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# Racial Disparities in Prosecutorial Outcomes

A deeper dive on cases that were dismissed or received a deferred judgment by the Denver District Attorney's Office in the City and County of Denver

## REPORT HIGHLIGHTS:

- **Reasons for case dismissal were similar** across White, Black, and Hispanic defendants.
- While **few Black defendants received a deferred judgment, reasons for deferred judgments were similar** for White, Black, and Hispanic defendants.

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Members of the Denver Community:

Back in April of 2021, my office released *Racial Disparities in Prosecutorial Outcomes*, a study of felony cases handled by the Denver District Attorney's Office for a one-year period (July 1, 2017-June 30, 2018). The purpose of the study was to analyze the intersection of race/ethnicity and disposition of cases handled by the office. At the core, this project was about earning your trust in our work through independent analysis and transparency. This project also provides a framework for the public to use in examining the work of other prosecutors' offices. I was pleased that the study found no racial nor ethnic disparities in our general plea bargaining which involves the vast majority of our cases.

The study pointed out three areas in which people of various racial or ethnic backgrounds experienced different case outcomes, and the report recommended further review of these areas. Community leaders, journalists, other district attorneys, members of our office and others raised questions about what was driving these findings. In other words, *Racial Disparities in Prosecutorial Outcomes* told us "what" but did not answer "why." I committed to digging deeper to learn the reasons for these differences and to continuing this important work after the study was completed. I am proud to have honored that commitment in a timely manner and without receiving additional resources.

This follow-up report, which is based on research conducted through a deep dive into the individual cases in the categories in which differences in case resolutions were noted, found that reasons for case dismissals and deferred judgments were similar among White, Black, and Hispanic defendants. Findings support what I believed all along: the differences in the reasons for case resolution noted in the original study were not as a result of race or ethnicity.

Being open and transparent about our work is critical if we are to earn the public's trust. That is why it was important that we delve deeper into the areas of interest the original study pointed out and evaluate how we handle felony cases. I believe that the results demonstrate that this office treats defendants with different racial and ethnic backgrounds with fairness.

Our work is not over, though. The report makes recommendations for further action that I am committed to following. My pledge to the people of Denver is that we will continue to be mindful of cultural and racial impacts in the work that we do and to treat people of all races and ethnic backgrounds fairly. We must always be vigilant if we are to ensure equal justice for all.

Sincerely,

Beth McCann  
Denver District Attorney, 2<sup>nd</sup> Judicial District



## Executive Summary

In April 2021, the Colorado Evaluation and Action Lab released a report, [\*Racial Disparities in Prosecutorial Outcomes\*](#), examining felony cases accepted for prosecution by the Denver District Attorney's (DA) Office between July 2017 and June 2018. The study found that race and ethnicity were not associated with general plea offers extended. The study did find differences between White, Black, and Hispanic defendants across the other three points of prosecutorial discretion examined: dismissals, deferred judgments, and referrals to Drug Court. However, the study was not able to examine the *reasons underlying or driving racial/ethnic differences* at these points of prosecutorial discretion.

The purpose of this follow-on project was to dig deeper into two points of prosecutorial discretion—dismissals of filed cases and deferred judgments for defendants—to examine whether the characteristics of defendants or the reasons for the dismissal or deferred judgment differed by defendant race/ethnicity. Dismissals and deferred judgments were selected for further examination by the Denver DA's Office because staff felt that these analyses would provide relevant, actionable information.

Overall, results did not show meaningful differences in the reasons why cases were dismissed or defendants received a deferred judgment by race/ethnicity. However, the relatively small number of Black defendants who received a deferred judgment makes interpretation of any potential racial/ethnic differences for that outcome difficult.

This study shines further light on two points of prosecutorial discretion: dismissed and deferred cases. This research-practitioner collaboration has taken a step toward improving prosecutorial transparency and identified opportunities for the Denver DA's Office, including ongoing efforts to:

- Consider the criteria and rationale used to make decisions about dismissals and deferred judgments.
- Support prosecutors with additional trainings and office discussions on issues such as implicit bias and cultural differences.
- Augment its case management system to more systematically collect data that can support ongoing case review, learning, and transparency.



## Acknowledgements

This research was supported by the Denver District Attorney’s Office for the Second Judicial District (City and County of Denver [Denver DA’s Office]). The opinions expressed are those of the study team and do not represent the views of the State of Colorado, the Denver DA’s Office, or the University of Denver.

Thank you to our partners at the Denver DA’s Office who provided subject matter expertise and guidance on this project: Beth McCann, Maggie Conboy, Amanda Johnson, and Hilary Daniels.

