

Pretrial Release Program Evaluation

Criminal Justice Coordinating Council Meeting

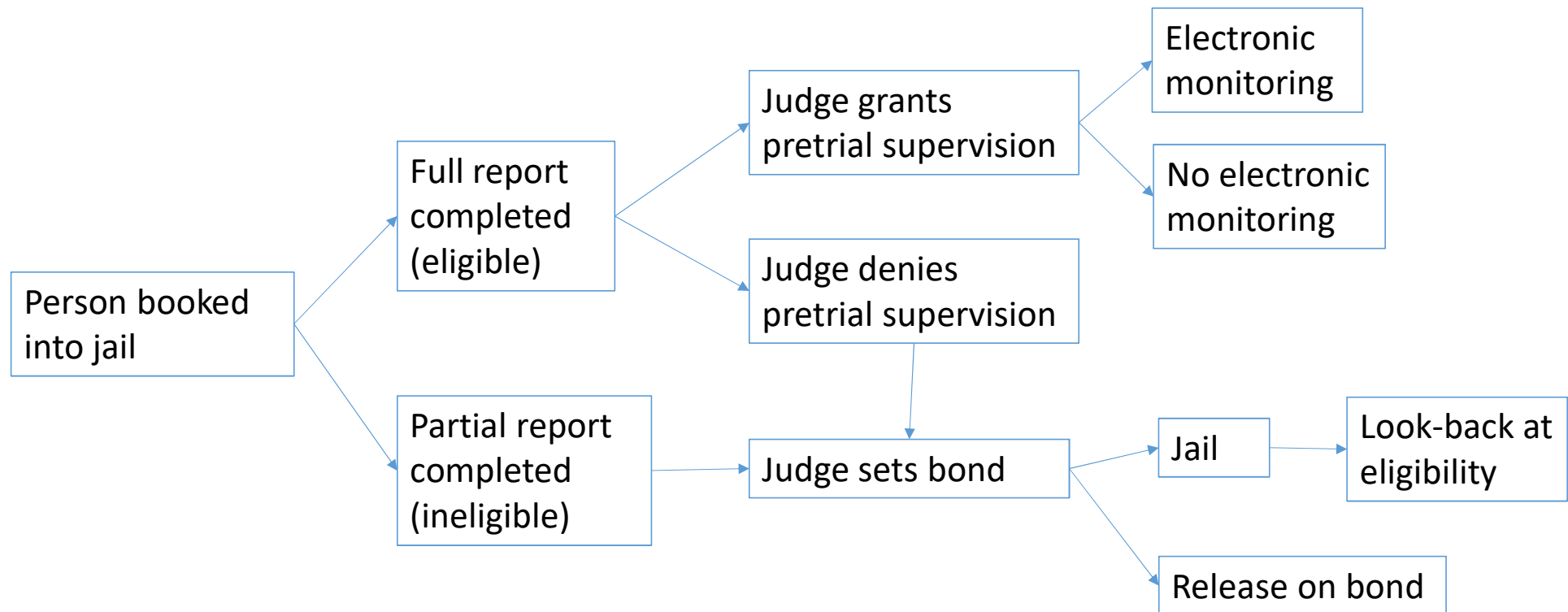
April 12, 2022



Program Background

- An alternative-to-incarceration program established in 2017
- The goal is to reduce incarceration rates due to individuals' inability to pay bond
- Available for people with District Court cases, and not Municipal Court cases
- Total number of pretrial release supervisions since 2017: 1,755
- Current population on 4/1/22: 205

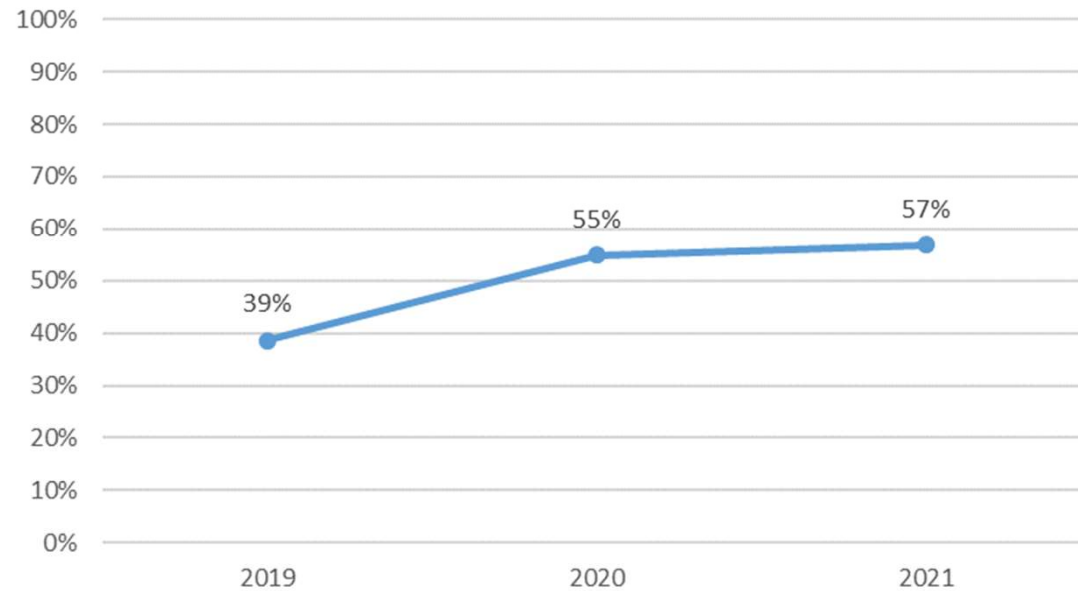
Pretrial Release Program Flowchart



Pretrial Release Reports

- One of two types of report are submitted for individuals in custody prior to first appearance:
 1. Full/complete report: contains a pretrial monitoring recommendation; for people eligible for immediate release
 2. Partial report: does not contain a recommendation; for people with holds and detainers; once the holds and detainers are removed, the person becomes eligible for pretrial release
- The reports are submitted to the judge and district attorney. In misdemeanor cases, the reports are sent to defense counsel.

