

Office of the
Secretary of Public Safety and Homeland Security

**REPORT ON THE OFFENDER POPULATION
FORECASTS (FY2022 TO FY2027)**

To The Governor and General Assembly



Commonwealth of Virginia

Richmond, October 15, 2021

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Commonwealth of Virginia

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Office of the Secretary of Public Safety and Homeland Security

October 19, 2021

TO: The Honorable Ralph S. Northam
Governor

The Honorable Luke E. Torian
Chairman, House Appropriations Committee

The Honorable Janet D. Howell
Chairwoman, Senate Finance and Appropriations Committee

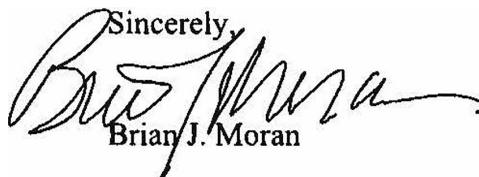
The Honorable Charniele L. Herring
Chairwoman, House Courts of Justice Committee

The Honorable John S. Edwards
Chairman, Senate Judiciary Committee

Each year, the Office of the Secretary of Public Safety and Homeland Security is required to present revised offender population forecasts to the Governor, as well as the Chairmen/Chairwomen of the House Appropriations Committee, the Senate Finance and Appropriations Committee, the House Courts of Justice Committee, and the Senate Judiciary Committee.

To revise the forecasts, my office brought together policy makers, administrators, and technical experts from all branches of state government for a series of meetings over the course of the summer and early fall. The COVID-19 pandemic brought with it many challenges. In light of these challenges, the 2021 forecasting process was modified, as described in this report. The pandemic, and the policies and procedures implemented to reduce the spread of the virus, have significantly impacted Virginia's confined offender populations since early 2020. You will find these impacts are documented throughout the report.

As required by the Appropriation Act, this report is respectfully submitted for your consideration. Please contact my office should you have questions regarding any aspect of the offender forecasts.

Sincerely,

Brian J. Moran

Authority

This report has been prepared and submitted to fulfill the requirements of Item 391 of Chapter 552 of the 2021 Acts of Assembly, Special Session I. This provision requires the Secretary of Public Safety and Homeland Security to present, by October 15 of each year, revised six-year state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, as well as the Chairmen/Chairwomen of the House Appropriations Committee, the Senate Finance and Appropriations Committee, the House Courts of Justice Committee, and the Senate Judiciary Committee. In addition, the Secretary must ensure that the adult state-responsible population forecast includes an estimate of the number of probation violators in the overall population who may be appropriate for punishment via alternative sanctions. This document contains the Secretary's report for 2021.

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Executive Summary

Forecasts of persons confined in state and local correctional facilities are essential for criminal justice budgeting and planning in Virginia. The forecasts are typically used to estimate operating expenses and future capital needs and to assess the impact of current and proposed criminal justice policies. The Secretary of Public Safety and Homeland Security oversees the forecasting process and, as required by the Appropriation Act, presents updated forecasts annually to the Governor and the Chairmen/Chairwomen of the House Appropriations Committee, the Senate Finance and Appropriations Committee, the House Courts of Justice Committee, and the Senate Judiciary Committee.

To produce the offender forecasts, the Secretary's Office utilizes an approach known as "consensus forecasting." First implemented in Virginia in the late 1980s, consensus forecasting is an open, participative approach that brings together policy makers, administrators, and technical experts from many state agencies across all branches of state government. The objective is to ensure that key policy makers and administrators in the criminal justice system have input into the forecast. Moreover, the process is intended to promote general understanding of the forecast and the assumptions that drive it.

Since 2006, the consensus forecasting process has involved three committees or work groups: the Technical Advisory Committee, the Secretary's Work Group, and the Policy Committee. The Technical Advisory Committee is composed of experts in statistical and quantitative methods from several agencies. Analysts from particular agencies are tasked with developing offender forecasts. Select forecasts are recommended by the Technical Advisory Committee for consideration by the Secretary's Work Group. Work Group members include deputy directors and senior managers of criminal justice and budget agencies, as well as staff of the House Appropriations and Senate Finance Committees. Normally meeting throughout the development of the forecasts, the Work Group provides guidance to the Technical Advisory Committee, discusses detailed aspects of the projections, and directs technical staff to provide additional data needed for decision making. After thorough evaluation of each forecast, the Work Group makes recommendations to the Secretary's Policy Committee. Led by the Secretary, the Policy Committee reviews the various forecasts and selects the official forecast for each population. This Committee also considers the effects of emerging trends or recent policy changes and makes adjustments to the forecasts as it deems appropriate. The Policy Committee is made up of agency directors, members of the General Assembly, and top-level officials from Virginia's executive, legislative, and judicial branches. Other individuals, such as a sheriff and jail administrator, are invited to serve on the Policy Committee to represent their respective associations. Through the consensus process, a forecast is produced and approved for each of the four major offender populations.

Due to the COVID-19 pandemic, the Secretary of Public Safety and Homeland Security opted to abbreviate the forecasting process in 2020 and 2021, while still maintaining a consensus approach. The Secretary directed the Technical Advisory Committee to examine criminal justice trends in the Commonwealth and present detailed trend information directly to the Policy

Committee. The Policy Committee held a virtual meeting on September 8, 2021. As a result of COVID-19 and response policies implemented specifically to reduce the spread of the virus, Virginia experienced dramatic reductions in the confined offender populations beginning in March 2020, and, in September 2021, it remained unclear as to when, and to what extent, the populations would return to pre-pandemic levels or trends. The full impact of the COVID-19 pandemic on the confined populations may not yet be known. Forecasting criminal justice populations in such circumstances would be particularly challenging. Furthermore, the 2021 General Assembly passed several pieces of legislation that will likely affect offender populations in ways that are not yet fully quantifiable. The Policy Committee recognized that it would be unlikely to have a high degree of confidence in any statistical projections produced this year. After careful examination of the available data, the Policy Committee selected a forecast scenario for each offender population. The Secretary's Office will continue to monitor the offender populations throughout the coming year.

Adult Local-Responsible Jail Population. The local-responsible jail population is defined as the number of persons confined in local and regional jails across the Commonwealth, excluding state and federal inmates and ordinance violators. The local-responsible jail population declined slightly in FY2019 and this modest downward trend continued into the first half of FY2020. By February 2020, the average population for the month was 19,418. As a result of state and local policies to address the spread of the COVID-19 virus and declines in the number of arrests, the local-responsible jail population fell by more than 5,000 individuals between February and June 2020 to an average of 14,188. The following month, however, the population began to grow and, by June 2021, reached an average of 16,447. Although the population increased over the course of FY2021, it has not returned to pre-pandemic levels. The forecast approved by the Policy Committee anticipates that the population will continue to increase steadily during the remainder of the fiscal year, resulting in an average population for FY2022 of 16,835. For the remaining years of the forecast, the Policy Committee expects a slower rate of growth. In this scenario, an average population of 17,419 is projected for FY2027 (see table on page 10).

Adult State-Responsible Inmate Population. The largest of the forecasted populations, the state-responsible inmate population includes those incarcerated in state prisons, as well as state-responsible offenders housed in local and regional jails around the Commonwealth. This population gradually declined between October 2014 and February 2020, when it reached 36,535 inmates. Between February and June 2020, the state-responsible population fell by 2,750 inmates. This sudden, dramatic decrease occurred as a result of the COVID-19 pandemic and policies put in place to reduce the spread of the virus. From mid-March to mid-May 2020, an emergency order issued by the Chief Justice of the Supreme Court of Virginia suspended all non-essential and non-emergency proceedings in the state's courts. During that time, significantly fewer sentencing hearings were held, resulting in fewer offenders being sentenced to a prison term. Reports suggest that courts have not returned to operating at full capacity in FY2021. Additionally, in response to the pandemic, the General Assembly granted the Director of the Department of Corrections the authority to release early state-responsible inmates who were within one year of their expected release dates and who met certain release eligibility criteria.

When this authority ended on June 30, 2021, 2,185 state-responsible inmates had been released early.

Unlike the local-responsible jail population, the state-responsible inmate population has continued to decline. Based on preliminary figures, there were just 31,170 state inmates as of June 30, 2021. Legislation passed by the 2021 General Assembly is expected to impact the population (e.g., increases in earned sentence credits for some offenders beginning on July 1, 2022, revision of the state's marijuana laws including legalization of marijuana possession, repeal of the Class 6 felony for a third or subsequent conviction for petit larceny, and caps on sentences for technical probation violations). The collective impact of the legislation is difficult to quantify precisely, particularly if criminal justice decision makers begin to adjust their practices in response to the legislation. Given the uncertainty surrounding the future state-responsible inmate population, the Policy Committee opted to set a flat forecast of 31,170 (same as the June 2021 population) for each year of the forecast horizon (see table on page 10).

