



Driving Under the Influence (DUI) *Study Overview and Data*

November 16, 2022



Study Overview

- In June 2022, staff was directed to examine:
 - the impacts of Virginia's DUI laws over the past 20 years;
 - reasons for any variations in DUI charges and convictions across Virginia; and,
 - issues related to drug impaired driving.



Study Overview

- DUI includes driving under the influence of alcohol, drugs, or a combination of both.
- In Virginia, DUI charges and punishments are based on a variety of factors, such as:
 - number of prior DUI convictions;
 - time period between DUI convictions;
 - blood alcohol concentration (BAC);
 - blood concentration of certain drugs; and,
 - presence of a child in the vehicle.

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Study Overview

- Staff engaged in the following activities:
 - reviewed relevant literature and reports;
 - collected and analyzed DUI-related data;
 - examined DUI laws in Virginia and other states;
 - surveyed law enforcement agencies and Commonwealth's Attorneys;
 - attended DUI-related trainings; and,
 - consulted with numerous stakeholders.

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Data Sources

- Centers for Disease Control and Prevention (CDC)
- Federal Bureau of Investigation (FBI)
- National Highway Safety Traffic Administration (NHTSA)
- Virginia Alcohol Safety Action Program (VASAP)
- Virginia Compensation Board
- Virginia Department of Corrections (DOC)
- Virginia Department of Forensic Science (DFS)
- Virginia Department of Health (VDH)
- Virginia Department of Motor Vehicles (DMV)
- Virginia Office of the Chief Medical Examiner (OCME)
- Virginia State Police (VSP)
- Virginia Supreme Court, Office of the Executive Secretary (OES)



Data Sources

- Data sources are not precisely comparable due to variations in scope, definitions, and methodologies, not only for each data source, but *within* certain data sources over time.
- Staff cannot provide a complete picture of DUI trends prior to 2010 because data is missing, incomplete, unreliable, or not readily available.



Key Findings: MVC Fatalities

- Approximately one-third of motor vehicle crash (MVC) fatalities in both the U.S. and Virginia involve an alcohol-impaired driver.
- Virginia consistently has a lower overall alcohol-impaired MVC fatality rate as compared to national rates per:
 - Population (100,000);
 - Licensed drivers (100,000);
 - Registered vehicles (100,000); and,
 - 100 million vehicle miles traveled (VMT).

Source: NHTSA, Fatality Analysis Reporting System (FARS), 2010-2020.

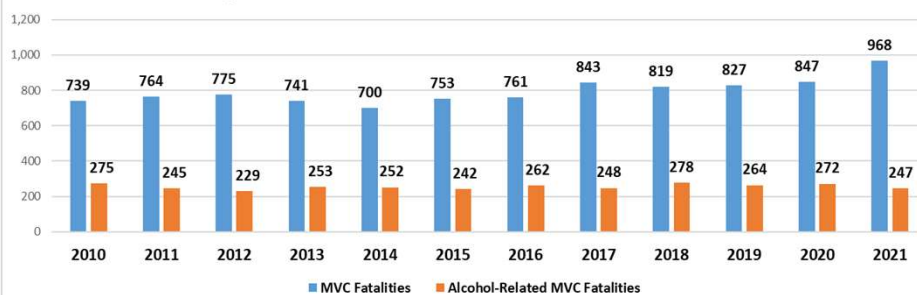
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Key Findings: MVC Fatalities

Total Virginia MVC Fatalities and Alcohol-Related MVC Fatalities



Source: Virginia DMV, Traffic Records Electronic Data System (TREDs), 2010-2021 and Virginia Traffic Crash Trends, 2016-2021. Note: these figures are not directly comparable to the Virginia OCME or NHTSA's Fatality Analysis Reporting System (FARS) due to significant methodological differences between the data sources on how alcohol-involved crashes are measured.

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Key Findings: MVC Fatalities

- Approximately 90% of MVC driver decedents were tested each year for BAC levels between 2014 and 2020.
 - Between 22% and 33% of these decedents had a BAC of .08% or higher.

