Failure to Appear Across New York Regions

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Executive Summary

This report examines failures to appear (FTA) across New York State in cases released at arraignment in 2022.

Why it matters: Under New York law, judges are permitted to set pretrial conditions solely for the purpose of ensuring a person's return to court. It is therefore important to understand how often people fail to appear (FTA), as well as the factors linked to higher or lower FTA rates.

What questions are addressed: 1) What types of cases are released at arraignment as opposed to facing bail or pretrial detention? 2) How do FTA rates differ by region, the current charge, criminal history, and demographics? 3) After controlling for other characteristics, what factors predict higher or lower FTA rates?

How we did this: Using public data from the Office of Court Administration (OCA) and New York State Division of Criminal Justice Services (DCJS), we calculated FTA rates for all cases arraigned in 2022. Multivariate regression models were then used to identify unique predictors of FTA. All analyses were conducted statewide and broken out by region (NYC, NYC Suburbs, Upstate).

CONTEXT: PRETRIAL RELEASE DECISIONS IN 2022

Under New York's bail reform law, pretrial release is mandated for most misdemeanors and nonviolent felony offenses. In 2022, judges released 84% of people on recognizance or nonmonetary release conditions, with higher rates of release in NYC (88%) and NYC Suburbs (88%) than Upstate (73%).

Across all regions, judges released over 90% of cases for **misdemeanor charges**, while there was greater variability in release rates for **nonviolent felonies** (80% in NYC, 80% in NYC Suburbs, 61% Upstate). For **violent felonies**—virtually all of which remained eligible for bail—rates of release were much *lower*, with substantial differences by region (51% in NYC, 39% in NYC Suburbs, 24% Upstate).

FINDINGS: FAILURE TO APPEAR RATES AND PREDICTORS

In 2022, New York's FTA rate for released cases was 17%. There was little variation by region (16% in NYC, 18% in NYC suburbs, 20% in Upstate). However, among individual counties with at least 100 arraignments in 2022, FTA rates ranged from 7% to 30%.

Key Findings (shown in Figure 1):

- **Charge Severity:** ***Across all regions, FTA was lowest for violent felonies.*** Statewide FTA rates were 16% for misdemeanors, 20% for nonviolent felonies, and 13% for violent felonies. After controlling for other factors indicated below, the likelihood of an FTA statewide was 10 percentage points lower for violent felony charges compared to misdemeanors (-9 to -12 percentage points depending on the region).

EXECUTIVE SUMMARY

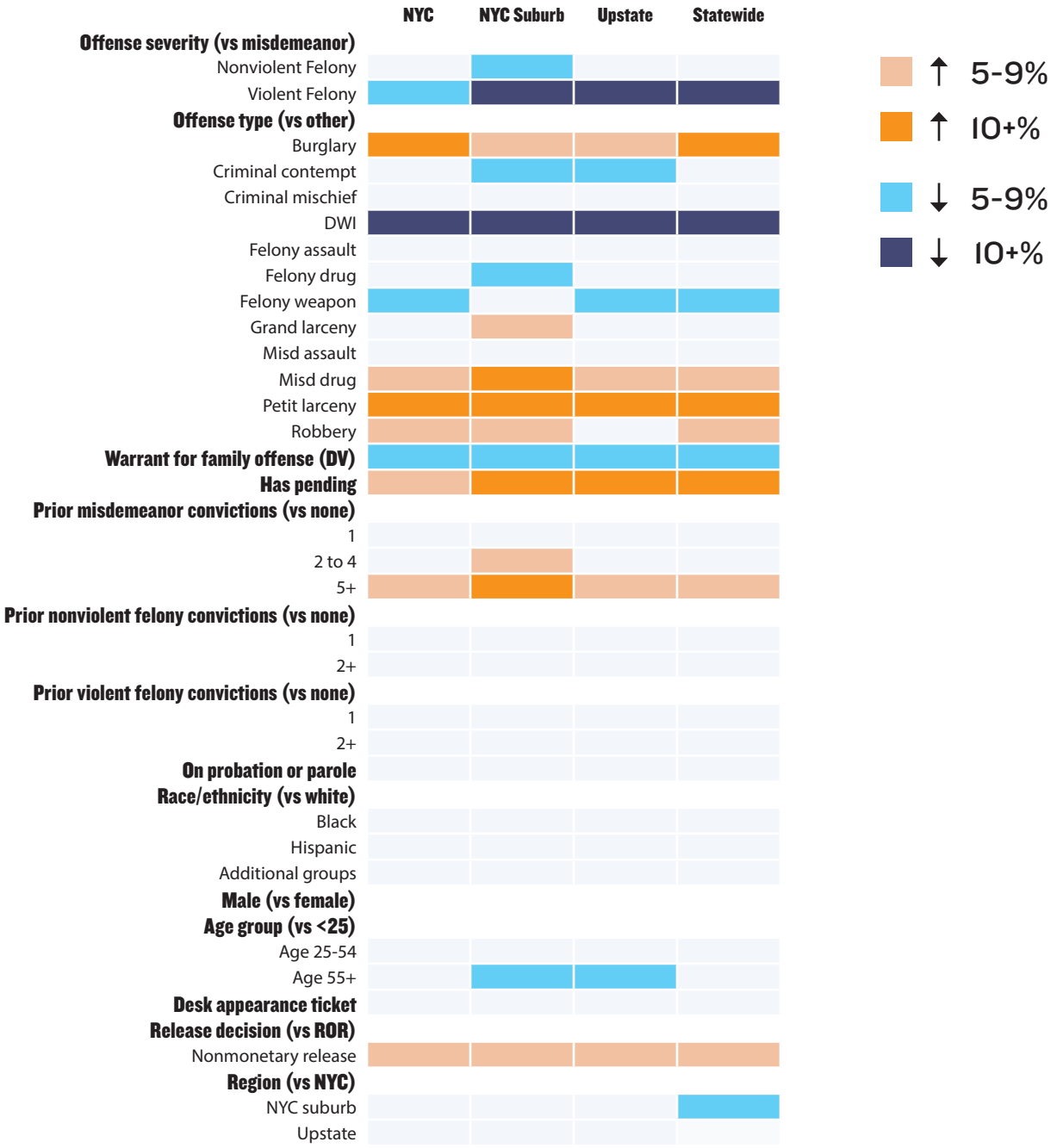
- **Charge Type:** ***FTA rates varied substantially based on the specific charge.*** Across all regions, the charge types with the highest FTA rates were **petit larceny, misdemeanor drug possession, and burglary,** while **DWI** had the lowest FTA rate. Controlling for other factors, statewide the marginal effect on FTA risk was +12 percentage points for petit larceny, +11 points for burglary, +9 points for misdemeanor drug possession; and -11 points for DWI and -7 points for felony weapon charges. Statewide, the likelihood of an FTA ranged a full 23 percentage points—from a low of 5% for DWI to a high of 28% for petit larceny.

- **Criminal History:** ***A pending case and prior misdemeanors predicted FTA.*** Having a pending case predicted an increase in FTA risk of +10 percentage points statewide (23% vs. 13%). Prior misdemeanor convictions were also associated with greater FTA risk—reaching a moderate effect of +4 percentage points with 2-4 misdemeanor priors, and a large effect of +9 percentage points with 5 or more priors. *By contrast, neither prior nonviolent or violent felony convictions nor current probation or parole status had a substantial effect.*

- **Demographics:** ***No demographic characteristic was clearly associated with FTA.*** For all released cases, after controlling for other factors, Black, Hispanic, and white people had the same likelihood of FTA (17%). For violent felonies, statewide FTA rates also did not vary by race/ethnicity (13% for Black and 14% for Hispanic and white people). Neither gender nor age had a clear effect, though after accounting for other factors people ages 55 and over were at lower FTA risk than people under 25 in NYC Suburbs (-5 percentage points) and Upstate (-7 percentage points).

- **Other Case Characteristics:** *Controlling for other factors, people released on nonmonetary conditions had an increased FTA risk of +7 percentage points compared to people released on recognizance.* Whether a case originated with a desk appearance ticket status had no effect.

FIGURE 1
IMPACT ON FTA RISK AFTER CONTROLLING FOR OTHER FACTORS



Note: Each cell represents the estimated effect of having a factor versus a reference category (in parentheses), holding all other characteristics constant. The models control for number of scheduled court appearances while on pretrial release (not shown). Highlighted effects are both statistically significant ($p<.05$) and large (+-5% percentage points or greater).

WHAT DOES THIS MEAN?

The data suggest New York's judges could release more people under the current law. *This becomes especially clear when focusing on violent felony charges*. In 2022, judges released 43% of people charged with violent felonies (57% faced bail or remand). Yet, this study found that people charged with violent felonies had an FTA rate of just 13% when released. What would the FTA rate have been for people who were not released? Given their mix of charge and criminal history characteristics, we found that statewide people charged with a violent felony who faced bail or remand had a projected FTA rate only 3 percentage points higher than the observed rate in released cases—*suggesting that judges are not ordering people with substantially higher FTA risk to bail and detention.*

The predictive value of the current charge may be underappreciated. Despite large FTA differences among specific charges (petit larceny, burglary, DWI, etc.), New York City's current Release Assessment tool does not incorporate specific types of charges in its algorithm. On the other hand, this assessment recommends fewer people charged with violent felonies than misdemeanors for pretrial release, cutting *against* the empirical evidence. Accordingly, this study's findings offer new pathways for incorporating current charge information into present and future release assessment tools across New York, potentially improving their predictive accuracy.

Prior criminal history matters, but some factors matter more. It may aid judges to know that an open case and multiple prior misdemeanor convictions significantly increase FTA risk, while other criminal history factors such as prior nonviolent and violent felony convictions and probation or status made little difference.

Judges are setting bail disproportionately by race/ethnicity. Despite having similar levels of estimated FTA risk, judges' pretrial decisions varied substantially by race/ethnicity violent felonies cases, where judges retain discretion to set bail or remand. When compared to white people, judges set bail or remand 10 percentage points more often for Black people and 9 percentage points more often for Hispanic people in 2022, *after* controlling for a range of other characteristics.

Section I. Introduction: Why Study Failure to Appear in New York?

Under New York law, judges are permitted to set pretrial conditions solely for the purpose of ensuring a person's return to court. It is therefore important to understand how often people who were released fail to appear (FTA), as well as the factors associated with higher or lower FTA rates.

To help inform policymakers and practitioners, this report addresses three questions:

1. Pretrial Release Decisions: What types of cases are released at arraignment? How do release decisions vary by charge severity?

2. New York State's Failure-to-Appear Rates: For people released at arraignment, what is the failure to appear (FTA) rate statewide and in each major region? How do FTA rates vary by charge severity, charge type, criminal history, and demographic characteristics (race/ethnicity, gender, and age)?

3. Predictors of FTA: After controlling for other characteristics, which factors are linked to higher or lower risk of FTA?

WHAT IS ALREADY KNOWN ABOUT FAILURE TO APPEAR?

FTA Rates in New York

The Criminal Justice Agency (CJA) for decades has published annual reports documenting FTA rates in New York City. In the last pre-pandemic year of 2019, CJA found that the City's FTA rate among people released before trial was 16%.[1] In the 2020 pandemic year, judges scheduled fewer in-person court dates and –unsurprisingly—the FTA rate dropped to 8%.[2]

Notably, CJA's New York City data has consistently shown lower FTA rates for more serious nonviolent and violent felony charges—seemingly at odds with judges' tendency to set more restrictive pretrial conditions based on charge severity. In 2019, CJA reported FTA rates of 17% for misdemeanors, 16% for nonviolent felonies, and 11% for violent felonies.[3]

Examining more recent data, New York's Division of Criminal Justice Services published FTA rates for cases arraigned in the first nine months of 2022. This analysis reported FTA rates of 15% in New York City and 19% in the rest of the State.[4] However, a more detailed examination of FTA patterns following bail reform and post-pandemic has yet to be conducted—a gap filled by this report.

Research on Predictors of FTA

Prior research has examined the association between a broad range of factors and an individual's likelihood of failure to appear. A substantial portion of this work was conducted as part of the development of pretrial risk assessment instruments (RAIs), including the widely used Pretrial Safety Assessment (PSA),[5] the Federal Pretrial Risk Assessment Instrument (PTRA),[6] the Virginia Pretrial Risk Assessment Instrument (VPRAI),[7] and the CJA Release Assessment used in New York City.[8]

INTRODUCTION

Table 1 summarizes key findings from studies conducted across the US.

TABLE 1
PRIOR LITERATURE ON FTA RISK

Predictor	Association with FTA	Notes
Criminal History		
Pending criminal cases	positive association	mostly consistent across multiple studies[9]
Prior history of FTA	positive association	consistent across multiple studies[10]
Prior criminal convictions	positive association	consistent across multiple studies[11]
Prior incarceration	positive association	consistent across multiple studies[12]
Current Charge Characteristics		
Severity	mixed results	negatively associated in NYC[13]
Property charge	positive association	consistent across multiple studies[14]
Drug charge	positive association	consistent across multiple studies[15]
Firearm charge	positive association	tested in one study[16]
Immigration-related charge	positive association	tested in one study[17]
Criminal mischief	positive association	only tested in NYC[18]
Vehicle and traffic law (VTL) charge	positive association	only tested in NYC[19]
Gambling charge	negative association	only tested in NYC[20]
DWI charge	negative association	only tested in NYC[21]
Victim injury	negative association	consistent across multiple studies[22]
Demographic Characteristics		
Age	mixed results	negatively associated in NYC[23]
Gender	mixed results	men less likely to FTA in NYC[24]
Race/ethnicity	mixed results	Black individuals more likely to FTA in NYC[25]
Pretrial Release Decision		
Pretrial supervision	negative association	tested in one study[26]
Bond type restrictiveness	negative association	mostly consistent across multiple studies[27]
Other Factors		
Juvenile arrests	positive association	tested in one study[28]
Time at risk in the community (case length)	positive association	consistent across multiple studies[29]
Reachable by phone	negative association	only tested in NYC[30]
Charged individual expects someone at arraignment	negative association	only tested in NYC[31]
Individual lives with relative, (common-law) spouse, or legal guardian	negative association	only tested in NYC[32]
Degree to which individuals are tied to their current residence	negative association	consistent across multiple studies[33]
Local residence	negative association	only tested in NYC[34]
Being employed/in school or training/ a primary care giver	negative association	consistent across multiple studies[35]
Educational attainment	negative association	tested in one study[36]
Indigence	positive association	tested in one study[37]
US citizenship	negative association	tested in one study[38]
Substance use disorder	positive association	consistent across multiple studies[39]
Court date reminders	negative association	mostly consistent across multiple studies[40]

WHAT DOES THIS REPORT ADD?

This study makes several important contributions to the literature on FTA risk, with specific relevance to pretrial decision-making in New York.

Recent Data: Since the passage of New York State's bail reforms, both the percentage of people released pretrial and the conditions available to secure their return have seen substantial changes. This is the first study to explore FTAs among people arraigned after the pandemic and within this post-reform context.

Beyond New York City: Factors linked to FTA are explored not just in New York City but across the entire State of New York, with nearly all analyses broken down by region (NYC, NYC Suburbs, and Upstate).

Broad Range of Predictors: In New York City, prior efforts to identify predictive factors of FTA risk have been focused primarily on FTA history, prior criminal history, pending cases; and community ties. This report explores a broader range of factors, most notably aspects of the current charge.

Adjusting for People's Number of Court Appearances: People whose cases have more court appearances scheduled have more opportunities to fail to appear. By controlling for the number of times a person was required to appear while on pretrial release, this study addresses this potential source of confounding.

Section 2. Data, Measures, and Methods

DATA

Public data from the New York State Office of Court Administration (OCA) and Division of Criminal Justice Services (DCJS) were used for this analysis. The latest OCA/DCJS dataset includes information about all New York State prosecutions for fingerprintable misdemeanor or felony charges from January 2020 to June 2023, with outcomes tracked until September 26, 2023.