Juvenile Direct Care Population. Juvenile offenders committed to the state are held in facilities operated by the Department of Juvenile Justice (DJJ) or they are placed in re-entry, community placement, or other programs; collectively, these make up DJJ's total direct care population. The number of juveniles in the direct care population has been falling overall since FY2000. Statutory changes, use of validated risk assessment instruments, and continued decline in the number of juvenile intake cases at Court Services Units have contributed to the long-term downward trend. Between FY2017 and FY2019, the direct care population began to level off, with the average population ranging from 335 to 338. Although the population declined significantly between February and June 2020 (from 344 to 262 juveniles), the average population for FY2020 was 331. In FY2021, an average of 235 juveniles were in the direct care population. While the number of admissions to direct care dropped significantly during the pandemic, juveniles with a determinate commitment set by the court accounted for a larger share of admissions and these juveniles stay longer, on average, than other juveniles. Given the shift towards determinate commitments and longer lengths-of-stay, the Policy Committee anticipates some growth in the direct care population after FY2021. Based on the approved forecast, this population is expected to increase modestly over the forecast horizon to an average of 292 in FY2027 (see table on page 10).

Juvenile Detention Center Population. Juveniles held in local or commission-operated juvenile detention centers around the Commonwealth make up the juvenile local-responsible population. The detention center population has been declining for a number of years, reaching an average of 521 in FY2019. Lower numbers of intakes at Court Services Units and procedures to reduce detention of low-risk juveniles have been important factors in the downward trend. While the overall average population for FY2020 was 452, the monthly population figures decreased significantly between February and June 2020 (from 498 to 344 juveniles). The population continued to fall in FY2021, during which 350 juveniles, on average, were held in detention centers. The Policy Committee anticipates that this population will continue to decline in the short term to an average of 321 juveniles in FY2022. Given the uncertainty surrounding future admissions and length-of-stay for this population, the Policy Committee opted to set a flat forecast of 321 for the remaining years of the forecast horizon (see table on page 10).

**Offender Population Forecasts
FY2022 – FY2027**

Fiscal Year	Adult Local-Responsible Jail Population (FY Average)	Adult State-Responsible Offender Population (June 30)	Technical Probation Violators in the Adult State-Responsible Offender Population (June 30)*	Juvenile Direct Care Population (FY Average)	Juvenile Detention Center Population (FY Average)
FY2022	16,835	31,170	2,086	241	321
FY2023	16,914	31,170	2,086	264	321
FY2024	17,039	31,170	2,086	281	321
FY2025	17,165	31,170	2,086	287	321
FY2026	17,291	31,170	2,086	291	321
FY2027	17,419	31,170	2,086	292	321

* The Technical Probation Violator forecast is a subgroup of, and not in addition to, the Adult State-Responsible Offender Forecast.

Since the proportion of violators identified as technical violators declines as criminal histories are updated with new conviction information, this forecast should be considered a maximum.

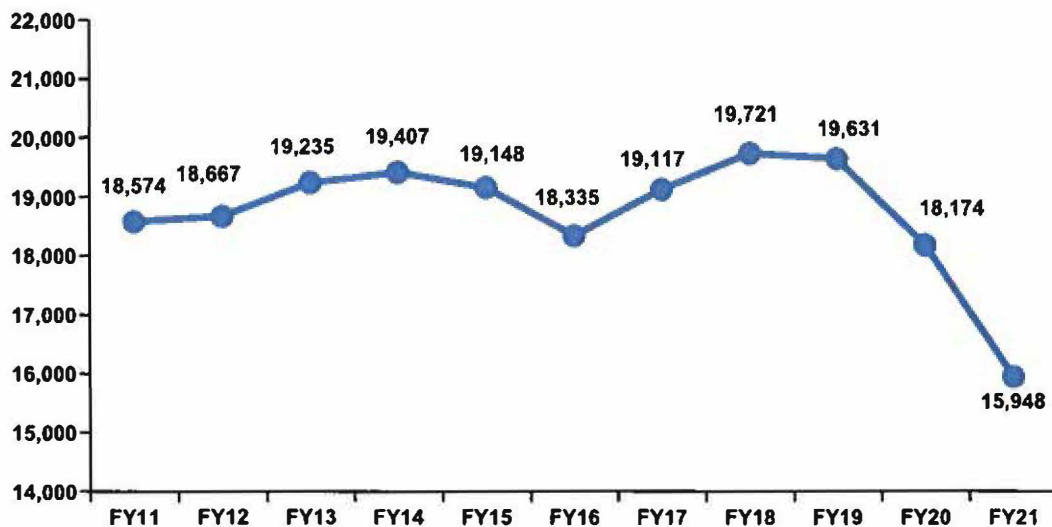
Based on previous study, the Department of Corrections has estimated that 53% of technical violators sentenced to a state-responsible term may be suitable for alternative sanctions.

Adult Local-Responsible Jail Population

The adult local-responsible jail population is defined as the number of persons confined in local and regional jails across the Commonwealth, excluding state and federal inmates and ordinance violators. Because jail populations fluctuate daily (with higher numbers on weekends) and seasonally (with peaks during late summer and early fall and lows during the winter months), the average daily population is used for reporting and forecasting purposes.

The local-responsible jail population has fluctuated over the last decade (Figure 1). Between FY2010 and FY2014, the local-responsible jail population grew by an average of 1.2% annually, to 19,407 individuals. The population then decreased in both FY2015 and FY2016, when the population fell to an average of 18,335. The trend reversed again and, growing in both FY2017 and FY2018, the population climbed to 19,721. The population declined slightly in FY2019 and this modest downward trend continued into the first half of FY2020.

Figure 1
Local-Responsible Jail Population, FY2011-FY2021



Figures reflect the average daily population for each fiscal year. FY2020 figure is preliminary.

In February 2020, the average population for the month was 19,418. In March of that year, the COVID-19 pandemic began to impact the local-responsible jail population at the same time as it was impacting other aspects of society. The population dropped by almost 1,200 in March, and continued dropping through May 2020, reaching 14,162, as a result of declines in the number of arrests and the introduction of state and local policies to address the virus (Figure 2).

The table in Figure 2 also shows the FY2021 forecast for the local-responsible jail population. Due to the uncertainties caused by the COVID-19 pandemic, the Policy Committee estimated the FY2021 population to remain around the level of the March 2020 population average, which at that time measured 18,299 (since updated to 18,250). This forecast was submitted to the Governor and the General Assembly in October 2020. As Figure 2 makes clear, this estimate remained substantially above the actual local-responsible jail population throughout

FY2021. The average percent error for the FY2021 forecast was 15.2%. However, the error was largest in the first month (26.3% in July 2020), and smallest in the last (11.3% in June 2021). Although the population did not rise to the level estimated, it did grow over the course of the fiscal year.

Figure 2
Local-Responsible Jail Population and FY2021 Forecast by Month
(Forecast Adopted in October 2020)

Month	Actual Population	FY2021 Forecast	FY2021 Err	FY2021 Pct Err
Jan-20	19,289			
Feb-20	19,418			
Mar-20	18,250			
Apr-20	14,906			
May-20	14,162			
Jun-20	14,188			
Jul-20	14,483	18,299	3,816	26.3%
Aug-20	15,131	18,299	3,168	20.9%
Sep-20	15,685	18,299	2,614	16.7%
Oct-20	16,118	18,299	2,181	13.5%
Nov-20	16,240	18,299	2,060	12.7%
Dec-20	15,912	18,299	2,387	15.0%
Jan-21	16,264	18,299	2,036	12.5%
Feb-21	16,262	18,299	2,038	12.5%
Mar-21	16,313	18,299	1,985	12.2%
Apr-21	16,261	18,299	2,036	12.5%
May-21	16,253	18,299	2,045	12.6%
Jun-21	16,448	18,299	1,852	11.3%
FY2021 Avg	15,947	18,299	2,397	15.2%

Figures reflect the average daily population for each month. Data for May and June 2021 are preliminary. The forecast shown in the table was submitted to the Governor and General Assembly in October 2020.

The local-responsible jail population is comprised of four subpopulations: pretrial defendants, sentenced offenders with pending charges remaining, local-responsible felons, and sentenced misdemeanants. All four subpopulations showed substantial drops attributed to the COVID-19 pandemic (Figure 3). The greatest change was for sentenced misdemeanants, which dropped 66.3% between January 2020 and June 2020. The largest subpopulation, pretrial defendants, dropped 18.4% during that period. All subpopulations increased between June 2020 and June 2021. The total local-responsible jail population increased 15.9% during that period (based on data retrieved on September 21, 2021). However, as the spread of COVID-19 (delta variant) increased, the population dropped again in July and August 2021. The August 2021 population was only 2.4% above August 2020.

