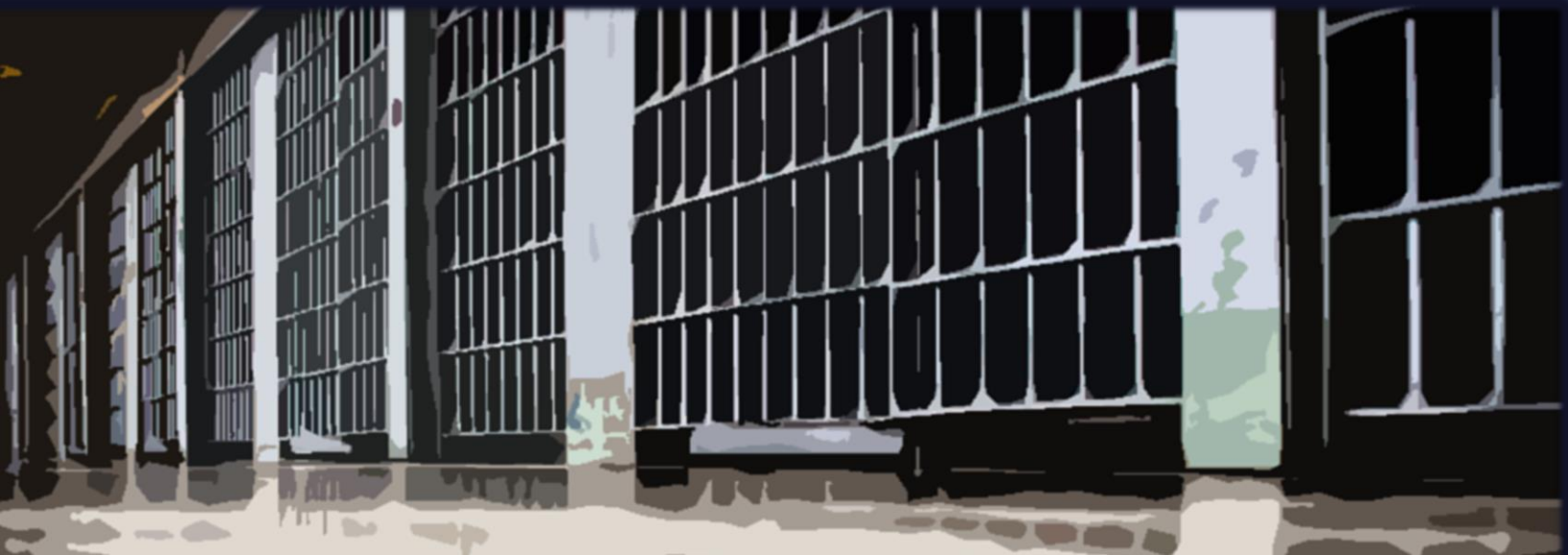




# **Final Report on Racial Justice in Prosecution in Baltimore**

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**This Report is the result of a cooperative partnership between the Baltimore City State's Attorney's Office (BCSAO) and researchers at the University of Maryland and Harvard University. The BCSAO provided data and research guidance but all opinions and conclusions are solely the authors and do not necessarily reflect the official position or viewpoints of the BCSAO.**

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# Foreword from Marilyn Mosby State's Attorney

The Baltimore City State's Attorney's Office  
Baltimore, MD

I was a young teenager when I first experienced our criminal justice system. My cousin – who was my best friend – had been shot and killed in a case of mistaken identity, and he bled to death on the steps of his house, mere feet away from my home. As I attended the trial of his killer, I was struck by the number of black men I saw in feet shackles and handcuffs. I had been taught that slavery was a thing of the past, but my own eyes showed me that racism was alive and well in our criminal justice system.

Decades later, when I was elected State's Attorney for Baltimore City, I resolved to tackle racial disparities in the criminal justice system. I took police accountability seriously, I stopped prosecuting marijuana possession, reinvigorated a unit devoted to exonerating the innocent, and ensured that victims of crime got the services they need. My office has also permanently stopped prosecuting certain low-level offenses, like drug possession and sex work. And we have opened a unit dedicated to reviewing and reducing harsh sentences.

I have done all of this with the aim of championing racial justice. America is the largest jailer of people in the world with Black people imprisoned at nearly five times the rate of whites. Here, in the State of Maryland, African-Americans make up a mere 31% of the State population, yet comprise 70% of the state's prison population - more than double the national average. A Johns Hopkins University study showed that our approach to low-level offenses prevented arrests that would have fallen almost exclusively on the backs of black people.



Yet we know that more has to be done to remove the stain of mass incarceration and what has been called “the New Jim Crow”. That is why my office entered into an agreement with researchers from the University of Maryland. They approached my office in 2019 with the idea of studying racial disparities in the criminal justice system. Our job was to hand over the data and they would do the work. I have always been committed to transparency, and, perhaps, just as important, I have always pushed for data to guide my decisions. I applaud the researchers for their work.

Although the study can make for uncomfortable reading, we cannot shy away from the racial disparities that the report details. The work I have done until this point and that I will do in the future is borne out of a knowledge that racism permeates our criminal justice system, that blacks are more likely to be arrested, prosecuted, and incarcerated than their white counterparts. Acknowledging this truth is an important step towards fixing these issues. I recognize that prosecutors have an important role in the criminal justice system, and I know that more must be done as we strive for racial equity and fairness. I hope that other actors in the system will read the report and feel the same way.

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## Executive Summary

Democratic principles of fair and just treatment represent core values of the American criminal justice system; yet, racial disparities in punishment remain an all-too-common occurrence. Defendants of color are overrepresented across various stages of the justice system from arrest and pretrial detention to conviction and imprisonment. Communities of color are also subject to higher violent crime and victimization rates. Racial inequality in the justice system is paramount not only because it violates core tenets of fairness and justice, but also because it can fuel racialized perceptions of bias and incite legal cynicism, which can further amplify crime. The importance of examining racial disparity has been heightened by several recent events, including police killings of unarmed Black citizens, public protests over racial inequality, the impact of the Black Lives Matter movement, and the rise of progressive approaches to prosecution aimed at increasing equality.