For the present study, the dataset was restricted to individuals arraigned in 2022 and initially released either on recognizance or nonmonetary conditions. This study period was selected to: 1) avoid changes related to the Covid-19 pandemic (post-2021), and 2) allow for a meaningful post-arraignment follow-up period (pre-2023).[41] When more than one case (i.e., docket) arose from the same arrest (e.g. one in criminal and one in supreme court), these cases were combined so that each observation represents the outcome for a unique person-arrest.[42]

MEASURES

Arraignment Release Decision

Arraignment outcomes are based on the first release decision in cases continued beyond arraignment (i.e., not disposed). When there was more than one case for a person-arrest, the release decision was taken from the earliest case.[43] Cases with a bail amount of $1 were excluded as this indicates a hold in a separate case.

Failure to Appear

Failure to appear was defined as any non-stayed warrant issued between arraignment and disposition or up until September 26, 2023, whichever came first. Note that this excludes pre-arraignment FTAs following a desk appearance ticket, as well as post-disposition FTAs. When more than one case arose from a person-arrest, any FTA across the multiple cases was captured.

Regions

Regions were categorized based on the county in which a case was filed as follows:

- **New York City*:*** Brooklyn, Bronx, Manhattan, Queens, Staten Island.
- **New York City Suburbs*:*** Nassau, Rockland, Suffolk, Westchester.
- **Upstate*:*** Counties outside New York City and New York City Suburbs (as defined above).
- **Statewide:** All 62 New York State counties.

POTENTIAL PREDICTORS OF FTA

The dataset includes information regarding a wide range of factors, including the current charge, criminal history, and demographic characteristics. Based on the literature described above, we selected for testing variables previously found to be associated with FTA risk. These were defined as follows:

Current Charge Characteristics

- **Current charge severity:** misdemeanor, nonviolent felony, or violent felony.[44]
- **Current charge type:** petit larceny, misdemeanor assault, misdemeanor drug, DWI, criminal mischief, criminal contempt, burglary, robbery, grand larceny, felony assault, felony drug, felony weapon, other. (*See* **Appendix A** for specific penal law offenses included in each category.)[45]
- **Domestic violence (family offense):** indicator for order of protection issued for a family offense.

Criminal History

- **Any pending case:** indicator for whether the person had a separate pending case at the time of arraignment.
- **Prior misdemeanor convictions:** number of prior misdemeanor convictions (0, 1, 2-4, 5+).
- **Prior nonviolent felony convictions:** number of prior nonviolent felony convictions (0, 1, 2+).
- **Prior violent felony convictions:** number of prior violent felony convictions (0, 1, 2+).
- **On probation or parole:** indicator for whether the person was under probation or parole supervision at the time of arraignment.

Demographic Characteristics

- **Race/ethnicity:** Hispanic, non-Hispanic Black (referred to as "Black" hereafter), non-Hispanic White (referred to as "white" hereafter), Additional Groups.
- **Gender:** Man or Woman. (Available gender data was strictly binary.)[46]
- **Age:** Under 25 years, 25-54 years, 55+ years.

Additional Characteristics

- **Desk Appearance Ticket:** indicator for whether the person's case originated with a desk appearance ticket.
- **Release Decision at Arraignment:** Released on recognizance (ROR) or with nonmonetary release conditions (e.g., supervised release).
- **Number of Court Appearances:** number of court appearances while on pretrial release (1, 2, 3, 4, 5, 6, 7, 8, 9, 10+).[47]

METHODS

Descriptive Analyses

For people released either on recognizance or under nonmonetary release conditions, descriptive analyses were broken out by region and an array of characteristics, including the severity of the charge, charge type, criminal history, demographics, and case processing characteristics.

Multivariable Models

To explore the effect of each characteristic on the likelihood of an FTA, we fit multivariate logistic regression models for each New York State region and statewide. This approach allowed us to estimate the effect of each variable while holding other factors constant. For ease of interpretation, estimates are presented as marginal effects—a straightforward comparison of the likelihood of an FTA for a person with a characteristic versus without that characteristic (the "reference" group).[48] For illustration, if the predicted probability of FTA for a person with a pending case is 15% vs. 10% without a pending case, the marginal effect for that factor is an increase of 5 percentage points. The models were checked for multicollinearity (adjusted GVIF). Pseudo-R-squared (McFadden's) values are provided as a measure of model fit.

Code to replicate all findings can be found **here**.

Section 3. Pretrial Release Decisions

In 2022, judges initially released 84% of people either on recognizance or nonmonetary release conditions (**Figure 3.1**). The percentages of those released in NYC (88%) and NYC Suburbs (88%) were substantially higher than Upstate (73%).

Judges were far more likely to release people facing **misdemeanor charges** at arraignment, with small differences by region: 97% in NYC, 97% in NYC Suburbs, and 90% Upstate (**Figure 3.2**). However, there was greater variability across regions for nonviolent felony charges (80% in NYC, 80% in NYC Suburbs, 61% Upstate).

For **violent felony charges**, virtually all of which remained eligible for bail under the reform law, judges' release rates were significantly lower than for the two other charge severities, with considerable variation by region (51% in NYC, 39% in NYC Suburbs, 24% Upstate).

Flash Back to 2019: Even before bail reform curbed judicial discretion for most misdemeanor and violent offenses, differences in releases rates were observed across severities. In 2019, statewide release rates were 83% for misdemeanors, 46% for nonviolent felonies, and just 31% for violent felonies. And while these percentages varied by region, the *pattern* of higher release rates for less severe charges was seen universally.[49]

Appendix B provides the results of multivariate regression models indicating which charge, criminal history, and demographic characteristics predicted judges' release decisions in 2022 for all cases and violent felony cases (nearly all of which are still eligible for bail).

FIGURE 3.1
ARRAIGNMENT OUTCOMES BY REGION

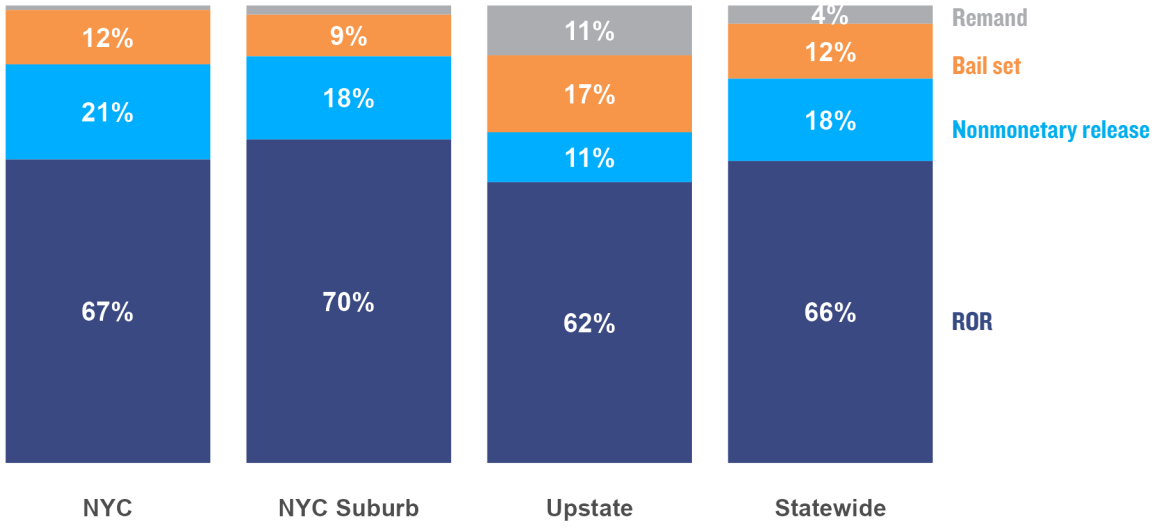
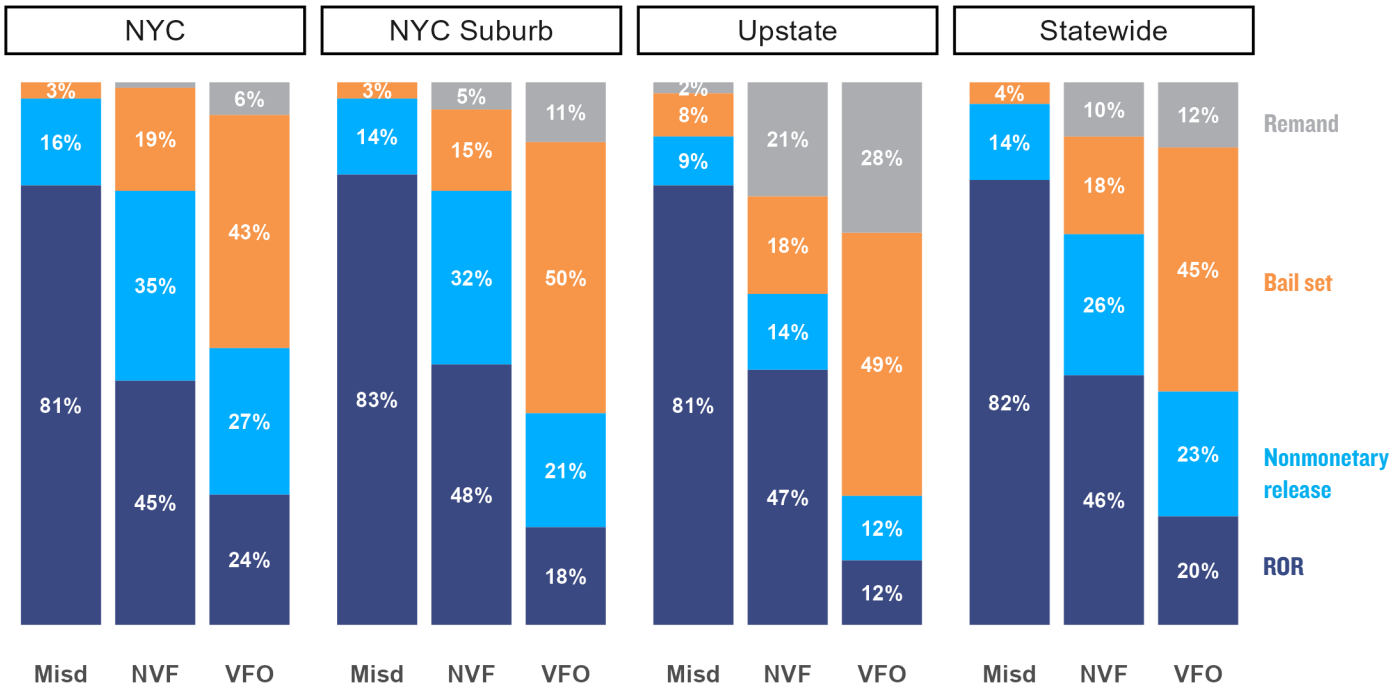


FIGURE 3.2
ARRAIGNMENT OUTCOMES BY REGION AND CHARGE SEVERITY



Section 4. Results: FTA Rates and Predictive Factors

FAILURE TO APPEAR RATES

Geographic Differences

Statewide, 17% of cases released at arraignment failed to appear, with somewhat lower rates in NYC (16%) than in NYC Suburbs (18%) and Upstate (20%) (**Figure 4.1**). Within New York City, FTA rates ranged from 11% in Queens to 25% in Manhattan (**Figure 4.2**), while in NYC Suburbs rates ranged from 10% in Rockland to 20% in Suffolk (**Figure 4.3**). FTA rates among Upstate counties that saw at least 100 arraigned cases ranged from 7% in Ontario to 30% in Oneida (**Figure 4.4**).