Figure 3
Change in the Local-Responsible Jail Subpopulations, Jan 2020 – Aug 2021

Month	Local-Responsible Jail Subpopulations				Total
	Pretrial	Pending Charges	LR Felons	Misdemeanants	
Jan-2020	11,909	3,516	2,489	1,375	19,289
Feb-2020	11,859	3,536	2,538	1,486	19,418
Mar-2020	11,276	3,390	2,410	1,174	18,250
Apr-2020	9,593	2,977	1,715	621	14,906
May-2020	9,615	2,753	1,360	433	14,162
Jun-2020	9,723	2,679	1,323	463	14,188
Jul-2020	9,856	2,671	1,369	587	14,483
Aug-2020	10,331	2,700	1,411	690	15,131
Sep-2020	10,678	2,761	1,488	757	15,685
Oct-2020	10,797	2,863	1,587	872	16,118
Nov-2020	10,928	2,938	1,574	799	16,240
Dec-2020	10,771	3,004	1,462	675	15,912
Jan-2021	11,203	3,000	1,368	693	16,264
Feb-2021	11,148	2,986	1,400	727	16,262
Mar-2021	10,934	3,026	1,526	828	16,313
Apr-2021	10,853	3,002	1,554	852	16,261
May-2021	10,806	2,988	1,602	857	16,253
Jun-2021	10,950	2,987	1,651	860	16,448
Jul-2021	10,748	2,923	1,601	833	16,105
Aug-2021	10,297	2,918	1,528	754	15,497
Jan 2020 to Jun 2020	-18.4%	-23.8%	-46.9%	-66.3%	-26.4%
Jun 2020 to Jun 2021	12.6%	11.5%	24.8%	85.8%	15.9%

Figures reflect the average daily population for each period reported. Data for Jun-2021 through Aug-2021 are preliminary.

Factors Affecting the Population

For FY2020-FY2021, the primary factor impacting the population has been the COVID-19 pandemic and state and local policies implemented specifically to reduce the spread of the virus. Additionally, the legalization of possession of marijuana, effective July 1, 2020, may reduce the local-responsible jail population. Prior to July 1, 2020, pretrial commitments to jail with marijuana possession as the most serious offense represented a little over 1% of total pretrial commitments. However, four out of five of those pretrial commitments involved other offenses, which might have resulted in the individual still being placed in jail pretrial. Only about one-quarter of 1% of pretrial commitments included *only* marijuana possession as a committing offense. Analysts believe the legalization of marijuana will have some impact on the local-responsible jail population. Given the small number of cases, and that legalization took place while the population was already being affected by the ongoing pandemic, the impact cannot now be determined.

Typically, the local-responsible jail population is driven largely by crime and arrest trends. Figure 4 presents monthly crime trends for the first seven months of calendar years 2019-2021 (preliminary). Beginning in April 2020, reported crimes dropped substantially compared to the same month of 2019. For person offenses, the impact was reduced after May 2020, and has reversed in more recent months. For the first seven months of 2021, person offenses are 6% higher than the same period in 2020, and 4% higher than the same period in 2019. Property offenses, however, did not rise substantially after the drop in April 2020. Property offenses for

the first seven months of 2021 are 7% below the same period in 2020, and 16% below the same period in 2019.

Figure 4
Crimes Reported to Law Enforcement in CY2019, CY2020 & CY2021 (Preliminary), by Month

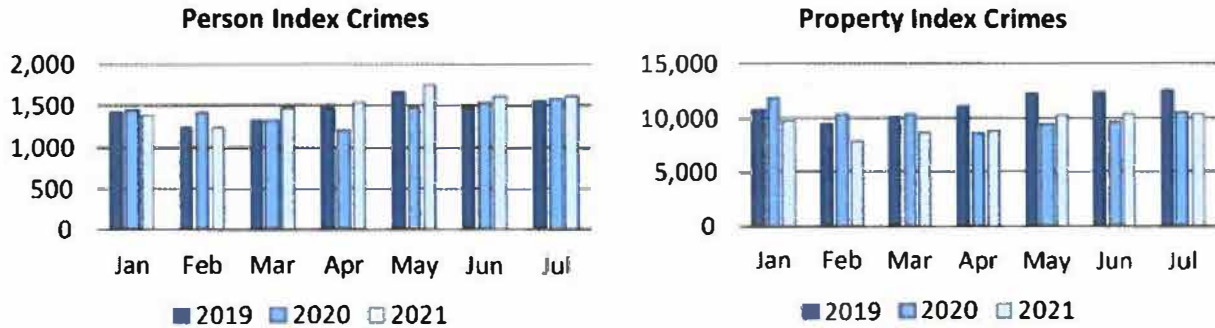
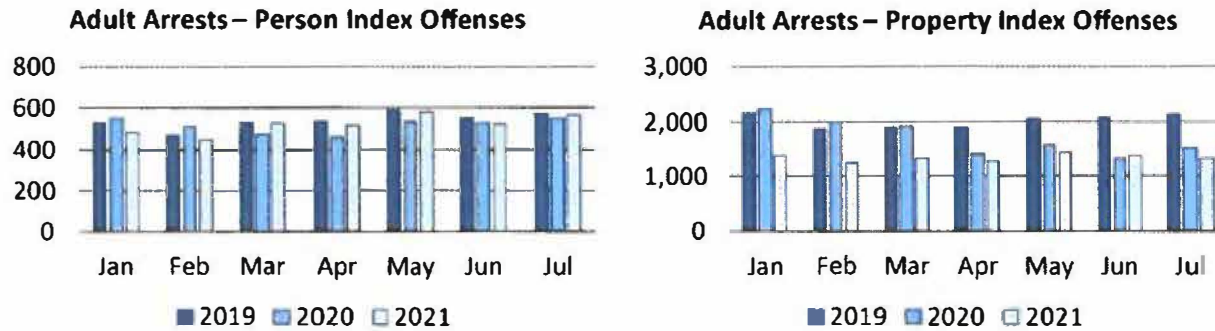


Figure 5 presents similar data on adult arrests. Beginning in March 2020, adult arrests for person offenses dropped substantially compared to March 2019. Beginning in April 2020, adult arrests for property offenses dropped compared to the same month the year before. As with reported crimes, the impact on arrests for property crimes has lasted longer than arrests for person offenses.

Figure 5
Adult Violent and Property Arrests in CY2019, CY2020 & CY2021 (Preliminary), by Month



Drug arrests also dropped during the pandemic. As Figure 6 shows, although drug arrests were already down slightly in January and February, starting in March 2020 reported drug arrests dropped substantially from the same month of 2019, and have remained at a lower level through the first half of 2021. This impact was shown both for marijuana and arrests involving other drugs.

Figure 6
Adult Drug Arrests in CY2019, CY2020 & CY2021 (Preliminary), by Month

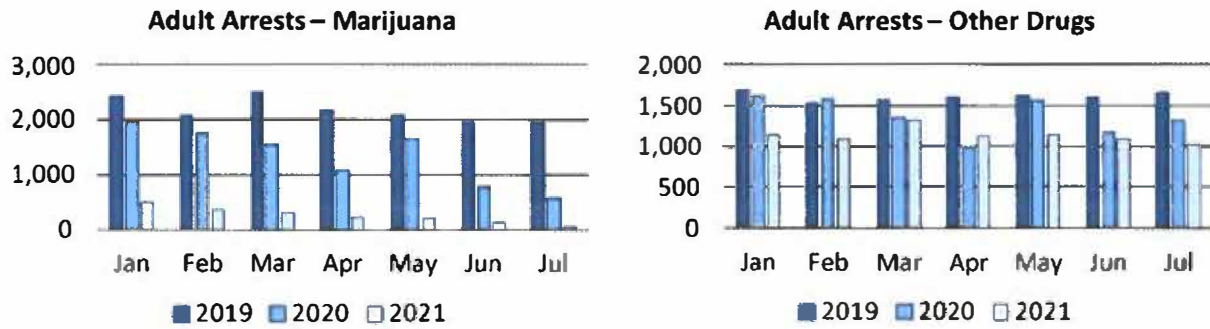
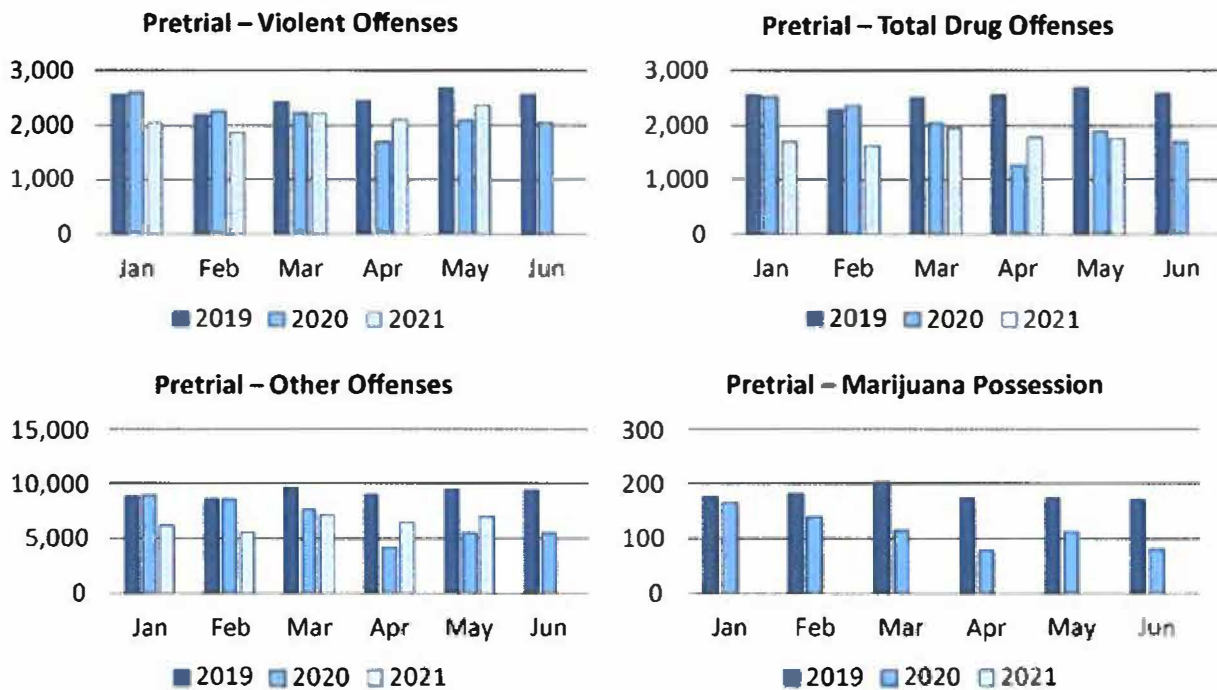