Percent of in-custody first appearances where
complete PTR report submitted



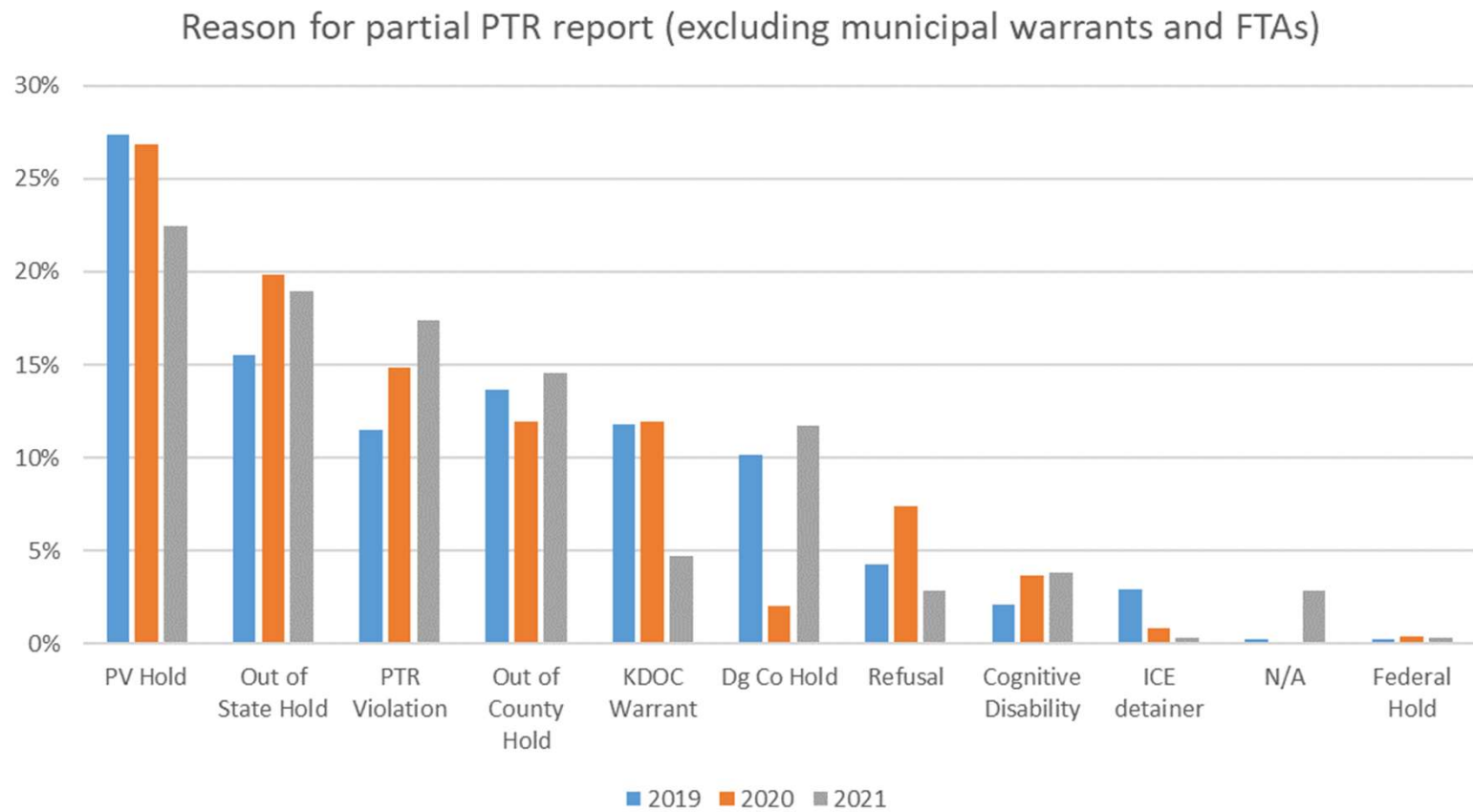
	2019	2020	2021
Complete PTR report submitted	338	344	439
All in-custody first appearances	875	627	772
Percent report submitted	39%	55%	57%

Reason for partial PTR report at first appearance

	<i>Freq.</i>	<i>Pct.</i>
Probation Violation Hold	238	21
Out of State Hold	166	15
PTR Violation	134	12
Out of County Hold	126	11
Municipal Warrant	119	11
KDOC Warrant	88	8
FTA	82	7
Dg Co Hold	80	7
Refusal	43	4
Cognitive Disability	29	3
ICE detainer	14	1
N/A	10	1
Federal Hold	3	0
Total	1,132	100

Note: Includes data on 2019-2021 first appearances.