FIGURE 4.1
OVERALL FAILURE-TO-APPEAR RATES

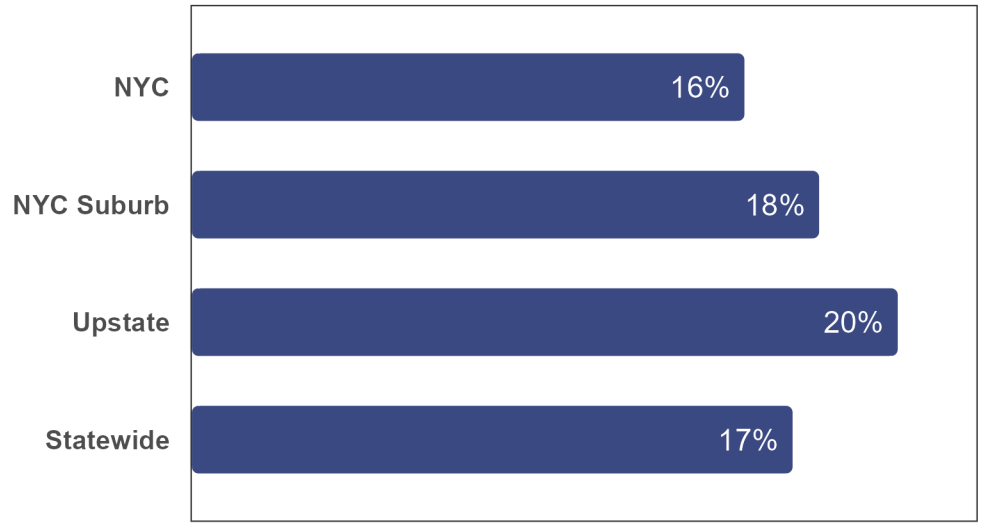


FIGURE 4.2
NEW YORK CITY BY BOROUGH

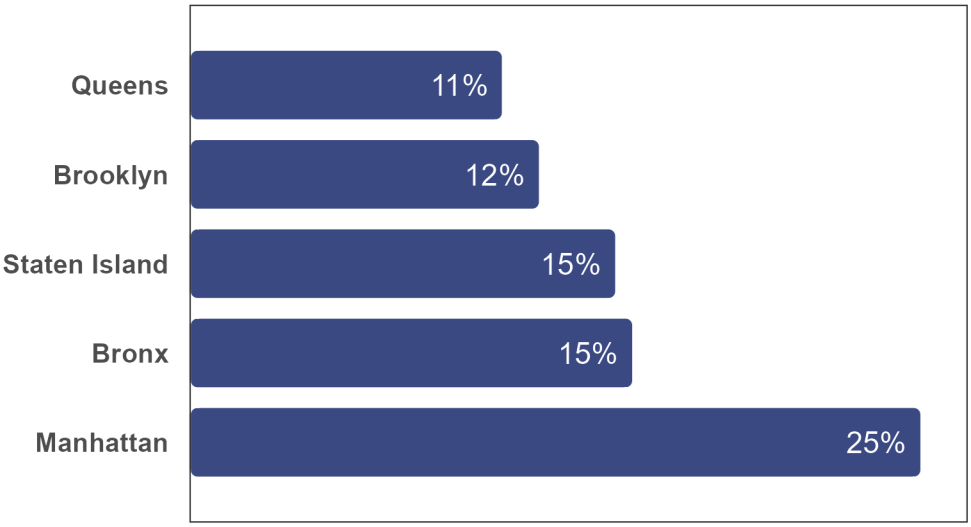


FIGURE 4.3
NEW YORK CITY SUBURB BY COUNTY

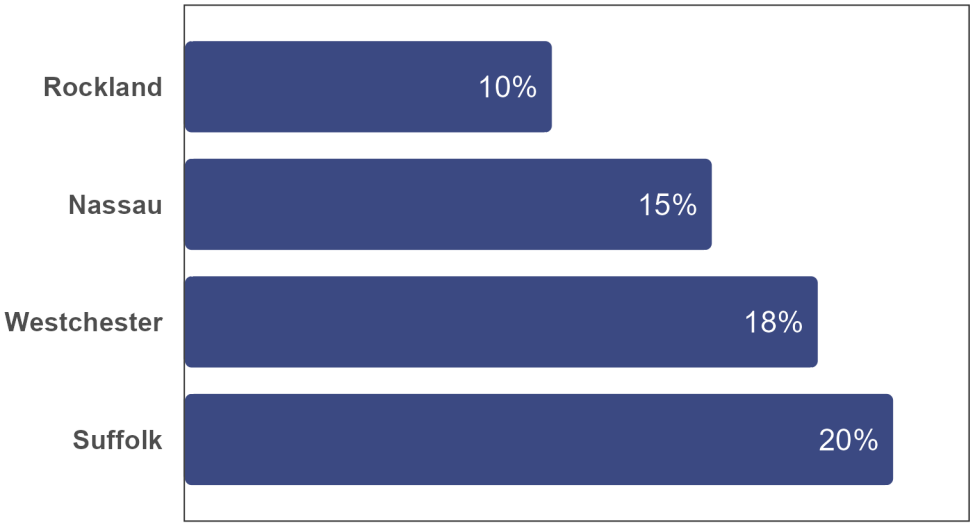
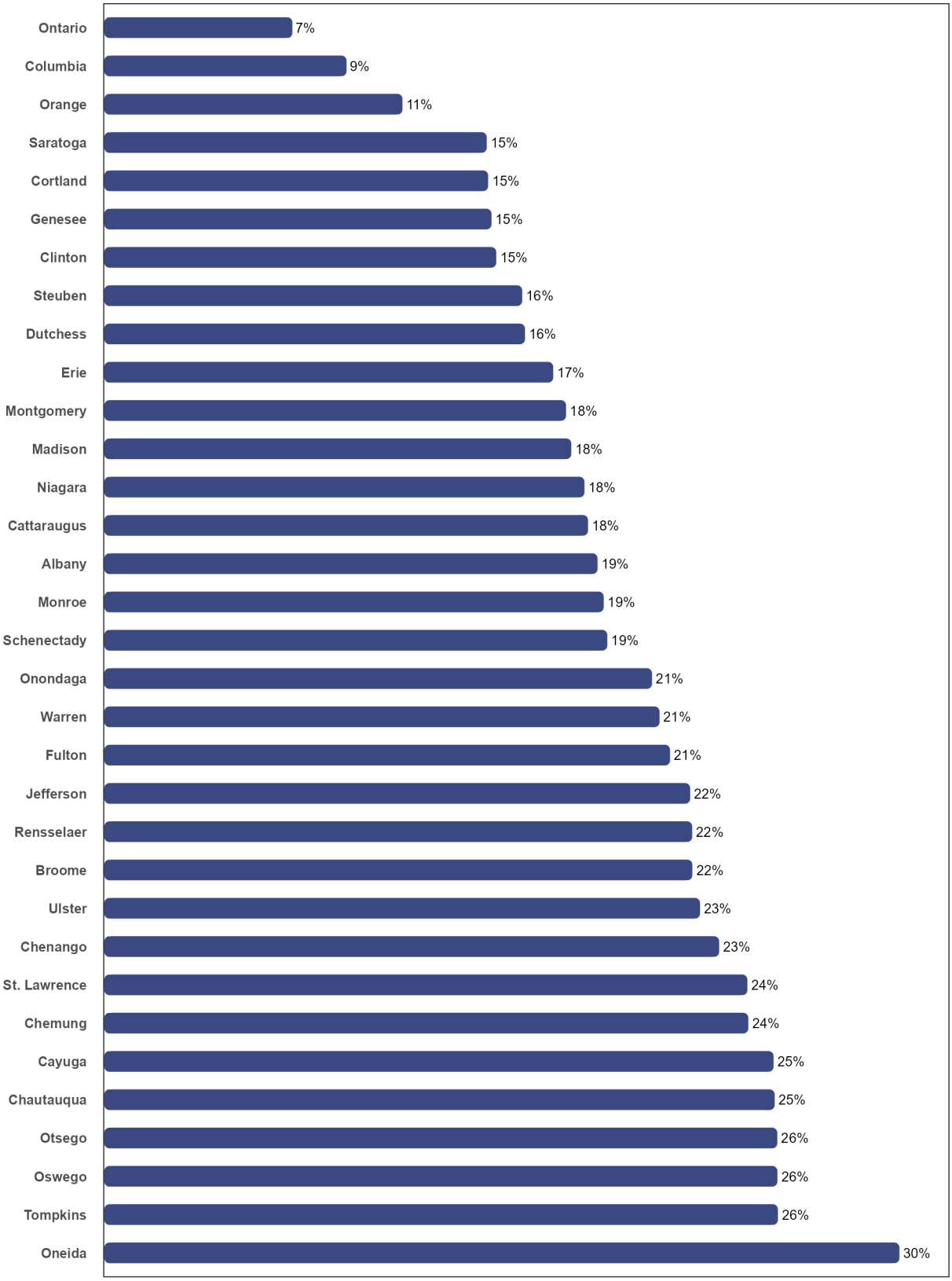


FIGURE 4.4
UPSTATE BY COUNTY



Note: Figure excludes counties with fewer than 100 cases in their city courts in 2022. Cases adjudicated in New York's upstate Town and Village Justice Courts are excluded.

Charge Characteristics

In New York City, the FTA rate was highest for people charged with a nonviolent felony (22%) and lowest for violent felonies (14%) **(Figure 4.5)**. Outside New York City, FTA rates were highest for misdemeanors (18% in NYC Suburbs and 20% Upstate) and lowest for violent felonies (9% in NYC Suburbs and 12% Upstate).

Across New York State regions, the current charge types with the highest FTA rates were petit larceny (31-42%), misdemeanor drug (36-38%), and burglary (26-37%) **(Figure 4.6).** DWIs had the lowest FTA rate of any charge category in every region (5-6%), with felony weapon (6-13%) and misdemeanor assault (9-15%) charges also having relatively low rates. Throughout the State, cases concerning domestic violence had substantially lower FTA rates than other case types (e.g., 8% vs 20% statewide) **(Figure 4.7).**

Among the subset of domestic violence cases where the person was charged with misdemeanor criminal contempt in the second degree (defined in subdivision three of PL 215.50), FTA rates were somewhat higher in most regions: 12% in NYC, 13% in NYC Suburbs, 11% Upstate, and 12% statewide **(not shown).**

FIGURE 4.5
CHARGE SEVERITY

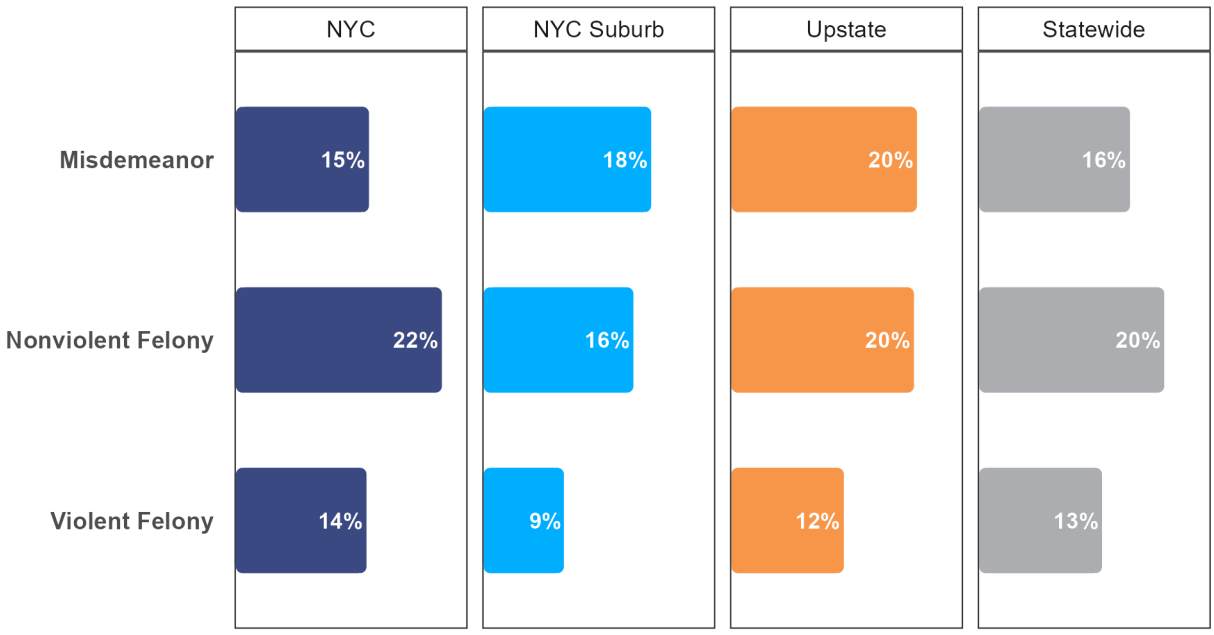


FIGURE 4.6
CHARGE TYPE

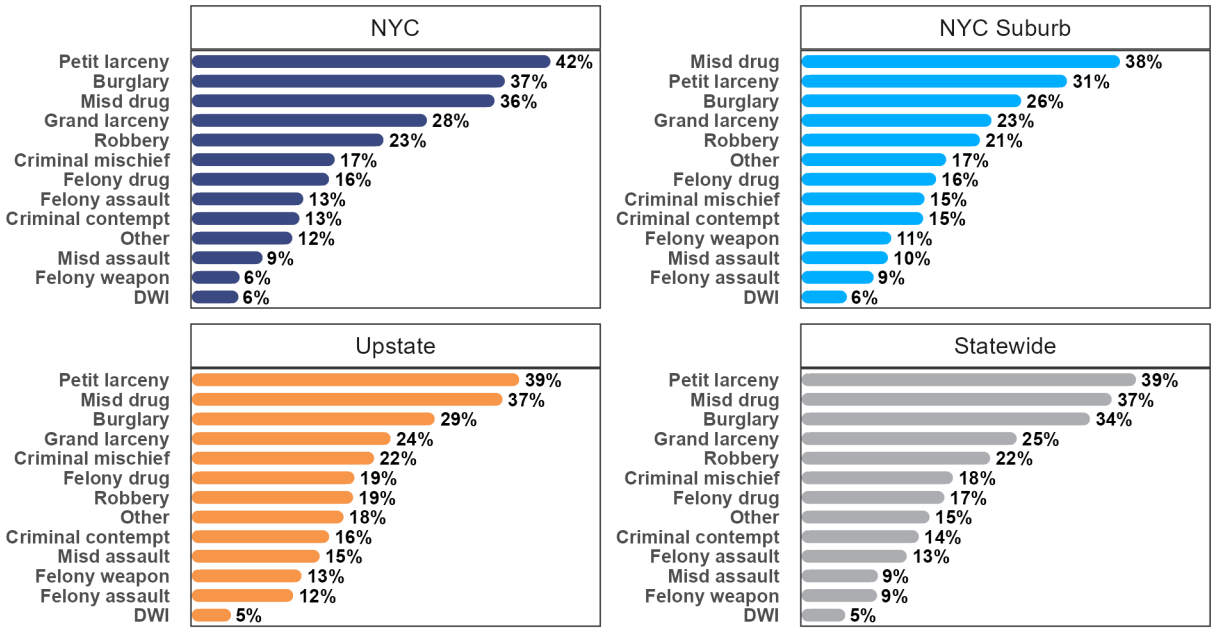
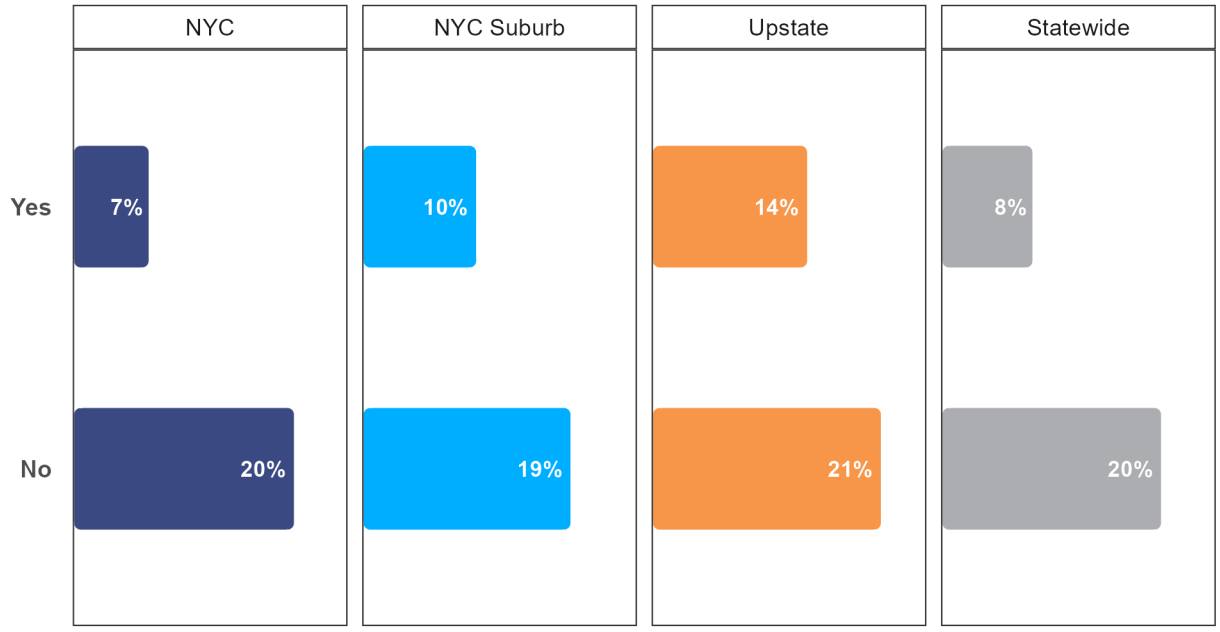


FIGURE 4.7
DOMESTIC VIOLENCE CASE



Note: Domestic violence cases were defined as having an order of protection for a family offense (including a temporary order of protection issued at arraignment). Public data used in this report did not permit isolating domestic violence cases without an order of protection.

Criminal History

Criminal history was associated with FTA across all metrics. In all regions, people with a pending case at the time of arraignment had FTA rates roughly three times higher than those without (e.g., 32% vs. 11% statewide) (**Figure 4.8**). FTA rates increased with both the number of prior misdemeanor convictions (**Figure 4.9**) and prior nonviolent felony convictions (**Figure 4.10**). People with one prior violent felony conviction had substantially higher FTA rates, though having more than one did not appear to further elevate risk (**Figure 4.11**). Those on probation or parole at the time of arraignment had higher FTA rates in all regions except Upstate (**Figure 4.12**).