Figure 7 presents monthly pretrial commitments to jail, and shows that the drop in pretrial commitments, grouped by most serious offense, is similar to the drop in violent, drug, and property arrests (i.e., a substantial drop in March/April continuing through June). Note that pretrial commitments to jail in which the most serious offense was possession of marijuana dropped to zero in 2021.

Figure 7
Pretrial Commitments to Jail by Most Serious Offense in CY2019, CY2020 & CY2021 (Preliminary), by Month



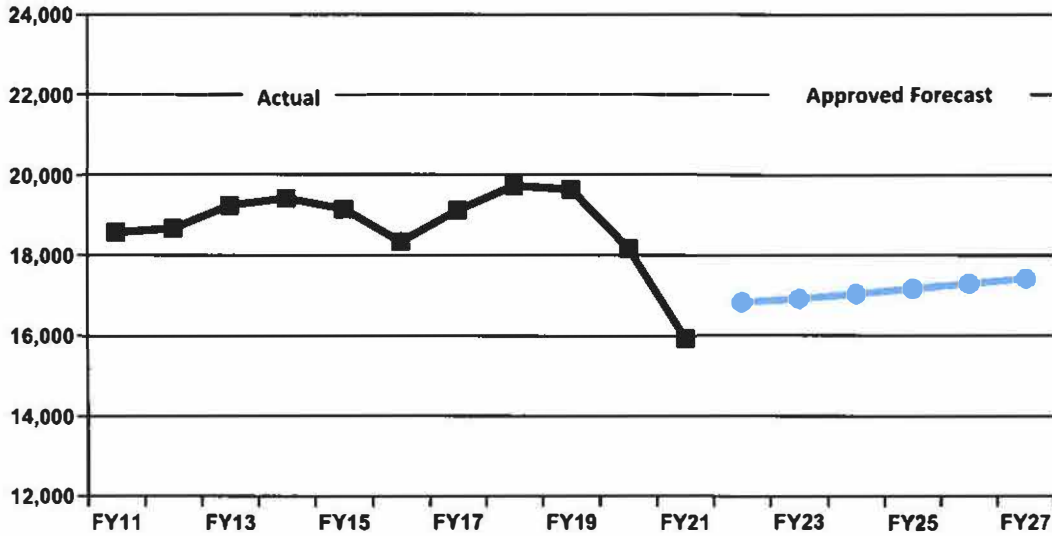
Forecast of the Local-Responsible Jail Population

The continuing pandemic adds an additional layer of uncertainty for forecasting future populations. The FY2021 local-responsible jail population did not rise to the level projected for that year, but it has risen above the low level seen in May 2020. As before, given the challenges of forecasting populations while in the midst of highly unusual circumstances such as a pandemic, the Secretary’s Offender Forecasting Technical Advisory Committee advised that it would be inappropriate to produce a forecast using the preferred methodologies, which depend heavily on historical trends. Instead, the Technical Advisory Committee recommended a more simplistic model.

The forecast submitted by the Technical Advisory Committee assumes that, while the local-responsible jail population will eventually return to historical trends, it will grow somewhat more quickly over the next 12 months. This assumption of a temporarily higher growth rate is based on the observed growth since the population's initial sharp declines in March, April, and May 2020. The Secretary's Offender Forecasting Policy Committee agreed with this approach.

The FY2022-2027 local-responsible jail population forecast is shown in Figure 8. The fiscal year average population is projected to increase 5.6% in FY2022, 0.5% in FY2023, and then return to the historical average trend (January 2005 through February 2020) of 0.7%. This results in a projected average daily local responsible jail population of 16,835 in FY2022, rising to 17,419 in FY2027.

Figure 8
Approved Local-Responsible Jail Population Forecast, FY2022-FY2027



Figures reflect the average daily population for each fiscal year. FY2021 figure is preliminary.

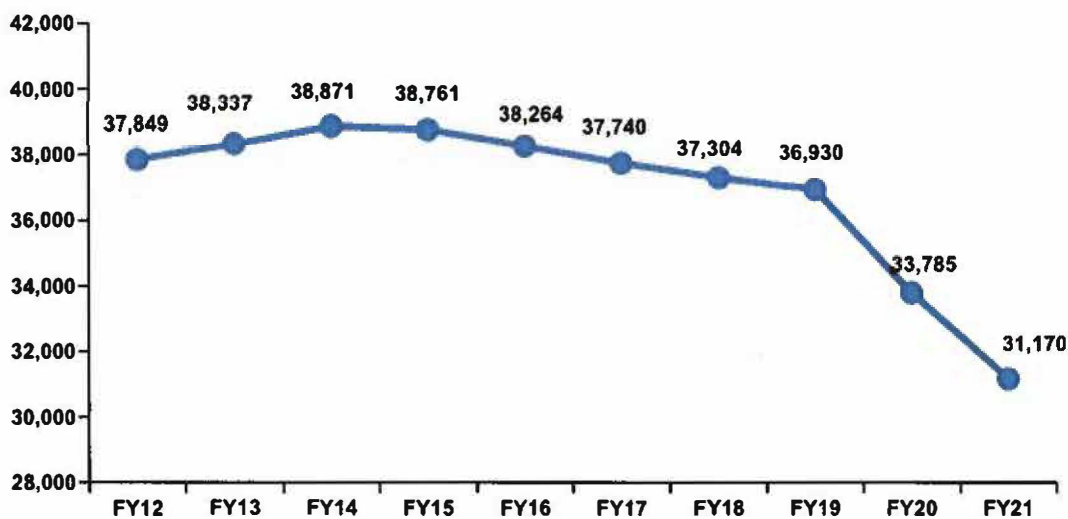
Fiscal Year	Historical	Forecast	Change	Percent Change
FY2011	18,574			
FY2012	18,667		93	0.5%
FY2013	19,235		568	3.0%
FY2014	19,407		172	0.9%
FY2015	19,148		-259	-1.3%
FY2016	18,335		-813	-4.2%
FY2017	19,117		782	4.3%
FY2018	19,721		604	3.2%
FY2019	19,631		-90	-0.5%
FY2020	18,174		-1,457	-7.4%
FY2021	15,948		-2,226	-12.2%
FY2022		16,835	887	5.6%
FY2023		16,914	79	0.5%
FY2024		17,039	125	0.7%
FY2025		17,165	126	0.7%
FY2026		17,291	126	0.7%
FY2027		17,419	126	0.7%

Adult State-Responsible Confined Population

The largest of the forecasted populations, the adult state-responsible inmate population includes offenders incarcerated in state prisons, as well as state-responsible offenders housed in local and regional jails around the Commonwealth. For forecasting purposes, state-responsibility begins on the day an offender receives a state sentence (i.e., a sentence of one year or more for a felony offense). If the offender has multiple court cases, state-responsibility starts on the most recent sentencing date that occurs prior to the offender's classification by the Department of Corrections (DOC). To calculate the total number of state-responsible inmates, two data sources are used. The first source is the DOC Facility Population Summary Report for the last day of each month. The second source is the Local Inmate Data System (LIDS-CORIS) maintained by the State Compensation Board (SCB). The LIDS-CORIS system contains data on all individuals held in jails and the reason for the confinement. This information is used to determine the number of state inmates in jail on the last day of each month. The LIDS-CORIS system is complex, as offenders in jails can proceed through many statuses over time. Thus, for individuals held in the jails, it is not just a matter of reporting head count figures, but also determining the legal status of the offender on the last day of the month. This process can be complicated as offenders may have multiple legal actions occurring, and court records need to be received and interpreted to determine the individual's status. Due to the dynamic nature of this jail data, it takes some time for it to stabilize. Based on a review by the Technical Advisory Committee, these data may take three to five months to mature. Thus, the most recent population figures are considered preliminary.

