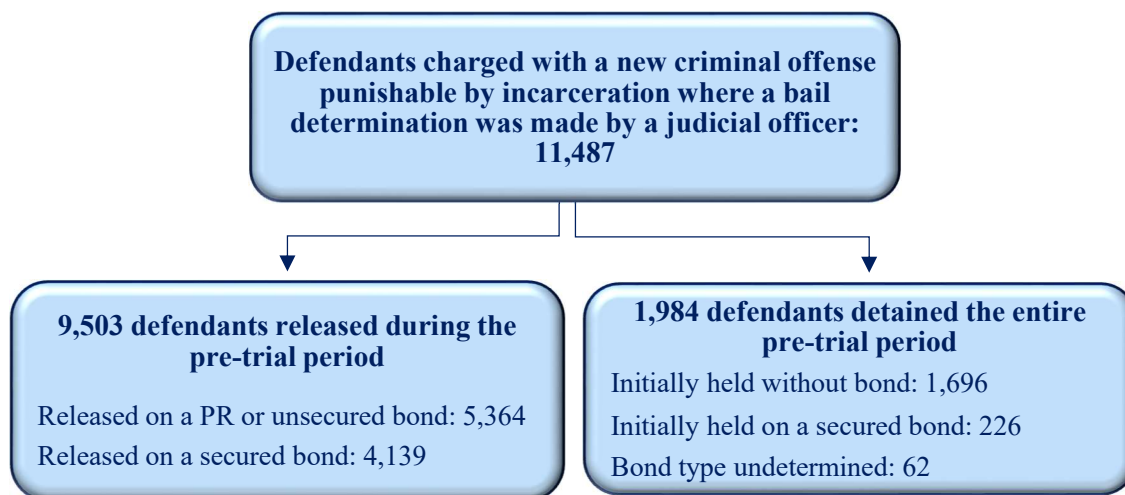


# Executive Summary

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

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

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



***Main findings for the 11,487 defendants charged with a new criminal offense punishable by incarceration where a bail determination was made by a judicial officer:***

- The majority of these defendants were male, White, between the ages of 18 to 35, indigent, and residents of Virginia (Table 1).
- Defendants who were male, Black, or between the ages of 18 to 35 were significantly overrepresented as compared to their overall representation within Virginia’s population (Table 1).
- Approximately half of these defendants had a felony as the most serious offense in their contact event, while the other half had a misdemeanor or special class offense as the most serious offense in their contact event (Tables 3, 4, and 5).
- Most defendants were ultimately released during the pre-trial period regardless of their demographic group, prior in-state criminal history record, or the classification of the most serious offense in their contact event (Tables 8, 9, 11, and 14).
- While most defendants were ultimately released during the pre-trial period regardless of their assigned Public Safety Assessment (PSA) risk level of failure to appear or new criminal activity, the proportion of defendants released during the pre-trial period decreased as their assigned PSA risk levels increased (Table 15; Charts 4 and 5).
- Defendants represented by a retained attorney at case closure were released at a higher rate during the pre-trial period (93%) as compared to defendants represented by a public defender or court-appointed attorney at case closure (78% and 77%, respectively); however, the proportion of defendants who were ultimately convicted of at least one charge in their contact event was nearly identical across all three of these attorney types (61% to 63%) (Tables 16 and 54).
- The proportion of defendants convicted of at least one charge in their contact event did not vary significantly across sex, race, indigency status, and residency status (Table 52).
- A significantly larger proportion of defendants who remained detained the entire pre-trial period were convicted of at least one charge in their contact event (77%) as compared to defendants who were ultimately released during the pre-trial period (56%) (Table 53).
- Nearly half of the defendants who were convicted of at least one charge in their contact event were not sentenced to an active term of incarceration (Table 55).
- Slightly over half of the defendants who were convicted of at least one charge in their contact event (52%) were sentenced to an active term of incarceration, with a median jail sentence of 1 month and a median prison sentence of 24 months (Table 55).

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

- Most defendants (81%) were released within 3 days of their contact event (Table 17).
- Overall, 56% of defendants were released on a PR or unsecured bond and 44% were released on a secured bond (Table 18).
- A larger proportion of defendants with a felony as the most serious offense in their contact event were released on a secured bond as opposed to a PR or unsecured bond (Table 20).
- A larger proportion of defendants released on a secured bond had a pending charge, a prior term of incarceration, prior in-state convictions, prior failure to appear charges or convictions, or were on state or local supervision at the time of their contact event, as compared to defendants released on a PR or unsecured bond (Table 23).
- Of the 1,651 defendants in this group who received pretrial services agency supervision as a condition of their bond during the pre-trial period, 62% were released on a secured bond and 38% were released on a PR or unsecured bond (Table 18).
- A large majority of released defendants were not charged with failure to appear and were not arrested for a new in-state offense punishable by incarceration during the pre-trial period (Tables 37 and 41).
- A higher proportion of indigent defendants were charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period as compared to defendants who were not indigent (Tables 38 and 42).
- The proportion of defendants charged with failure to appear or a new in-state offense punishable by incarceration during the pre-trial period increased as the defendant's assigned PSA risk level of failure to appear or new criminal activity increased (Tables 39 and 43; Charts 6 and 8).

***Main findings for the 4,139 defendants ultimately released during the pre-trial period on a secured bond:***

- A larger proportion of defendants released on a secured bond were male, Black, or indigent, as compared to the proportion of defendants from other demographic groups (Table 18).
- The secured bond amounts at the time of release generally did not vary widely across sex, race, indigency status, residency status, or whether the defendant received pretrial services agency supervision (Table 25).
- The secured bond amounts at the time of release for defendants whose most serious offense in their contact event was a felony ranged from \$50 to \$200,000, with an average of \$4,839 and a median of \$2,500 (Table 28).

- The secured bond amounts at the time of release for defendants whose most serious offense in their contact event was a misdemeanor ranged from \$200 to \$75,000, with an average of \$2,549 and a median of \$2,000 (Table 29).
- While the proportion of defendants released on a secured bond increased as the assigned PSA risk levels for failure to appear and new criminal activity increased, the median secured bond amounts did not vary across these risk levels (Tables 24 and 30).

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

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

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

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