



## **PART I GENERAL PROVISIONS**

### **§1.1 Legal Authority**

These standards are established in accordance with Article 5 (§§[19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* authorizing the Department of Criminal Justice Services (DCJS), hereafter referred to as the Department, to establish standards for the development, implementation, operation, and evaluation of local pretrial programs and services.

### **§1.2 Purpose**

The purpose of pretrial services is to provide the judicial system with screening, investigation, assessment, and supervision of defendants pursuant to or in accordance with Article 5 (§§[19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia*.

## **PART II ADMINISTRATION**

### **§2.1 Written Policies and Procedures**

- A. Each local pretrial services agency established under the authority of Article 5 (§§[19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* shall develop and maintain written policies and procedures. These policies and procedures shall, at a minimum, address and comply with all components of these standards and relevant state and federal laws. Each agency is responsible for developing or modifying policies and procedures to comply with any changes to state or federal laws related to the administration of pretrial services if known or as notified by the Department.
- B. Policies and procedures and substantive revisions shall be approved in writing by the chief executive officer of the administrative and fiscal agent. The policies and procedures and revisions shall be provided to agency staff and made available to all Community Criminal Justice Board members (CCJB), the local judiciary, and the Department. For purposes of these standards, substantive revisions are any modifications that result in a change in policy or procedure.
- C. Policies and procedures shall be reviewed and updated as needed, at a minimum biennially, by the agency Director or designee.
- D. Any local pretrial services agency with circumstances preventing them from complying with any specific standard shall request a variance from the Department. The request must indicate what circumstances prevent the agency from complying with the requirements and any action, if applicable; the agency is taking to enable them to be in compliance.



## §2.2 Oath of Office

Each local pretrial services agency shall develop and follow a policy and procedure for complying with the requirements that all full-time or part-time permanent employees who perform any duties and responsibilities specified in § [19.2-152.4:3](#) must take the Oath of Office in accordance with §§ [19.2-152.4:1](#) and [49-1](#) of the *Code of Virginia* before entering into the duties of his or her office. At a minimum, the policy and procedure shall include the requirements of the oath of office, limitations of the oath of office, requirements for documenting and reporting the Oath of Office.

## §2.3 Records Management

- A. Each local pretrial services agency shall develop and follow a policy and procedure to fully use the Pretrial and Community Corrections Case Management System (PTCC) which shall include maintaining an individual record in PTCC for each pretrial defendant.
- B. In addition to the full use of PTCC as directed by the Department, each local pretrial services agency shall develop and follow a policy and procedure for case files to include, at a minimum, the following information for each defendant in the case file in either an electronic or paper format:
1. Referral/placement documentation (i.e., warrant, release orders)
  2. Signed conditions of supervision
  3. Signed authorization for release of information
  4. Other written documents, if applicable:
    - a. Transfer request form
    - b. Monthly transfer progress reports
    - c. Reports to the court or requests for court action such as:
      1. requesting a *capias* or show cause
      2. violations
      3. closures
      4. request fine/cost option
    - d. Screenings and assessments
- C. Each local pretrial services agency shall develop and follow a policy and procedure to ensure the security, safeguarding, and confidentiality of defendant records which shall at a minimum comply with Criminal History Record Use and Security and the Virginia Criminal Information Network ([6VAC20-120-10](#) through [6VAC20-120-160](#)), the requirements of §§[9.1-133 B](#) and [19.2-152.4:2](#), of the *Code of Virginia* and any applicable federal regulation(s).



Virginia Department of Criminal Justice Services  
Minimum Standards for Pretrial Services

---

- D. Each local pretrial services agency shall develop and follow a policy and procedure for retention and disposal of records which shall, at a minimum, comply with current records retention and disposal schedules for [General Schedule No. 26, Pretrial Service Agencies](#) as established by the Library of Virginia.
- E. Each local pretrial services agency shall develop and follow a policy and procedure for expungements in accordance with Virginia Administrative Code ([6VAC20-120-80](#)). If electronic records must be expunged, the agency shall follow the Department's procedure to expunge electronic records.
- F. Each local pretrial services agency shall develop and follow a policy and procedure related to public access of defendant information in compliance with [§2.2-3706\(A\)\(2\)\(f\)](#) of the Freedom of Information Act (FOIA).
- G. Each local pretrial services agency shall develop and follow a policy and procedure to respond to Subpoenas duces tecum.

#### §2.4 Serious Incidents and Citizen Complaints

Each local pretrial services agency shall develop and follow a policy and procedure to respond to and document serious incidents and citizen complaints. At a minimum, the policy and procedure shall include:

- A. What is reported for each of the following types
  - 1. Defendant incident
  - 2. Staff incident
  - 3. Citizen complaint
- B. Who must report
- C. How to report and what time frame
- D. To whom reports are sent
- E. Forms that must be used
- F. Reporting to the Department, if applicable

#### §2.5 Performance Data and Information

Each local pretrial services agency shall develop and follow a policy and procedure for the collection and dissemination of performance data and information. At a minimum, this policy and procedure shall address the following:

- A. The dissemination of performance data to local stakeholders, including the CCJB, and compliance with requests for performance data and information.