Beginning in January 2012, the state-responsible population grew from 37,608 to 39,171 in October 2014. However, the population began to gradually decline thereafter, reaching 36,535 in February 2020. Between February 2020 and June 2021, the state-responsible population fell by a total of more than 5,300 inmates. According to preliminary figures, the number of state-responsible inmates was 31,170 as of June 30, 2021.

Figure 9
State-Responsible Inmate Population, FY2011-FY2021



Figures reflect the June 30 population for each fiscal year. FY2021 figure is preliminary.

Accuracy of the Forecast Adopted in 2020

In the fall of 2020, the Policy Committee estimated that the state-responsible inmate population would return to the level of the March 2020 population by the end of the fiscal year in June 2021. The population continued to decline, however, through FY2021. Thus, the state-responsible inmate population projection adopted in 2020 was considerably higher than the actual population throughout fiscal year (Figure 10).

Figure 10
Accuracy of the State-Responsible Inmate Population Forecast
Adopted in 2020

	Actual (preliminary)	Projected	Difference	Percent Error
6/30/2021 End of Month Population	31,170	35,987	4,817	15.5%

Factors Affecting the Population

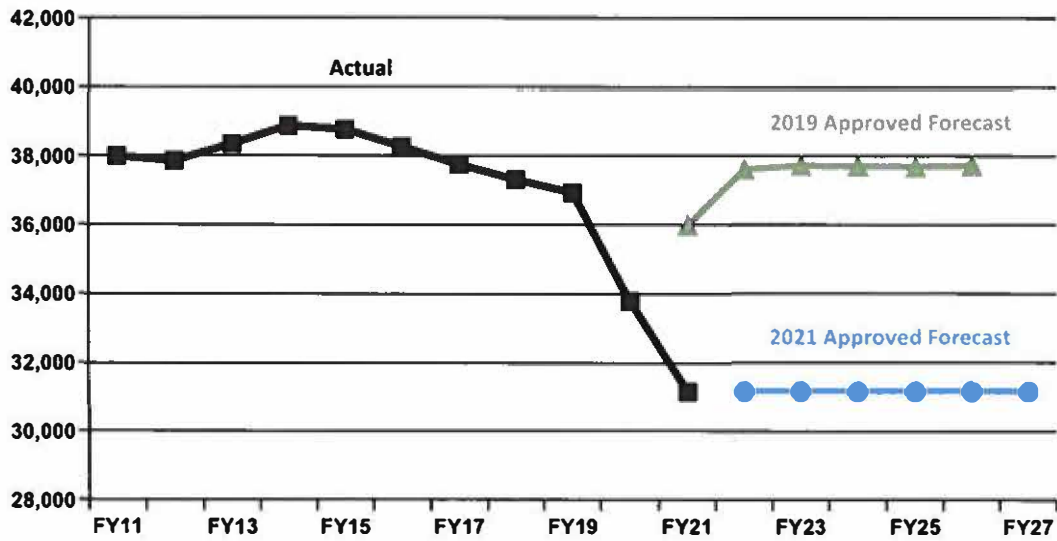
Prior to the COVID-19 pandemic, several factors affected the state-responsible inmate population. These included: the number and types of felony crimes reported to law enforcement, the number and types of arrests for felony offenses, charging practices of local Commonwealth’s attorneys, the number of offenders convicted in Virginia’s circuit courts, and the sentencing practices of circuit court judges.

Since March 2020, the primary factor impacting the population has been the COVID-19 pandemic and state and local policies implemented specifically to reduce the spread of the virus. The courts held significantly fewer sentencing hearings, resulting in fewer offenders being sentenced to a prison term. Additionally, several recent legislative changes will impact this population going forward. These legislative changes include: increases in earned sentence credits for some offenders beginning on July 1, 2022 (House Bill 5148 – 2020 Special Session I), revision of the state’s marijuana laws including legalization of marijuana possession (House Bill 2312/Senate Bill 1406 – 2021 Special Session I), repeal of the Class 6 felony for a third or subsequent conviction for petit larceny (House Bill 2290 – 2021 Special Session I), and caps on sentences for technical probation violations (House Bill 2038 – 2021 Special Session I). The collective impact of the legislation is difficult to quantify precisely, particularly if criminal justice decision makers begin to adjust their practices in response to the legislation.

Forecast of the State-Responsible Inmate Population

The Secretary’s Offender Forecasting Policy Committee concluded that, given the uncertainty due to the unknown duration of the pandemic and its impact on the state-responsible population, combined with legislative changes mentioned above, the wisest course of action was to adopt a flatline forecast of 31,170 through FY2027 (Figure 11).

Figure 11
Approved State-Responsible Inmate Population Forecast, FY2022-FY2027



Figures reflect the June 30 population for each fiscal year. FY2021 figure is preliminary.

Fiscal Year	Historical	Forecast	Change	Percent Change
FY2011	37,983			
FY2012	37,849		-134	-0.4%
FY2013	38,337		488	1.3%
FY2014	38,871		534	1.4%
FY2015	38,761		-110	-0.3%
FY2016	38,264		-497	-1.3%
FY2017	37,740		-524	-1.4%
FY2018	37,304		-436	-1.2%
FY2019	36,930		-374	-1.0%
FY2020	33,785		-3,145	-8.5%
FY2021	31,170		-2,615	-7.7%
FY2022		31,170	0	0.0%
FY2023		31,170	0	0.0%
FY2024		31,170	0	0.0%
FY2025		31,170	0	0.0%
FY2026		31,170	0	0.0%
FY2027		31,170	0	0.0%

The state-responsible inmate forecast is disaggregated by gender below (Figure 12).

Figure 12
State-Responsible Inmate Forecast by Gender
 (for June 30 of each year)

Year	Males	Change
FY22	28,849	0.0%
FY23	28,849	0.0%
FY24	28,849	0.0%
FY25	28,849	0.0%
FY26	28,849	0.0%
FY27	28,849	0.0%

Year	Females	Change
FY22	2,321	0.0%
FY23	2,321	0.0%
FY24	2,321	0.0%
FY25	2,321	0.0%
FY26	2,321	0.0%
FY27	2,321	0.0%

As required by Item 391 of Chapter 552 of the 2021 Acts of Assembly, Special Session I, the forecast has been disaggregated to identify the number of probation violators within the overall population who may be appropriate for punishment via alternative sanctions. By the end of FY2027, it is projected that the state-responsible population will include 2,086 technical probation violators (Figure 13). Technical violators are offenders who violated the rules of probation but have not been convicted of a new crime. However, this forecast should be considered a maximum, as DOC will continue to analyze this subpopulation. As the criminal history repository is updated with new conviction information, the proportion of violators identified as technical violators (i.e., those with no new convictions) will decrease.

Based on a previous study, DOC has estimated that 53% of technical violators with a state-responsible sentence may be suitable for alternative sanctions such as its Detention and Diversion Center Programs. DOC concluded that approximately 47% of technical violators entering DOC are likely not good candidates for such alternatives due to convictions for violent offenses (22%), mental health issues (15%), or medical conditions (10%).

Figure 13
Technical Probation Violator Population Forecast

Year	Forecast
FY22	2,086
FY23	2,086
FY24	2,086
FY25	2,086
FY26	2,086
FY27	2,086

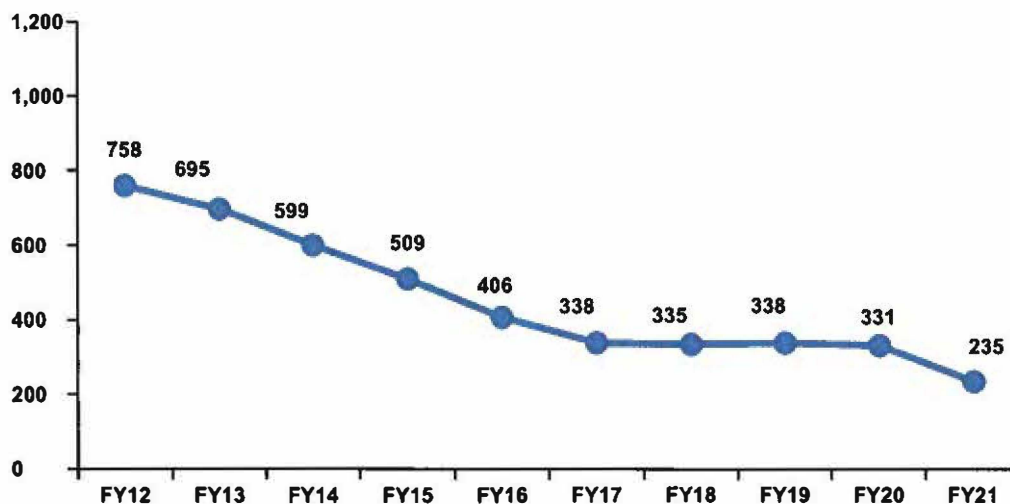
The Technical Probation Violator forecast is a subgroup of, and not in addition to, the State-Responsible Inmate Forecast.