FIGURE 4.8
ANY PENDING CASE

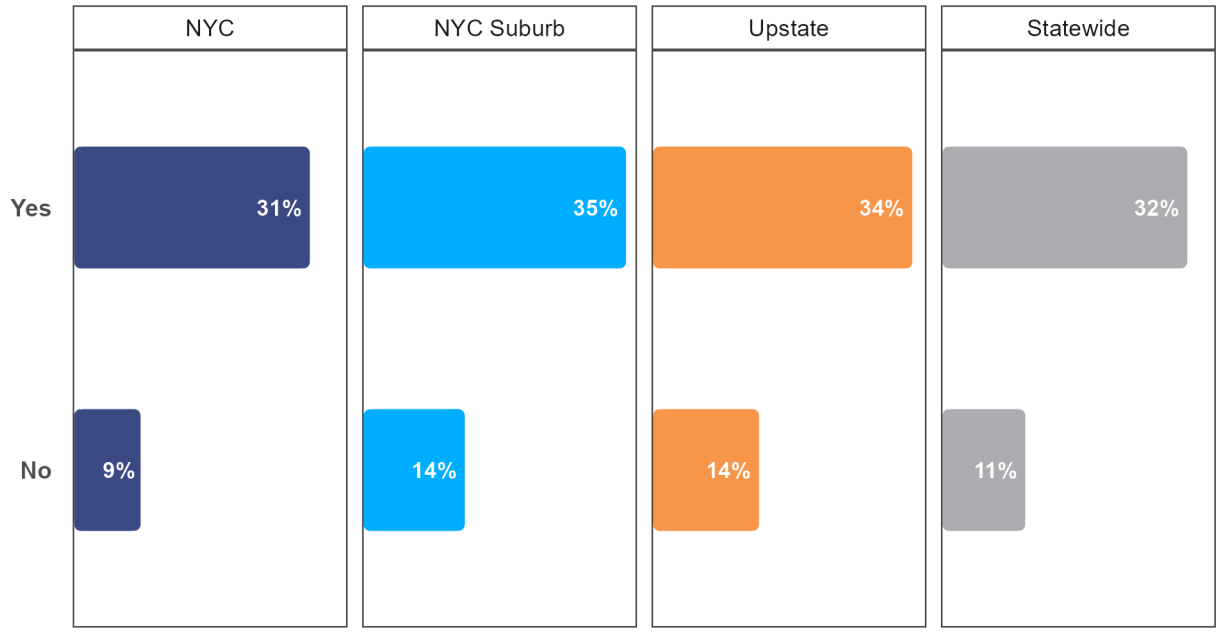


FIGURE 4.9
PRIOR MISDEMEANOR CONVICTIONS

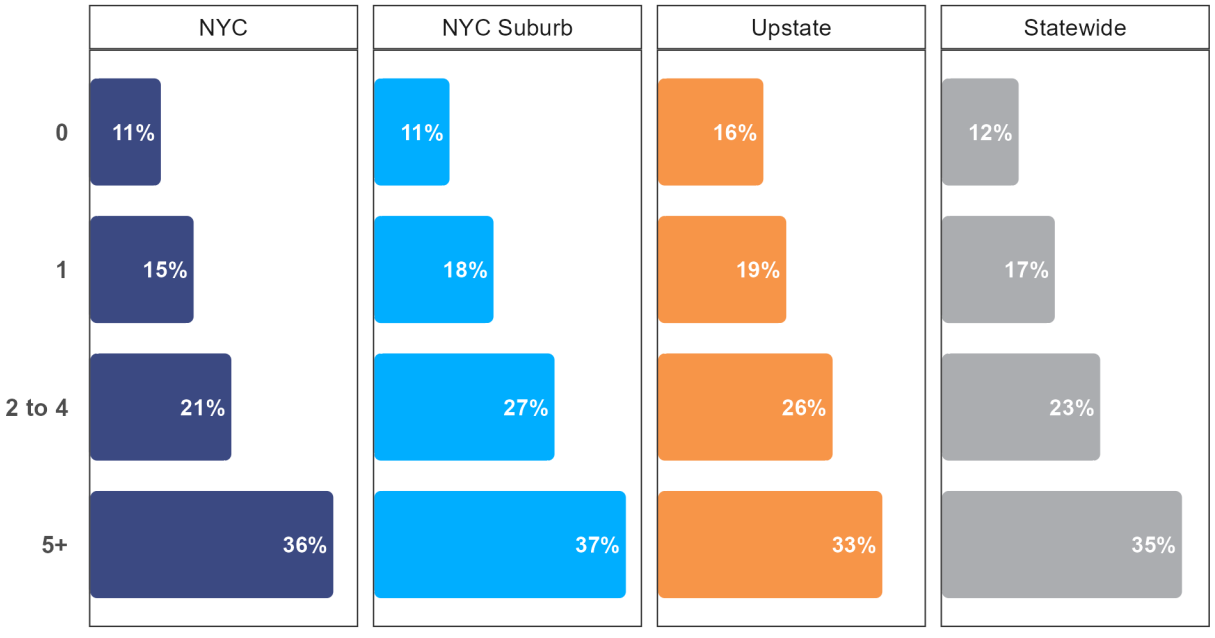


FIGURE 4.10
PRIOR NONVIOLENT FELONY CONVICTIONS

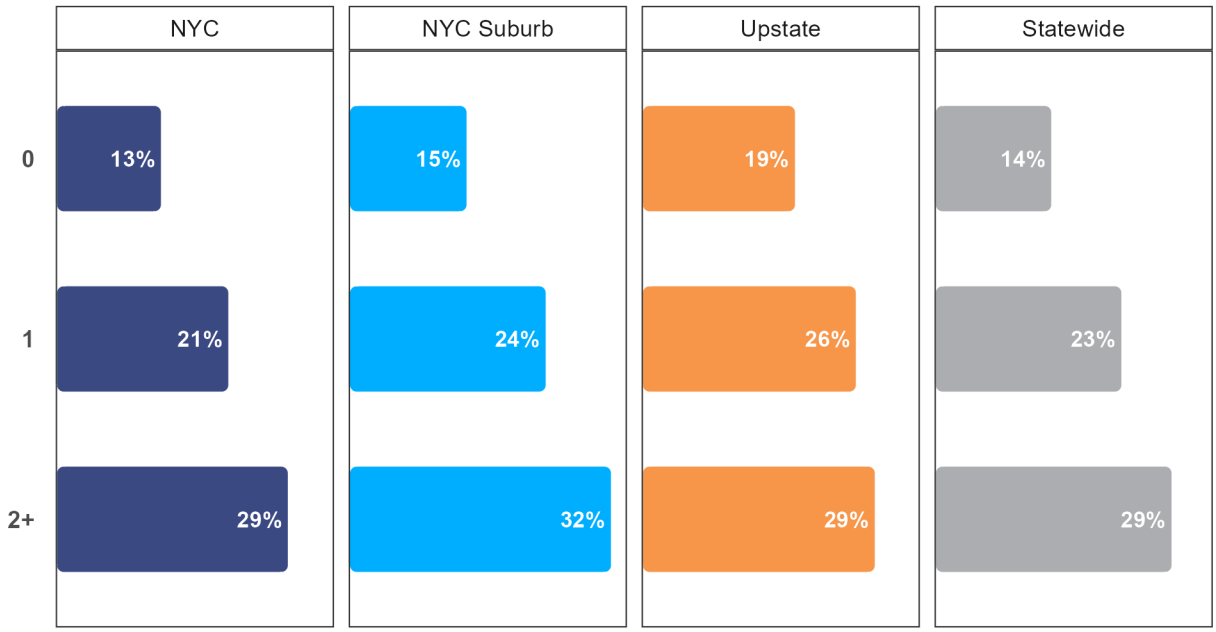


FIGURE 4.11
PRIOR VIOLENT FELONY CONVICTIONS

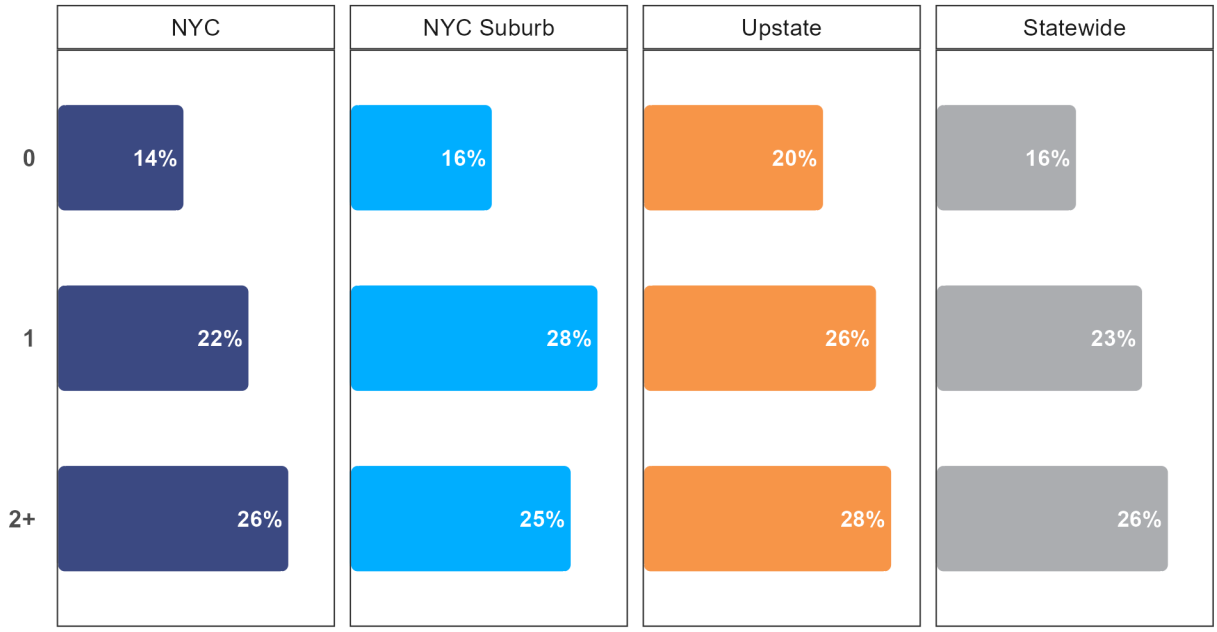
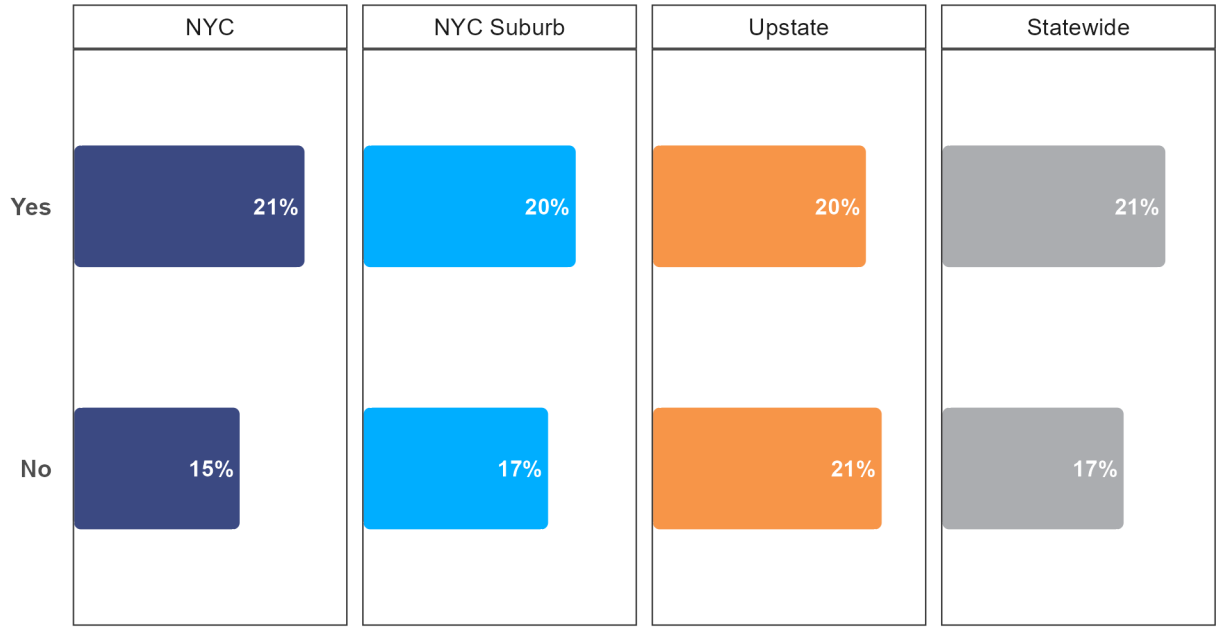


FIGURE 4.12
ON PROBATION OR PAROLE

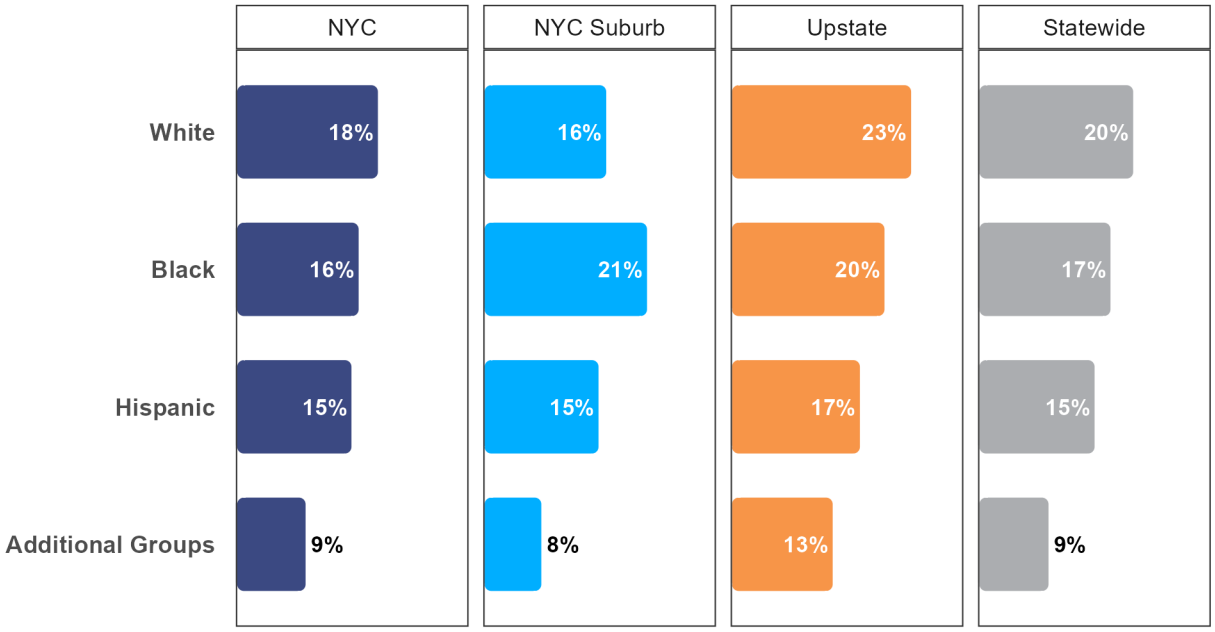


Demographics: Race/Ethnicity, Gender, and Age

Statewide, white individuals had the highest FTA rate (20%), followed by Black (17%) and Hispanic individuals (15%) (**Figure 4.13**). This pattern was consistently observed in both New York City and Upstate. However, in NYC Suburbs, Black individuals had the highest FTA rate (21%), followed by white (16%) and Hispanic (15%) individuals. Broken down further by charge severity, there was little difference in these patterns (**Figure 4.14**).

FTA rates were similar for men and women in NYC Suburbs and Upstate, though in New York City men had somewhat higher rates (**Figure 4.15**). With modest variations by region, FTA rates were generally lower among people below the age of 25 and those 55 or above than for those aged 25 to 54 (**Figure 4.16**).

FIGURE 4.13
RACE/ETHNICITY



Note: Race/ethnicity categories combine information about a person's race and Hispanic ethnicity, with white representing non-Hispanic white and Black representing non-Hispanic Black. Additional groups include: "Asian/Pacific Islander" and "American Indian/Alaskan Native." Cases missing information about a person's race and ethnicity were excluded.