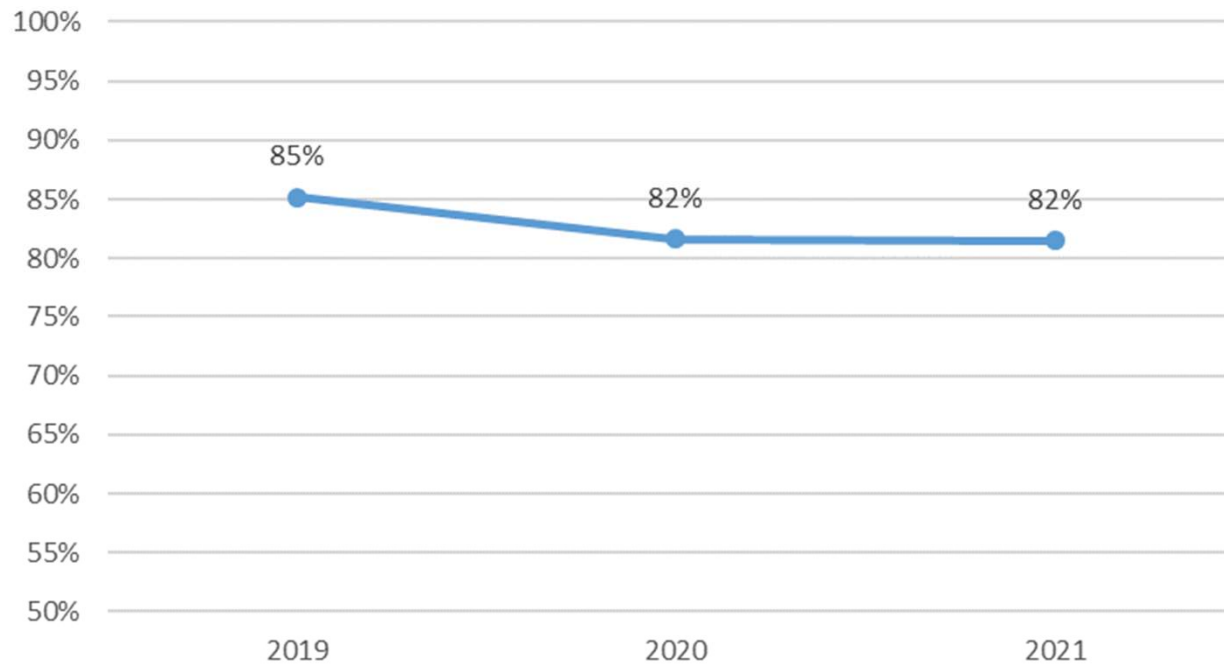
Probation violation holds, out-of-state holds, PTR violations, and out-of-county holds are the most common reasons for submitting a partial PTR report at first appearance.



Out-of-state holds and PTR violations became more common reasons for submitting a partial PTR report in 2020 and 2021. KDOC warrants became a less common reason. The decrease in Douglas County holds in 2020 may have been due to COVID-19 reducing the number of arrests and warrants being served in the county.

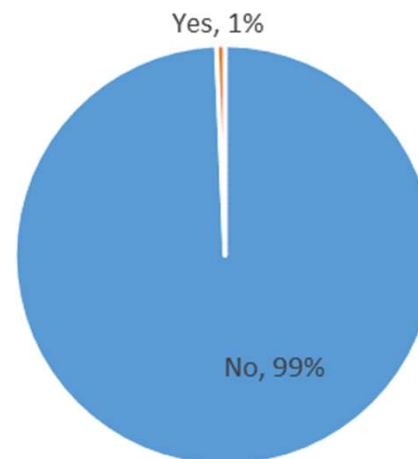
“Municipal warrant” and “FTA” are excluded from this figure. They were frequently listed as reasons in 2019 but not in 2020 or 2021. Beginning in 2020, the judge requested that complete PTR reports be submitted for people with Municipal Court holds and FTAs.

Percent of complete PTR reports where PTR granted



	2019	2020	2021
PTR granted	288	281	358
Complete PTR report submitted	338	344	439
Pct. PTR granted	85%	82%	82%

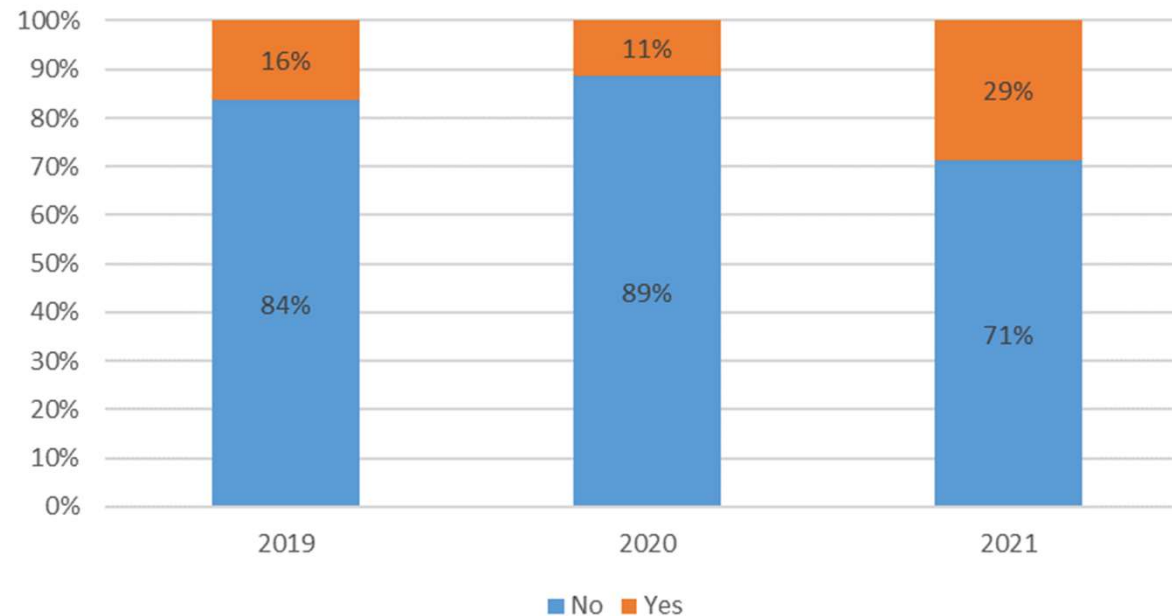
Defense attorney present at in-custody first appearances (2019-2021)



A defense attorney was present at only 15 in-custody first appearances from 2019 to 2021.

