.3%)	17,116 (23.6%)
Not guilty	1,637 (2.3%)	1,674 (2.3%)	1,625 (2.2%)
Other	13 (0.0%)	28 (0.0%)	1,880 (2.6%)
Pending	7,924 (11.3%)	7,621 (10.5%)	4,334 (6.0%)
Total	**70,311 (100%)**	**72,769 (100%)**	**72,439 (100%)**

This chapter presents major descriptive findings from the Sentencing's Commission's analysis of the multi-year pretrial datasets. While several findings are relatively

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

[21] Examples of 'other' codes included bond forfeited (BF), certified misdemeanor (CM), extradition ordered (EO), extradition waived (EW), certified to grand jury (GJ), granted (GR), adjudicated habitual offender (HO), or defendant cannot be found (NF).

[22] The "pending" classification includes contact events that had not reached a final disposition at the end of follow-up period for each cohort, 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."

consistent year to year, other measures, such as release rates and pretrial outcome measures (failure to appear and new criminal arrest), have begun to exhibit distinct patterns. As cautioned previously, tables in this chapter should be interpreted with caution regarding causal relationship.

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Examination of the Relationship between Virginia Pretrial Services Supervision and Pretrial Outcomes

With the creation of Virginia's Pretrial Data Project in 2018, comprehensive statewide data are now available to conduct more detailed analyses on the Virginia pretrial system. One of the research topics that continuously gains attention in the field of criminal justice is the role of pretrial supervision. In this chapter the Sentencing Commission presents a study on Virginia pretrial service agencies and pretrial supervision with pretrial data between 2021 and 2023.

This chapter first summarizes recent empirical studies on pretrial supervision, followed by a review of Virginia's pretrial service agencies and some descriptive findings. The chapter continues to discuss research design and methodology. It then presents the results from statistical analysis on pretrial service agencies and pretrial outcomes. The chapter ends with a discussion of the study's limitations and recommendations for future research.

The Commission emphasizes that the findings and data presented in this Chapter do not establish any inference or conclusion regarding existing pretrial service agencies and its pretrial supervision. In fact, the pretrial service agency in Virginia has several different functional purposes and goals beyond the certain outcomes investigated by this study. Moreover, even if the Commission was to examine the data using advanced quantitative techniques, identifying a causal relationship between independent variables and outcomes is a very challenging task since there are still limitations in isolating all other confounding and indirect influences on outcomes; these other factors are often unobservable or difficult to quantify, and cannot be taken into account for this study. Furthermore, the cases or individuals used in this study represent only the subset of the entire group of the individuals in the pretrial system as specified in the in the beginning of the final report. Therefore, we cannot make generalizable conclusion to all pretrial supervisions in Virginia.

PREVIOUS STUDIES

In general, there is no consensus on the effectiveness of pretrial supervision, mainly due to varying types and intensity of pretrial service and supervision programs interacting with various risk-levels of defendants in pretrial system. Some existing studies indicate the positive roles of pretrial supervision when certain outcomes are considered. For example, Austin et al. (1985) studied the effectiveness of supervised pretrial release on defendants charged with serious felony crimes by employing the method of experimental design with random assignment in three US cities. The authors found that approximately 90% of the defendants were not arrested or charged with failure to appear (FTA) during the pretrial period (J. Austin et al., 1985). A study by the Arnold Foundation found that after controlling for the effects of time at risk in the community,

demographic characteristics, and defendant risk levels, pretrial supervision generally reduced the likelihood of new failure to appear charge. This study also found that generally longer period of pretrial supervision until the final disposition are associated with the lower rates of a new criminal arrest (NCA), especially if the supervision period is more than 180 days (implying longer court processing times) (Lowenkamp & VanNostrand, 2013). After merging multiple nation-wide data sources related to State Court Processing Statistics, Levin (2016) found that pretrial programs with a number of sanctions available to impose in response to non-compliance can lower the likelihood of rearrest. The same research found that the pretrial program's number of follow-up measures as a response to FTA has a positive impact on a defendant's court appearance (David Levin, 2016). Lastly, when a certain monitoring method is considered, a meta-analysis demonstrates that court data reminders, including postcards, phone calls, or text messages of upcoming court hearing dates, was found to significantly reduce the likelihood of failing to appear. The same study reveals that the magnitude of the effect is slightly larger for defendants not charged with felonies (Zottola et al., 2023).