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## Introduction

In April 2021, the Colorado Evaluation and Action Lab (Colorado Lab) released a report, [\*Racial Disparities in Prosecutorial Outcomes\*](#) (hereafter referred to as the “original study”), examining felony cases accepted for prosecution by the Denver District Attorney’s (DA) Office between July 2017 and June 2018. The original study found that race and ethnicity were not associated with general plea offers extended. It did find differences between White, Black, and Hispanic defendants across the other three points of prosecutorial discretion examined: dismissals, deferred judgments, and referrals to Drug Court. However, the study was not able to examine the *reasons underlying or driving racial/ethnic differences* at these points of prosecutorial discretion.

The purpose of this follow-on project was to dig deeper into two points of prosecutorial discretion—dismissals and deferred judgments—to examine two research questions.

- 1. What are the characteristics of defendants whose cases were dismissed? Why were cases dismissed? Did these characteristics or reasons differ by defendant race/ethnicity?**
- 2. What are the characteristics of defendants who received a deferred judgment? What were the reasons for receiving a deferred judgment? Did these characteristics or reasons differ by defendant race/ethnicity?**

Case dismissals and deferred judgments were selected for further examination by the Denver DA’s Office because staff felt these analyses would provide relevant, actionable information. In particular, referrals to Drug Court were not examined because the drug court that existed at the time of the original study is no longer in existence. By digging deeper into dismissals and deferred judgments, the Denver DA’s Office sought to identify opportunities to inform ongoing improvement, including continued improvements to the intake process, criteria that can be used by DAs to inform decision-making, and systems to examine and learn from data.



## Description of the Study

The study was conducted between May and August 2021. The research team included a principal investigator at the Colorado Lab, two representatives from the Denver DA's Office, and two law student interns.

The study sample consisted of two subsets of cases from the [original study's](#) adult felony cases accepted for prosecution during a one-year period (July 1, 2017 to June 30, 2018):

- 350 cases with White, Black, or Hispanic defendants whose cases were dismissed.
- 111 cases with White, Black, or Hispanic defendants who received a deferred judgment.

Interns reviewed and abstracted information from each individual case file. A list of data elements that were abstracted and used for this study can be found in [Appendix A](#). The interns received support in interpreting cases from their supervisor at the Denver DA's Office, and as needed, consulted with deputy DAs that had been involved with the cases to answer questions or clarify notes. The research team communicated regularly to clarify definitions and support standard abstraction procedures. Overall, interns were able to abstract information for 237 (78%) dismissed cases<sup>i</sup> and 93 (84%) deferred cases.<sup>ii</sup> Abstracted data was securely transferred to the principal investigator who ran descriptive statistics. The research team met twice to review and make meaning of results.

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<sup>i</sup> 63 cases were sealed, and 14 cases were identified as having received a different outcome.

<sup>ii</sup> 14 cases were sealed, and four cases were identified as having received a different outcome.



## Findings: Case Dismissals

### Reasons for case dismissal were similar across White, Black, and Hispanic defendants.

In general, the reasons for dismissal were similar between White, Black, and Hispanic defendants. Most cases were dismissed because the case could not be proved beyond a reasonable doubt. This was primarily due to the victim not wishing to proceed with the case or testify or issues with the admissibility or strength of evidence.

The [original study](#) found that cases involving Black defendants were significantly more likely than cases involving White defendants to be dismissed during prosecution. Although the higher rate of dismissals of cases involving Black defendants might appear to suggest an advantage, it is important to note that these cases were initially accepted for prosecution.

Upon digging deeper, the present study found that the reasons why cases were dismissed were similar across defendant race/ethnicity (Table 1).