FIGURE 4.14
CHARGE SEVERITY AND RACE/ETHNICITY

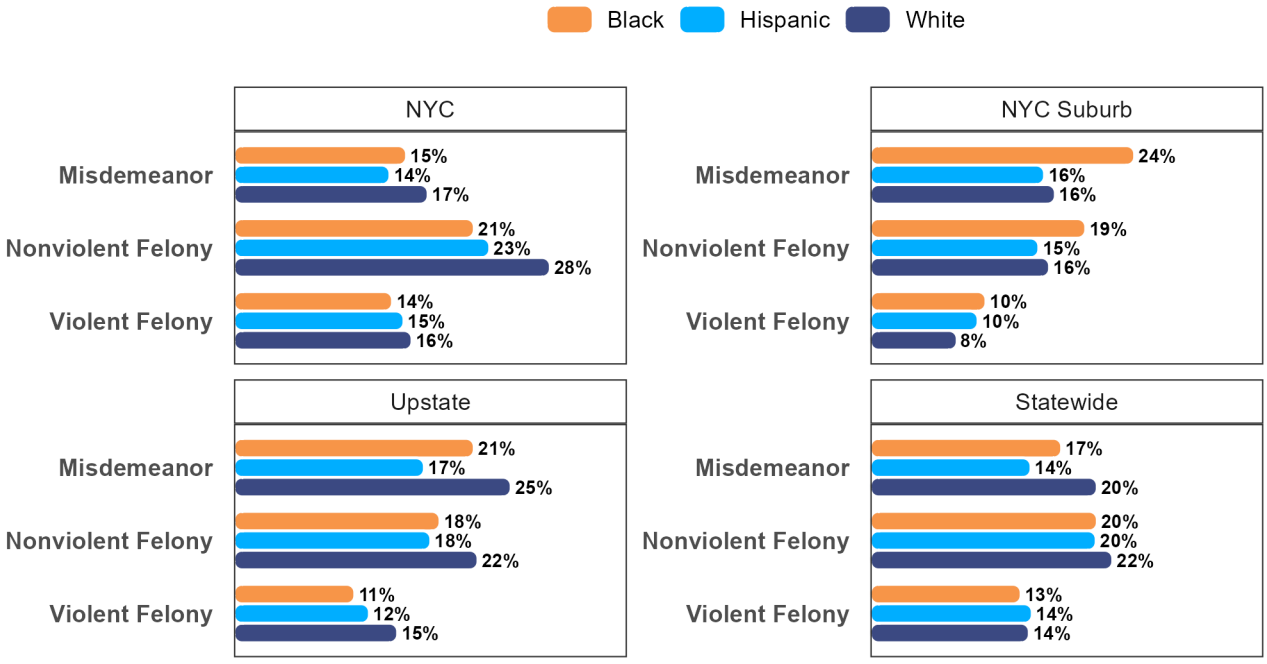


FIGURE 4.15
GENDER

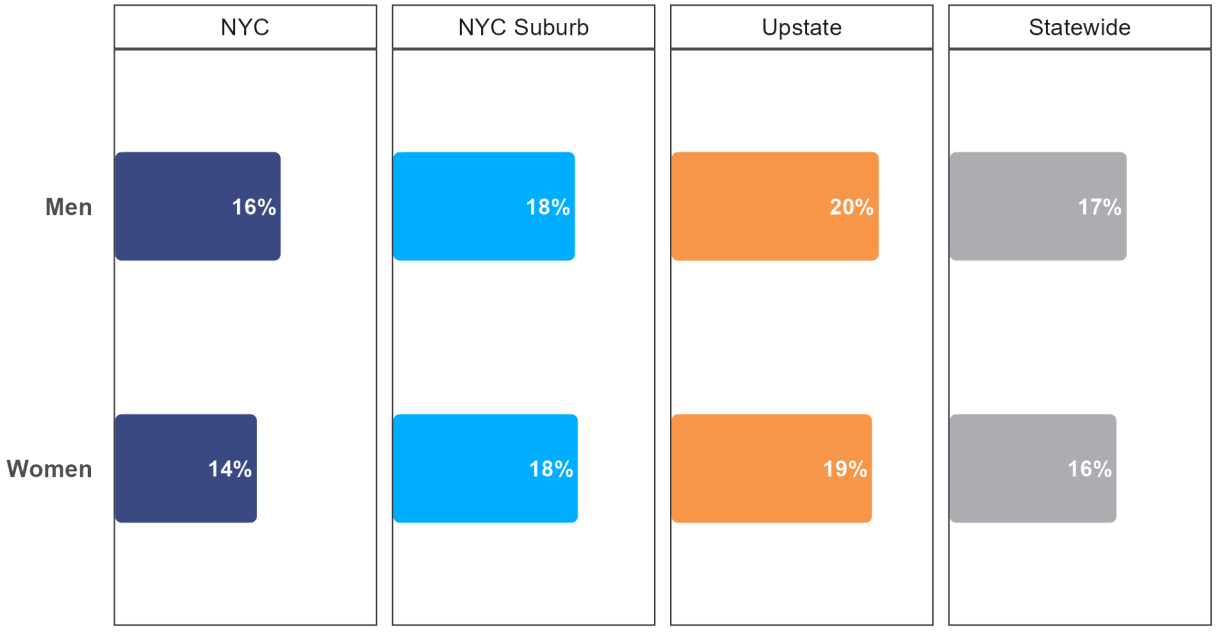
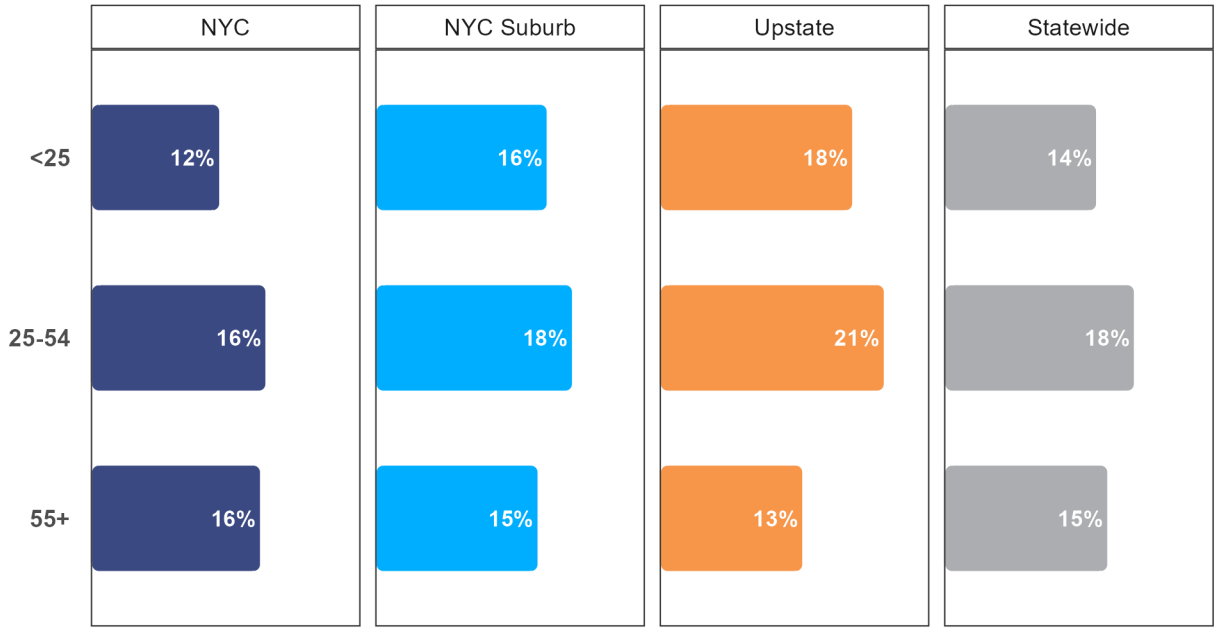


FIGURE 4.16
AGE CATEGORY



Other Case Characteristics: Desk Appearance Ticket Status, Release Decision at Arraignment, and Number of Scheduled Appearances

People who received a desk appearance ticket (DAT) had somewhat higher *post-arraignment* FTA rates in all regions except New York City (**Figure 4.17**). Individuals released on nonmonetary conditions had substantially higher FTA rates (from 26% in NYC Suburbs to 31% in NYC) than those released on their own recognizance (from 11% in NYC to 18% Upstate) (**Figure 4.18**), with larger differences seen for misdemeanor and nonviolent felony charges (**Figure 4.19**). The more scheduled pretrial appearances while on release, the higher the FTA rate (**Figure 4.20**).

FIGURE 4.17
DESK APPEARANCE TICKET

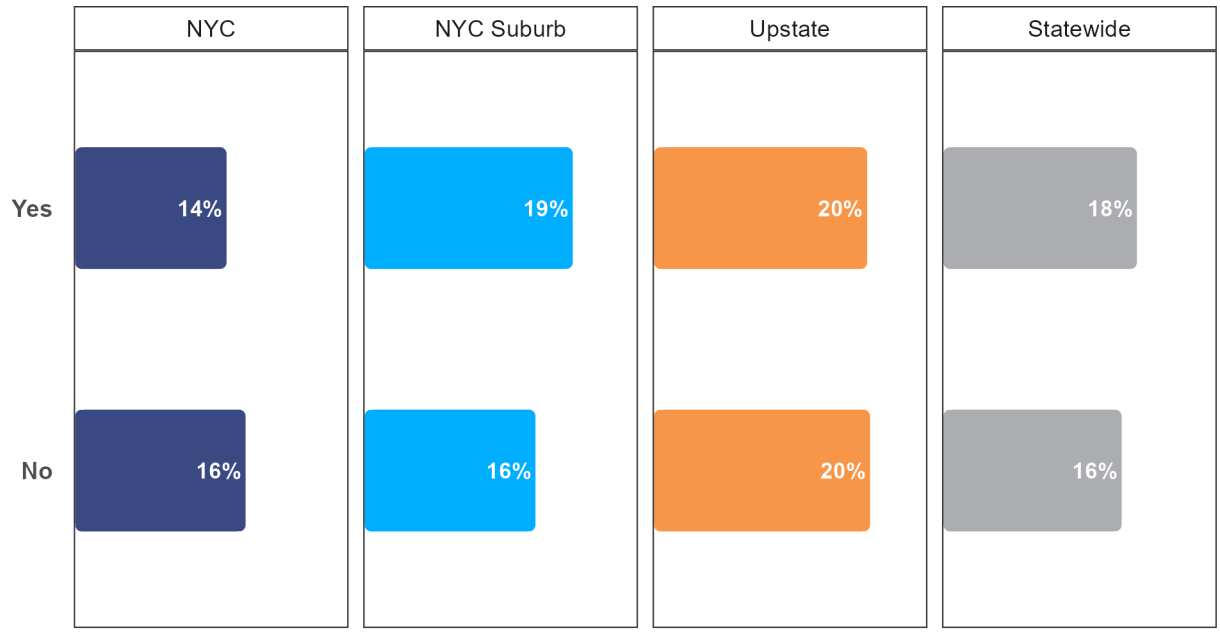


FIGURE 4.18
RELEASED ON RECOGNIZANCE OR A NONMONETARY CONDITION

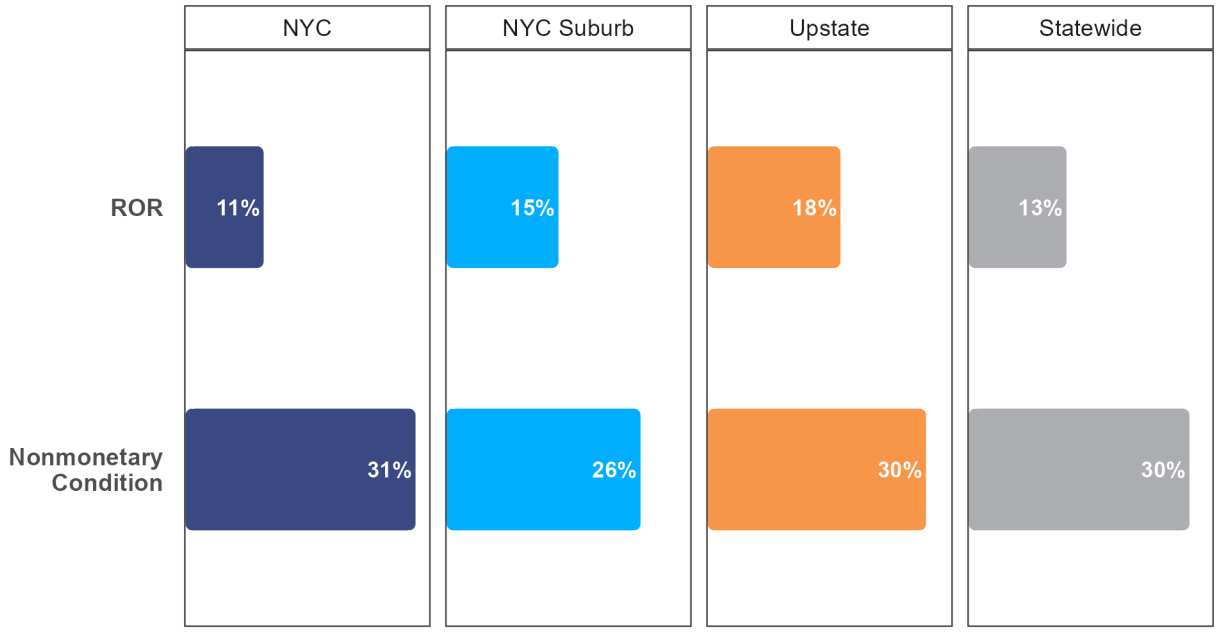


FIGURE 4.19
RELEASE TYPE BY SEVERITY AND REGION

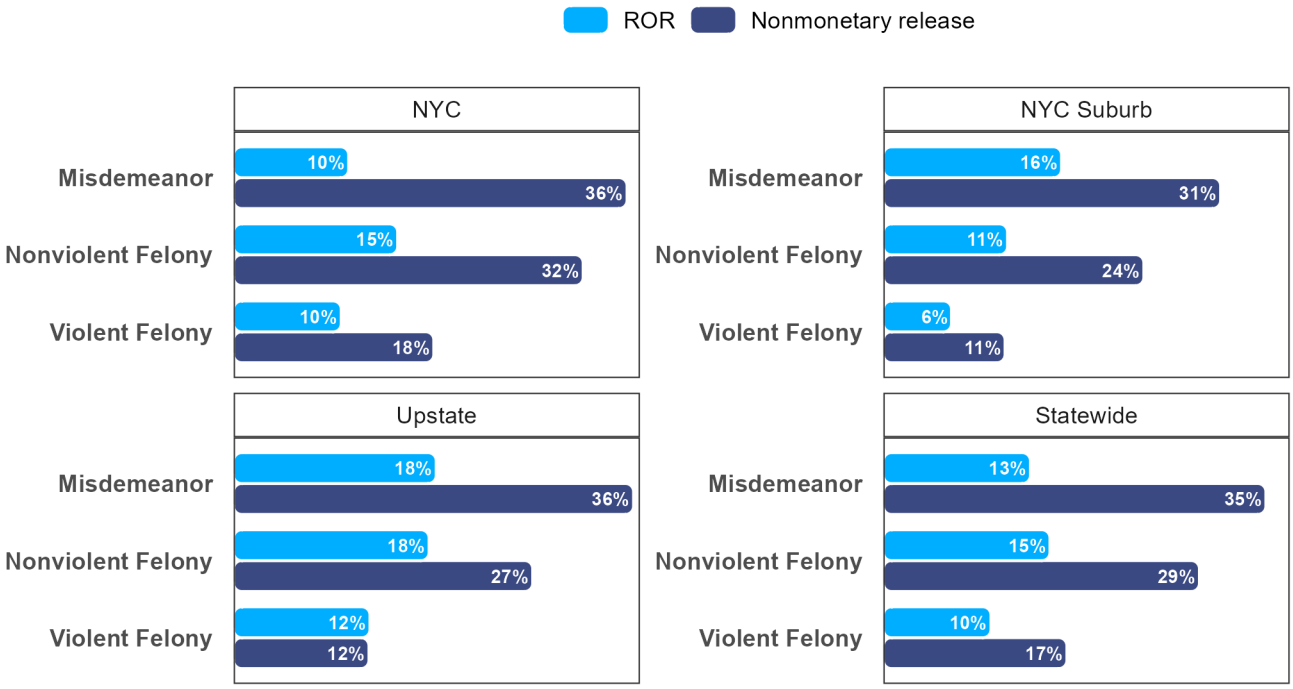
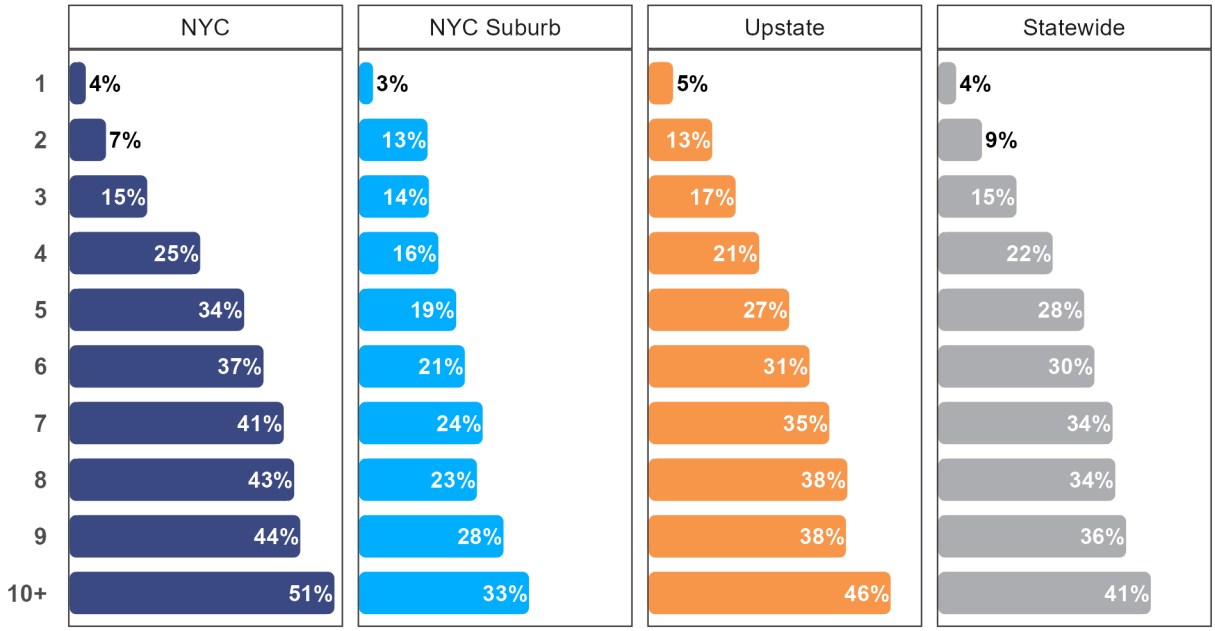


FIGURE 4.20
NUMBER OF SCHEDULED COURT APPEARANCES WHILE ON PRETRIAL RELEASE



PREDICTIVE FACTORS

Multivariate logistic regression models were fit to estimate the effect of each characteristic on the likelihood of FTA, holding other factors constant. Findings are shown in **Table 4.1** below, with estimates presented as predicted probabilities ("PP") and average marginal effects ("ME"). Predicted probabilities reflect the likelihood of FTA for a person with a particular characteristic, while marginal effects simply compare this predicted probability to that of a person without the characteristic (the "reference" group). Both estimates control for all other characteristics in the model. Large marginal effects are highlighted (>5 percentage points), with asterisks indicating whether the change was statistically significant and at what level.