Other studies have findings that indicate different outcomes from pretrial supervision. Goldkamp and White (2006) provide findings based on four interlinked randomized field experiments, which suggests that pretrial programs, such as facilitative notification strategies, have only minimal impact on changes in defendant's behaviors (Goldkamp & White, 2006). Based on the study of more than 1,500 pretrial defendants from four local jurisdictions in Indiana, Lowder and Foudray (2021) found that while pretrial supervision decisions are generally consistent with defendant risk classifications, use of bond and electronic monitoring had insignificant effects on pretrial misconduct. Rather, it was found that more frequent pretrial monitoring is associated with *higher* rates of pretrial misconduct across all risk levels (Lowder & Foudray, 2021).

Overall, the volume of research on pretrial agencies and supervision is limited. It is difficult to establish inferences about the role of pretrial services, due to different quality and resources of each program as well as varying risk levels of defendants. The Commission strives to provide insights about pretrial supervision in Virginia by utilizing appropriate statistical methods that control for the influence of relevant confounding factors. The findings of this study will add to the growing body of research focusing on the Virginia pretrial system.

PRETRIAL SERVICES IN VIRGINIA

Due to the overcrowded jail population, half of whom are persons at the pretrial stage awaiting trial or sentencing, the Virginia Pretrial Services Act was enacted in 1995 to establish pretrial services agencies (§ 19.2-152.3 and § 19.2-152.4). This created the foundation for local pretrial services programs in Virginia.

In 1999, § 19.2-152.4:1 was established and added structured pretrial investigations and validated risk assessment tools. This has allowed judicial officers to use pretrial risk assessment tools when making bail decisions, to direct non-violent defendants to the community supervision as an alternative to jail confinement, and therefore to safely reduce jail population (DCJS, 2024).

In 2008, § 19.2-152.4:3 was enacted and listed specific duties and responsibilities of pretrial service officers. For example, local pretrial services officers shall:

- Investigate and interview defendants who are arrested are detained in jurisdictions where pretrial services are available (§ 19.2-152.4:3(A)(1)).
- Provide pretrial investigation reports with recommendations to help the court make a pretrial decision (§ 19.2-152.4:3(A)(2)).
- Supervise or assist defendants released and placed on pretrial supervision based on terms and conditions of the pretrial release (§ 19.2-152.4:3(A)(3)).
- Seek a capias from a judicial officer under the *Code* if a defendant is in noncompliance with conditions of bail or pretrial supervision (§ 19.2-152.4:3(A)(5)).

In particular, under § 19.2-152.4:3(A)(1), pretrial service agencies conduct pretrial investigations on defendants. Since the 2010s, judicial officers have utilized the Virginia Pretrial Risk Assessment Instrument (VPRAI) to make informed bail decisions at the first appearance and/or subsequent hearings. Recently, DCJS is conducting pilot studies to transition from VPRAI to the Public Safety Assessment (PSA) tool (DCJS, 2024, p. 7). As the PSA instrument is based on objective information that is easily available without an interview, the Commission has closely collaborated with DCJS in the utilization of PSA scores in the Pretrial Data Project.

As of Fiscal Year (FY) 2024 there were 35 pretrial service agencies serving 116 of Virginia's 133 cities and counties. Most pretrial service agencies, except in Arlington County, are under the jurisdiction of local community-based probation agencies, which are responsible for pretrial services and local probation (DCJS, 2024).

It was noted from the DCJS report that, based on the FY2020 through FY2024 data, the risk-level distribution (based on VPRAI) of pretrial services supervision caseloads in Virginia have gradually moved from defendants assessed with moderate-to-high risk levels to ones assessed with lower-to-moderate risk levels (DCJS, 2024, p. 12).

RESEARCH DESIGN, DATA, AND METHOD

This study aims to investigate the association between pretrial services supervision and pretrial decisions/outcome. The research focuses on adult defendants released during the pretrial period, whose pretrial contact event included a criminal offense punishable by incarceration where a bail determination was made by a judicial officer (magistrate or judge). This selection criteria were the same as previous chapters.