Kansas Holistic Defenders began representation at first appearance for individuals with misdemeanor cases on February 1, 2022.

DA opposes or requests modification after PTR report submitted



The DA opposed or requested modification for 11% to 16% of defendants after a complete PTR report was submitted in 2019 and 2020. The percentage increased significantly in 2021 under the new DA.

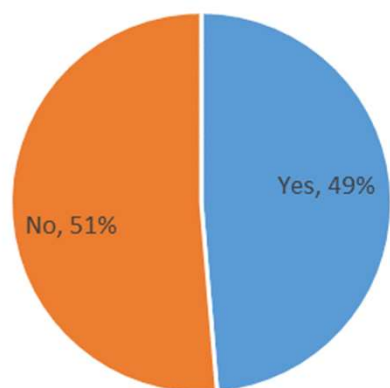
Reason DA opposed PTR or requested modification (2019-2021)

	Freq.	Pct.
DA Opposed PTR or Recommend C/S Bond Only	129	58%
Request PTR with C/S Bond	34	15%
Request Addition GPS	33	15%
Request Soberlink/Sweatpatch/ Drug Test	11	5%
Other Modification	8	4%
DA Rec OR Bond ONLY	4	2%
Client Refused PTR	2	1%
BHC client	1	0%
Request Removal GPS	1	0%
Total	223	100%

In 2021, the DA opposed PTR or recommended C/S bond only, or requested PTR with C/S bond more often. 27 of the 34 instances of the DA requesting PTR with C/S bond were in 2021.

In 2019, the DA sometimes requested Soberlink, sweatpatch, or drug testing, but in 2021 the DA did not request those options at all.

Did the judge approve the DA's request to reject or modify PTR?



Did the judge approve the DA's request to reject or modify PTR?

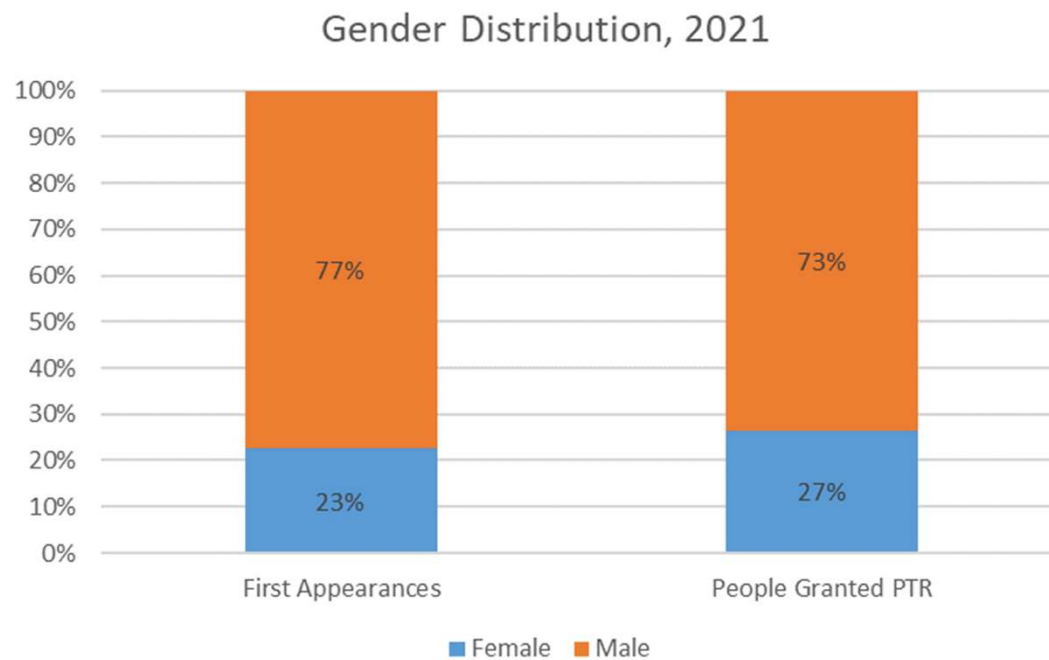
DA reason for opposition	Total DA requests	Number approved	Judge approval rate
DA Opposed PTR or Recommends C/S Bond Only	129	69	53%
Request PTR with C/S Bond	34	9	26%
Request Addition GPS	33	14	42%
Request Soberlink/Sweatpatch/ Drug Test	11	6	55%
Other Modification	8	4	50%
DA Rec OR Bond ONLY	4	3	75%

Note: Data are for 2019-2021.

The judges agrees with the DA about half of the time when the DA opposes PTR or recommends modifications. The judge approval rate declined somewhat to 42% in 2021 (from 57% in 2019-2020).

The judge approval rate declined significantly to 26% when the DA requested PTR with C/S bond.

Sometimes the judge modifies the PTR request in ways other than how the DA requests. Those instances are not counted as judge approvals in this slide.