Adjusted VIF scores revealed no significant collinearity issues across the models.[50] Pseudo-R2 values indicate that the models captured 18% to 29% of the overall variance in FTA risk, suggesting an adequate level of explanatory power for assessing the significance of each factor. [51]

The four columns of **Table 4.1** below present results for each respective region and the entire State. **Note:** *Due to large sample sizes, nearly all effects are statistically significant. Highlighted cells indicate a substantively meaningful effect based on its magnitude.*

Charge Severity: More Serious Charges Predicted Lower Risk of FTA

Compared to a misdemeanor, the likelihood of an FTA was lower for nonviolent felony (from -4 to -5 percentage points depending on the region) and violent felony charges (-9 to -12 percentage points).

Charge Type: FTA Varied Significantly Based on the Specific Charge

The charge types associated with the largest change in FTA risk were: petit larceny (+10 to +13 percentage points), burglary (+7 to +12 percentage points), misdemeanor drug (+7 to +12 percentage points), and DWI (-10 to -15 percentage points). The presence of an order of protection for a family offense (indicating domestic violence) was associated with a -5 to -7 percentage point reduction in FTA risk.

Criminal History: Pending Case and Prior Misdemeanor Convictions Predicted Higher FTA

The presence of a separate pending case at the time of arraignment was associated with an increase in FTA risk of +8 to +12 percentage points. Compared to having no past misdemeanor convictions, the effect of having one conviction was small (+1 to +2 percentage points), while having two to four had a moderate effect (+3 to +7 percentage points), and having five or more had a large effect (+8 to +11 percentage points). After controlling for other factors, neither prior nonviolent felony convictions nor prior violent felony convictions had a substantial impact on FTA risk.

Demographics: Race, Gender, and Age Predicted FTA Marginally or Not at All

The models included indicators for various demographic characteristics. After adjusting for other factors, no category of race/ethnicity, gender, or age was found to have a consistently strong impact on FTA risk. *Statewide, Black, Hispanic, and white people had the same FTA risk (17%).* (The likelihood for the category of additional racial/ethnic groups was 16%.) The likelihood of FTA for people ages 55 and older was lower than for people under 25 in NYC Suburbs (-5 percentage points) and Upstate (-7 percentage points).

Other Case Characteristics: Nonmonetary Release Predicted Higher FTA

All things equal, cases that originated with a desk appearance ticket were not associated with a lower risk of post-arraignment FTA. Compared to people released on recognizance, being released on a nonmonetary release condition was associated with an increase in FTA risk of +6 to +8 percentage points.

Regional Differences: FTA Was Lower in the Suburbs Than NYC and Upstate

Controlling for other characteristics, the likelihood of an FTA was substantially lower in NYC Suburbs (-5 percentage points; see **Table 3.1**, 4th column) compared to New York City. Upstate, the likelihood of an FTA was nearly identical to New York City.

TABLE 4.1
MULTIVARIATE LOGISTIC REGRESSION MODELS OF FAILURE TO APPEAR BY REGION

	NYC (N=86,596)			NYC SUBURB (N=23,589)			UPSTATE (N=27,360)			STATEWIDE (N=137,545)		
FACTOR	**PP**	**ME**	***p***	**PP**	**ME**	***p***	**PP**	**ME**	***p***	**PP**	**ME**	***p***
Overall	16%			17%			21%			17%		
Charge severity												
Misdemeanor (reference)	18%			19%			23%			19%		
Nonviolent felony	13%	-4%	***	14%	-5%	***	19%	-4%	***	15%	-4%	***
Violent felony	9%	-9%	***	8%	-12%	***	11%	-11%	***	9%	-10%	***
Charge type												
Other (reference)	14%			17%			21%			16%		
Burglary	25%	12%	***	24%	7%	**	31%	9%	***	27%	11%	***
Criminal contempt	12%	-2%	***	11%	-6%	***	14%	-8%	***	12%	-4%	***
Criminal mischief	19%	5%	***	19%	2%		24%	2%	**	20%	4%	***
DWI	4%	-10%	***	7%	-10%	***	7%	-15%	***	5%	-11%	***
Felony assault	18%	4%	***	19%	2%		20%	-2%		19%	3%	***
Felony drug	11%	-3%	***	12%	-5%	***	17%	-4%	***	12%	-4%	***
Felony weapon	5%	-9%	***	13%	-4%		16%	-5%	**	9%	-7%	***
Grand larceny	18%	4%	***	22%	5%	***	23%	2%		20%	4%	***
Misdemeanor assault	13%	-1%		13%	-4%	***	18%	-4%	***	14%	-2%	***
Misdemeanor drug	22%	8%	***	29%	12%	***	28%	7%	***	25%	9%	***
Petit larceny	27%	13%	***	27%	10%	***	33%	11%	***	28%	12%	***
Robbery	21%	7%	***	26%	9%	**	22%	0%		23%	7%	***
Domestic violence												
No (reference)	18%			18%			22%			19%		
Yes	11%	-7%	***	13%	-5%	***	16%	-6%	***	12%	-7%	***
Has pending												
No (reference)	12%			13%			17%			13%		
Yes	21%	8%	***	25%	12%	***	27%	10%	***	23%	10%	***
Prior misdemeanor												
0 (reference)	14%			14%			18%			15%		
1	14%	1%	*	17%	2%	***	20%	2%	**	16%	2%	***
2 to 4	16%	3%	***	21%	7%	***	22%	4%	***	18%	4%	***
5+	22%	8%	***	24%	11%	***	26%	8%	***	23%	9%	***
Prior nonviolent felony												
0 (reference)	16%			17%			21%			17%		
1	15%	-1%	**	16%	-1%		21%	0%		16%	-1%	**
2+	15%	-1%	**	17%	0%		22%	1%		17%	-1%	
Prior violent felony												
0 (reference)	16%			17%			21%			17%		
1	15%	0%		17%	0%		23%	2%	**	17%	0%	
2+	16%	0%		15%	-2%	*	23%	2%		17%	0%	
On probation or parole												
No (reference)	16%			17%			21%			17%		
Yes	15%	0%		13%	-4%	***	17%	-4%	***	15%	-2%	***
Race/ethnicity												
White (reference)	16%			15%			22%			17%		
Black	15%	-1%		18%	3%	***	20%	-3%	***	17%	0%	
Hispanic	16%	0%		18%	3%	***	20%	-2%	*	17%	0%	
Additional groups	14%	-2%	***	17%	1%	*	19%	-3%	***	16%	-1%	***
Gender												
Female (reference)	16%			18%			21%			18%		
Male	15%	-1%	***	17%	-1%	*	21%	-1%		17%	-1%	***
Age group												
Age <25 (reference)	15%			20%			23%			17%		
Age 25-54	16%	1%	**	17%	-3%	***	21%	-2%	**	17%	0%	
Age 55+	14%	-1%	**	15%	-5%	***	16%	-7%	***	15%	-3%	***
Desk appearance ticket												
No (reference)	16%			18%			21%			17%		
Yes	14%	-1%	***	16%	-3%	***	21%	0%		16%	-1%	***
Release decision												
ROR (reference)	14%			15%			20%			15%		
Nonmonetary release	20%	6%	***	22%	7%	***	28%	8%	***	22%	7%	***
Region												
NYC (reference)										18%		
NYC suburb										13%	-5%	***
Upstate										18%	1%	
McFadden's Pseudo-R2	0.29			0.19			0.19			0.24		

*p <.05, **p <.01, ***p <.001

Note: Models control for number of times a person was required to appear in court while on release (i.e., opportunities to fail to appear).

HIERARCHICAL REGRESSION MODELS

Hierarchical regression models were also estimated to assess how much variance was explained by different sets of factors. Variables were added to the model in the following order: 1) charge characteristics, 2) criminal history, 3) demographics, 4) other case characteristics, and 5) number of scheduled pretrial appearances.

In general, these results showed that the first two sets of factors – charge type and severity and criminal history – explained considerably more variation than demographics and other characteristics (i.e., whether the case involved an appearance ticket or whether the judge released people on recognizance or with nonmonetary conditions). Across the entire State, the third and fourth sets of factors each explained only an additional 1% of the total variation in FTA. The results also indicated that the control variable of number of pretrial court appearances explained a significant portion of the variation in FTA risk – a logical result of people having more opportunities to FTA. (See **Appendix C** for full results.)

ESTIMATING FTA FOR DETAINED CASES

To some extent, judges are more likely to set bail or remand people with higher risk of FTA. By calculating FTA rates solely for people released before trial, the rates reported here may be lower than what they *would have been* for those with bail set or remanded. To offer a crude estimate of this counterfactual, we used statistical methods to *impute* FTA rates to people who faced bail or remand.

Statewide, the observed FTA rate was 17% for people released at arraignment versus a projected FTA rate of 21% for those with bail set or remanded. However, the differences between the released and bail/remand groups narrowed by charge severity: 11 percentage points for misdemeanors, 6 percentage points for nonviolent felonies, and 3 percentage points for violent felonies. (See **Appendix D** for more on the methods used in this analysis and a breakdown of the findings for the entire State and by region and charge severity.)

Section 5. Conclusion and Limitations

This study examined failures to appear across New York State among people released at arraignment in 2022.

To provide context for the analysis, judges' 2022 pretrial release decisions were broken out by current charge severity and type. Consistent with the bail reform law, statewide people were far more likely to be released at arraignment for misdemeanor charges (96%) than nonviolent felony charges (72%) and violent felony charges (43%). Across regions, there were substantial differences in release outcomes for violent felony charges, with rates of release more than twice as high in New York City (51%) as Upstate (24%), with the NYC Suburban region in the middle (39%).

FAILURE TO APPEAR RATES AND PREDICTORS

Failure to appear rates were examined across a broad range of characteristics, including region, charge severity, charge type, criminal history, and demographics. Multivariate models were constructed to estimate the impact of each characteristic on FTA risk, holding other factors constant. Importantly, the models accounted for the number of scheduled court appearances a person had while on pretrial release, avoiding bias related to the number of opportunities a person had to fail to appear.

Several aspects of the current charge—a factor judges must consider in making release decisions according to New York State law[52] —were strongly associated with FTA risk. Compared to misdemeanor charges, FTA risk was substantially *lower* for people charged with violent felonies (-10 percentage points statewide, ranging from -9 to -12 percentage points across the three major regions). While inconsistent with current judicial practice in New York, this finding is broadly consistent with past research showing that, in general, people charged with violent charges tend to have lower FTA risk,[53] and that people charged with A or B felonies in New York City had lower FTA risk.[54]

The specific charge types associated with the largest impact on FTA risk were **petit larceny** (+12 percentage points), **burglary** (+11 points), **misdemeanor drug** (+9 points), and **DWI** (-11 points). Illustrating the differences in risk across the spectrum, statewide predicted FTA rates ranged from 5% for DWI to 28% for petit larceny *after* controlling for other factors. Because this finding may cut against practitioner expectations, it is also notable that **felony weapons** charges had a comparatively low predicted FTA rate of 9%. (The size of all effects varied by a few percentage points across each of the State's regions.)

Certain criminal history factors also had a significant effect on FTA risk. Having a separate **pending case** was associated with an increase of +10 percentage points. Past **misdemeanor convictions** were associated with greater risk, with 1 prior conviction having a small effect (+2 percentage points), 2-4 priors a moderate effect (+4 points), and 5 or more priors a large effect (+9 percentage points). By contrast, neither prior nonviolent or prior violent felony convictions, nor current probation or parole status, had a substantial impact on FTA risk after controlling for other factors.

Also worth noting was the absence of a meaningful effect for a range of demographic characteristics. After adjusting for other factors, no category of race/ethnicity, gender, or age was found to have a consistently strong impact on FTA risk. After controlling for other factors, Black, Hispanic, and white people had identical predicted FTA rates of 17%. When isolating violent felonies, which are nearly all bail-eligible, statewide FTA rates also did not vary by race/ethnicity (e.g., rates of 13% for Black and 14% for Hispanic and white people).

WHAT DOES THIS MEAN?

While study findings could inform the development of empirically-based tools for assessing people's likelihood of FTA throughout New York State, the study was not designed in and of itself to produce a validated tool. Nonetheless, the findings point to several relationships between background characteristics and FTA risk that were both statistically significant and large in magnitude, as well as several notable absences of a relationship.

Among others, potential lessons might include:

First, the data suggests New York's judges could release more people under the law. *This conclusion becomes especially clear when focusing on violent felony charges, nearly all of which remain eligible for all pretrial options.* In 2022, the State's judges released 43% of people charged with violent felonies (ranging from 51% in NYC down to just 24% Upstate). The other 57% of cases faced bail or remand. Yet, the current study found that people charged with violent felonies had an FTA rate of just 13% when they were released. This report also used statistical techniques to generate a crude estimate of what the FTA rate *would have been* for violent felonies that were *not* released at arraignment. Given their mix of charge and criminal history characteristics, we found that people charged with a violent felony who faced bail or remand in 2022 had a projected FTA rate of 16%, only 3 percentage points higher than the actual FTA rate of 13% for released cases. *This suggests that people facing violent felony offenses who have bail set or are remanded are not at markedly higher risk of FTA.*

Second, judges appear to be mistakenly equating the severity of the charge with risk of FTA. Prior to bail reform when judges had full discretion in all cases, research cited above indicates that in 2019, judges were considerably more likely to set bail or remand in violent felony cases, with misdemeanors receiving bail the least often.[55] *Yet, consistent with previous research findings,*[56] *the current study found that after controlling for other characteristics, the likelihood of FTA was significantly lower for violent felonies than misdemeanors by a magnitude of 10 percentage points* (predicted FTA rates of 19% for misdemeanors and 9% for violent felonies). As New York law permits bail solely based on whether it is "necessary" to ensure a person's return to court, a violent felony charge alone should not weigh in favor of setting bail or remand.

Third, the predictive power of the current charge may be underappreciated. Despite large FTA differences among specific charges (petit larceny, burglary, DWI, etc.), New York City's current Release Assessment tool does not incorporate different charge types in the assessment's algorithm.[57] On the other hand, this assessment recommends fewer people charged with violent felonies than misdemeanors for pretrial release, cutting *against* the empirical data. Accordingly, this study's findings offer new pathways for incorporating current charge information into present and future release assessment tools across New York, potentially improving their predictive accuracy. (Notwithstanding its limitations, New York City's tool has been empirically validated in its present form.[58])

Fourth, prior criminal history matters, but some metrics matter more. It may aid judges' decision-making to know that an open case and multiple prior misdemeanor convictions significantly increase FTA risk, while other criminal history measures such as prior nonviolent or violent felony convictions or probation or parole status made little difference. After controlling for other characteristics in violent felony cases, which are nearly all eligible for bail, we found that judges statewide were 10 percentage points more likely to set bail or remand when the individual had a pending case, and 6 percentage points more likely to set bail or remand when there were two or more prior misdemeanor convictions as opposed to none, consistent with the empirical data on FTA risk.