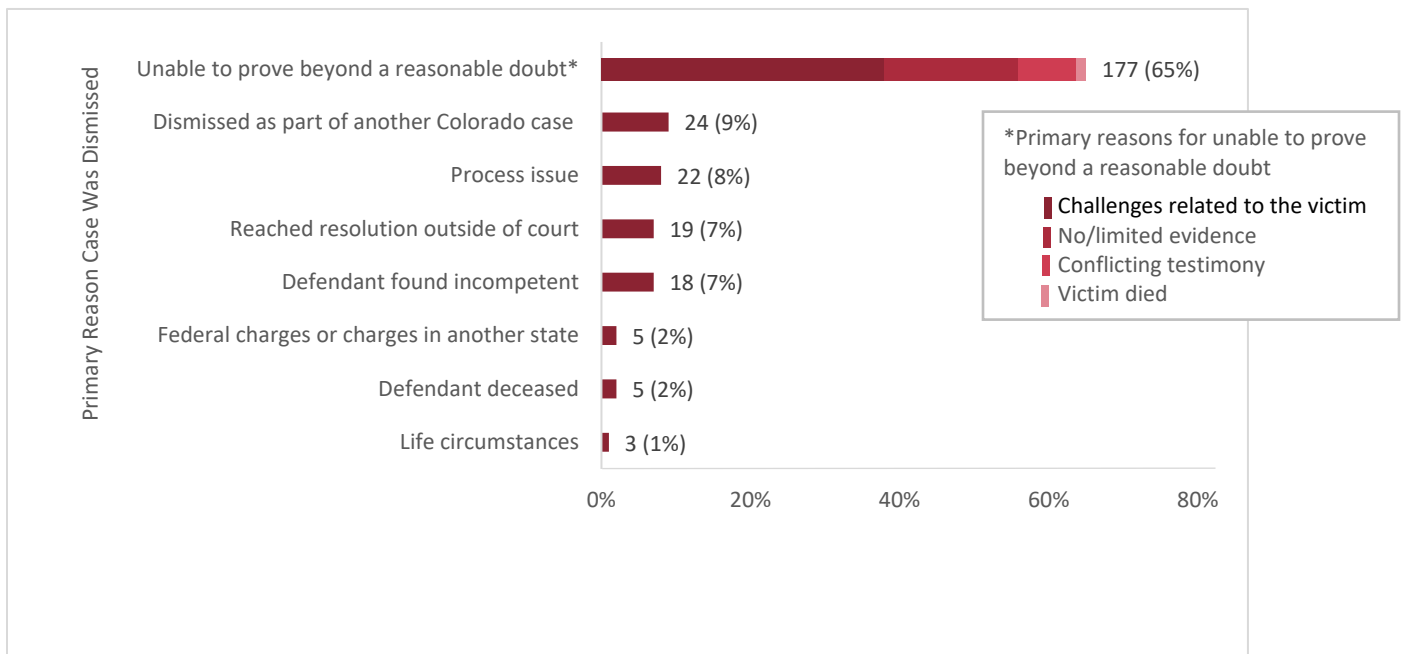
Table 1. The primary reason for dismissal was similar across White, Black, and Hispanic defendants.

Reason for Dismissal	White (n=90)	Black (n=94)	Hispanic (n=89)
Unable to prove beyond a reasonable doubt	55 (61%)	60 (64%)	62 (70%)
Dismissed as part of another Colorado case	11 (12%)	8 (9%)	5 (7%)
Process issue	7 (8%)	7 (7%)	8 (9%)
Reached resolution outside of court	7 (8%)	5 (5%)	7 (8%)
Defendant found incompetent	4 (4%)	9 (10%)	5 (6%)
Federal charges or charges in another state	1 (1%)	3 (3%)	1 (1%)
Defendant deceased	3 (3%)	2 (2%)	0 (0%)
Life circumstances	2 (2%)	0 (0%)	1 (1%)

Across defendants, the primary reason that cases were dismissed was because they could not be proved beyond a reasonable doubt (Figure 1). This was primarily due to the victim not wishing to proceed with the case or testify, the Denver DA’s Office not being able to get in touch with the victim, and/or the victim changing or recanting their testimony (103 of the 177 cases dismissed for this reason) or there being issues with the admissibility or strength of evidence (54 of the 177 cases dismissed for this reason). It was not possible to systematically determine whether these challenges were known when the case was accepted for prosecution—or whether issues with the victim, evidence, or witnesses were determined later.



Figure 1. Most cases were dismissed because they could not be proved beyond a reasonable doubt (all races/ethnicities, n=273).



Other reasons for dismissing a case included:

- The case was dismissed as part of another Colorado case.
- A process issue, including the defendant experiencing issues registering as a sex offender (e.g., defendant was experiencing homelessness, defendant registered in a different jurisdiction); errors in the arrest or filing process (e.g., arrest warrant was not issued, defendant was not Mirandized, deputy did not send a writ); or length of time between the alleged incident and system involvement (e.g., statute of limitations reached).<sup>iii</sup>
- The case was able to reach resolution outside of court (e.g., through the defendant paying restitution).
- The defendant was found incompetent.