Data came from the Virginia Pretrial Data Project for CY2021-CY2023. The study compared two group of defendants: the supervised group who were released and receive pretrial services, and the unsupervised group who were released but did not receive such services. These two groups were also compared on bond mechanism at pretrial release. Particular attention was on their pretrial outcome including Failure to Appear (FTA) and New Criminal Arrest (NCA). The study then further narrowed the focus to defendants with estimated moderate-to-high risk.

After reviewing descriptive statistics, the Commission employed more advanced multivariate logistic regression techniques on pretrial outcomes. In general, the logistic regression model is used when the dependent or outcome variable is binary (e.g. success/fail) (Weisburd et al., 2022). Because this study investigates FTA or NCA as binary pretrial outcomes (they either occurred or not), this statistical model is a good fit.

The target group of supervised defendants may have several underlying differences compared to the unsupervised group. Such baseline differences will vary across time, especially when both target and comparison groups are widely different in terms of legal and non-legal characteristics. Given this possible shortcoming, logistic regression can be augmented with Inverse Probability of Treatment Weighting (IPTW) to obtain a more robust estimate of the role of the pretrial supervision.

In general, IPTW balances out baseline characteristics between two different groups by applying a weight. based on the inverse of the treatment propensity score or the likelihood of being placed on pretrial services supervision of everyone in both the treated (supervised group) and non-treated groups (unsupervised group). This technique removes bias originating from varying covariate distributions within comparison groups and achieves similar distributions of covariates (underlying characteristics) between treatment and non-treatment groups (P. C. Austin & Stuart, 2015).

In addition to achieving balanced characteristics after the adjustment, another advantage of IPTW is that it does not sacrifice any existing observations in the treated (supervised group) and non-treated (unsupervised group). This enables researchers to retain all cases for analyses in contrast to propensity score matching, which only uses the matched cases. It is expected that, as a propensity score is weighted on every case, the coefficient estimation would be more robust and reliable (Campbell et al., 2020). The variables used to compute the propensity score for IPTW were gender, race, age, released on secured bond, assigned with court-appointed attorney or public defender,

and PSA score - a unitary indicator of risk based on defendant's underlying legal characteristics for both FTA and NCA.

RESULTS

Tables 18 presents information on pretrial supervision status for released defendants during the study period. The study divides defendants into two groups: the supervised group who received pretrial supervision services, and the unsupervised group who did not receive these services. The percentage of defendants receiving pretrial supervision has increased from 16.8% in 2021 to 18.6% in 2023.

Table 19 compares defendants on supervision by bond type. A larger percentage of the supervised group received a secured bond than the unsupervised group; this pattern is consistent with the Commission's previous reports. Of the supervised group, the proportion released on secured bond saw small annual fluctuation during this study period.

Table 18: Released Defendants by Supervision Status

	Number of Defendants (Percentage)		
	2021	**2022**	**2023**
Received Supervision	10,527 (16.8%)	11,366 (17.7%)	11,739 (18.6%)
Did Not Receive Supervision	52,182 (83.2%)	52,853 (82.3%)	51,449 (81.4%)
Total Released	**62,709 (100%)**	**64,219 (100%)**	**63,188 (100%)**

Table 19: Distribution of Defendants by Supervision Status and Bond Type

	2021		**2022**		**2023**	
	PR/Unsecured Bond	**Secured Bond**	**PR/Unsecured Bond**	**Secured Bond**	**PR/Unsecured Bond**	**Secured Bond**
Received Supervision	52.6%	47.4%	53.2%	46.8%	52.9%	47.1%
Did Not Receive Supervision	69.0%	31.0%	70.0%	30.0%	69.4%	30.6%
Total Released	**41,560**	**21,149**	**43,060**	**21,159**	**41,922**	**21,266**

Tables 20-21 display general pretrial outcomes and the status of pretrial services supervision. Table 20 shows that during the study period the FTA rate for the supervised group is lower than for those without pretrial services. This result is generally consistent with previous studies (J. Austin et al., 1985; Lowenkamp & VanNostrand, 2013).