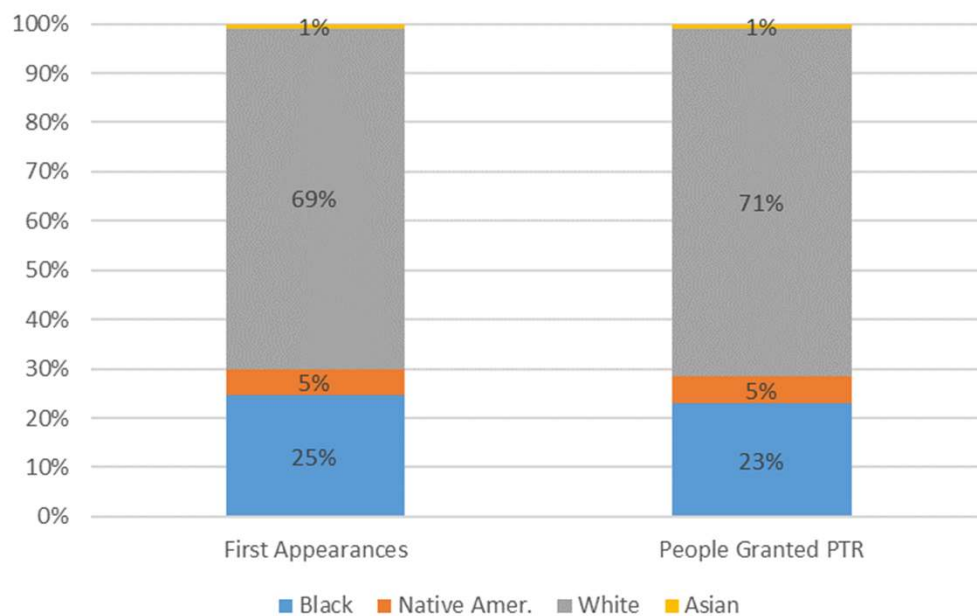


77% of in-custody first appearances in 2021 were male; 23% were female.

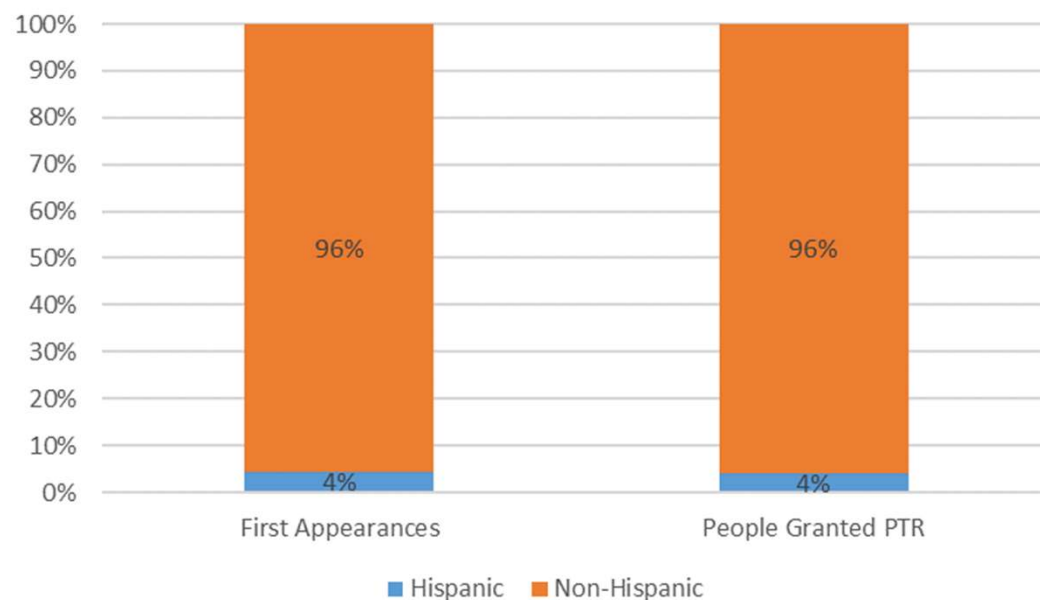
73% of people who were granted PTR in 2021 were male; 27% were female.

Women's chances of being granted PTR at first appearance (56%) are higher than men's (45%).

Race Distribution, 2021



Ethnicity Distribution, 2021



The racial and ethnic distribution is similar for in-custody first appearances and people granted PTR (people on pretrial supervision).

DOUGLAS COUNTY PRETRIAL MONITORING GUIDELINES – MISDEMEANOR AND FELONY OFFENSES

Risk and Offense Categories Showing Recommended Monitoring Conditions	Misdemeanor Offenses	Non-Person Felony Levels 6-10 Drug Felony 4-5 DUI Felony	Misdemeanor Domestic Violence	Felony Levels 3-5 Drug Felony 2-3 Person Felony 6-10 Domestic Violence Felony	Drug Level 1 Drug Levels 2-3 with Weapon Felony Levels 3-5 with Weapon	Off Grid Felony Felony Levels 1-2
Category 1 Low Risk Score			Enhanced Monitoring if one prior conviction of violence, or any prior contact with LEO for domestic violence			
Category 2 Moderate Risk Score						
Category 3 High Risk Score						

ADMINISTRATIVE	ENHANCED	INTENSIVE	MAX (GPS)	Enhanced Max (GPS)
Court Reminder Notifications Monitoring for New Arrest Check in After Court Hearings				
Enhanced - Telephone Check In 1 per Month (30 days)	Electronic Monitoring (optional) - Exclusion Zone - Do Not Return - Weapon - Crime of Violence and Verified History of Two or More Violent Convictions		Electronic Monitoring House Arrest when Weapon is a Firearm House Arrest – Leave as Scheduled and Approved by Pretrial Release Officer	Electronic Monitoring House Arrest
	Case Management Meetings 1-4x's per Month (30 days); as Needed for GPS Cases		Case Management Meetings as Needed	