Juvenile Direct Care Population

Juvenile state-responsible offenders are committed by a court to Virginia’s Department of Juvenile Justice (DJJ). They are housed in juvenile correctional facilities around the state or they are placed in re-entry, community placement, or other programs; collectively, these make up DJJ’s direct care population. Virginia’s juvenile justice system differs substantially from the adult system. While Virginia has moved to a more determinate sentencing system for its adult offenders, dispositions involving commitment in the juvenile justice system remain largely indeterminate. In FY2021, 66.9% of commitment orders to DJJ were for an indeterminate period of confinement.¹ This means that DJJ, rather than a judge, determines the length of the juvenile’s commitment which is governed by guidelines approved by the Board of Juvenile Justice. The courts commit a smaller percentage of juvenile offenders to DJJ with a determinate, or fixed length, sentence; a juvenile given a determinate commitment may be reviewed by the judge at a later date and may be released at the judge’s discretion prior to serving the entire term. In Virginia, juveniles tried and convicted as adults in circuit court may also be committed to DJJ, at the judge’s discretion.

The number of juveniles in the direct care population has declined overall since FY2000. Statutory changes, use of validated risk assessment instruments, and continued decline in the number of juvenile intake cases at Court Services Units have contributed to the long-term downward trend. Between FY2017 and FY2019, the direct care population began to level off, with the average population ranging from 335 to 338 during these years (Figure 14). Although the population declined significantly between February and June 2020 (from 344 to 262 juveniles), the average population for FY2020 was 331. In FY2021, an average of 235 juveniles were in the direct care population, a drop that is likely attributable to the COVID-19 pandemic and state and local response measures. The decline continued into July and August 2021.

Figure 14
Juvenile Direct Care Population, FY2012-FY2021



¹ An individual juvenile may be admitted to direct care with more than one commitment order. In FY2021, 65.2% of juveniles admitted to direct care had indeterminate commitments only (this excludes any juveniles that came in with both indeterminate and determinate sentences or with both indeterminate and blended sentences; it is strictly juveniles with only indeterminate commitment orders).

Figures reflect the average daily population for each fiscal year.

Accuracy of the Forecast Adopted in 2020

The juvenile direct care population projection adopted in 2020 was much higher than the actual population throughout FY2021 (Figure 15).

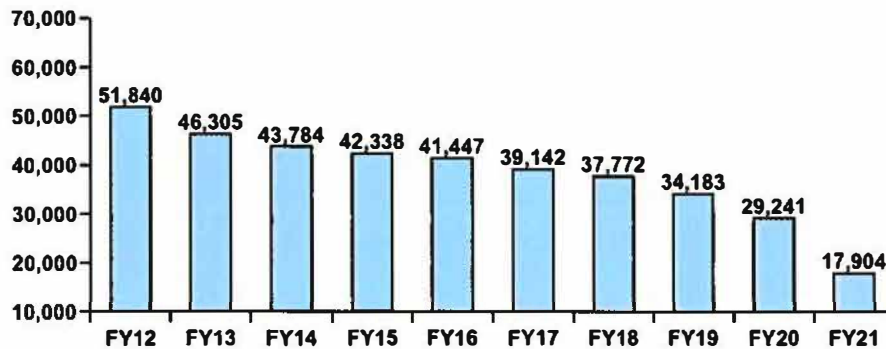
Figure 15
Accuracy of the Juvenile Direct Care Population Forecast Adopted in 2020

	Actual	Projected	Difference	Percent Error
FY2021 Average Population	235	340	105	44.8%

Factors Affecting the Population

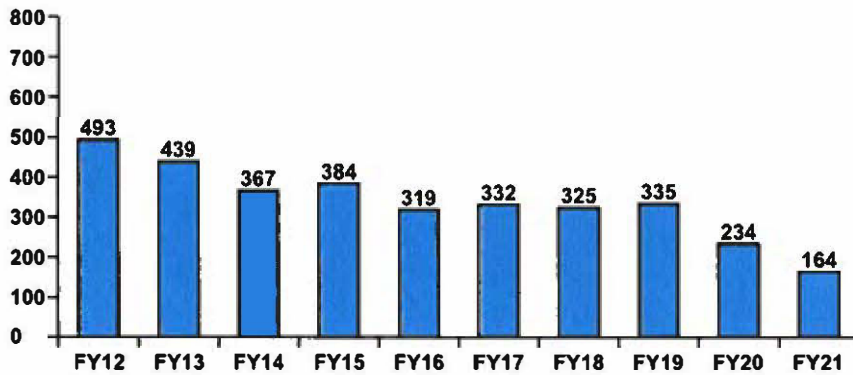
There has been a long-term downward trend in the number of juveniles in direct care. As noted above, statutory changes, use of validated risk assessment instruments, and a significant decline in the number of juvenile intake cases at Court Services Units are among the factors contributing to the smaller population. While the number of juvenile intake cases at Court Services Units (the point of entry into the juvenile justice system) has declined, the percentage decrease in intakes in FY2021 was much larger than in any other year in the past decade (Figure 16). In FY2021, juvenile intake cases fell by 38.8%. The extent to which the COVID-19 pandemic contributed to this atypical drop in intakes cannot be quantified.

Figure 16
Juvenile Intake Cases at Court Services Units



The number of admissions to direct care dropped by 29.9% in FY2021 compared to the previous fiscal year (Figure 17). The extent to which the decision making of juvenile court judges and other stakeholders has contributed to this substantial decrease is not definitively known. However, this decline in admissions is the primary driver in the falling population in FY2021.

Figure 17
Juvenile Direct Care Admissions



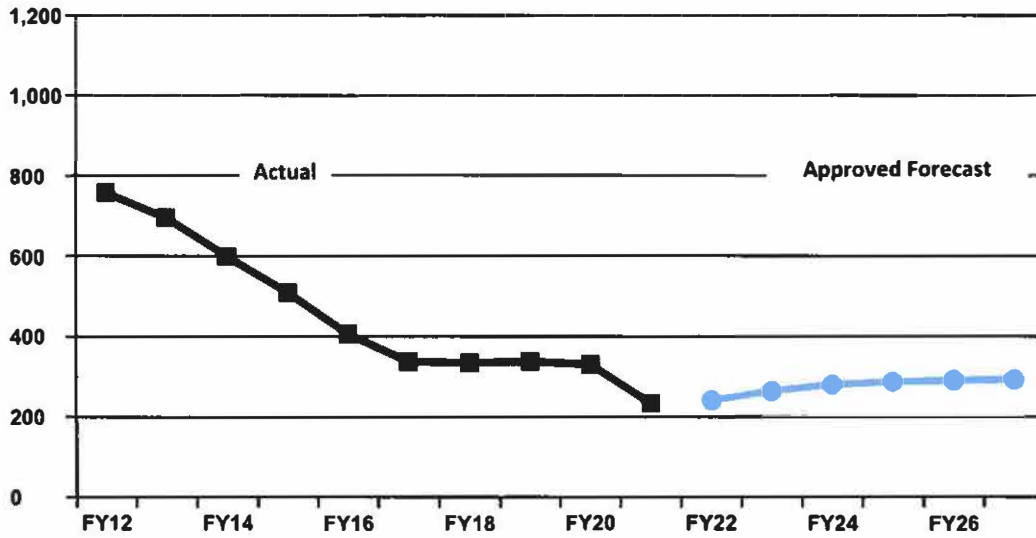
While the number of admissions dropped significantly during the pandemic, juveniles with a determinate commitment set by the court accounted for a slightly larger share of direct care admissions and these juveniles stay longer, on average, than other juveniles.

Forecast of the Juvenile Direct Care Population

There are significant challenges in forecasting populations during a period of unprecedented change, such as the COVID-19 pandemic. After reviewing the juvenile direct care population long term trend and the most recent numbers, the Policy Committee approved the use of the DJJ computer simulation model, programmed with the best available data, to generate a forecast for the juvenile direct care population.

