

December 10, 2020

Majority Leader Charniele Herring
Richmond Office:
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900 E. Main St,
Richmond, Virginia 23219

Senator John Edwards, Vice-Chair
Pocahontas Building
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Richmond, VA 23218

**THE VIRGINIA
PRETRIAL JUSTICE COALITION**

Dear Leader Herring and Senator Edwards:

We write to you in your capacity as Chair and Vice-Chair of the Virginia State Crime Commission (VSCC) to urge the Commission to publicly release the data set compiled for the Pretrial Data Project. We understand the Project's final report may be released for the upcoming VSCC meeting in January. The underlying data is essential for the public to accurately evaluate and contextualize the report and Virginia's pretrial system more broadly.

The Virginia Pretrial Justice Coalition was established in 2018 to advance meaningful pretrial reform. The Coalition is guided by two primary principles: (1) reduction in the number of people held in our jails pretrial; and (2) the elimination of racial disparities in pretrial detention and pretrial surveillance. Our Coalition has been a leading voice for pretrial reform in the General Assembly for the past two years, fighting for data transparency and other substantive pretrial reforms.¹ The Coalition first introduced pretrial data transparency legislation during the 2019 General Assembly session (HB 2121 and SB 1687). The aim of that legislation was to better understand the pretrial experiences of everyone involved in the Virginia criminal justice system- from types of release conditions like bond or pretrial services, to length of incarceration, including racial and economic demographics. As drafted, this bill would promote an unparalleled level of transparency and accountability in the state's criminal justice system and arm policymakers, researchers and everyday people with pertinent information about the issues that are plaguing the system. While more broad data transparency legislation is still needed the data from the VSCC Project is a start.

As you know, in 2017 the VSCC was tasked with examining the efficacy of various pretrial release mechanisms at ensuring public safety and appearance at court.² Over the ensuing two years, the VSCC worked with numerous state agencies to capture data on approximately 23,000 individuals arrested in October 2017 and followed their cases through their conclusion or December 31, 2018. The Coalition has been deeply involved in advocacy around the VSCC's Pretrial Data Project, providing feedback on several occasions to Commission staff and urging the public release of the data set collected.

As the VSCC staff themselves have repeatedly expressed, the task of gathering this data set was extremely complex as Virginia currently lacks a unified data collection system. The data collection process has resulted in the accumulation of hundreds of data points, from demographic information to pretrial detention periods, bail setting practices to sentencing outcomes. It has the potential to be a rich source of information that can allow for a broad, robust, and detailed snapshot of Virginia's criminal justice system. The equity implications of the data are clear as the study confirms the disproportionate minority representation in Virginia's criminal justice system, with 40% of the approximately 23,000 people in the study cohort being Black, despite the fact that Blacks/African-Americans make up just under 20% of the Commonwealth's population.³

1) 2019: Uniform statewide data collection, HB 2121 (Carroll Foy) and SB 1687 (McClellan). 2020: Meaningful first appearance, HB 820 (Scott); Striking presumptions against bail, HB 1462 (Scott); Uniform statewide data collection, HB 922 (Carroll Foy) and SB 723 (McClellan).

2) Virginia Pre-Trial Data Project public presentation, November 8, 2018 (<http://vscv.virginia.gov/VSCC%20FINAL%20Pretrial%20Data%20Project%20Presentation.pdf>)

3) U.S. Census Bureau population estimates for July 1, 2019, <https://www.census.gov/quickfacts/VA>, last visited Jan. 16, 2020.

Transparency and access should be at the core of any use of data. To allow the fullest use of this data and to ensure the public will be informed about the operation of its criminal justice system on both the state and local level, the data gathered by the VSCC during its study should be made available to researchers and the public. The data could be provided as disaggregated, anonymized information to allow meaningful research while ensuring privacy and confidentiality for members of the data cohort. Without making the underlying data available to researchers and the public, there is no way for anyone to reasonably assess the Crime Commission's analysis, conclusions, or recommendations.

The decision about whether to make this data public rests with the VSCC leadership. As the Chair and Vice-Chair of the Crime Commission, we urge you to provide Virginians access to this data that could lead to invaluable insight into the necessary reforms for our pretrial system. There must be a vigorous, informed discussion of the state of the Commonwealth's pretrial practices as well as the Commissions' conclusions and recommendations.

If you would like any more information regarding the Coalition or our request for the public release of the Project's collected data, we would be more than happy to set up a meeting at your convenience.

Signed,

The Virginia Pretrial Justice Coalition