Against this backdrop, the Baltimore City State's Attorney's Office (BCSAO), led by Ms. Marilyn Mosby, recognizes that racial disparity is an enduring social problem and is striving to identify and address underlying sources of racial inequality in prosecution. In partnership with a team of independent academic researchers, the BCSAO commissioned this report on racial justice in prosecution in Baltimore. It summarizes results of statistical analyses examining racial differences in prosecution in Baltimore City using detailed data on Circuit Court cases disposed in 2017 and 2018.

This report is the second in a series focusing on racial justice in prosecution in Baltimore City. The first report provided a preliminary overview of race differences in case characteristics and charging outcomes. That report was descriptive in nature and did not account for other case and defendant characteristics beyond the race of the defendant; this report incorporates multivariate analyses that adjust for other relevant case factors when assessing the impact of defendant race. It provides a more detailed and comprehensive analysis of the extent to which defendant race and ethnicity are associated with case outcomes for criminal defendants prosecuted in Baltimore City's Circuit Court.

## Key Findings

This report offers a number of conclusions regarding racial differences in case dispositions, charging, and sentencing outcomes, which are briefly summarized below:

## Descriptive Summary

- Relative to the racial demographics of Baltimore City, Blacks are overrepresented in arrests and Circuit Court cases. They account for 63% of the city population but 83% of arrests and 88% of Circuit Court cases. More than 80% of cases involve a Black male defendant.



- On average, Black defendants face more serious charges and are overrepresented in violent, firearms, and drug offenses. White defendants are overrepresented in property offenses such as burglary and theft. Prior criminal history is more pronounced for Black defendants, as are “War Room” cases, a designation used to identify serious or violent repeat offenders.

## Case Dispositions

- Roughly one in three Circuit Court cases is nol-prossed or stetted. This does not necessarily mean these cases resulted in no conviction. Charges are sometimes nol-prossed because there is a plea deal in another case, an alternative to prosecution is completed, or a case is transferred to another jurisdiction, such as federal court. Among cases that are fully prosecuted (i.e. not dismissed), the conviction rate is nearly 95%. For both Black and White defendants, the most commonly reported reason for dismissal is Witness Problems.
- Black defendants are more likely than White defendants to have their cases discontinued, and they are less likely to be convicted. These differences are statistically significant in multivariate analyses. The predicted probability of conviction is 58% for Black defendants compared to 63% for White defendants. This difference is primarily the result of a higher rate of nolle prosequi for Black defendants.
- For cases disposed of via guilty plea or trial, 90% of Black versus 95% of White defendants plead guilty. This difference is statistically significant in multivariate analyses and indicates Black defendants are more likely to go to trial. Hispanic defendants are also more likely than White defendants to go to trial. Among trial cases (n=780), 45% of Black and 42% of White defendants are acquitted, though this difference is not statistically significant.
- Overall, a slightly higher proportion of White convictions involves Probation Before Judgement (PBJ), but this is offset by the lower overall conviction rate for Black defendants, and is not statistically significant in multivariate analyses. Black defendants have slightly greater odds of receiving Probation After Judgment (PAJ).

## Charging Decisions

- On average, Black defendants have a higher mean number of charges filed, but this difference is not statistically significant in multivariate analyses. Overall, there is no evidence that defendant race impacts the number of charges filed or the number of charges convicted.
- “War Room” charges, used to designate serious, repeat offenders, are more likely to involve Black defendants – especially young, male, Black defendants. This may be related to other factors not in the data, such as being on probation or parole at the time of the offense.
- Black defendants have greater odds of receiving a reduction in the severity of their top charge and are more likely to have felony charges reduced to a non-felony. Among convicted cases, the most serious charge is reduced 36% of the time for Black defendants and 31% of the time for White defendants, a statistically significant difference in multivariate analyses.

- Overall, small but statistically significant racial differences exist in charging. The magnitude of these differences is not large, and with the exception of War Room charges, appear to favor Black defendants. This may reflect prosecutorial corrections to initial overcharging at arrest and filing, but additional data would be needed to fully investigate this possibility.

## Sentencing Decisions

- The majority of convicted Circuit Court defendants (86%) are sentenced to some period of incarceration. Black defendants are slightly more likely to receive more than 1 year of incarceration, but this difference is not statistically significant in multivariate analyses. The overall odds of incarceration are similar for Black and White defendants, but Black defendants are more likely to be incarcerated for Firearms and Weapons-related offenses.
- The majority of convicted defendants have a portion of their total sentence suspended by the court. The modal sentence involves less than 1 year of unsuspended incarceration time. Neither the likelihood nor length of suspended sentence terms is related to the race of the defendant, offering no evidence of racial disparity in suspended sentences.
- Sentence lengths vary across primary offense categories but follow similar patterns for Black and White defendants. Black defendants receive slightly longer sentences, on average, for robbery and drug offenses, but these differences are not significant in multivariate analyses. Overall, statistical analyses of total, suspended, and unsuspended sentences provide no evidence of significant racial disparities in sentence lengths. Similarly, no meaningful differences are found in average length of probation terms by defendant race.

## Conclusion

This study analyzed statistical associations between defendant race, case dispositions, charging decisions, and sentencing outcomes in Baltimore City Circuit Court. Compared to their population proportion, Black defendants are overrepresented in Circuit Court cases. On average, they face more serious criminal charges than White defendants, especially for firearms and drug offenses, and they have more significant prior criminal histories. After accounting for these and other case differences in multivariate statistical analyses, small but significant racial differences exist in case dispositions. Black defendants are slightly less likely to be convicted and more likely to have their cases nolle prossed. They are also less likely to plead guilty and more likely to face “War Room” charges. Few significant differences exist in sentencing outcomes, though Black defendants are more likely to be incarcerated specifically for Firearms and Weapons offenses. Overall, the general pattern of results does not suggest overarching or systemic patterns of racial disparity in the prosecution of Baltimore City Circuit court cases, but it does suggest some important policy implications, data improvements, and future research directions, which are discussed and elaborated in the Conclusion of the Report.