The direct care population forecast generated by the DJJ simulation model is shown in Figure 18. The admission forecast is one of the key inputs into DJJ's simulation model. For this year's forecast, the Policy Committee set a flat forecast calculated by averaging the actual DJJ admissions for three previous fiscal years (FY2019, FY2020, and FY2021). Under this admissions forecast, it is assumed that admissions will remain level at 244 per year from FY2022 through FY2027. Given the shift towards determinate commitments and slightly longer lengths-of-stay, the DJJ simulation model projects modest growth in the direct care population after FY2021. The approved juvenile direct care population forecast projects a slight increase in FY2022, when the population is expected to reach 241. By FY2027, the direct care population is expected to reach an average of 292 juveniles (Figure 18).

Figure 18
Approved Direct Care Population Forecast, FY2022-FY2027



Figures reflect the average daily population for each fiscal year.

Fiscal Year	Historical	Forecast	Change	Percent Change
2012	758			
2013	695		-63	-8.3%
2014	599		-96	-13.9%
2015	509		-90	-15.0%
2016	406		-103	-20.2%
2017	338		-68	-16.7%
2018	335		-4	-1.1%
2019	338		3	1.0%
2020	331		-7	-2.1%
2021	235		-97	-29.2%
2022		241	7	2.9%
2023		264	22	9.3%
2024		281	17	6.4%
2025		287	7	2.3%
2026		291	4	1.2%
2027		292	2	0.6%

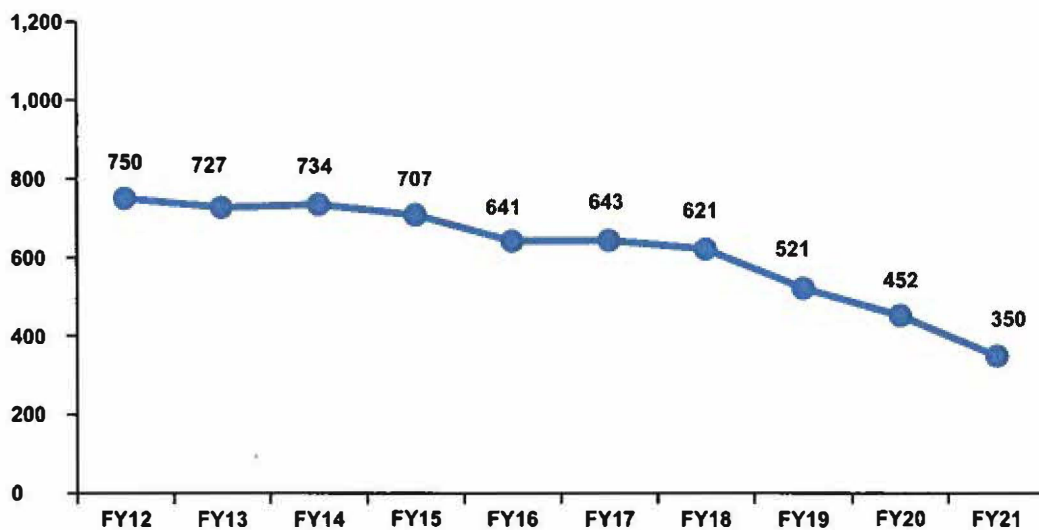
Historical and forecast population are rounded numbers. The change and percent change were calculated based on the raw data.

Juvenile Detention Center Population

Local governments or multi-jurisdictional commissions operate secure juvenile detention centers (JDCs) throughout the Commonwealth. The Board of Juvenile Justice promulgates regulations and the Director of the Department of Juvenile Justice is responsible for the certification of these facilities. A judge may order a juvenile to be held in pre-dispositional detention pending adjudication, disposition, or placement. To be eligible for pre-dispositional detention, there must be probable cause establishing that the juvenile committed an offense that would be a felony or a Class 1 misdemeanor offense if committed by an adult, violated the terms of probation or parole for such offense, or knowingly and intentionally possessed or transported a firearm. To be eligible for post-dispositional detention, the juvenile must be 14 years or older and been found to have committed a non-violent juvenile felony or Class 1 or Class 2 misdemeanor offense. A judge may order an adjudicated juvenile to be held in post-dispositional detention up to 30 days or, if the juvenile detention center operates a post-dispositional detention program, up to 6 months. Historically, the majority of the JDC population has been comprised of juveniles in pre-dispositional status (pending adjudication, disposition, or placement).

The detention center population declined from an average of 750 in FY2012 to an average of 521 in FY2019 (Figure 19). Lower numbers of intakes at Court Services Units and procedures to reduce detention of low-risk juveniles have been important factors in the downward trend. While the overall average population was 452 for FY2020 and 350 for FY2021, the monthly population figures decreased significantly between February 2020 and June 2021 (from 498 to 347 juveniles). By August 2021, this population had decreased to 321.

Figure 19
Juvenile Detention Center Population, FY2012-FY2021



Figures reflect the average daily population for each fiscal year.

Accuracy of the Forecast Adopted in 2020

The juvenile detention center population forecast adopted in 2020 was higher than the actual population in FY2021. On average for the year, the forecast was 107 juveniles (or 30.6%) higher than the actual population (Figure 20).

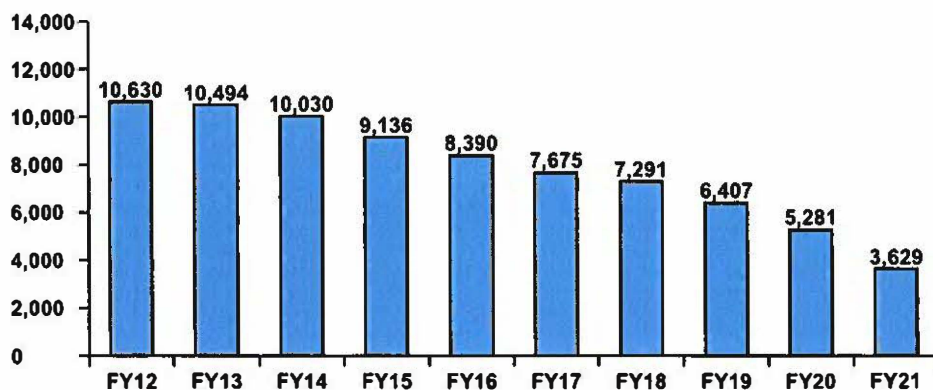
Figure 20
Accuracy of the Juvenile Detention Center Forecast
Adopted in 2020

	Actual	Projected	Difference	Percent Error
FY2021 Average Population	350	457	107	30.6%

Factors Affecting the Population

Many of the same factors that drive the direct care population, including juvenile intake cases at Court Services Units, also impact the detention center population. As described in the previous chapter, the number of juvenile intake cases at the state’s court services units have declined significantly since FY2012. Reflecting this downward trend in intakes, detention center admissions (the first admission of a continuous detention stay, excluding transfers²) has declined, particularly after FY2012 (Figure 21). Detainments fell by 31.3% in FY2021, the largest year-to-year drop in the last decade.

Figure 21
Juvenile Detention Center Admissions –
Distinct Detainments (excluding Transfers)

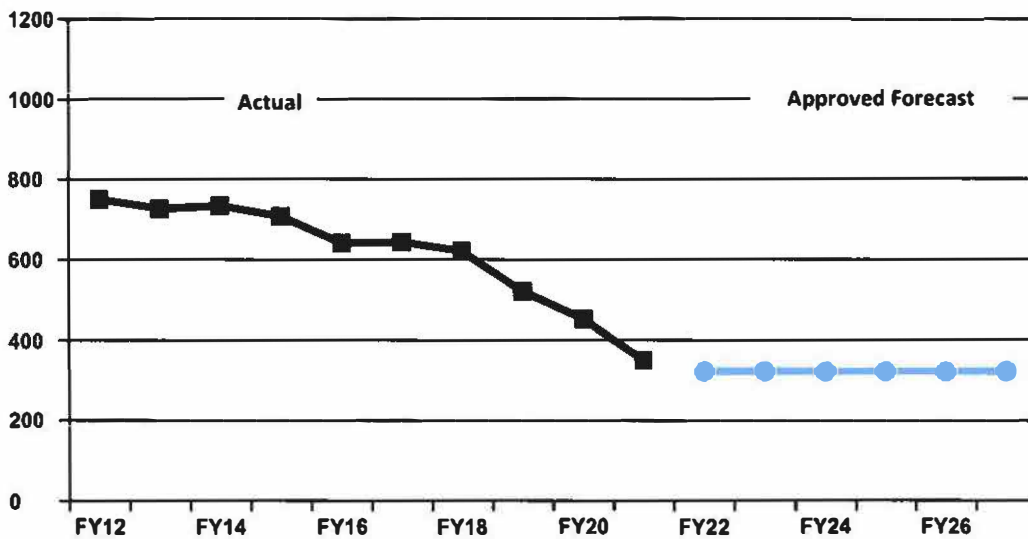


² A new detainment is not counted if a juvenile is transferred to another JDC or has a change in dispositional status before being released. An individual juvenile may have more than one detainment in a fiscal year.

