
Failure to Appear Across New York Regions

Executive Summary

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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, 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).

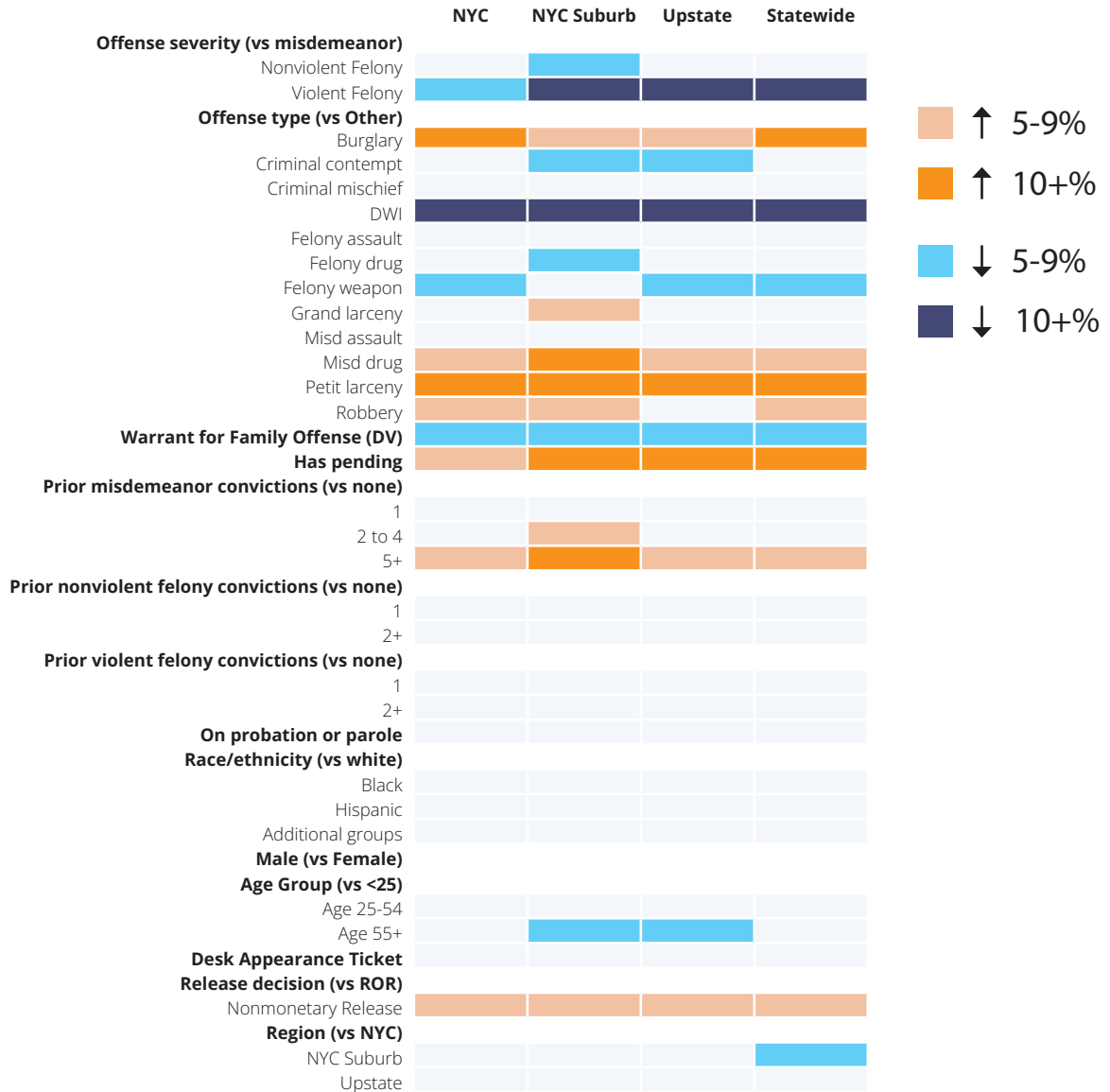
Findings: Failure to Appear Rates and Predictors

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% 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).
- **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 ($\pm 5\%$ 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 parole 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.

[Access the full report over on the DCJ website.](#)