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# Introduction

## Research Context and Project Background

Baltimore City is located in Baltimore County, Maryland and has a population of about 600,000 people, making it the largest city in Maryland and the 30th largest city in the United States. Issues of racial justice have long been at the forefront in Baltimore. The controversial death of Freddie Gray, Jr., a Black man who was killed while in police custody in 2015, led to civil unrest and widespread racial protests against police violence and racial inequality in the city. More recent public uprisings have followed in the wake of the deaths of other unarmed Black citizens, including Breonna Taylor, George Floyd, and others. At the same time, the rise of the Black Lives Matter movement has amplified reform efforts aimed at improving police accountability and enhancing citizen trust. Against this backdrop, the Baltimore City State's Attorney's Office (BCSAO) has taken an active role in advocating for criminal justice reform in Maryland.

This Report reflects the efforts of the BCSAO, led by the State's Attorney, Ms. Marilyn Mosby, to investigate and address possible sources of racial disparities in criminal prosecution in Baltimore. The BCSAO is committed to fair and equitable prosecution, with the same standard of justice applied to all, regardless of their race, ethnicity, religion, occupation, or other individual characteristics. As part of the broader efforts to build community trust and ensure fairness and transparency in prosecution, the BCSAO entered into a partnership with independent researchers from the University of Maryland and Harvard University to provide an assessment of racial justice in prosecution. This report summarizes findings on patterns of race and prosecution in Baltimore City Circuit Court cases during 2017 and 2018. The Circuit Court is the court of general jurisdiction for serious criminal cases and for all jury trials.

The fair and just prosecution of individuals regardless of their racial and ethnic backgrounds holds special significance for communities of color and for policy-makers and practitioners. Equitable treatment before the law is at the heart of the American system of justice, yet racial disparities are all too common. Black citizens constitute 13.4% of the American population but comprise the largest demographic group in prison (Pew, 2019). Empirical research suggests defendants of color are often disadvantaged in the justice system, from arrest (Kochel et al., 2011) to pretrial detention (Demuth, 2003), and from sentencing (Steffensmeier et al., 1998) to post-prison outcomes (Huebner & Bynum, 2008). Communities of color also experience relatively high violent crime and victimization rates (Warnken & Lauritsen, 2019). Racial inequities are of cardinal importance not only because they violate core principles of justice, but also because they fuel racialized perceptions of bias, contribute to community tensions, and incite legal cynicism, which can further amplify crime (Tyler, 1990). Racial disparities in the justice system can also exacerbate social inequalities in other domains of life (Kurlyckek & Johnson, 2019). Although racial disproportionality in mass incarceration is well-established, less is known about possible sources of racial inequality in prosecution (Johnson et al., 2016).

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Prosecutors wield important discretion in criminal case outcomes. The nature of prosecution differs across jurisdictions, but prosecutors are typically involved in the decision to file charges, divert cases to alternative dispositions, and amend the severity and number of charges as part of the plea negotiation process. Prosecutorial bail and sentence recommendations are also important as are decisions related to the filing of charges that carry mandatory sentences. This report is not able to examine all important sources of prosecutorial discretion, but it does provide an initial assessment of racial disparities in case dispositions, charging decisions, and sentencing outcomes in Baltimore City's Circuit Court.

It is important to note that racial disparities in criminal case processing can occur for many reasons. Criminal involvement is associated with broader patterns of racial inequality and structural disadvantage in society. Legal and financial resources often vary by race in ways that can impact case outcomes. Although prosecutors control many important decisions, other factors that impact disparity are beyond their purview, such as decisions made by police, bail commissioners and judges. At the same time, it is important to emphasize that prosecutors can play a vital role in uncovering and addressing racial inequalities at early stages of the justice system. This Report is motivated, in part, by the BCSAO's recognition of the need to identify and address possible sources of racial inequity in prosecution. It is essential to identify how and why racial disparity occurs in order to inform appropriate policy reforms, while also engaging community stakeholders to create a fairer, more just and equitable criminal justice system.

The findings in this report are based on summary overviews of racial patterns in criminal case outcomes, along with multivariate statistical analyses designed to account for multiple factors when assessing the independent influence of race on criminal case outcomes. To streamline its presentation, the report is limited to summaries of key results for outcomes of interest. Full statistical tables are available upon request. We view this and subsequent reports as a requisite first step in identifying the degree and locus of racial disparity in criminal case outcomes, with the intent of stimulating meaningful discussions aimed at addressing and ameliorating it. Some findings offer insights into policy reforms that can be pursued directly by the State's Attorney's Office, but others will likely require broader partnerships with law enforcement, the judiciary, and local communities.

The Report begins with a brief overview of the study methodology. It then provides a descriptive summary of the data and analytic sample, before presenting descriptive and multivariate analyses of case dispositions, charging decisions, and sentencing outcomes for all defendants processed in Baltimore City Circuit Court during the study period. The Report concludes with a discussion of policy implications, study limitations, data recommendations, and future research on sources of racial inequality in prosecution and punishment.



# 1. Study Methodology

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## Data and Research Methods

### Data

Data for this report come from the BCSAO's case management system and include information on approximately 50,000 misdemeanor and felony charges involving more than 10,000 criminal defendants charged in over 13,000 separate criminal cases in Baltimore City Circuit Court in 2017 and 2018.<sup>1</sup> The Circuit Courts cover most felonies, select misdemeanors, and District Court cases involving appeals or jury trials. This report focuses only on Circuit Court cases in Baltimore City.

The BCSAO case management data are augmented in several ways. Using information on CJIS (criminal justice information system) codes, the data are matched to additional information from the Maryland Sentencing Commission (<http://www.msccsp.org/Files/Guidelines/offensetable.pdf>) to incorporate additional legal variables including statutory maximum punishments, detailed offense type(s), and felony and jailable offense indicators. As described below, U.S. Census Bureau data are also utilized to identify defendants who are likely to be of Hispanic origin.