Table 20: FTA Rate of Released Defendants by Supervision Status

	FTA Rate		
	2021	**2022**	**2023**
Received Supervision	14.7%	13.7%	11.1%
Did Not Receive Supervision	16.9%	16.1%	14.5%
Total Released	**62,709**	**64,219**	**63,188**

Table 21: NCA Rate of Released Defendants by Supervision Status

	NCA Rate		
	2021	**2022**	**2023**
Received Supervision	23.7%	22.3%	19.6%
Did Not Receive Supervision	20.6%	20.3%	18.4%
Total Released	**62,709**	**64,219**	**63,188**

However, when the New Criminal Arrest rate (new in-state offense punishable by incarceration) is considered, the rate for the supervised group is higher than that of the other group. It is cautioned here that the two groups may be difficult to compare because they may have different underlying legal and extralegal characteristics. In general, persons who pose a risk to community based on pretrial assessment (but still considered for a pretrial release) would be recommended for a pretrial services supervision, while relatively lower risk defendants may not require such supervision; hence the group receiving pretrial services may be inherently riskier.

For these reasons, the Commission further analyzed the defendants assigned to moderate to higher risks for failing to appear or committing new offense (PSA scores of 3 or higher for each category). As tables 22-23 show, FTA and NCA rates were consistently lower for the supervised defendants with a PSA score of 3 or higher.

The findings indicate that while FTA rates for the supervised group are consistently lower than the unsupervised group, NCA rates vary for the defendants under pretrial services supervisions and those without it, depending on the assigned levels of PSA scores (low PSA scores versus mid or high PSA scores).

Table 22: FTA Rate of Released Defendants by Supervision Status (for Defendants with PSA Scores of 3 or Higher)

	FTA Rate		
	2021	**2022**	**2023**
Received Supervision	21.8%	21.9%	16.7%
Did Not Receive Supervision	26.7%	26.0%	22.5%
Total Released	**14,120**	**14,167**	**16,026**

Table 23: NCA Rate of Released Defendants by Supervision Status (for Defendants with PSA Scores of 3 or Higher)

	NCA Rate		
	2021	**2022**	**2023**
Received Supervision	30.0%	28.5%	24.5%
Did Not Receive Supervision	31.4%	31.1%	28.7%
Total Released	**20,772**	**20,660**	**21,447**

Regression models

Table 24 presents the results of logistic regression models for both FTA and NCA after employing IPTW. Since individual-level observations are nested within a larger cluster (judicial circuit), the model also utilized the clustered standard errors to obtain unbiased and efficient estimates of the explanatory variables. Moreover, the analyses focused on the data derived from the jurisdictions where local pretrial services agencies are present.

Table 24: Logistic Regression Results (with IPTW) for Failure to Appear and New Criminal Arrest (CY2021–CY2023)

Variable	Failure to Appear		New Criminal Arrest	
	Log-Odds	**Odds Ratio**	**Log-Odds**	**Odds Ratio**
Pretrial Supervision	-0.334***	0.716***	-0.011	0.989
Days Between Release and Final Disposition	0.003***	1.003***	0.003***	1.003***
Constant	-2.533***	0.079***	-2.357***	0.095***
N	181,227		181,227	
Pseudo R^2	0.061		0.067	

Note: Significance Level: *10%, **5%, ***1%
Calendar Year and Circuit Court dummies were included in the model but were omitted from the results table to avoid complexity.

For the estimations for FTA under Table 24, the odds for the defendants in the pretrial services supervision to be rearrested for new FTA during the pretrial period is about

30% less than the odds of those not receiving these services. Conversely, the coefficient estimations for NCA are not statistically significant while the direction of odds is negative. Lastly, the days between release and final disposition generally indicate the positive direction while also being highly significant, indicating that the more days in the community before the final disposition, the higher the odds of being rearrested for the jailable offense.

Similarly to the descriptive analysis approaches, the Commission reconducted regression analyses by only keeping the group of individuals with moderate or higher PSA risk scores of 3 or greater. Table 25 presents the results, which indicate that pretrial services supervision reduces the odds of rearrest for FTA or NCA. The estimations are highly statistically significant at the one percent level. For instance, based on the interpretations of coefficient estimations for new criminal arrest (for those with PSA scores of 3 or higher), the odds of being rearrested for a new jailable offense during a pretrial period is about 23% lower for defendant under pretrial service supervision than ones released without supervision.