Forecast of the Juvenile Detention Center Population

The Policy Committee acknowledged the significant challenges of forecasting populations during the COVID-19 pandemic. After reviewing the most recent available data, the Policy Committee approved the use of the same statistical forecast model submitted in 2019, updated with FY2020 and FY2021 data, to project the juvenile detention center population in the short-term (FY2022). Given uncertainties associated with the later years in the forecast horizon and the extent to which statistical models rely on historical trends, the Policy Committee opted to set a flat forecast for FY2023 through FY2027. Under the approved forecast, the JDC population is expected to decrease to 321 juveniles in FY2022 and then level off for the remainder of the forecast horizon (Figure 22).

Figure 22
Approved Detention Center Population Forecast, FY2022-FY2027
 Originally Submitted to the Governor and General Assembly in 2019 (updated with FY2020 and FY2021 data)



Figures reflect the average daily population for each fiscal year.

Fiscal Year	Historical	Forecast	Change	Percent Change
2012	750			
2013	727		-23	-3.1%
2014	734		7	0.9%
2015	707		-26	-3.6%
2016	641		-66	-9.3%
2017	643		2	0.3%
2018	621		-22	-3.5%
2019	521		-100	-16.0%
2020	452		-69	-13.3%
2021	350		-102	-22.6%
2022		321	-28	-8.1%
2023		321	0	0.0%
2024		321	0	0.0%
2025		321	0	0.0%
2026		321	0	0.0%
2027		321	0	0.0%

Historical and forecast population are rounded numbers. The change and percent change were calculated based on the raw data.

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Appendices

Appendix A
Legislative Directive

Item 391 of Chapter 552 of the 2021 Acts of Assembly, Special Session I (Appropriation Act)

Authority: Title 2.2, Chapter 2, Article 8, and § [2.2-201](#), Code of Virginia.

A. The Secretary of Public Safety and Homeland Security shall present revised six-year state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15 of each year. The secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast who may be appropriate for alternative sanctions.

B. The secretary shall continue to work with other secretaries to (i) develop services intended to improve the re-entry of offenders from prisons and jails to general society and (ii) enhance the coordination of service delivery to those offenders by all state agencies. The secretary shall provide a status report on actions taken to improve offender transitional and reentry services, as provided in § [2.2-221.1](#), Code of Virginia, including improvements to the preparation and provision for employment, treatment, and housing opportunities for those being released from incarceration. The report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.

C. Included in the appropriation for this item is \$500,000 the first year and \$500,000 the second year from the general fund for the Commonwealth's nonfederal cost match requirement to accomplish the United States Corps of Engineers Regional Reconnaissance Flood Control Study for both the Hampton Roads and Northern Neck regions as authorized by the U.S. Congress. Any balances not needed to complete these studies may be used to conduct a comparable study in the Northern Virginia region.

D. The Secretary shall report on the requirements of Item 381 II. of Chapter 854, 2019 Acts of Assembly, by November 15, 2020.

E.1. The Secretary of Public Safety and Homeland Security shall continue the expanded work group established in Item 381 of Chapter 854, 2019 Acts of Assembly. The expanded work group shall examine the workload impact, as well as other fiscal and policy impacts, on the Commonwealth's public safety and judicial agencies as a whole. The Executive Secretary of the Supreme Court shall submit the recommendations of the working group to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 15, 2021. All state agencies and local subdivisions shall provide assistance as requested by the working group.

2. The expanded workgroup shall include representatives of the Supreme Court, the State Compensation Board, staff of the House Appropriations and Senate Finance and Appropriations Committees, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Secretary.

3. Prior to the preparation of the November 15, 2021 report, each Commonwealth's Attorney's office in a locality that employs body worn cameras, in conjunction with the law enforcement agency using body worn cameras, shall report to the Compensation Board and the workgroup the following information on a quarterly basis, in a format prescribed by the Board:

a. The number of hours of body worn camera video footage received from their law enforcement agencies. The number of hours should additionally be broken down into corresponding categories of

felonies, misdemeanors and traffic offenses. Any recorded event that results in charges for two or more of the above categories shall be reported in the most serious category;

b. The number of hours spent in the course of redacting videos; and

c. Any other data determined relevant and necessary by the workgroup for this analysis.

F. The Secretary of Public Safety and Homeland Security shall establish an E-911 Border Response Workgroup. The Workgroup shall assess the deficiencies related to the timely routing of Emergency 911 (E911) calls to the appropriate public-safety answering point (PSAP) across either state or county borders. At a minimum, the workgroup should work with stakeholders to collect information on problems with the current system and processes; review mitigation solutions already implemented by localities and citizen groups; determine best practices; and provide inputs and recommendations to the General Assembly on technology, training, and compensation that would be necessary to address the identified deficiencies. The Secretary shall provide the recommendations of the Workgroup to the Governor and General Assembly no later than April 1, 2021.

G. The Secretary of Public Safety and Homeland Security shall assess the need for, potential benefits and feasibility of implementing, and staffing and other associated costs of establishing an Office of the Ombudsman within the Department of Corrections. The Secretary shall identify the staffing and associated costs necessary for the Ombudsman to, at a minimum, (i) provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates; (ii) monitor the conditions of confinement; (iii) provide technical assistance to support inmate participation in self-advocacy; (iv) provide technical assistance to local governments in the creation of correctional facility oversight bodies; (v) establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections; (vi) gather stakeholder inputs into the Office of the Ombudsman's activities and priorities; (vii) inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities; (viii) publicly provide facility inspection reports; (ix) conduct investigations of complaints made by inmates, family members, and advocates; and (x) the efficacy of expanding alternative methods of oversight to include the direct oversight of the Department by the Board of Local and Regional Jails or similar entity. In conducting this assessment, the Secretary shall consult with representatives of social justice or civil rights organizations, advocates for inmates or the families of inmates, national experts or similar ombudsmen and correctional oversight offices and programs in other states, and other stakeholders identified by the Secretary. The Secretary shall develop a report of the findings and shall provide such report detailing the findings to the Chairs of the House Public Safety, House Appropriations, Senate Judiciary, and Senate Finance and Appropriations Committees no later than December 1, 2021.

H. The Secretary, in consultation with the Department of Planning and Budget, and the Secretary of Finance, as well as appropriate public safety or other agency staff, shall evaluate existing funding that has been previously authorized for the enforcement of laws related to controlled substance prohibition. The Secretary shall identify, for controlled substances which have recently been decriminalized or legalized, sources of funding that are authorized for enforcement activities, including funding dedicated to patrol, arrests, incarceration, training, or other activities, that may be saved and reallocated towards other programs. The Secretary shall report on the information required in this paragraph to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2021.

Appendix B
2021 Committee Members

2021 Policy Committee Members

The Honorable Brian J. Moran, Chair
Secretary of Public Safety and Homeland Security

Valerie Boykin
Director
Virginia Department of Juvenile Justice

Tonya Chapman
Chairwoman
Virginia Parole Board

Harold Clarke
Director
Virginia Department of Corrections

Robyn deSocio
Executive Secretary
Compensation Board

Shannon Dion
Director
Virginia Department of Criminal Justice Services

Timothy Doss
Superintendent
Middle Peninsula Regional Security Center

Eric English
Chief of Police
Henrico County Police Department

The Honorable Emmett Hanger
Senate of Virginia

Linda Jackson
Director
Virginia Department of Forensic Science

June Jennings
Deputy Secretary of Finance

The Honorable Paul Krizek
Virginia House of Delegates

**2021 Policy Committee Members
(continued)**

Alison Land

Commissioner

Virginia Department of Behavioral Health and Developmental Services

The Honorable Karl Leonard

Sheriff, Chesterfield County

The Honorable Louise Lucas

Senate of Virginia

Cyril Miller

Director

Judicial Planning Department, Supreme Court of Virginia

The Honorable Gabriel A. Morgan, Sr.

Sheriff

City of Newport News

Colonel Gary T. Settle

Superintendent

Virginia State Police

Banci Tewolde

Associate Director, Public Safety

Virginia Department of Planning and Budget

The Honorable Luke E. Torian

Virginia House of Delegates

2021 Technical Advisory Committee Members

Meredith Farrar-Owens, Chair

Director

Virginia Criminal Sentencing Commission

Erik Beecroft, Ph.D.

Methodologist

Joint Legislative Audit & Review Commission

Baron S. Blakley

Research Analyst

Virginia Department of Criminal Justice Services

Huafeng Ding

Data Manager

Virginia Department of Juvenile Justice

Lawrence Getzler, Ph.D.

Chief Economic Analyst

Virginia Department of Planning and Budget

Kari B. Jackson

LIDS Analyst

Compensation Board

Warren McGehee

Manager, Statistical Analysis and Forecast Unit

Virginia Department of Corrections

Chris Wade/Maggie Nopova

Senior Management Information Analyst

Supreme Court of Virginia