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<sup>1</sup> The data include a small number of cases disposed at the end of 2016 and at the beginning of 2019. For convenience we refer to 2017-2018 because the data include all cases disposed in both of these years. These numbers do not reflect count-specific information, such as when multiple counts of the same offense are charged. When multiple counts are included, there are nearly 75,000 total charges disposed during our time frame.

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## Criminal Cases

Statistical results in this report are based on case-level analyses. Charge-level data are utilized to generate some of the measures, but the unit of analysis is the criminal case. The case-level data include all criminal cases disposed of in Baltimore City Circuit Court during the study period. A criminal case is defined as any set of charges recorded under the same State's Attorney's Office (SAO) Case Number. The same criminal defendant can appear more than once in the data if they are charged in more than one criminal case. Additional analyses based on individual defendants were also examined and revealed similar patterns of findings.

## Outcomes of Interest

This Report focuses on a limited set of case processing, charging, and sentencing outcomes that include whether the charges against a defendant were discontinued (including dismissal, nolle prosequi, and stet charges); whether and how the number, severity, or type of charges changed between filing and conviction; and what the final sentence was in convicted cases. Information was not available for a number of other potentially important case processing decisions (e.g. case acceptance, charge alterations from arrest to filing, detailed bail and sentence recommendations, pretrial detention outcomes, or detailed information on plea offers and whether they were accepted). Data on these and other potentially important decision points are not collected in the case management system data. We elaborate on these and other study limitations in the Conclusions section at the end of the Report.

## Race and Ethnicity

The BCSAO captures defendant race as reported by law enforcement, which includes White, Black, Asian, Native American, and Other. The data do not include information on ethnicity. About 5.5% of Baltimore residents identify as Hispanic. Using a data method outlined by the U.S. Census Bureau, we identify Hispanic individuals in the data by matching their last names to the U.S. Census Bureau's Hispanic Surname List, which indicates that at least 75% of people in the U.S. with that corresponding last name identify as Hispanic. Sample sizes for Hispanic, Asian, and Native American defendants in the data are not large enough to allow for detailed statistical analyses of these groups, so primary results in the Report focus on Black-White comparisons.



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## Offense Type and Severity

Select results are presented across offense types and for subsets of commonly-occurring crimes, including murder,<sup>2</sup> robbery, rape, firearm, weapon,<sup>3</sup> assault, drug, burglary, theft, and other offenses. Some analyses also examine broader offense groupings as outlined by the Maryland Sentencing Commission, which include Person, Property, and Drug offense categories. Person offenses include murder, rape, robbery, assault and other violent crimes. Drug crimes include all controlled dangerous substance offenses, including possession, manufacturing and intent to distribute. Property crimes include burglary, theft, motor vehicle theft, and related offenses, like arson or malicious destructions of property. Crimes that are not classifiable into these categories are included in an “other crime” category that includes traffic offenses and public order offenses such as prostitution, disorderly conduct, public intoxication, gambling, obstruction, and licensing crimes.

In addition to the type of offense, analyses also include measures that account for the relative severity of a criminal offense using a Crime Severity Scale that was created based on the statutory maximum prison term and the maximum fine allowed under Maryland law. Using statutory maxima, charges were grouped into 16 severity levels that range from 3 months or less to life imprisonment. Common Law offenses that do not specify a statutory maximum are classified according to their most similar offenses (e.g. “affray” is categorized with disorderly conduct). The crime severity scale is presented and described in additional detail in the next section of the Report (see Table 2.3).

## Analytic Approach

This Report analyzes racial differences in Baltimore City Circuit Court cases using a combination of descriptive and multivariate statistical analyses. Basic summary overviews of racial differences in case characteristics are presented along with multivariate statistical models that isolate the association between defendant race, case dispositions, charging decisions, and sentencing outcomes. A more detailed description of the multivariate models is provided in the Technical Appendix. The Report begins with a descriptive summary of racial differences in the types of cases in Circuit Court. Then it examines racial disparities in case dispositions, likelihood and mode of conviction, various measures of charge reductions, and final sentencing outcomes.<sup>4</sup> The results offer insights into how common case characteristics and case outcomes differ for Black and White defendants.

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<sup>2</sup> “Murder” offenses combine 1<sup>st</sup> and 2<sup>nd</sup> Degree Murder, 1<sup>st</sup> and 2<sup>nd</sup> Degree Attempted Murder, and Manslaughter and related charges. Other primary offense categories combine related charges in similar ways.

<sup>3</sup> “Weapons” offenses include all weapons-related crimes that do not specifically involve a firearm, such as offenses related to illegal possession of ammunition, knives, body armor, etc.