Intensive Monitoring is automatically required when current charge involves a crime of violence and there is a verified history of two (2) or more violent convictions

NO PRIOR SUBSTANCE RELATED CONVICTION	ONE PRIOR CONVICTION	TWO PRIOR CONVICTIONS	THREE OR MORE PRIOR CONVICTIONS
Administrative	Breathalyzer	Breathalyzer	Breathalyzer and GPS

DUI MONITORING GUIDELINES – APPLIED IN COMBINATION WITH THE RISK ASSESSMENT AND PRAXIS

Monitoring Requirements

- Administrative: monitoring for new arrest and court reminder notifications
- Enhanced: telephone check-in no less than one time per month
- Intensive: case management meetings up to four times per month; electronic monitoring as ordered by the Court
- Maximum: case management meeting as directed by PTR; electronic monitoring; home confinement with leave as approved and authorized by the court or PTR
- Enhanced Maximum: electronic monitoring home confinement with leave as approved and authorized by the court or PTR
- All levels are monitored for new arrest and receive court reminder notifications

Douglas County Risk Assessment Instrument

Assessment Items

Local Address and has lived in the area for at least 12 months (2 for No)	2	<u>0</u>
History of substance abuse or substance use related arrest	2	<u>0</u>
Current Charge is a level 1-7 felony	1	<u>0</u>
Pending charge at the time of arrest	1	<u>0</u>
Currently on probation, parole or other form of community supervision	4	<u>0</u>
Prior misdemeanor conviction	1	<u>0</u>
Prior felony conviction	1	<u>0</u>
Prior conviction involves violence	2	<u>0</u>
Current FTA Warrant	2	<u>0</u>
Prior FTA arrest (within last two (2) years) (one (1) point per FTA up to four (4) points)	1-4	<u>0</u>
Prior conviction for felony escape	3	<u>0</u>

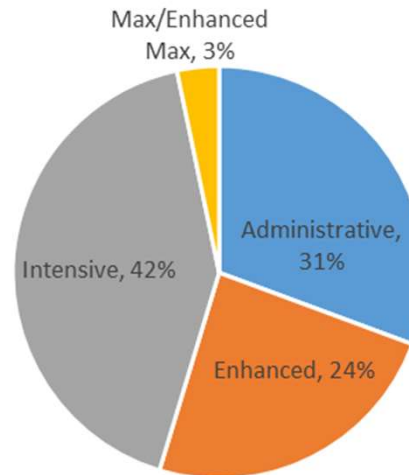
TOTAL SCORE

0-23 0

Risk Level Scale:

- ☐ **0-5 Low Risk**
- ☐ **6-13 Moderate Risk**
- ☐ **14-23 High Risk**

Monitoring category of PTR participants, 2021

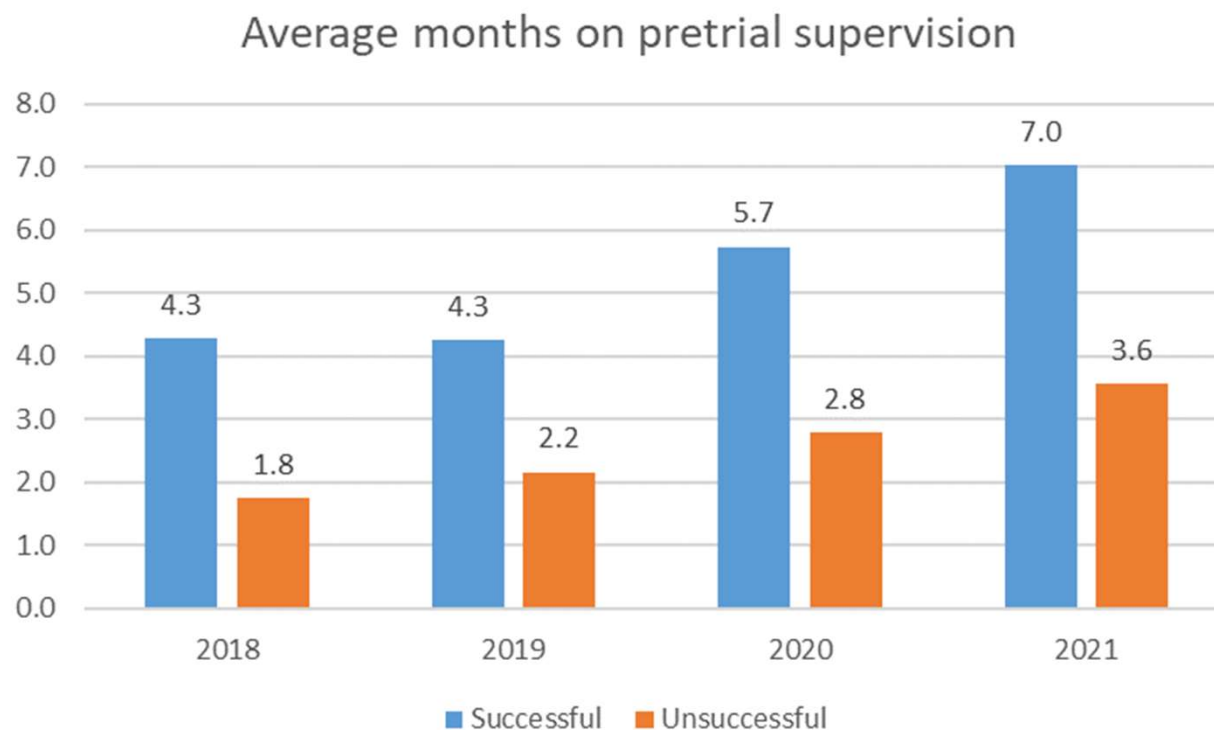


	2019		2020		2021	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
Administrative	92	27%	108	40%	121	31%
Enhanced	108	31%	56	21%	95	24%
Intensive	145	42%	102	38%	166	42%
Max/Enhanced Max	2	1%	2	1%	13	3%
Total	347	100%	268	100%	395	100%