As noted above, the most common reason for not being able to prove a case beyond a reasonable doubt was that the victim did not wish to proceed with the case or testify, the Denver DA’s Office was not able to get in touch with the victim, and/or the victim changed or recanted their testimony. To gain a deeper understanding of why this might be the case, we examined whether the charge for dismissed cases was related to domestic violence. Across the 273 cases that were dismissed, 78 cases (29%) involved a charge related to domestic violence. Rates of domestic violence were similar across defendant race/ethnicity.<sup>iv</sup>

<sup>iii</sup> Upon deeper inspection, the research team determined that many of these cases with process issues should not have been accepted for prosecution.

<sup>iv</sup> 21 of the 90 dismissed cases with White defendants (23%) involved domestic violence; 29 of the 94 dismissed cases with Black defendants (31%) involved domestic violence; 28 of the 89 dismissed cases with Hispanic defendants (31%) involved domestic violence.





We also examined the race(s) of victims for cases that had a reported victim, which was 211 cases (77% of total cases). As shown in Table 2, cases with a Black defendant had a higher proportion of Black victims, when compared to cases involving White or Hispanic defendants, which had a greater proportion of White victims.<sup>v</sup>

Table 2. Cases with a Black defendant were more likely to have Black victim(s).

	All Races (n=211)	White (n=68)	Black (n=70)	Hispanic (n=73)
<b>Victim Race</b>				
White	128 (61%)	52 (76%)	21 (30%)	55 (75%)
Black	43 (20%)	4 (6%)	34 (49%)	5 (7%)
Another race or victims with multiple races	14 (7%)	3 (4%)	4 (6%)	7 (10%)
Unknown	26 (12%)	9 (13%)	11 (16%)	6 (8%)

### Defendants whose cases were dismissed were similar in gender and age. Most had a previous criminal history.

Most defendants were male, between the ages of 21 and 39, and had a previous criminal history. White, Black, and Hispanic defendants were similar in age and gender. A greater percentage of Black defendants had a previous criminal history.

Defendant gender, age (at the time of filing), and criminal history are shown in Table 3. Most defendants were male (88%), between the ages of 21 and 39 (63%) and had a previous criminal history (84%). These characteristics were similar across White, Black, and Hispanic defendants, with the exception of previous criminal history, which was somewhat higher among Black defendants.

Table 3. Defendants whose case was dismissed were similar in gender and age. More Black defendants had a previous criminal history.

	All Races (n=273)	White (n=90)	Black (n=94)	Hispanic (n=89)
<b>Gender</b>				
Male	240 (88%)	80 (89%)	85 (90%)	75 (84%)
Female	33 (12%)	10 (11%)	9 (10%)	14 (16%)
<b>Age (at time of filing)</b>				
18-20	15 (5%)	4 (4%)	5 (5%)	6 (7%)
21-29	78 (29%)	21 (23%)	32 (34%)	25 (28%)
30-39	94 (34%)	33 (37%)	28 (30%)	33 (37%)
40-49	45 (16%)	17 (19%)	15 (16%)	13 (15%)
50+	41 (15%)	15 (17%)	14 (15%)	12 (13%)
<b>Previous Criminal History</b>				
Yes	230 (84%)	73 (81%)	89 (95%)	68 (69%)

<sup>v</sup> Victim race was abstracted from the case file, which contains information provided by law enforcement. Sometimes victims self-identify their race, whereas other times race is identified by the officer. No data were available on victim ethnicity; therefore, Hispanic victims are likely classified as White.



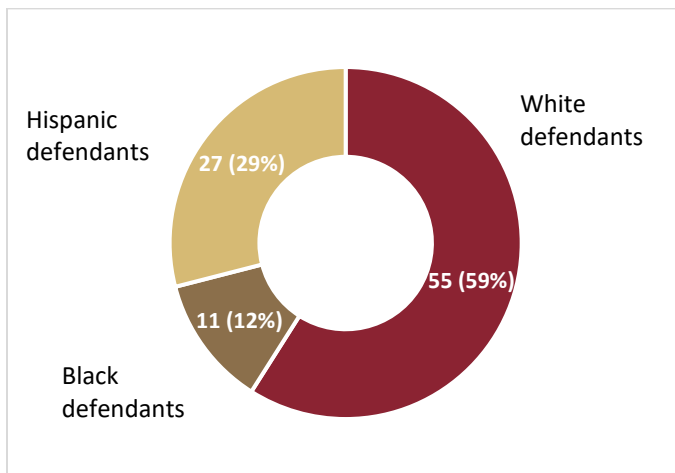
## Findings: Deferred Judgments

**Reasons for offering deferred judgment were similar for White, Black, and Hispanic defendants. Since few Black defendants received deferred judgments, comparison is difficult.**

The top reasons defendants received deferred judgments were no or limited criminal history, the offense not being violent or serious, life circumstances of the defendant, and/or a rationale for the crime. Reasons were relatively similar across defendant race/ethnicity.