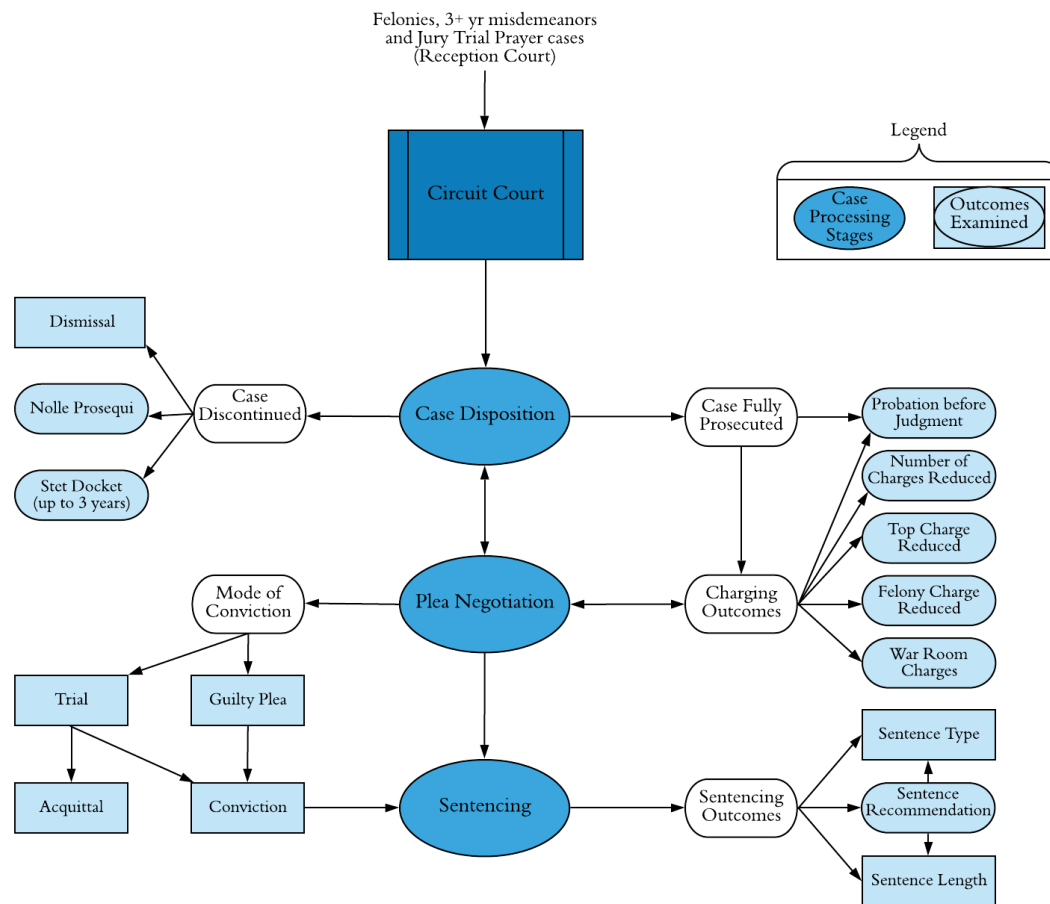
<sup>4</sup> For convenience, the report uses the term “Dismissal” to refer to all criminal cases in which prosecution has been discontinued, either because the case was dismissed, nol-prossed or stetted. We use the term “charge reduction” to refer to decreases in the relative severity of charges between filing and disposition, including reductions in the severity of the top charge, changes from felony to non-felony charges, and decreases in the number of charges.

## Case Processing Overview

Below is a simplified schematic of the criminal case processing stages that we examine for racial disparity. A more complete schematic is detailed in the Technical Appendix. The light blue shapes are outcomes we examine. The ovals represent decisions controlled primarily by prosecutors, whereas rectangles can involve other actors.

It is important to note that we are unable to study all relevant decisions in which defendant race may be impacting case outcomes. Our data are limited to criminal cases filed in Baltimore City Circuit Court,<sup>5</sup> which is the court of general jurisdiction that handles serious cases, including felonies, misdemeanors subject to 3 or more years of incarceration, and all jury trials.

**Figure 1.1. Simplified Case-Flow for BCSAO Circuit Court Cases and Outcomes Examined**



<sup>5</sup> Cases processed through District, Traffic, or Juvenile Court are not examined, nor are cases handled in Family, Drug Treatment or Mental Health Court. We also lack information on initial appearances, bail hearings, and dispositive alternatives employed at Central Booking (e.g. Release without Charges, Early Resolution Court).





## 2. Case Characteristics



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### Descriptive Summary

We begin by providing a descriptive overview of individual defendant and case characteristics, which provides valuable context for interpreting subsequent racial comparisons.

Overall, nearly 75,000 criminal counts, and more than 50,000 criminal charges, were filed against approximately 10,000 defendants in 13,231 cases in Baltimore City Circuit Court in 2017-2018. We collapse multiple counts for the same offense and focus on the criminal case as the unit of analysis. Some defendants may appear more than once in the data because they were arrested multiple times or because they had multiple sets of charges filed in different cases during the study period.