Monitoring categories from least to most serious are administrative, enhanced, intensive, max/enhanced max. Max and enhanced max monitoring require GPS.

Misdemeanor or felony case for PTR participants				
	2020		2021	
	Freq.	Pct.	Freq.	Pct.
Felony	124	46%	203	52%
Misdemeanor	144	54%	185	48%
Total	268	100%	388	100%

48% of PTR participants in 2021 had a misdemeanor case for their most serious offense; 52% had a felony case.



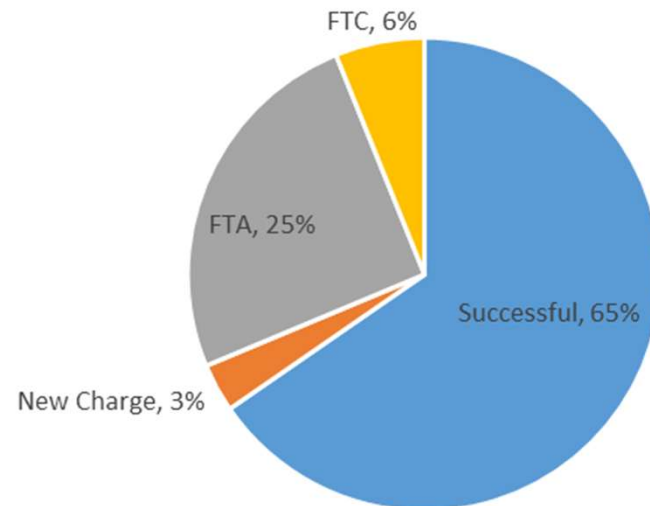
The average time on pretrial supervision rose significantly between 2018 and 2021—by 64% for successful participants and 103% for unsuccessful participants. The reasons for the large increase are not entirely known, but may be related to COVID increasing case processing times. There was also a new DA in 2021, which may have contributed to longer case processing times.

**Electronic monitoring rate for
pretrial participants, 2021**

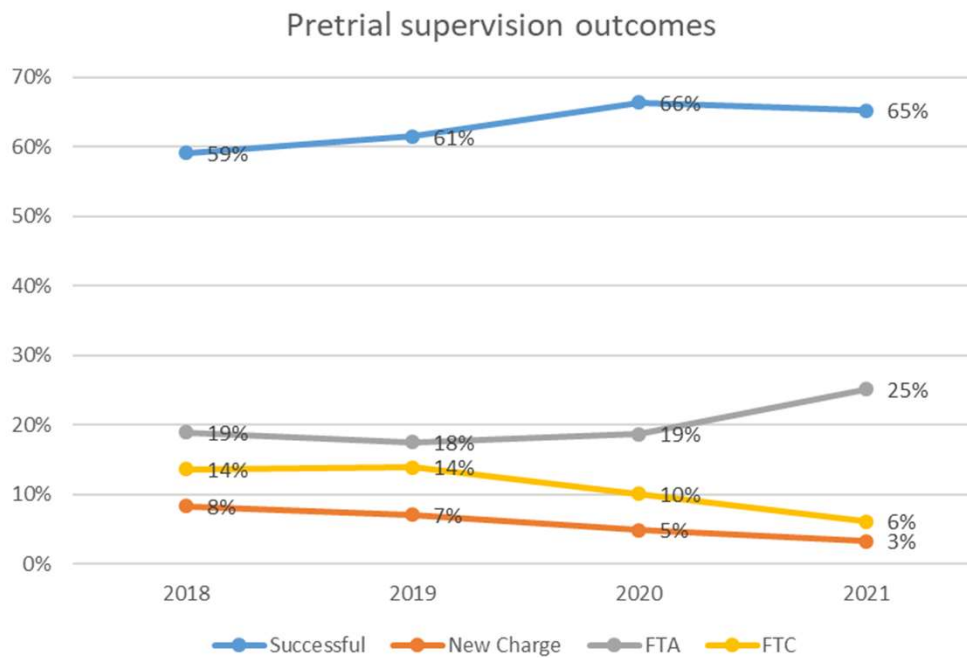
Felony participants	71%
Misdemeanor participants	15%
All participants	44%

44% of pretrial participants were supervised with electronic monitoring. 71% of felony participants and 14% of misdemeanor participants were supervised with electronic monitoring.