The [original study](#) found that cases involving White defendants were more than twice as likely to be deferred than cases involving either Black or Hispanic defendants. In the [original study](#), deferred judgments represented just 3.9% of total cases (111 total cases). Among the 93 cases included in the present study, few cases involved Black defendants (Figure 2).

Figure 2. Few Black defendants received a deferred judgment.



The research team was able to determine the reason for the deferred judgment for all but one case. Thirty-seven cases (40%) had a clearly stated reason for the deferred judgment provided by the deputy DA in the file; for 55 cases (59%), the research team could deduce why the deferred judgment was offered, based on review of the case documentation and/or following up with the deputy DA assigned to the case.

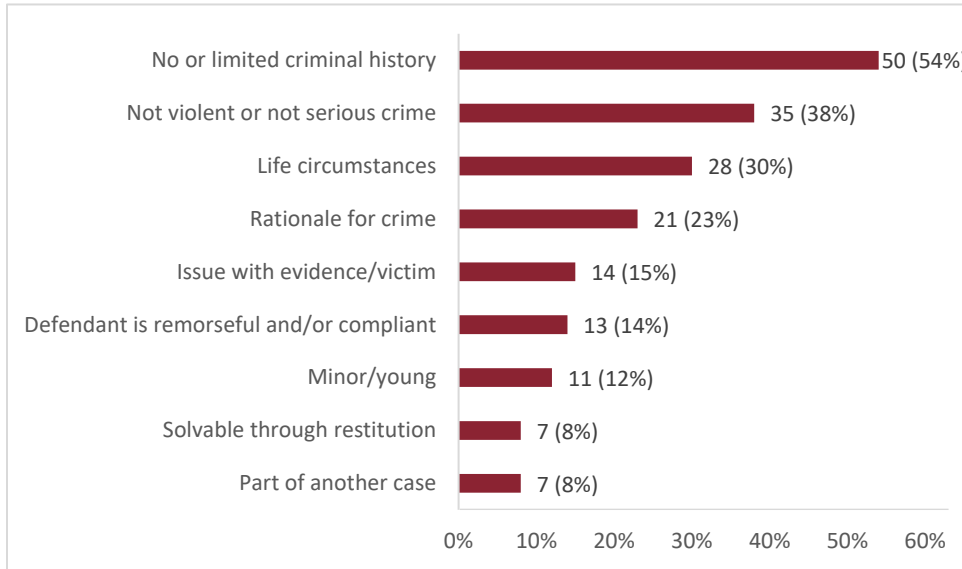
Overall, deputy DAs provided numerous reasons for offering a deferred judgment. Most reasons that were noted, or the research team could infer, included at least some level of discretion and/or interpretation by the deputy DA. As shown in Figure 3, the most common reasons included:

- The defendant having no or a limited criminal history (e.g., only non-violent offenses or offenses a long period of time ago).
- The charge not being a violent crime or a serious offense.
- The defendant having life circumstances that required leniency or flexibility.



- The defendant demonstrating or deputy DA finding a rationale or underlying reason for the offense.

Figure 3. Defendants received deferred judgments for a variety of reasons (all race/ethnicities, n=92; multiple reasons could be listed).



Reasons for deferred judgment were relatively similar across White, Black, and Hispanic defendants. As shown in Table 4, a smaller proportion of cases involving Black defendants mentioned the seriousness of the crime. A larger proportion of cases involving Hispanic defendants mentioned the defendant being a minor or being young. However, the small number of Black defendants for whom the reasons was noted (n=10) makes it difficult to interpret these proportions across race/ethnicities.

Table 4. Reasons for deferred judgment were relatively similar across White, Black, and Hispanic defendants.

Reason for Deferred Judgment	Examples	White (n=55)	Black (n=10)	Hispanic (n=27)
No or limited criminal history	<ul style="list-style-type: none"> <li>• No criminal history</li> <li>• Minimal criminal history</li> </ul>	29 (53%)	6 (60%)	15 (56%)
Not violent or not serious crime	<ul style="list-style-type: none"> <li>• Non-violent crime</li> <li>• Low-level offense</li> </ul>	22 (40%)	2 (20%)	11 (41%)
Life circumstances	<ul style="list-style-type: none"> <li>• Substance abuse or mental health issue and in need of treatment</li> <li>• Caregiving responsibilities</li> <li>• Trying to graduate college or keep job</li> <li>• Facing deportation</li> <li>• Promising future or unlikely to commit a crime in the future</li> </ul>	16 (29%)	4 (40%)	8 (30%)