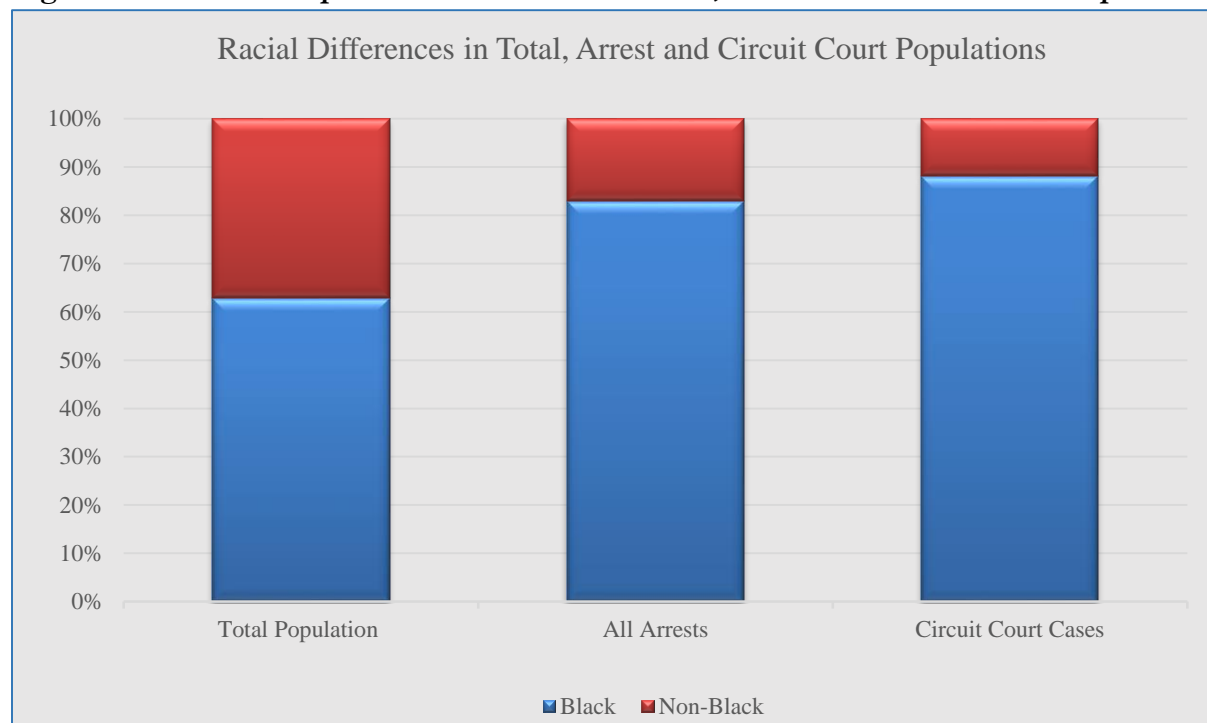
### Defendant Characteristics

#### Demographics

Figure 2.1 below provides a comparison of racial demographics for the population of Baltimore City with all arrested offenders and all Circuit Court criminal cases in 2017-2018. U.S. Census estimates for 2018 indicate that the population of Baltimore City is 62.8% Black and 31.8% White. Five and a half percent of the population is Hispanic with only small numbers of Asian or Native Americans.

Data from the Baltimore City Police Department report that 83% of all arrests in 2017-2018 involved a Black suspect, whereas 88% of Circuit Court cases included a Black defendant. Because Circuit Court cases typically involve more serious offenses, the arrest and court data are not directly comparable; however, the general pattern is suggestive of an increased presence of Black defendants in serious criminal cases in Baltimore City’s justice system.

**Figure 2.1. Racial Comparisons of Baltimore’s Total, Arrest and Circuit Court Populations**



NOTE: Total Population reflects racial demographics reported by the U.S. Census for Baltimore City ([www.census.gov](http://www.census.gov)). Arrest data include all adult arrests processed at Baltimore’s Central Booking and Intake Facility ([data.baltimorecity.gov/](http://data.baltimorecity.gov/)). Circuit Court data include all cases disposed in Baltimore City Circuit Court based on case management data provided by the BCSAO.

Table 2.1 on the next page, along with Figures 2.2. and 2.3, present a more detailed summary of offender demographics. **Eighty-eight percent of all Circuit Court cases involved a Black defendant and 9% percent involved a White defendant.** Very few cases involved defendants of other racial or ethnic backgrounds, including Hispanics, who accounted for less than 2% of all cases.<sup>6</sup> **About 8 out of 10 Circuit Court cases involved a Black Male defendant,** and roughly 1 out of 3 had a young (under 30), Black, male defendant. Similar percentages emerge when the data are limited to cases with felony charges. The average defendant age across all Circuit Court cases was 34 years old, ranging from 17-84, with a modal age category of 26-35 years old.

<sup>6</sup> As noted above, defendant’s ethnicity is not reported in the BCSAO data, but it is approximated using the names of defendants matched to a list of the most common Hispanic surnames provided by the U.S. Census.

**Table 2.1. Offender Demographics, Baltimore City Circuit Court, 2017-2018**

Offender Demographics	%/Mean
<b>Race</b>	
Black	87.7%
White	9.1%
Other/Unknown	3.2%
<b>Gender</b>	
Male	88.5%
Female	11.5%
<b>Age</b>	34.0