Pretrial supervision outcomes, 2021



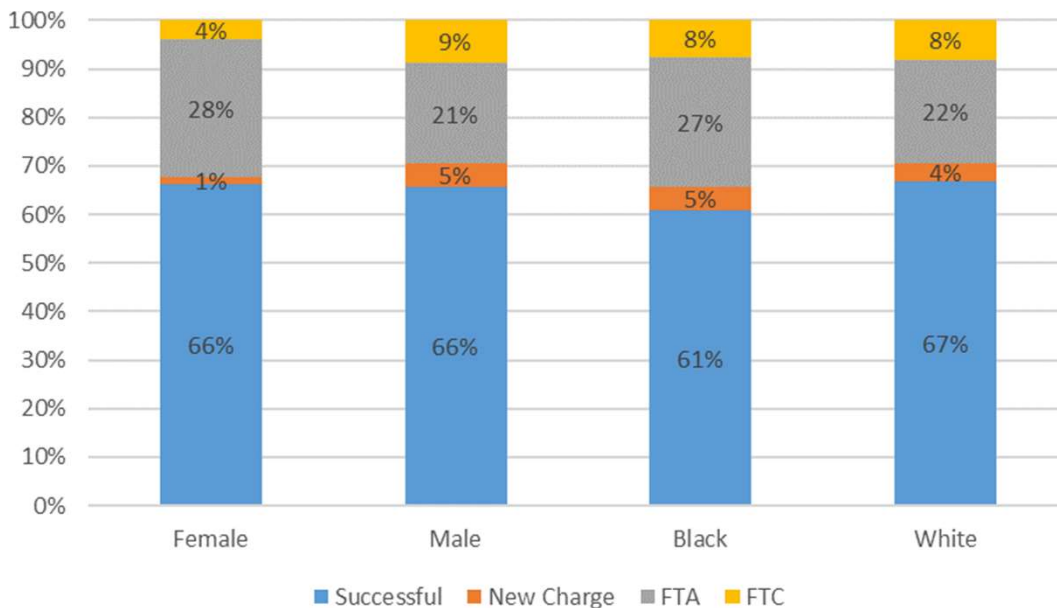
Two-thirds of pretrial participants successfully completed supervision. One-quarter were unsuccessful due to a failure to appear (FTA), 3% were unsuccessful due to a new charge, and 6% were unsuccessful due to a failure to comply (FTC). PTR officers will seek to reduce the FTA rate in 2021 as one of the annual goals.



	2018		2019		2020		2021	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
Successful	178	59%	217	61%	178	66%	257	65%
Unsuccessful								
New Charge	25	8%	25	7%	13	5%	13	3%
FTA	57	19%	62	18%	50	19%	99	25%
FTC	41	14%	49	14%	27	10%	24	6%
Deceased	0	0%	0	0%	0	0%	1	0%
Total	301	100%	353	100%	268	100%	394	100%

The percentage of participants who successfully completed pretrial supervision rose 6 percentage points from 2018 to 2021. The percentage who were unsuccessful with failures to comply (FTC) and new charges declined. The unsuccessful failure-to-appear (FTA) percentage increased.

Pretrial supervision outcomes by gender and race



	Female		Male		Black		White	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
Successful	100	66%	335	66%	87	61%	316	67%
Unsuccessful								
New Charge	2	1%	24	5%	7	5%	17	4%
FTA	43	28%	106	21%	38	27%	102	22%
FTC	6	4%	45	9%	11	8%	38	8%
Deceased	0	0%	1	0%	0	0%	1	0%
Total	151	100%	511	100%	143	100%	474	100%

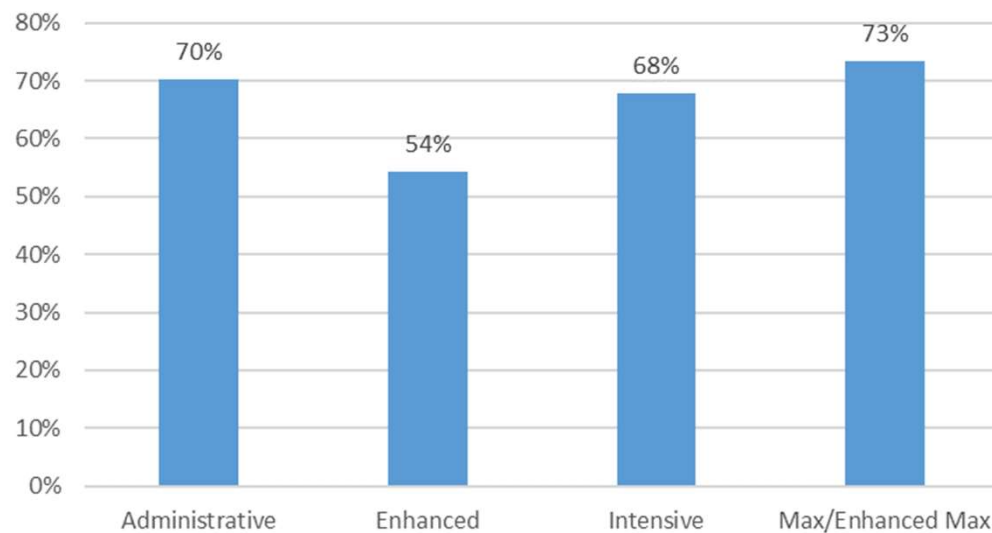
Note: Includes data for 2020-2021.

Black participants are 6 percentage points less likely to successfully complete pretrial supervision than white participants. The group has a slightly higher FTA percentage.

Female participants have a higher FTA percentage and lower FTC percentage than male participants.

Ensuring the accuracy of phone numbers in the court system database can reduce FTA rates and improve pretrial outcomes for Black and female participants.

Pretrial success rate by monitoring level
(2020-2021)



	Success Rate	Num. Participants
Administrative	70%	229
Enhanced	54%	151
Intensive	68%	267
Max/Enhanced Max	73%	15

Pretrial success rates are similar for administrative, intensive, and max/enhanced max monitoring categories, but lower for participants on enhanced monitoring. The FTA rate is over twice as high for the enhanced group compared to other participants.