Reason for Deferred Judgment	Examples	White (n=55)	Black (n=10)	Hispanic (n=27)
Rationale for crime	<ul style="list-style-type: none"> <li>Not involved in the most serious aspect(s) of the crime</li> <li>Under the influence of substances or experiencing a mental health issue at the time</li> <li>Life pressures (business, family, or peer pressure)</li> <li>Was an accident</li> </ul>	10 (18%)	2 (20%)	9 (33%)
Issue with the evidence or victim	<ul style="list-style-type: none"> <li>Conflicting testimony</li> <li>Victim will not testify/victim wanted deferred judgment</li> <li>Limited evidence</li> </ul>	8 (15%)	1 (10%)	5 (19%)
Defendant is remorseful and/or compliant	<ul style="list-style-type: none"> <li>Embarrassed</li> <li>Cooperative, compliant</li> <li>Respectful</li> </ul>	7 (13%)	1 (10%)	5 (19%)
Age of defendant	<ul style="list-style-type: none"> <li>Minor or young</li> </ul>	3 (5%)	0 (0%)	8 (30%)
Solvable through restitution	<ul style="list-style-type: none"> <li>Agreed to restitution</li> <li>Already paying restitution</li> </ul>	4 (7%)	0 (0%)	3 (11%)
Part of another case	<ul style="list-style-type: none"> <li>Global deal</li> <li>Split plea</li> <li>Made a deal with a confidential informant</li> </ul>	5 (9%)	2 (20%)	0 (0%)

**Defendants who received a deferred judgment were similar in gender and age. More White defendants had a previous criminal history.**

Most defendants were male, between the ages of 21 and 39, and had a previous criminal history. White, Black, and Hispanic defendants were similar in age and gender. A greater percentage of White defendants had a previous criminal history.

Defendant gender, age (at the time of filing), and criminal history are shown in Table 5. Most defendants were male (73%), between the ages of 21 and 39 (64%), and had a previous criminal history (67%). These characteristics were similar across White, Black, and Hispanic defendants, with the exception of previous criminal history, which was somewhat higher among White defendants (73% had any criminal history) compared with Black (55%) and Hispanic (59%) defendants (Table 5, next page). While there were a higher proportion of female Black defendants, the small numbers make these differences hard to interpret.



Table 5. Defendants whose cases received a deferred judgment were similar in gender and age. More White defendants had a previous criminal history.

	All Races (n=93)	White (n=55)	Black (n=11)	Hispanic (n=27)
<b>Gender</b>				
Male	68 (73%)	40 (73%)	6 (55%)	22 (81%)
Female	25 (27%)	15 (27%)	5 (45%)	5 (19%)
<b>Age (at time of filing)</b>				
18-20	10 (11%)	3 (5%)	1 (9%)	6 (22%)
21-29	37 (40%)	19 (35%)	7 (64%)	11 (41%)
30-39	22 (24%)	13 (24%)	2 (18%)	7 (26%)
40-49	12 (13%)	9 (16%)	1 (9%)	2 (7%)
50+	12 (13%)	11 (20%)	0 (0%)	1 (4%)
<b>Previous Criminal History</b>				
No	31 (33%)	15 (28%)	5 (45%)	11 (41%)
Yes, Non-violent	50 (54%)	33 (60%)	5 (45%)	12 (44%)
Yes, Violent	12 (13%)	7 (13%)	1 (10%)	4 (15%)

### Charge level and type of representation for cases that received a deferred judgment was similar across race/ethnicity.

All cases had a most serious charge of Felony levels 3-6. Defendants were roughly split in having public or private representation.

Table 6 displays the most serious non-drug felony charge and the type of representation for cases that received a deferred judgment. As noted in the [original study](#), a F1 is the most severe level of felony and a F6 is the least severe level of felony charge; all cases that received a deferred judgment were F3-F6. In looking at the type of representation, cases were roughly split in having public or private representation. These findings were similar across race/ethnicity.

Table 6. The most serious non-drug felony charge and type of representation of cases that received a deferred judgment were similar across race/ethnicity.