**Figure 2.2. Offender Demographics, Baltimore City Circuit Court Data, 2017-2018**

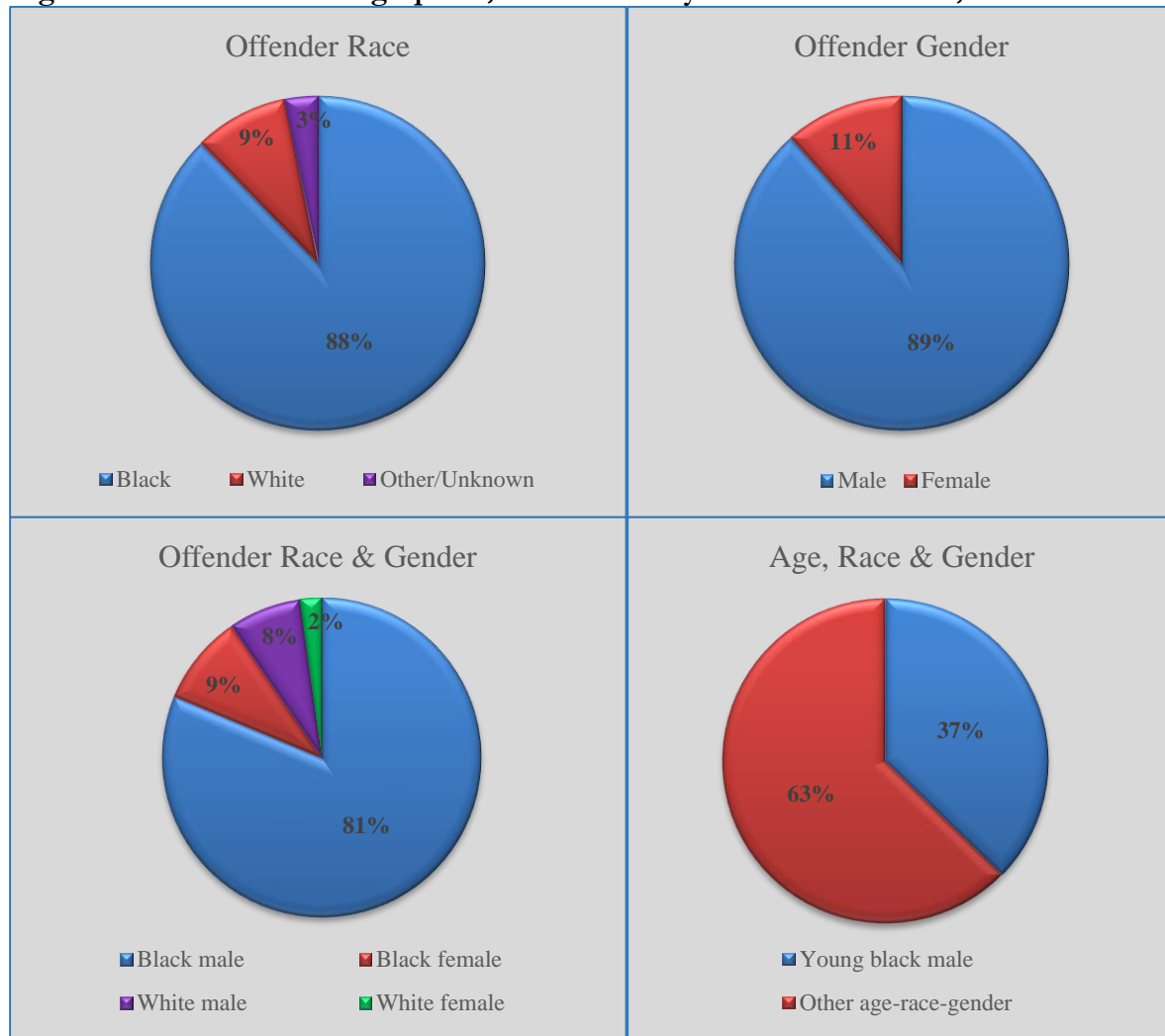
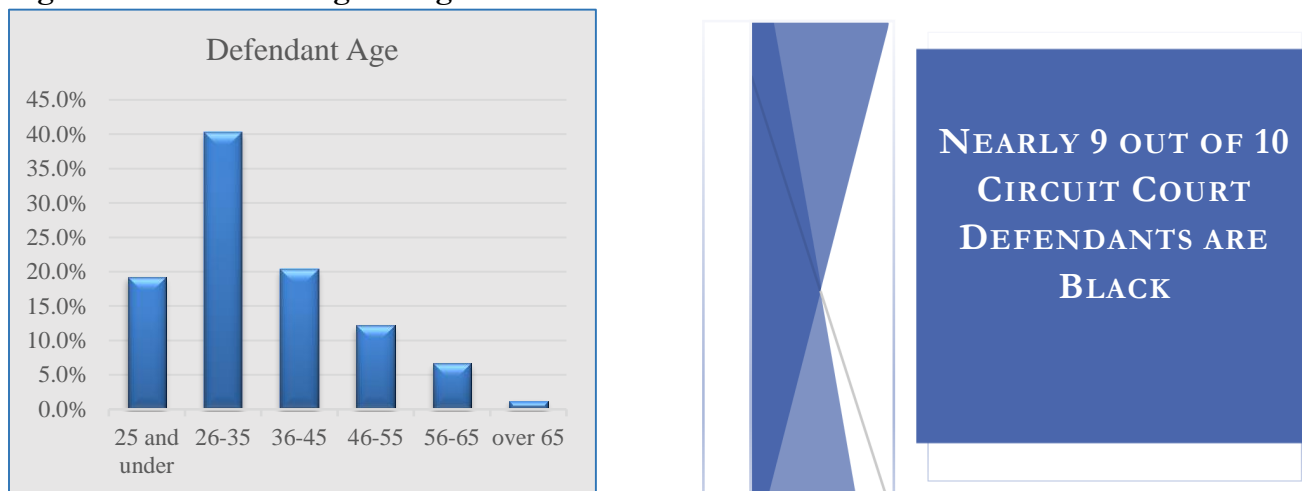


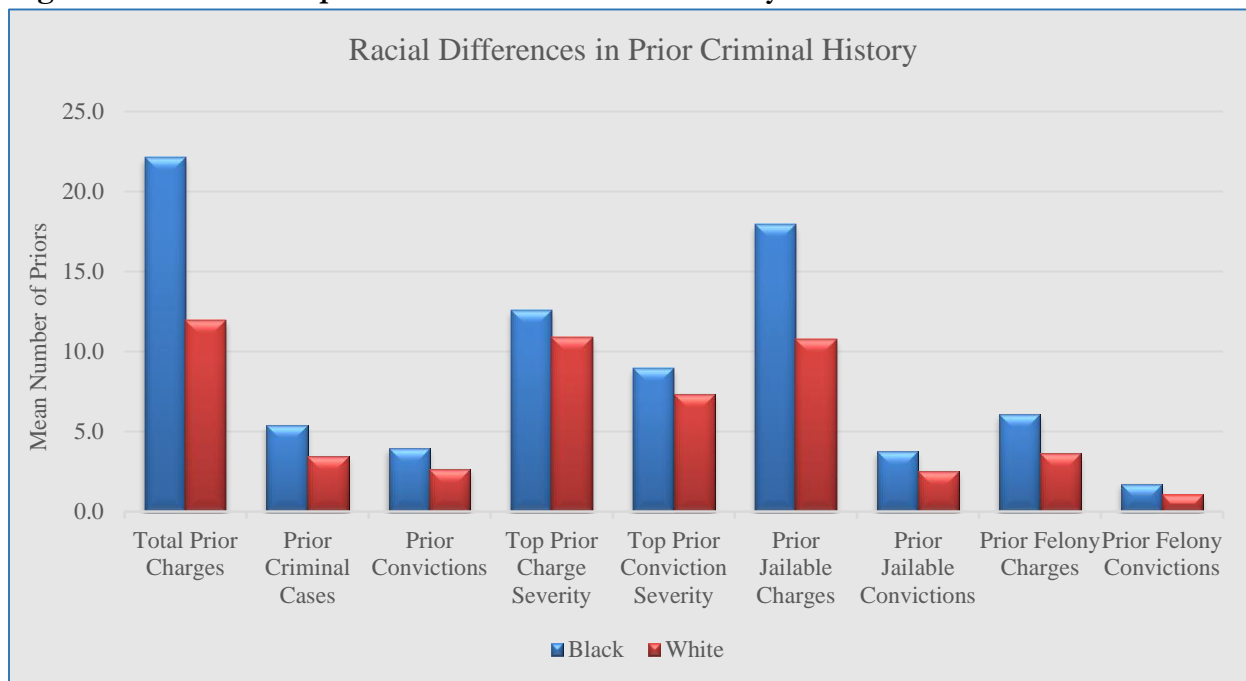
Figure 2.3. Defendant Age Categories



## Prior Criminal History

Figure 2.4 reports differences in prior criminal history for Black and White defendants. These data are limited to prior charges and convictions in the BCSAO case management system; they do not capture prior criminal records from other jurisdictions. Still, stark racial differences emerge. **Black defendants fare worse across all measures of prior record.** They have more accumulated charges and more criminal cases and convictions. On average, they are also charged and convicted of more serious prior offenses and are more likely to have been charged with prior jailable and felony crimes.