Source: Virginia Department of Health, Office of the Chief Medical Examiner, 2010-2020 Annual Reports.



Key Findings

	2010	2012	2014	2016	2018	2020
DUI Arrests 18.2-266 (VSP, CCRE)	31,258	31,550	27,631	23,426	23,682	19,167
DUI Convictions 18.2-266 (VSP, CCRE)	24,968	24,836	21,831	18,340	18,447	13,955
DUI Refusal Arrests 18.2-268.3 (OES)	--	7,335	6,986	5,670	5,477	4,256
Breath Alcohol Tests (DFS)	23,189	22,090	18,138	14,968	15,276	11,257
DUI Toxicology Submissions (DFS)	--	4,437	3,996	3,722	5,146	5,579
Average BAC Value (DFS)	0.143	.140	.142	.145	.147	0.153

Note: VSP arrest and conviction data are mutually exclusive as other arrest offenses can result in a § 18.2-266 conviction.
OES DUI refusal data includes both civil violations and misdemeanor charges filed under Va. Code § 18.2-268.3.



Key Findings: Arrests and Convictions

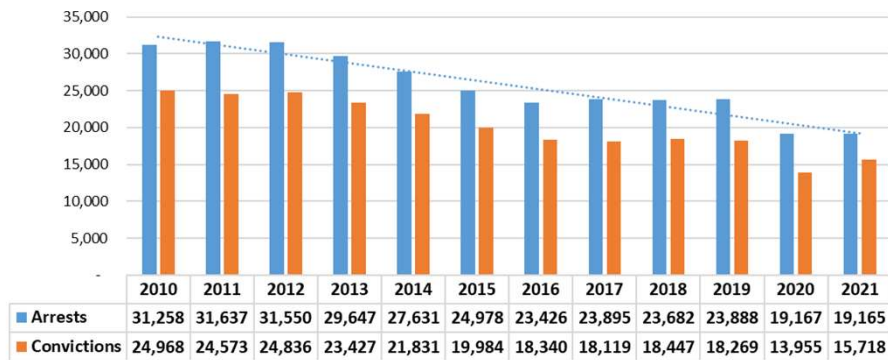
- Overall arrests in both the U.S. and Virginia have decreased substantially in the past decade.¹
- DUI arrests and convictions (§ 18.2-266) in Virginia have also declined between 2010 and 2021:²
 - 39% decrease in total DUI arrests.
 - 37% decrease in total DUI convictions.

Source: ¹ FBI Uniform Crime Reporting Program, *Crime in the United States*, Table 30, 2010-2020 and the VSP Uniform Crime Reporting Program, *Crime in Virginia*, 2010-2021. ² VSP, *Central Criminal Records Exchange (CCRE)*.



Key Findings: Arrests and Convictions

Total DUI Arrests and Convictions in the CCRE (§ 18.2-266)



Source: VSP, *Central Criminal Records Exchange (CCRE)*. Arrest and conviction data are mutually exclusive as other arrest offenses can result in a § 18.2-266 conviction. Note: the arrest data is not directly comparable to the Virginia UCR Program data due to differing methodologies in arrest counts.



Key Findings: Arrests and Convictions

- There were a total of 309,924 DUI arrests between 2010 and 2021:
 - 95% (293,478) were misdemeanors; and,
 - 5% (16,446) were felonies.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-266.

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Key Findings: Arrests and Convictions

- 84% (246,194 of 293,478) of misdemeanor DUI arrests between 2010 and 2021 resulted in a conviction.
- Of these 246,194 convictions:
 - 92% (225,853) were for misdemeanor DUI;
 - 7% (17,975) were for reckless driving; and,
 - 1% (2,366) were for some other offense.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-266.

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Key Findings: Arrests and Convictions

- 85% (14,006 of 16,446) of felony DUI arrests between 2010 and 2021 resulted in a conviction.
- Of these 14,006 convictions:
 - 61% (8,525) were for felony DUI;
 - 38% (5,265) were for misdemeanor DUI;
 - 1% (145) were for reckless driving; and,
 - <1% (71) were for some other offense.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-266.