Table 25: Logistic Regression Results (with IPTW) for Failure to Appear and New Criminal Arrest (only for Defendants with PSA Score Equal to or Greater Than 3) (CY2021–CY2023)

Variable	Failure to Appear		New Criminal Arrest	
	Log-Odds	Odds Ratio	Log-Odds	Odds Ratio
Pretrial Supervision	-0.400***	0.670***	-0.261***	0.770***
Days Between Release and Final Disposition	0.003***	1.003***	0.003***	1.003***
Constant	-2.130***	0.119***	-1.825***	0.161***
N	42,178		59,687	
Pseudo R^2	0.084		0.073	

Note: Significance Level: *10%, **5%, ***1%
Calendar Year and Circuit Court dummies were included in the model but were omitted from the results table to avoid complexity.

DISCUSSION

This chapter examines the association between pretrial services supervision and pretrial outcomes, such as FTA and NCA, by utilizing primary pretrial data from CY2021–CY2023. The findings show that pretrial services supervision reduces the likelihood of being rearrested for failure to appear. On the other hand, the association between pretrial services supervision and new criminal arrest (new in-state offense punishable by incarceration) is inconclusive since the advanced statistical analyses provided statistically insignificant findings for the coefficient estimation of pretrial services supervision. However, when the analyses are focused on the released defendants whose are

moderate-to-high risk, the likelihood of NCA for the supervised defendants is significantly lower than those without the supervision.

The caution for this study is that these findings do not imply distinctive and definite inferences about the Virginia pretrial service supervision because there are qualitative and functional differences in supervision for each agency. This study only included a limited number of factors; the many potential unobservable factors, often difficult to operationalize, were not considered.

The results from this study may help practitioners and government officials make evidence-based policy decisions. These findings will supplement future research with in-depth analyses of more comprehensive pretrial data and program contents. Moreover, while the findings will be beneficial for the policy makers, future research must further examine if any other external or jurisdiction-specific factors or contexts moderate the association between pretrial services supervision and outcomes, so that practitioners effectively allocate available resources. It will be beneficial for future research to have more tailored study designs with the use of surveys and qualitative interviews.

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Locality Findings

Descriptive findings for each locality in Virginia are provided in ***Appendix B: Locality Descriptive Findings for the CY2023 Cohort***. Examination of the data revealed that localities varied across numerous measures within the dataset. Virginia is a diverse Commonwealth with a population of over 8.5 million across 133 localities. Localities differ on many factors, such as population size and density, demographics, economic conditions and employment availability, median household income, cultural factors, education, religious characteristics, and climate, including seasonal weather conditions. Localities also vary in terms of judicial officers, court practices, total number of sworn law enforcement officers, Pretrial Services Agencies, bail bondsmen, other practitioners, and services (e.g., mental health and substance use treatment) available during the pretrial period. 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. When examining individual localities, factors that may impact the type and volume of crime in the locality must also be taken into account, as these considerations ultimately impact the workload of law enforcement, courts, prosecutors, defense attorneys, Pretrial Services Agencies, bail bondsmen, and correctional facilities.

Appendix B is available on the Sentencing Commission's website at http://www.vcsc.virginia.gov/pretrialdataproject.html .

Challenges

During the course of the Project, the Sentencing Commission encountered several challenges worth noting in this report.

One notable challenge is the collection of out-of-state criminal history records from the FBI. The administrative procedures on data exchange with FBI take much longer time than expected. In the coming year, the Commission will submit data request early and keep constant contact with the agency to track the progress.

Another noticeable challenge is a significant increase in the number of individuals who did not have the returned in-state criminal history records obtained through Virginia State Police (VSP) Central Criminal Records Exchange (CCRE). Prior to this year's project (CY2023), the percentage of the defendants from E-magistrate data, who do not have the returned in-state criminal history records from CCRE had been around 11% with small fluctuations. However, the percentage increased to around 18% this year. To understand such a significant increase, the Commission closely communicated with VSP. It seems that the VSP underwent some administrative changes in their data management. Also, there seems to be some inconsistency in VSP's record searching criteria. These might have caused the increase of the unfound in-state criminal history records. To improve data quality, the Commission conducted supplemental criminal history search by utilizing the Court-Case Management System (CMS) for the defendants without the returned criminal history records from VSP. By doing so, the Commission was able to significantly reduce the number of the defendants with missing criminal history records.