Fifth, judges may be overweighting prior felony convictions and probation or parole status. In violent felony cases, which are nearly all eligible for bail, we found that after adjusting for other factors judges were more likely to set bail or remand people with more than one nonviolent felony conviction (+10 percentage points), more than one violent felony conviction (+14 percentage points), or were on probation or parole (+12 percentage points). Given their lack of a clear link with FTA risk, judges appear to be overweighting these factors in their pretrial release decisions.

Sixth, judges are setting bail disproportionately based on race without evidence. Despite having similar levels of estimated FTA risk, judges' pretrial decisions in 2022 varied substantially by race/ethnicity in every region. Focusing again on violent felonies where judges have discretion in all cases, when compared to white people, the State's judges set bail or remand 10 percentage points more often for Black people and 9 percentage points more often for Hispanic people, *after* controlling for a range of other characteristics.

Seventh, more research is needed regarding the effects of nonmonetary conditions, including supervised release and electronic monitoring. After introducing statistical controls for any baseline differences, the predicted FTA rate for people receiving release on recognizance was 15% compared to 22% for people ordered to nonmonetary conditions. The use of a richer dataset that could allow for a wider array of statistical controls (such as differences in community ties factors, including people's employment and educational status and living situation) might eliminate this gap. Nonetheless, it is important for future research to test this in order to provide definitive conclusions regarding the impact of different nonmonetary conditions on FTA.

LIMITATIONS

Several **limitations** of this report are important to highlight:

- **Measuring FTA:** Consistent with past research, FTAs were measured as any non-stayed warrant issued between arraignment and disposition. However, distinguishing warrants issued for a missed appearance from warrants issued for other reasons was not possible with the available data.

- **Omitted Variables:** As indicated just above, the data lacked several measures previously shown to be associated with FTA risk (e.g., past FTAs and community ties). While the factors identified here remained significant even after statistically controlling for various characteristics, it is possible that the inclusion of these other factors could have weakened or fully washed away their effect.

- **Recency of Criminal Convictions:** Prior research suggests that the recency of past convictions affects their predictive strength. While the number of prior convictions was tested, accounting for the timing of past convictions was not feasible with the available data.

- **Selection Bias:** With bail-eligible charges, judges are likely to be selectively releasing people at arraignment based on unobservable factors associated with lower FTA risk. As a result, factors linked to the likelihood of bail or remand (e.g., charge severity) may be downwardly biased. (This concern

was at least partially addressed by the analysis described below in Appendix B, where regression techniques were applied to estimate differences in what would have been the FTA risk of people who received bail or remand had they instead been released.)

- **Variation in Judicial Practices:** Judges ultimately decide whether a missed appearance results in a stayed vs. non-stayed warrant (FTA). For some of the observed differences in FTA rates (e.g., across regions), differences in warrant-issuing practices may have played a role.

- **Accounting for Scheduled Court Appearances While on Release:** The regression models used here adjust for the number of scheduled court appearances while on pretrial release. This allowed us to directly account for opportunities to FTA. However, due to limitations in the data, this measure included appearances that occurred after an FTA, potentially overstating its impact. (Estimated marginal effects without adjusting for the number scheduled appearances are presented in **Appendix C**, Model 4. Notably, while the general direction and size of the effects were similar without this control, the marginal effect of severity in particular was substantially smaller—indicating that the greater number of court appearances needed to reach a disposition in felony cases plays a role in FTA risk.)

- **Further Amendments to the Bail Law:** This report aimed to assess FTAs in the post-bail-reform landscape. While the initial 2020 bail law and the first major rollback were enacted before the study period (January to December, 2022), two further (though modest) rounds of amendments in April 2022 and May 2023 were not fully accounted for by the analysis. [59]

- **Explanatory Rather Than Predictive Models:** Multivariate models were used in this study to identify factors associated with higher or lower FTA risk, rather than to forecast FTAs. A different modeling strategy would be necessary to evaluate the *predictive* utility of the factors identified here.

- **FTA Tracking Cutoff:** The data used for this analysis tracked FTAs up to disposition or for a minimum of roughly 9 months. When cases weren't resolved within this timeframe, follow-up times may have varied depending on a person's arraignment date. (To address this, regression models controlled for the number of scheduled pretrial court appearances.) FTA rates for 2022 could end up being slightly higher than those reported here, as a small percentage of cases remained open at the conclusion of the study period (7%).

FUTURE RESEARCH

This report raises several important questions for future research:

- Do the effects observed here remain after adjusting for factors omitted from the models (e.g., prior FTA and community ties factors, such as educational and employment status, homelessness, or other aspects of people's living situation)?
- Were the FTA trends shown here influenced by the continued return to pre-pandemic practices in 2022 and 2023 or the subsequent rollbacks to bail reform implemented in May 2022 and June 2023?
- Does the effectiveness of different interventions aimed at reducing failures to appear vary based on the risk factors identified here?

Appendix A. Charge Type Classification

Category	Penal Law Charges
Burglary	Burglary in the 1st degree (PL 140.30), 2nd degree (140.25), and 3rd (140.20)
Criminal Contempt	Criminal Contempt in the 1st (PL 215.51), 2nd (PL 215.50), and Aggravated Criminal Contempt (PL 215.52)
Criminal Mischief	Criminal Mischief and Related Offenses (PL 145)
DWI	Driving While Under the Influence of Alcohol or Drugs (VTL 1192)
Felony Assault	Felony Assault and Related Offenses (PL 120)
Felony Drug	Felony Controlled Substance Offenses (PL 220)
Felony Weapon	Felony Firearms and Other Dangerous Weapons Offenses (PL 265)
Grand Larceny	Felony Larceny (PL 155)
Misdemeanor Assault	Misdemeanor Assault and Related Offenses (PL 120)
Misdemeanor Drug	Misdemeanor Controlled Substance Offenses (PL 220)
Petit Larceny	Petit Larceny (property < $1,000) (PL 155.25)
Robbery	Robbery in the 1st (160.15), 2nd (160.10), 3rd (160.05)

Note: Includes all charges within each section. Charges are limited to felonies or misdemeanors where indicated.

Appendix B. Predictors of Bail or Remand

To identify factors associated with a decision to order bail or remand at arraignment, we fit logistic regression models similar to the ones described above. The first model includes all severities statewide (**Table B1**). The next series of models are restricted to violent felony offenses (**Tables B2-B4**), for which judges retain discretion to order bail or remand in virtually all cases.

The results indicate that judges are significantly more likely to set bail or remand as the charge severity increases, though to an extent this simply reflects judges' inability to set bail in many misdemeanor and nonviolent felony cases under the State's bail reform law.

Judges are also significantly more likely to set bail or remand when there is a pending case and when people have multiple prior misdemeanor convictions, which is consistent with the predictive role of these characteristics in increasing FTA risk. However, especially apparent in violent felony cases, judges give considerable weight to prior nonviolent and felony convictions, and to current probation and parole status, though this report's evidence points to these factors having little or no relationship to FTA risk.

Finally, in violent felony cases specifically, judges set bail or remand 10 and 9 percentage points more for Black and Hispanic people, respectively, than for white people, and set bail 21 percentage points more for men than women, though this report found that these factors have no relationship to FTA risk.

Table B1: Predictors of Bail or Remand Statewide (All Severities) (N=173,387)

	ME	*p*
Offense severity		
Nonviolent Felony	13%	***
Violent Felony	47%	***
Offense type		
Burglary	-4%	***
Criminal contempt	8%	***
Criminal mischief	-5%	***
DWI	-12%	***
Felony assault	-6%	***
Felony drug	-2%	***
Felony weapon	4%	***
Grand larceny	-5%	***
Misdemeanor assault	-2%	***
Misdemeanor drug	-4%	***
Petit larceny	-1%	
Robbery	-3%	***
Domestic violence	-1%	***
Pending case	9%	***
Misdemeanor convictions		
1	2%	***
2 to 4	3%	***
5+	4%	***
Nonviolent felony convictions		
1	2%	***
2+	6%	***
Violent felony convictions		
1	3%	***
2+	4%	***
On probation or parole	6%	***
Race/ethnicity		
Black	1%	***
Hispanic	2%	***
Additional groups	1%	***
Male	6%	***
Age group		
25-44	-1%	**
55+	-4%	***
Desk appearance ticket	-9%	***
Region		
NYC suburb	5%	***
Upstate	14%	***
R2	0.40	

*p <.05, **p <.01, ***p <.001

Table B2: Predictors of Bail or Remand Statewide (Violent Felony Offenses)

	NYC		NYC Suburb		Upstate		Statewide	
N	17,009		3,041		6,923		26,973	
	AME	***p***	**AME**	***p***	**AME**	***p***	**AME**	***p***
Pending case	20%	***	19%	***	10%	***	17%	***
Misdemeanor convictions								
1	6%	***	6%	*	3%	*	5%	***
2 to 4	5%	***	11%	***	4%	**	6%	***
5+	7%	***	17%	***	5%	*	7%	***
Nonviolent felony convictions								
1	10%	***	8%	**	6%	***	9%	***
2+	9%	***	5%		18%	***	10%	***
Violent felony convictions								
1	10%	***	7%	*	13%	***	10%	***
2+	13%	***	16%	**	17%	***	14%	***
On probation or parole	15%	***	5%		9%	***	12%	***
Domestic violence	-15%	***	-16%	***	-6%	***	-13%	***
Race/ethnicity								
Black	8%	***	8%	**	11%	***	10%	***
Hispanic	6%	***	12%	***	10%	***	9%	***
Additional groups	5%	**	12%	***	1%		6%	***
Male	24%	***	24%	***	14%	***	21%	***
Age category								
25-54	-8%	***	-3%		3%	**	-4%	***
55+	-21%	***	-11%	**	-5%		-16%	***
Region								
NYC suburb							17%	***
Upstate							27%	***

*p <.05, **p <.01, ***p <.001

Appendix C. Hierarchical Regression Models

The models presented in **Table 4.1** were also fit stepwise to evaluate the variance explained by various sets of factors. Factors were entered in the following order: charge characteristics (Model 1), criminal history (Model 2), demographics (Model 3), other case characteristics (Model 4), and number of scheduled pretrial appearances. (Model 5). The marginal effects for the number of pretrial appearances are not shown, as this is strictly a control variable.

Notably, there are few meaningful differences between Models 4 and 5, indicating that when introducing a control for the number of court appearances, the relationships of other factors to FTA change marginally, if at all. Two exceptions for the entire State are: (1) In model 4, before controlling for the number of court appearances, the statewide predicted FTA rate was 5 rather than 10 percentage points lower for violent felonies as compared to misdemeanors; and (2) Before controlling for the number of court appearances, the predicted FTA rate showed no difference between NYC and the suburbs, whereas it was 5 percentage points lower in the suburbs after introducing this control.

Findings from the hierarchical models are shown in **Tables C1-C4** below (first for the entire State in Table C1 and then for each region in Tables C2-C4).

Table C1. Hierarchical Regression Models: Statewide

	Model 1		Model 2		Model 3		Model 4		Model 5	
	ME	*p*	ME	*p*	ME	*p*	ME	*p*	ME	*p*
Offense severity										
Nonviolent Felony	1%	**	1%	*	1%		-1%	***	-4%	***
Violent Felony	-6%	***	-4%	***	-4%	***	-6%	***	-10%	***
Offense type										
Burglary	21%	***	13%	***	13%	***	11%	***	11%	***
Criminal contempt	3%	***	-2%	***	-2%	***	-4%	***	-4%	***
Criminal mischief	4%	***	4%	***	4%	***	4%	***	4%	***
DWI	-10%	***	-8%	***	-8%	***	-8%	***	-11%	***
Felony assault	4%	***	4%	***	4%	***	4%	***	3%	***
Felony drug	-1%	*	-2%	***	-2%	***	-3%	***	-4%	***
Felony weapon	-5%	***	-5%	***	-5%	***	-6%	***	-7%	***
Grand larceny	6%	***	5%	***	5%	***	5%	***	4%	***
Misd assault	-4%	***	-3%	***	-2%	***	-2%	***	-2%	***
Misd drug	17%	***	11%	***	11%	***	11%	***	9%	***
Petit larceny	21%	***	13%	***	13%	***	13%	***	12%	***
Robbery	12%	***	9%	***	9%	***	7%	***	7%	***
Domestic violence	-9%	***	-7%	***	-7%	***	-8%	***	-7%	***
Pending case			14%	***	14%	***	12%	***	10%	***
Misdemeanor convictions										
1			3%	***	3%	***	2%	***	2%	***
2 to 4			6%	***	6%	***	5%	***	4%	***
5+			11%	***	12%	***	9%	***	9%	***
Nonviolent felony convictions										
1			-1%		-1%		-1%	*	-1%	**
2+			-1%	*	0%		-1%		-1%	
Violent felony convictions										
1			0%		0%		0%		0%	
2+			0%		1%		0%		0%	
On probation or parole			-2%	***	-3%	***	-3%	***	-2%	***
Race/ethnicity										
Black					-1%	***	-1%	*	0%	
Hispanic					-1%	**	0%		0%	
Additional groups					-2%	***	-2%	***	-1%	***
Male					-1%	***	-1%	***	-1%	***
Age group										
25-44					0%		0%		0%	
55+					-4%	***	-3%	***	-3%	***
Desk appearance ticket							-2%	***	-1%	***
Nonmonetary release							9%	***	7%	***
Region										
NYC suburb							2%	***	-5%	***
Upstate							4%	***	1%	
R2	0.08		0.14		0.14		0.15		0.24	

*p <.05, **p <.01, ***p <.001

Table C2. Hierarchical Regression Models: New York City

	Model 1		Model 2		Model 3		Model 4		Model 5	
	ME	*p*	ME	*p*	ME	*p*	ME	*p*	ME	*p*
Offense severity										
Nonviolent Felony	4%	***	3%	***	3%	***	1%		-4%	***
Violent Felony	-3%	***	-1%		-1%		-4%	***	-9%	***
Offense type										
Burglary	21%	***	13%	***	13%	***	11%	***	12%	***
Criminal contempt	7%	***	0%		0%		-1%		-2%	***
Criminal mischief	6%	***	5%	***	5%	***	5%	***	5%	***
DWI	-7%	***	-5%	***	-5%	***	-5%	***	-10%	***
Felony assault	5%	***	5%	***	5%	***	4%	***	4%	***
Felony drug	-1%	*	-2%	***	-2%	***	-2%	**	-3%	***
Felony weapon	-7%	***	-6%	***	-6%	***	-7%	***	-9%	***
Grand larceny	7%	***	5%	***	5%	***	5%	***	4%	***
Misd assault	-2%	***	0%		0%		-1%		-1%	
Misd drug	18%	***	11%	***	11%	***	11%	***	8%	***
Petit larceny	25%	***	16%	***	16%	***	15%	***	13%	***
Robbery	11%	***	8%	***	8%	***	6%	***	7%	***
Domestic violence	-10%	***	-8%	***	-8%	***	-8%	***	-7%	***
Pending case			14%	***	14%	***	11%	***	8%	***
Misdemeanor convictions										
1			2%	***	2%	***	1%	**	1%	*
2 to 4			5%	***	4%	***	3%	***	3%	***
5+			11%	***	11%	***	9%	***	8%	***
Nonviolent felony convictions										
1			-1%	*	-1%	*	-1%	**	-1%	**
2+			-1%	***	-1%	**	-1%	**	-1%	**
Violent felony convictions										
1			-1%		0%		-1%		0%	
2+			0%		0%		0%		0%	
On probation or parole			-1%	*	-1%	*	-1%	*	0%	
Race/ethnicity										
Black					-2%	***	-1%	**	-1%	
Hispanic					-1%	*	0%		0%	
Additional groups					-3%	***	-3%	***	-2%	***
Male					-1%	**	-1%	***	-1%	***
Age group										
25-44					1%	***	1%	***	1%	**
55+					-2%	**	-1%	**	-1%	**
Desk appearance ticket							-3%	***	-1%	***
Nonmonetary release							8%	***	6%	***
R2	0.10		0.16		0.16		0.17		0.29	