- B. Quality Assurance procedures that include, but are not limited to, case reviews, queries of the Pretrial and Community Corrections Case Management System (PTCC) for data accuracy, and the monitoring of pretrial performance measures.
- C. The keeping of records as required by the Department in accordance with [§19.2-152.4:3](#).

### PART III PRETRIAL SERVICES

#### §3.1 Scope of Pretrial Services

Each local pretrial services agency established pursuant to Article 5 (§§[19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* shall provide screening, investigation, assessment, and supervision of defendants.

#### §3.2 Duties and Responsibilities

Each local pretrial services agency shall develop and follow procedures for complying with the mandatory and, where applicable, the optional duties and responsibilities of local pretrial services officers as required by [§19.2-152.4:3](#).

#### §3.3 Pretrial Services Eligibility

- A. In accordance with Article 5 (§§[19.2-152.2](#) et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* or pursuant to current legal rulings, eligible defendants are any defendants who are age 18 or over and held in custody pending trial or hearing, and charged with a criminal offense, other than an offense punishable by death or any defendant under the age of 18 transferred for trial as an adult and held in custody pending trial or hearing, and charged with a criminal offense, other than an offense punishable by death.
- B. Each local pretrial services agency that elects to provide services to defendants placed on pretrial supervision from judicial officers served by the agency that reside out of state or in unserved localities in Virginia shall develop and follow a policy and procedure for providing pretrial supervision.
- C. Pretrial supervision shall not extend beyond trial and sentencing of the defendant, with the exception of misdemeanor defendants following continuation of bail on an appeal bond. Pretrial supervision, at the direction of the court, may be continued through sentencing in circuit court. Defendant appeals from circuit court shall not be eligible for pretrial supervision.
- D. Each local pretrial services agency shall develop and follow a policy and procedure for the monitoring of defendants that at a minimum will require the local pretrial services agency to send notification of court appearances.

#### §3.4 Defendant Screening and Investigation

- A. Each local pretrial services agency shall develop and follow a policy and procedure in accordance with §§ [19.2-152.4:3](#) and [19.2-123](#) for the screening of defendants arrested on any *capias*, state or local warrant and who are awaiting



Virginia Department of Criminal Justice Services  
Minimum Standards for Pretrial Services

---

an initial hearing to establish, or any subsequent hearing to reconsider, bail before any judicial officer or court served by the agency.

- B. Each local pretrial services agency shall develop and follow a policy and procedure for interviewing and investigating defendants appearing before any judicial officer served by the agency for any first appearance, arraignment, or subsequent hearing on an issue of bail or for an initial bail hearing, as appropriate and when resources permit. The policy shall require that officers must not question the defendant on the nature and circumstances of the current offense(s), whether a firearm was used, or the weight of the evidence, nor should these factors be considered.
- C. Each local pretrial services agency shall develop and follow a policy and procedure to verify residence and employment information obtained during the pretrial interview.
- D. Each local pretrial services agency which offers a drug or alcohol screening or testing program approved by the chief general district court judge shall develop and follow a policy and procedure consistent with §19.2-123(B).
- E. Each local pretrial services agency shall develop and follow a policy and procedure to conduct a criminal history record check on each defendant which, at a minimum, includes an inquiry to the Virginia Criminal Information Network (VCIN).
- F. Local pretrial services agencies that use video teleconferencing shall develop and follow a policy and procedure for conducting defendant interviews and/or presenting cases in court through this technology.
- G. Each local pretrial services agency shall develop and follow a policy and procedure to complete the Virginia Pretrial Risk Assessment Instrument (VPRAI) for each defendant investigated.
- H. Each local pretrial services agency shall develop and follow policies and procedures for making recommendations based on individualized risk factors of the defendant identified through of the VPRAI and application of the Praxis. The procedures shall reflect the policy that promotes release under the least restrictive terms and conditions, and through which restrictions increase as the defendant's risk increases. Policies and procedures for recommendations should be based on the risk level, primary charge category and any other relevant mitigating or aggravating factors.
- I. Each local pretrial services agency shall develop and follow a policy and procedure for providing the judicial officer with written pretrial investigation reports that include, at a minimum, the results of the VPRAI and a recommendation regarding the term and conditions of bail.

### §3.5 Sequential Review of Detention and Release

- A. Each local pretrial services agency shall develop and follow a policy and procedure for screening, assessment and recommendations based on VPRAI and Praxis results at multiple decision points throughout the case between initial



Virginia Department of Criminal Justice Services  
Minimum Standards for Pretrial Services

---

appearance and adjudication for defendants who remain in custody of a local or regional jail.

- B. Each local pretrial services agency shall develop and follow a policy and procedure for updating the VPRAI based on updated or new information about the defendant.
- C. Each local pretrial services agency shall develop and follow a policy and procedure for making recommendations for the sequential review process that are consistent with Standard §3.4(H).
- D. Each local pretrial services agency shall develop and follow a policy and procedure for providing the judicial officer with written pretrial investigation reports consistent with standard §3.4(I).