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Key Findings: Manslaughter/Maiming

- Arrests for DUI involuntary manslaughter (§ 18.2-36.1) remained fairly stable between 2010 and 2021.
- Arrests for DUI maiming (§ 18.2-51.4) have been generally increasing with a significant increase in 2020 and 2021.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-36.1 and § 18.2-51.4.

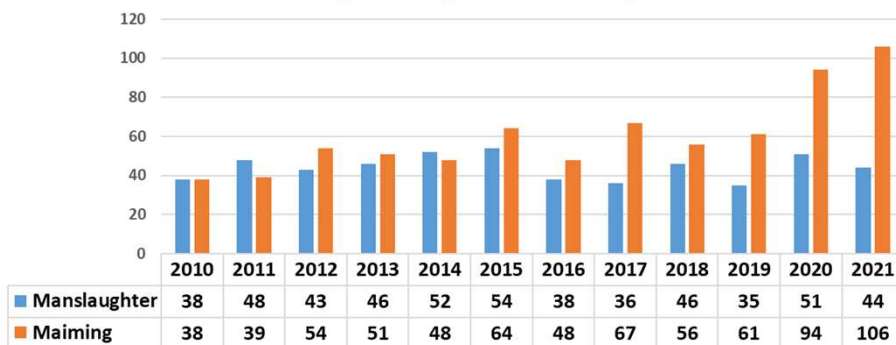
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Key Findings: Manslaughter/Maiming

Total DUI Involuntary Manslaughter and Maiming Arrests in the CCRE



Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-36.1 (involuntary manslaughter) and § 18.2-51.4 (maiming).

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Key Findings: Manslaughter/Maiming

- 75% (400 of 531) of DUI involuntary manslaughter arrests between 2010 and 2021 resulted in a conviction.
- 59% (428 of 726) of DUI maiming arrests between 2010 and 2021 resulted in a conviction.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-36.1 (involuntary manslaughter) and § 18.2-51.4 (maiming).

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Key Findings: Drug Impairment

- The full scope of drug impaired driving in Virginia cannot be determined due to:
 - Lack of consistency in how subsections of § 18.2-266 are captured in arrest and court data;
 - Lack of blood draws for all DUI cases;
 - Drug screening on blood samples is generally performed only when BAC is less than .10%;
 - Lack of toxicology testing for all drivers involved in fatal and non-fatal MVCs; and,
 - Virginia OCME does not currently report on whether drugs were detected in MVC driver decedents.

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Key Findings: DUI Refusal Charges

- The number of DUI refusal charges have been decreasing since 2012.
- 15% (9,732 of 63,601) of DUI refusal charges between 2012 and 2021 resulted in a conviction.
 - The vast majority of these charges were *nolle prosequi* or dismissed.

Source: Virginia Supreme Court, OES, GDC Case Management System, 2012-2021.

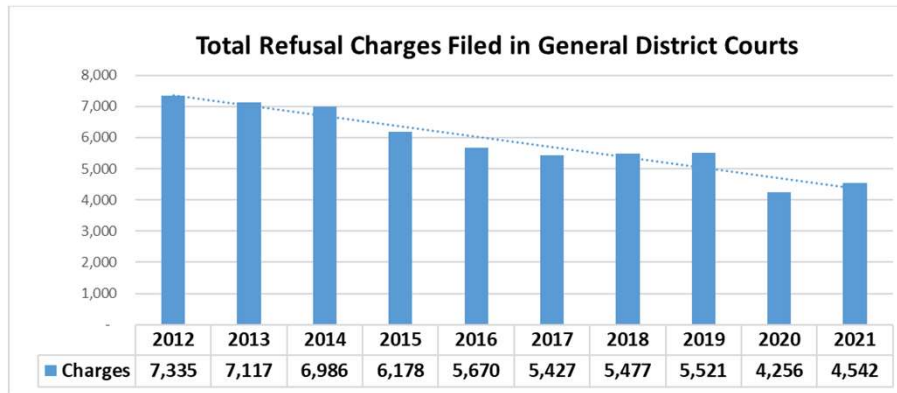
Note: data includes both civil violation and misdemeanor charges filed under Va. Code § 18.2-268.3.