*p <.05, **p <.01, ***p <.001

Table C3. Hierarchical Regression Models: New York City Suburbs

	Model 1		Model 2		Model 3		Model 4		Model 5	
	ME	*p*	ME	*p*	ME	*p*	ME	*p*	ME	*p*
Offense severity										
Nonviolent Felony	-2%	*	-2%	**	-3%	**	-4%	***	-5%	***
Violent Felony	-10%	***	-8%	***	-8%	***	-10%	***	-12%	***
Offense type										
Burglary	18%	***	8%	**	9%	**	6%	*	7%	**
Criminal contempt	1%		-5%	***	-4%	***	-5%	***	-6%	***
Criminal mischief	1%		1%		2%		2%		2%	
DWI	-10%	***	-9%	***	-8%	***	-9%	***	-10%	***
Felony assault	4%		3%		3%		2%		2%	
Felony drug	1%		-1%		-1%		-3%	**	-5%	***
Felony weapon	-1%		-3%		-2%		-4%		-4%	
Grand larceny	8%	***	6%	***	5%	***	6%	***	5%	***
Misd assault	-4%	***	-3%	***	-3%	***	-4%	***	-4%	***
Misd drug	18%	***	11%	***	12%	***	12%	***	12%	***
Petit larceny	12%	***	7%	***	7%	***	9%	***	10%	***
Robbery	15%	***	11%	**	10%	**	8%	**	9%	**
Domestic violence	-6%	***	-4%	***	-4%	***	-6%	***	-5%	***
Pending case			16%	***	15%	***	13%	***	12%	***
Misdemeanor convictions										
1			4%	***	5%	***	5%	***	3%	***
2 to 4			9%	***	10%	***	9%	***	7%	***
5+			12%	***	13%	***	12%	***	11%	***
Nonviolent felony convictions										
1			-1%		-1%		-1%		-1%	
2+			0%		0%		0%		0%	
Violent felony convictions										
1			0%		0%		0%		0%	
2+			-2%		-2%		-2%	*	-2%	*
On probation or parole			-3%	***	-4%	***	-4%	***	-4%	***
Race/ethnicity										
Black					-2%	***	-1%	**	-1%	
Hispanic					-1%	*	0%		0%	
Additional groups					-3%	***	-3%	***	-2%	***
Male					-1%	**	-1%	***	-1%	***
Age group										
25-44					1%	***	1%	***	1%	**
55+					-2%	**	-1%	**	-1%	**
Desk appearance ticket							-3%	***	-1%	***
Nonmonetary release							8%	***	6%	***
R2	0.10		0.16		0.16		0.17		0.29	

*p <.05, **p <.01, ***p <.001

Table C4. Hierarchical Regression Models: Upstate

	Model 1		Model 2		Model 3		Model 4		Model 5	
	ME	*p*	ME	*p*	ME	*p*	ME	*p*	ME	*p*
Offense severity										
Nonviolent Felony	-1%		-1%	*	-2%	*	-3%	**	-4%	***
Violent Felony	-10%	***	-7%	***	-7%	***	-10%	***	-11%	***
Offense type										
Burglary	13%	***	9%	***	8%	***	7%	***	9%	***
Criminal contempt	-4%	***	-7%	***	-7%	***	-8%	***	-8%	***
Criminal mischief	2%	*	2%	*	2%	*	3%	**	2%	**
DWI	-17%	***	-15%	***	-15%	***	-15%	***	-15%	***
Felony assault	-2%		-1%		-1%		-2%		-2%	
Felony drug	-3%	*	-3%	*	-3%	*	-3%	*	-4%	***
Felony weapon	-5%	*	-5%	*	-5%	*	-5%	**	-5%	**
Grand larceny	2%		2%		2%		3%		2%	
Misd assault	-5%	***	-4%	***	-3%	***	-3%	***	-4%	***
Misd drug	12%	***	9%	***	9%	***	9%	***	7%	***
Petit larceny	14%	***	10%	***	10%	***	10%	***	11%	***
Robbery	3%		1%		1%		0%		0%	
Domestic violence	-7%	***	-5%	***	-5%	***	-6%	***	-6%	***
Pending case			14%	***	13%	***	12%	***	10%	***
Misdemeanor convictions										
1			2%	**	2%	**	2%	**	2%	**
2 to 4			5%	***	5%	***	5%	***	4%	***
5+			8%	***	9%	***	8%	***	8%	***
Nonviolent felony convictions										
1			1%		1%		1%		0%	
2+			0%		1%		1%		1%	
Violent felony convictions										
1			2%	*	2%	**	2%	**	2%	**
2+			2%		4%	*	3%		2%	
On probation or parole			-5%	***	-6%	***	-6%	***	-4%	***
Race/ethnicity										
Black					-2%	***	-1%	**	-1%	
Hispanic					-1%	*	0%		0%	
Additional groups					-3%	***	-3%	***	-2%	***
Male					-1%	**	-1%	***	-1%	***
Age group										
25-44					1%	***	1%	***	1%	**
55+					-2%	**	-1%	**	-1%	**
Desk appearance ticket							-3%	***	-1%	***
Nonmonetary release							8%	***	6%	***
R2	0.10		0.16		0.16		0.17		0.29	

*p <.05, **p <.01, ***p <.001

Appendix D. Estimating FTA for Detained Cases

To some extent, judges are more likely to set bail or remand people with higher risk of FTA. By calculating FTA rates solely for people released before trial, the rates reported here may be lower than what they would have been for those with bail set or remanded (selection bias). To offer a crude estimate of what FTA rates might have looked like for the whole population, including those who weren't released, we imputed FTA rates using a series of logistic regression models. This involved fitting simplified models (i.e., with only charge and criminal history factors) for individuals released at arraignment, and then using the models to predict FTA rates given the observed mix of charges and criminal backgrounds across three groups: released (ROR/NMR), held (bail-set/remand), and overall. Model estimates are shown in **Table D1.**

Statewide, the projected rates were 17% for people released at arraignment versus 21% for those with bail set or remanded, indicating that judges were in fact selectively setting bail or remanding people with higher FTA risk. However, these differences narrowed by severity: 11 percentage points for misdemeanors, 6 percentage points for nonviolent felonies, and 2 percentage points for violent felonies. Notably, even after accounting for the higher predicted rates for those held at arraignment, the overall imputed FTA rates for violent felony offenses (11-16%) were similar to or lower than those for misdemeanor offenses (15-23%).

Table D1. Projected FTA Rates by Arraignment Release Outcome and Severity

	NYC			NYC Suburb			Upstate			Statewide		
	ROR/ NMR	Bail/ Remand	All	ROR/ NMR	Bail/ Remand	All	ROR/ NMR	Bail/ Remand	All	ROR/ NMR	Bail/ Remand	All
Overall	16% (16%)	22%	17%	17% (18%)	19%	17%	21% (20%)	21%	21%	17% (17%)	21%	18%
Misdemeanor	15% (15%)	30%	15%	18% (18%)	26%	18%	22% (20%)	27%	23%	16% (16%)	27%	17%
Nonviolent Felony	22% (22%)	30%	24%	16% (16%)	24%	18%	20% (20%)	24%	22%	20% (20%)	26%	22%
Violent Felony	14% (14%)	18%	16%	9% (9%)	12%	11%	12% (12%)	14%	14%	14% (13%)	16%	15%

Note: the observed rates (as opposed to the projected rates) are shown in parentheses for in-sample cases (i.e., people released on ROR or NMR at arraignment). ROC-AUC scores ranged from .67 to .77.

Endnotes

[1] New York City Criminal Justice Agency, Inc. (2021). Annual Report 2019. New York: New York City Criminal Justice Agency, Inc. Note that this measure of FTA includes people released at arraignment or at any time post-arraignment.
[2] New York City Criminal Justice Agency, Inc. (2022). Annual Report 2020. New York: New York City Criminal Justice Agency, Inc. Note that this measure of FTA includes people released at arraignment on recognizance, on nonmonetary release conditions, or after posting bail within 5 days.
[3] New York City Criminal Justice Agency, Inc., 2021, op. cit.
[4] Division of Criminal Justice Services (2023). Supplemental Pretrial Release Summary Tables 2019-2022.
[5] Advancing Pretrial Policy & Research (2020). Public Safety Assessment: How it Works.
[6] Lowenkamp, C. T., & Whetzel, J. (2009). The Development of an Actuarial Risk Assessment Instrument for US Pretrial Services. Fed. Probation, 73, 33.
[7] VanNostrand, M., & Rose, K.J. (2009). Pretrial Risk Assessment in Virginia.
[8] Peterson, R. (2020). Research Brief #46: CJA's Updated Release Assessment. New York: New York City Criminal Justice Agency (CJA). See, also, the CJA web page that provides an overview of the Release Assessment.
[9] Advancing Pretrial Policy & Research 2020, op. cit. Lowenkamp 2009, op. cit. Peterson 2020, op. cit. Siddiqi, Q. (2004). Research Brief #5: CJA's New Release-Recommendation System. New York: New York City Criminal Justice Agency. Van Nostrand 2009, op. cit. Skog, A., & Lacoe, J. (2021). Validation of the PSA in San Francisco. California Policy Lab.
[10] Advancing Pretrial Policy & Research 2020, op. cit. Bechtel, K., Lowenkamp, C. T., & Holsinger, A. (2011). Identifying the Predictors of Pretrial Failure: A Meta-Analysis. Fed. Probation, 75, 78. Lowenkamp 2009, op. cit. Peterson 2020, op. cit. Siddiqi 2004, op. cit. Van Nostrand 2009, op. cit.
[11] Advancing Pretrial Policy & Research 2020, op. cit. Bechtel 2011, op. cit. Lowenkamp 2009, op. cit. Peterson 2020, op. cit. Van Nostrand 2009, op. cit.
[12] Bechtel 2011, op. cit. Zettler, H. R., & Morris, R. G. (2015). An Exploratory Assessment of Race and Gender-Specific Predictors of Failure to Appear in Court Among Defendants Released via a Pretrial Services Agency. Criminal Justice Review, 40(4), 417-430.
[13] Lowenkamp 2009, op. cit. Siddiqi 2004, op. cit. Zettler 2015, op. cit.
[14] Bechtel 2011, op. cit. Johnson, B., Kierkus, C., & Yalda, C. (2014). Who Skips? An Analysis of Bail Bond Failure to Appear. Journal of Applied Security Research, 9(1), 1-16. Siddiqi 2004, op. cit.
[15] Bechtel 2011, op. cit. Johnson 2014, op. cit. Siddiqi 2004, op. cit.
[16] Lowenkamp 2009, op. cit.
[17] Lowenkamp 2009, op. cit.
[18] Siddiqi 2004, op. cit.
[19] Siddiqi 2004, op. cit.
[20] Siddiqi 2004, op. cit.
[21] Siddiqi 2004, op. cit.
[22] Bechtel 2011, op. cit.
[23] Advancing Pretrial Policy & Research 2020, op. cit. Bechtel 2011, op. cit. Lowenkamp 2009, op. cit. Siddiqi, Q. (1999). Assessing Risk of Pretrial Failure to Appear in New York City: A Research Summary and Implications for Developing Release-Recommendation Schemes. New York: New York City Criminal Justice Agency.
[24] Siddiqi 1999, op. cit. Zettler 2015, op. cit
[25] Siddiqi 1999, op. cit. Zettler 2015, op. cit.
[26] Lowenkamp, C.T., & VanNostrand, M. (2013). Exploring the Impact of Supervision on Pretrial Outcomes. LJAF.
[27] Bechtel 2011, op. cit.
[28] Bechtel 2011, op. cit.
[29] Bechtel 2011, op. cit.
[30] Peterson 2020, op. cit. Siddiqi 2004, op. cit.
[31] Siddiqi 2004, op. cit.
[32] Siddiqi 2004, op. cit.
[33] Lowenkamp 2009, op. cit. Peterson 2020, op. cit. Siddiqi 2004, op. cit. Van Nostrand 2009, op. cit.
[34] Siddiqi 2004, op. cit.
[35] Lowenkamp 2009, op. cit. Siddiqi 2004, op. cit. Van Nostrand 2009, op. cit.
[36] Lowenkamp 2009, op. cit.
[37] Zettler 2015, op. cit.
[38] Lowenkamp 2009, op. cit.

[39] Lowenkamp 2009, op. cit. Van Nostrand 2009, op. cit.
[40] Ferri, R. (2020). The Benefits of Live Court Date Reminder Phone Calls During Pretrial Case Processing. Journal of Experimental Criminology, 1-21. Fishbane, A., Ouss, A., & Shah, A. K. (2020). Behavioral Nudges Reduce Failure to Appear for Court. Science, 370(6517). Lowenkamp, C. T., Holsinger, A. M., & Dierks, T. (2018). Assessing the Effects of Court Date Notifications Within Pretrial Case Processing. American Journal of Criminal Justice, 43, 167-180. Thomas, J., & Ahmed, A. (2021). Court Date Notifications: A Summary of the Research and Best Practices for Building Effective Reminder Systems. New York: New York City Criminal Justice Agency.
[41] Other exclusions include: 1) Felony Youth Complaint dockets that ended in a transfer to Family Court due to an inability to track FTAs, 2) Superior Court IDV dockets due to an inability to count court appearances, and 3) cases with no required post-arraignment appearances while on release.
[42] This was only possible for dockets matched to a criminal arrest cycle ID in the DCJS data. Arrest cycle IDs were missing in 15% of the sample data.
[43] If there was more than one case for the same person-arrest with the same earliest arraignment date, tie-breaking was based first on the severity of the offense and then on the seriousness of the arraignment release outcome.
[44] Offense severity is based on the top charge at arraignment.
[45] Offense type is based on the top charge at arraignment. 71% of cases had a top charge that fell into one of the offense categories, with the remainder classified as "Other."
[46] Individuals with a gender classified as "Unknown" were excluded as the data did not allow for accurate classification of non-binary genders.
[47] When multiple cases arose from the same arrest, the count of court appearances while on release was determined using one of the following methods: 1) the maximum number of appearances recorded across Criminal Court dockets, 2) the maximum number of appearances recorded across Superior Court dockets, or 3) in cases where dockets existed in both Criminal and Superior Courts, the sum of the maximum number of appearances in Criminal Court and the maximum number of appearances in Superior Court. To account for the arraignment appearance, one appearance was subtracted from the total. Notably, certain appearance types were excluded from this count, such as subsequent appearances on the same day, control appearances scheduled for administrative purposes, and appearances that were rescheduled.
[48] More technically, these are average adjusted predictions (AAPs) and average marginal effects (AMEs), which are generated as follows: 1) set all observations to a single category of a variable while leaving all other variables as is, 2) estimate the average predicted probability for this hypothetical scenario where everyone has that characteristic, 3) repeat the process but this time set all observations to the reference category of that variable, 4) calculate the simple difference between the average predicted probabilities of the category of interest and the reference category. See: https://www3.nd.edu/~rwilliam/stats/Margins01.pdf.
[49] Lu, O., & Rempel, M. (2022). Two Years In: 2020 Bail Reforms in Action in New York State. Data Collaborative for Justice.
[50] As recommended, adjusted GVIF measures were used to evaluate categorical predictor variables. The equivalent of a VIF threshold of 5 was applied. See: https://www.tandfonline.com/doi/abs/10.1080/01621459.1992.10475190#.U2jkTFdMzTo.
[51] Ozili, P. (2023). The Acceptable R-Square in Empirical Modelling for Social Science Research. Munich Personal RePEc Archive.
[52] New York Criminal Procedure Law (CPL) § 510.10.
[53] Cadigan (2011). Implementing Risk Assessment in the Federal Pretrial Services System. Federal Probation, 75, 30. Lowenkamp 2009, op. cit.
[54] Siddiqi, Q. (2001). Prediction of Pretrial Failure to Appear and Alternative Pretrial Release Risk-Classification Schemes in New York City: A Validation Study.
[55] Lu & Rempel 2022, op cit.
[56] Cadigan 2011, op. cit.; Lowenkamp 2009, op. cit.; Siddiqi 2001, op cit.
[57] New York City Criminal Justice Agency, Inc. Release Assessment: See How the Release Assessment is Calculated.
[58] Luminosity & the University of Chicago's Crime Lab New York. (2020). Updating the New York City Criminal Justice Agency Release Assessment: Maintaining High Court Appearance Rates, Reducing Unnecessary Pretrial Detention, and Reducing Disparity.
[59] Rodriguez, K. & Rempel, M. (2023). Explaining New York's 2023 Bail Amendments. Data Collaborative for Justice.