Criminal justice data systems are not integrated in Virginia. As has been discussed in this report, compiling the data for the Project requires numerous iterations of matching, merging, and data cleaning to ensure accuracy when connecting information from the respective data systems to individual defendants in the cohort. The Sentencing Commission also had to address issues related to the accuracy and completeness of data in criminal justice data systems. For example, the Sentencing Commission found a relatively high percentage of missing data and data containing errors in personal information in charge-based court records, including birthdate, name, and social security numbers. This makes it difficult to group charges by individuals and determine contact events. Sometimes inaccurate information is recorded due to human error; it is relatively common to find that birthdate and defendant's name were incorrectly typed into the system. One person with typos in their name across different charges filed on the same day may be mistakenly viewed as different individuals. To address this problem, the Sentencing Commission employed a computerized algorithm to calculate similarity indexes of personal fields, which enabled the identification of the same defendant despite minor typos or missing information. However, no algorithm provides perfect accuracy.

Data quality issues are not exclusive to personal information. The Sentencing Commission found a significant amount of missing Virginia Crime Codes (VCCs) in the General District Court and Juvenile and Domestic Relations Court Case Management Systems. VCCs uniquely identify each offense defined in the *Code of Virginia* and, without them, the Sentencing Commission had to rely on recorded statute codes and offense descriptions to fill in the missing offense VCCs to the extent possible. By utilizing all available information in the same charge record, the Commission developed a specialized coding algorithm to determine a correct VCC to fill-in with 100% certainty. This algorithm is constantly updated whenever a new issue of missing VCCs is found. This development saved a lot of time for the Commission to work on the project more efficiently.

The Commission also often found that data sources have conflicting information. For instance, contact and release dates of a defendant in the E-magistrate system may be two days apart or more from the jail-commitment and release dates seen in the Local Inmate Data System (LIDS), while both records suggest the same contact event based on the other available information, such as defendant's name, birthdate, VCC, offense date, etc. This type of issue is not common, but if such inconsistency is identified, the Commission utilizes LIDS, as it is considered the most reliable source to determine the actual jail commitment and release dates.

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

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

Future Research

Virginia's Pretrial Data Project has laid the groundwork for the collection of comprehensive data for the purpose of developing a fuller understanding of all aspects of the pretrial process in the Commonwealth. Descriptive analysis provides a snapshot of pretrial defendants at key points in the pretrial process. While descriptive findings at the aggregate level help policy makers, agency and program administrators, and researchers understand the general trends of pretrial process in Virginia, this approach has its limitations. Descriptive analysis cannot explain why differences may exist across groups of defendants, nor can it suggest any causal relationships.

To address the limitations of descriptive analysis, more sophisticated approaches using multivariate statistical techniques are necessary. The Sentencing Commission began this work in 2023 by conducting analyses to evaluate the predictive validity of the PSA risk assessment instrument on Virginia's pretrial population. This work was repeated again in 2024 with a special study to examine the causal effects associated with the elimination of presumptive denial of bail in Virginia, specifically the impact of this policy change on pretrial release decisions, release on secured bond, failure to appear, and new criminal arrest during the pretrial period.

In the coming year, as the volume of the pretrial data constantly increases, the Sentencing Commission plans to conduct additional analyses of the pretrial dataset using multivariate statistical techniques. Several research questions may be examined with this type of analysis, including:

- What are the significant temporary changes and enduring impacts on Virginia's pretrial system directly caused by the COVID pandemic?
- What significant mid-term and long-term effects does the pretrial decision have on defendants? For example, does initial pretrial detention lead to different disposition outcomes between two defendants who share similar legal characteristics? How does the pretrial decision affect the likelihood of recidivism after conclusion of the case?
- What effect does secured bond or bond amount have on the appearance rate?
- What factors impact how quickly a new criminal arrest occurs?
- What factors affect the decision to release defendants pretrial?

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