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Key Findings: DUI Refusal Charges



Source: Virginia Supreme Court, OES, GDC Case Management System, 2012-2021.

Note: data includes both civil violation and misdemeanor charges filed under Va. Code § 18.2-268.3.

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Key Findings: Breath and Blood Tests

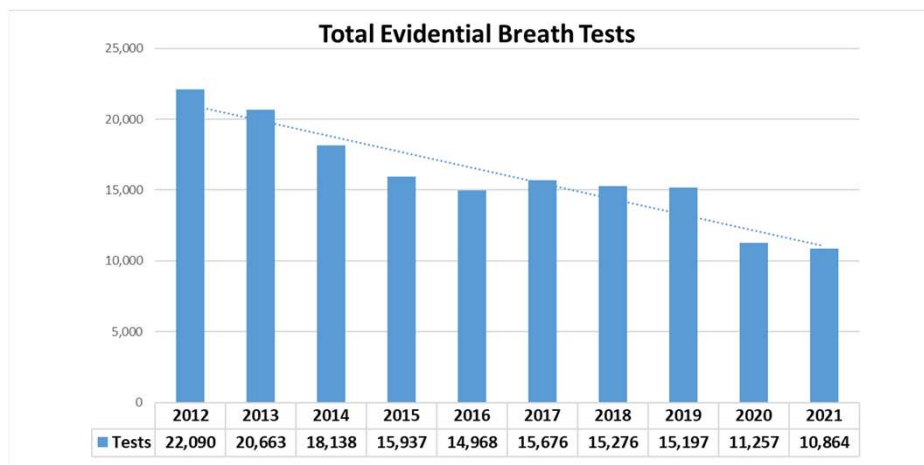
- The number of breath alcohol tests administered annually in Virginia has generally been decreasing since 2012.
- The number of blood samples submitted to DFS annually for DUI toxicology testing has generally been increasing since 2016.

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Key Findings: Breath Alcohol Tests



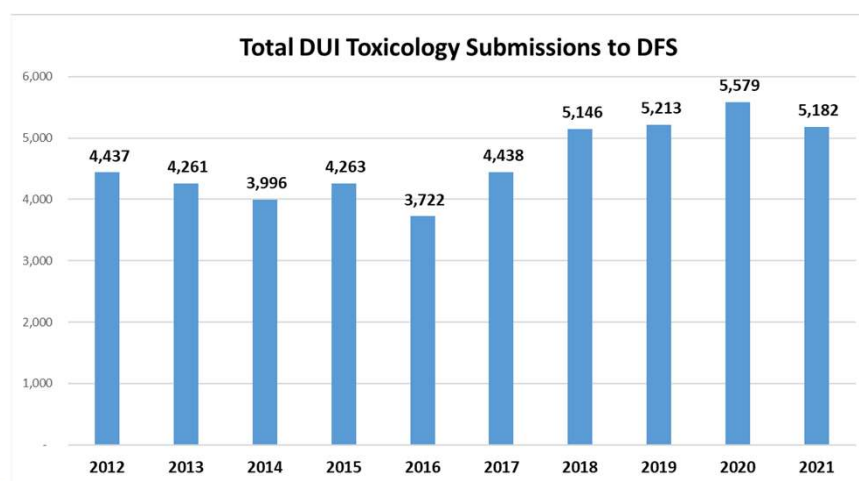
Source: Virginia DFS, 2012-2021.

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Key Findings: Toxicology Submissions



Source: Virginia DFS, 2012-2021.