	All Races (n=93)	White (n=55)	Black (n=11)	Hispanic (n=27)
<b>Most Serious Non-Drug Felony Charge <sup>1</sup></b>				
F3	12 (13%)	5 (9%)	2 (18%)	5 (19%)
F4	33 (35%)	17 (31%)	5 (45%)	11 (41%)
F5	29 (31%)	20 (36%)	3 (27%)	6 (22%)
F6	19 (20%)	13 (24%)	1 (9%)	5 (19%)
<b>Type of Representation <sup>2</sup></b>				
Public	48 (53%)	31 (58%)	4 (36%)	13 (52%)
Private	41 (46%)	22 (42%)	7 (64%)	12 (48%)

<sup>1</sup> Six defendants had a drug felony (DF) charge (one DF3 and five DF4) in addition to another felony charge.

<sup>2</sup> Excludes three defendants with both public and private attorneys and one pro-se defendant.

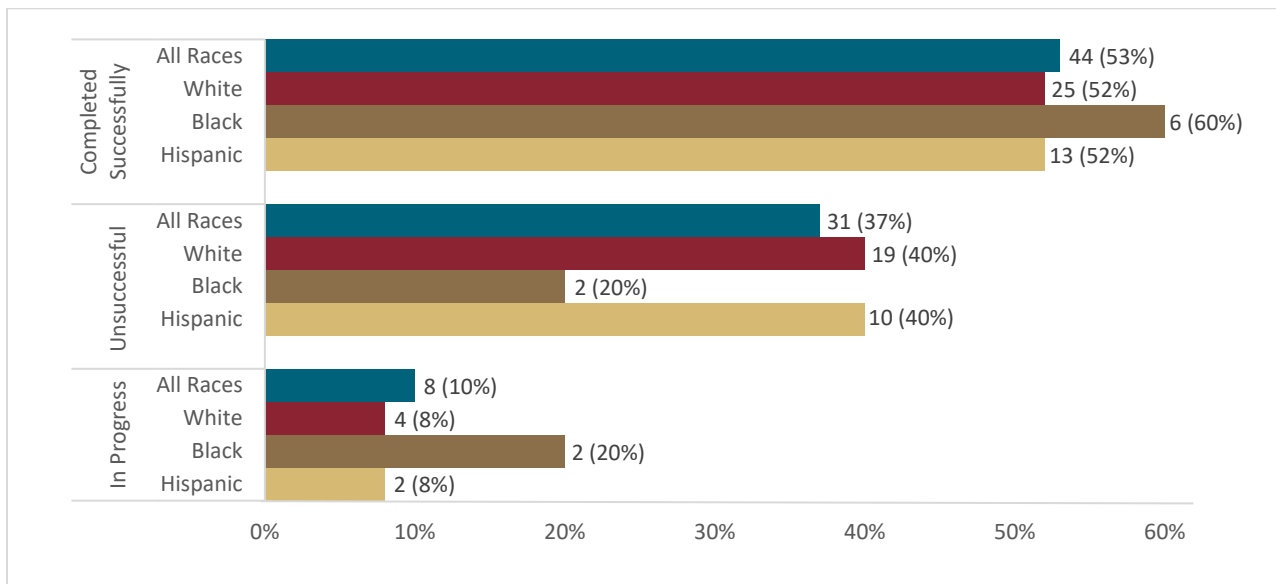


## One-third of defendants did not successfully complete the deferred judgment

One-half of defendants successfully completed the deferred judgment, while one-third were unsuccessful. Some are still in the deferred judgment process. Fewer Black defendants were “unsuccessful” in their deferred judgment.

As show in Figure 4, just over one-half of defendants successfully completed the deferred judgment, resulting in dismissal of the case, while over one-third were unsuccessful. Completion rates were similar across defendant race/ethnicity, with the exception of Black defendants, who had a lower percentage of being unsuccessful; 20% of Black defendants were unsuccessful, compared to 40% of White or Hispanic defendants, although the numbers are small.

Figure 4. Just over half of defendants successfully completed the deferred judgment.



Note: Outcome data were not available for 10 defendants.



## Limitations

As this study was a follow-on project to the [original study](#), it is subject to many of the same limitations, including representing a “snapshot” (point-in-time estimate) of prosecutorial outcomes from cases from 2017-2018.

The Denver DA’s case management system was not designed to systematically capture many of the variables of interest in this study, including the reason for dismissal, the reason for deferred judgment, the type of representation, and the outcome of the deferred judgment. While the research team worked to ensure that they used standardized procedures to abstract information from cases, there is the potential for error, in particular, when interpreting reasons not clearly documented by deputy DAs. Modifying the case management system to include standardized categories will support the DA’s Office in more systematic and routine monitoring.