### §3.6 Defendant Intake

- A. Each local pretrial services agency shall develop and follow a policy and procedure for the placement of defendants on pretrial supervision. These procedures shall, at a minimum, require the defendant to report by telephone or in-person to the agency following judicial officer action or release from confinement.
- B. Each local pretrial services agency shall develop and follow a policy and procedure for conducting an intake within five business days following notification of judicial officer action or release from confinement for all defendants placed on supervision.
- D. Each local pretrial services agency shall develop and follow a policy and procedure for conducting a criminal history record check, as defined in standard 3.4.(E), on each defendant supervised by the agency.
- E. Each local pretrial services agency shall develop and follow a policy and procedure for informing defendants placed on pretrial supervision of conditions of bail imposed by the judicial officer. At a minimum, the policy shall require the review of imposed conditions to take place at or before intake.

### §3.7 Pretrial Supervision

- A. Each local pretrial services agency shall develop and follow a policy and procedure for verifying compliance with, and completion of, any conditions of pretrial release.
- B. Each local pretrial services agency shall develop and follow a policy and procedure for the provision of supervision that is responsive to the risk of defendants placed on pretrial supervision and which demonstrates that as risk increases, supervision frequency and intensity increases.
- C. Each local pretrial services agency shall develop and follow a policy and procedure for making adjustments to supervision levels (more or less restrictive) as warranted based on the defendant's record of court appearance, public safety and compliance with conditions.



Virginia Department of Criminal Justice Services  
Minimum Standards for Pretrial Services

---

- D. Each local pretrial services agency shall develop and follow a policy and procedure for notifying defendants on pretrial supervision of upcoming court appearances.
- D. Each local pretrial services agency shall develop and follow a policy and procedure for responding to defendant violations of conditions of bail, including failures to make initial contact as a condition of pretrial supervision. At a minimum, the policy and procedure shall include the following:
1. Local procedures to request a summons to show cause due to non-compliance when continued liberty is not a concern and a *capias* is not required.
  2. A procedure to notify the court of any major violation of a condition of bail.
  3. The procedure for seeking a *capias* in accordance with §§ [19.2-152.4:3](#) and [19.2-152.4:1](#) of the *Code of Virginia*.
  4. That modifications to the conditions of bail for any violation shall only be imposed by a judicial officer pursuant to §[19.2-123](#) of the *Code of Virginia*.
  5. That only sworn pretrial officers may submit requests for a *capias* or show cause.
  6. A time frame indicating how and when a *capias* should or must be requested.
  7. Procedures for supervisor review of requests for a *capias*.
  8. A procedure for documenting the reason(s) for the summons to show cause or *capias* request in PTCC.

### §3.8 Fees

Each local pretrial services agency shall develop and follow a policy that prohibits the collection of fees from defendants for the provision of pretrial services.

### §3.9 Transfers

Each local pretrial services agency shall develop and follow a policy and procedure for sending defendants to and receiving defendants from other local pretrial services agencies in Virginia for supervision. At a minimum, the policy and procedure must comply with the Department's transfer guidance.

### §3.10 Electronic Monitoring and Home Incarceration

- A. Each local pretrial services agency using home incarceration without electronic monitoring shall develop and follow a policy and procedure for defendants placed on pretrial services in accordance with §§ [19.2-123](#), [53.1-131.2\(B\)](#), [19.2-152.4:3](#).



Virginia Department of Criminal Justice Services  
Minimum Standards for Pretrial Services

---

- B. Each local pretrial services agency using electronic monitoring equipment shall develop and follow a policy and procedure for its use with defendants placed on pretrial services in accordance with §§ [19.2-123](#), [53.1-131.2\(B\)](#), and [19.2-152.4:3](#).
- C. Each local pretrial services agency using GPS/electronic monitoring shall develop and follow a policy and procedure for its use with defendants placed on pretrial services in accordance with § [19.2-123](#), [53.1-131.2\(B\)](#), and [19.2-152.4:3](#) and [DCJS Guidelines](#).
- D. Each local pretrial services agency using GPS/electronic monitoring shall develop and follow a policy and procedure for collecting the cost of the device, if authorized by [19.2-123](#), and [19.2-152.4:3](#), and ordered by the judicial officer. The cost of the device, unless specified by the judicial officer, shall consider the defendant's ability to pay. The inability to pay for the cost of such devices shall not prohibit a defendant from being released from the custody of jail, nor result in revocation of bail.

### §3.11 Placement and Supervision Closures

- A. Each local pretrial services agency shall develop and follow a policy and procedure for placement closures.
- B. Each local pretrial services agency shall develop and follow a policy and procedure for termination of supervision.

## PART IV TRAINING AND STAFF DEVELOPMENT

### §4.1 Training and Staff Development

Each local pretrial services agency shall develop and follow a policy and procedure for all staff training, attendance, and time frame for completion of workplace learning and staff development which at a minimum includes the requirement for:

- A. All professional employees to successfully complete training as mandated by the Department.
- B. All volunteer professionals and administrative staff to receive in-service training as is available and deemed appropriate by the agency.