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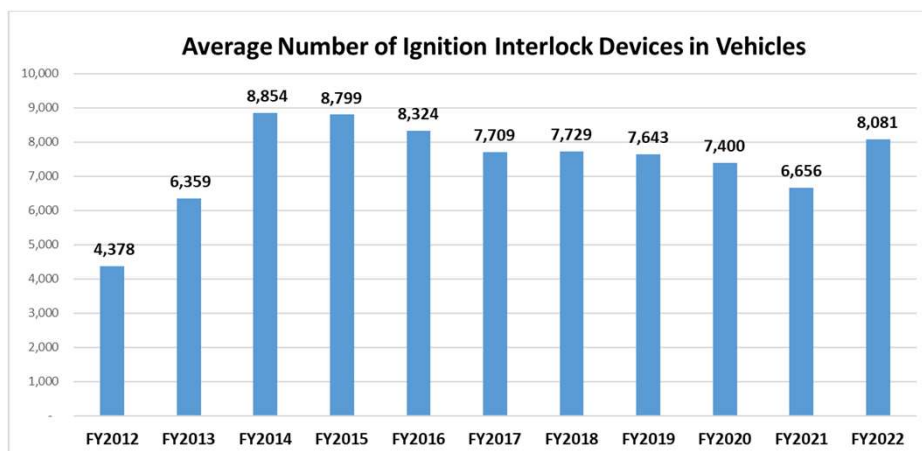


Key Findings: Ignition Interlock

- The average number of ignition interlock devices in vehicles increased between FY12 and FY14.
- The number of arrests for ignition interlock tampering (§ 18.2-270.1) increased significantly in 2018.



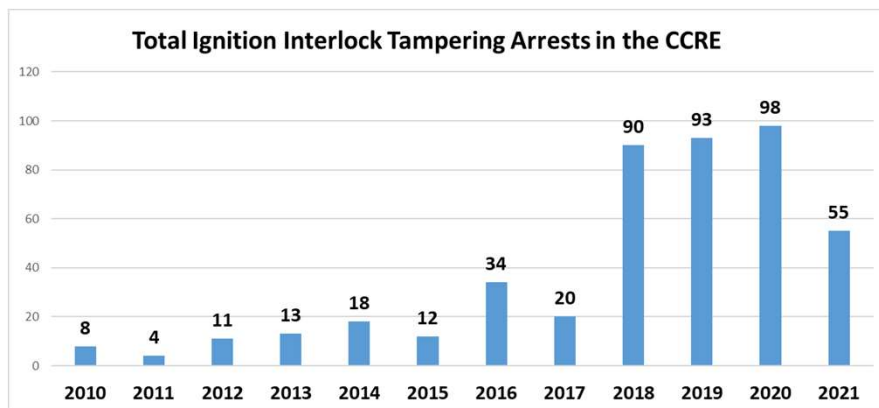
Key Findings: Ignition Interlock



Source: The Commission on Virginia Alcohol Safety Action Program (VASAP).



Key Findings: Ignition Interlock



Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-270.1.

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Key Findings: Ignition Interlock

- 59% (267 of 456) of ignition interlock tampering arrests between 2010 and 2021 resulted in a conviction.
- Of these 267 convictions:
 - 91% (243) were for ignition interlock tampering; and,
 - 9% (24) were for some other offense.

Source: VSP, CCRE, 2010-2021. Data based on Va. Code § 18.2-270.1.

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Key Findings: DUI Factors

- Many factors can impact DUI trends:
 - Geographic differences (urban, suburban, and rural)
 - Available transportation (public transit and ridesharing)
 - Presence of certain venues, such as nightclubs, breweries/wineries, sports stadiums, concert sites, casinos, and college/university campuses
 - Alcohol and drug consumption trends
 - Attitudes on impaired driving
 - Tourism and vacationing



Key Findings: DUI Factors

- Many factors can impact DUI trends:
 - Law enforcement and prosecutorial priorities and initiatives
 - Law enforcement staffing levels
 - Grant funding received for DUI enforcement
 - Frequency of DUI checkpoints and saturation patrols
 - Changes to laws and policies
 - Public awareness campaigns
 - Use of ignition interlock devices
 - Advancements in technology
 - COVID-19 pandemic



Summary

- Analyzing federal, state, and locality DUI data presents numerous challenges.
- DUI arrests, as well as overall arrests, in Virginia have decreased substantially over the past decade; however, DUI conviction rates remain high.
- Changes in DUI trends cannot be linked to a single cause because numerous factors impact DUI rates.
- The full scope of drug impaired driving in Virginia cannot be determined.



Discussion