Another limitation is the difficulty in interpreting some of the study findings. For example, we are not able to “benchmark” results from this follow-on study (dismissed and deferred cases) against similar metrics from the general pool of cases during the same period. For example, to draw conclusions about the role of counsel (public versus private) in receiving a deferred judgment, it would be helpful to know how the type of representation for deferred cases (roughly evenly split in this study) compares to the type of representation for other case outcomes during the same period.

Similar to the [original study](#), data were not available for the first point of prosecutorial discretion: acceptance of cases for prosecution. Therefore, we were not able to compare reasons for dismissal with reasons why cases were rejected or accepted for prosecution. Gaining a deeper understanding—and distinguishing—the reasons for refusing cases and dismissing cases remains an important future direction.

Finally, we were able to examine only a limited period and we were not able to examine trends over time. As previously noted, given the relatively small number of Black defendants who received a deferred judgment, it was difficult to fully explore [Research Question 2](#).



## Implications and Recommendations

Overall, the study did not identify meaningful differences in the reasons why cases were dismissed or why defendants received a deferred judgment by race/ethnicity, although the relatively small number of Black defendants who received a deferred judgment makes interpretation for that outcome difficult. Moving forward, the study sheds light on opportunities for the Denver DA's Office.

First, it is important for the DA's Office to **continue to consider the criteria and rationale used to make decisions about dismissals and deferred judgments**. Many of the reasons deputy DAs noted, or the research team could infer, for dismissing or deferring a case included at least some level of discretion or interpretation by the deputy DA. While decisions and criteria used to make decisions may seem unrelated to race on a *case-by-case basis*, they may be influenced by *systemic drivers*, for example:

- Structural factors associated with race/ethnicity. Defendants likely have unequal access to resources such as college, formal medical diagnoses, and steady employment. These factors could influence things such as previous criminal history, ability to pay restitution, or access to drug treatment.
- Different life circumstances and experiences—and associated interpretations by deputy DAs. Defendants may have diverse expressions of concepts such as remorse, respect, or compliance, which may or may not align with DAs' expectations. Likewise, DAs may differ in their interpretation of a defendant's life circumstances, attitudes, or behaviors.

To help address these systemic challenges, the DA's Office can consider providing additional guidance and criteria that can support deputy DAs in making decisions. There may be opportunities to build on guidance from existing problem-solving courts, such as RESTART (a felony DUI treatment court) or Sobriety Court (a misdemeanor DUI court).

Likewise, as noted in the [original study](#), the office can **continue to support prosecutors with additional trainings and office discussions on issues such as implicit bias and cultural differences**. The DA's Office can use aggregate results and case examples from this analysis to support the development of training materials.

Finally, the DA's Office can **augment its case management system to more systematically collect data that can support ongoing case review, learning, and transparency**. This study points to the value in more systematically collecting data on:

- Reason(s) why a case was accepted or rejected.
- Reason(s) why a case was dismissed, that includes sub-reasons as to why the case could not be proved beyond a reasonable doubt.
- A field to flag whether the case should not have been accepted and/or whether new evidence came to light after the case was accepted.
- Whether a defendant is eligible for a deferred judgment, offered a deferred judgment, and accepts a deferred judgment, along with a reason/rationale for each.





To support routine monitoring, it would be ideal to collect these data through a series of closed-ended options, with opportunities to provide open-ended text (as appropriate). This study provides a starting point to identify a set of closed-ended response options.

## Conclusion

This study represents a step forward for gaining a deeper understanding of results presented in the [original study](#), helping to shine further light on two points of prosecutorial discretion: dismissed and deferred cases. This researcher-practitioner collaboration has taken a step toward improving prosecutorial transparency and identifying actionable opportunities.



## Appendix A: List of Abstracted Data Elements

### Dismissed Cases

- Case ID
- Defendant date of birth
- Defendant gender
- Defendant criminal history
- Date the case was filed
- Brief factual summary of the case
- Notes on case information (whether the case involved domestic violence, drugs/substance abuse, mental health issues, etc.)
- Victim race
- Primary reason for dismissal
- Additional reason(s) for dismissal
- If reason for dismissal was “Unable to prove beyond a reasonable doubt,” additional details
- A flag for whether the case should not have been filed

### Deferred Cases

- Case ID
- Defendant date of birth
- Defendant gender
- Defendant criminal history
- Date the case was filed
- Brief factual summary of the case
- Notes on case information (whether the case involved domestic violence, drugs/substance abuse, mental health issues, etc.)
- Level of felony
- Type of legal representation (public, private, or pro-se)
- Whether there was a stated and clear reason for the deferred judgment noted by the deputy DA
- The reason(s) for the deferred judgment
- A flag for whether the case should not have been offered a deferred judgment
- The outcome of the case