Figure 2.4. Racial Comparisons of Prior Criminal History Data



## Case Characteristics

### Top Charge Filed

Table 2.2 presents the most common top charges filed in Circuit Court cases.<sup>7</sup> The 15 most common top charges account for nearly three-quarters of all cases. The most common charge is Unlawful Possession of a Controlled Dangerous Substance (CDS) with Intent to Distribute (PWID) Narcotics. Second Degree Assaults are the next most common, followed by Unlawful Possession charges. Other common charges include several serious violent crimes, like 1<sup>st</sup> Degree Murder, 1<sup>st</sup> Degree Attempted Murder, 1<sup>st</sup> Degree Assault and Armed Robbery, as well as a few lesser offenses (e.g. Failure to Register, Probation Violation). Two firearms offenses – illegal possession involving a felony conviction or a regulated firearm – and two property offenses – 1<sup>st</sup> Degree Burglary and Theft of amounts between \$1,000 to \$10,000 – were present among the most common charges filed.

**Table 2.2. 15 Most Common Top Written Charges, Case-Level Data, 2017-2018**

Written Charge	Number	Percent	Total %	Crime Type
CDS-POSS WITH INT TO DIST-NARC	2,437	18.42	18.42	Drug
ASSAULT-2 <sup>nd</sup> DEGREE	1,543	11.66	30.08	Violent
CDS-UNLAWFUL POSSESSION	1,222	9.24	39.32	Drug
ASSAULT-1 <sup>st</sup> DEGREE	1,080	8.16	47.48	Violent
CDS DISTRIBUTION	1,048	7.92	55.40	Drug
FIREARM POSS W/FEL CONVICT	501	3.79	59.19	Firearm
ATT 1 <sup>st</sup> DEGREE MURDER	363	2.74	61.93	Violent
BURGLARY-1 <sup>st</sup> DEGREE	268	2.03	63.96	Property
ROBBERY	211	1.59	65.55	Violent
FAIL REGISTER OFFENDER	190	1.44	66.99	Other
VIOLATION OF PROB.	188	1.42	68.41	Other
THEFT: \$1,000 TO UNDER \$10,000	183	1.38	69.79	Property
ARMED ROBBERY	176	1.33	71.12	Violent
MURDER-1 <sup>st</sup> DEGREE	168	1.27	72.39	Violent
REG FIREARM: ILLEGAL POSSESSION	168	1.27	73.66	Firearm

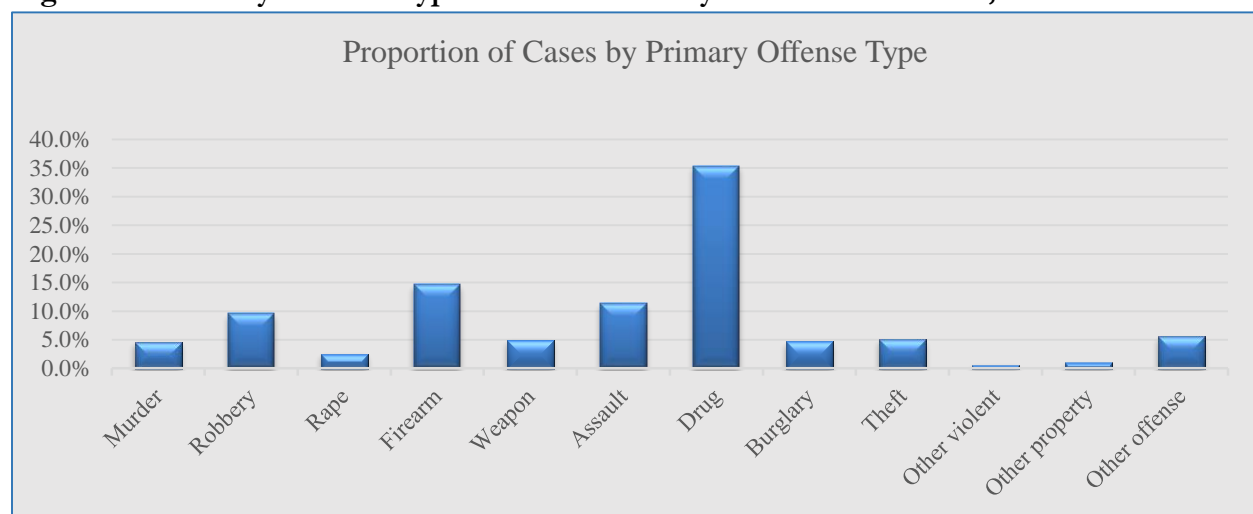
NOTE: Abbreviations include CDS=Controlled Dangerous Substance; Poss=Possession; W/=With; Int=Intent; Dist=Distribute; Narc=Narcotic; Fel=Felony; Att=Attempted; Prob=Probation; Reg=Regulated

<sup>7</sup> Equivalent offenses with variable naming conventions are combined in Table 2.2 (e.g. CDS-POSS WITH INTENT TO DIST includes CDS-POSS W/I/MANF/DIS/DISP-NARC, CDS W/I DIST: NARC, and CDS: POSS W/INT MANF/DIST/DISP). The “top charge” is identified by the longest statutory maximum sentence and fine combination (see Table 2.3).

## Primary Offense Type

Figure 2.5 summarizes offense categories in Circuit Court cases. The top charges in the case are grouped by offense type.<sup>8</sup> Overall, **more than 1 in 3 cases involves drug charges as the most serious offense.** The vast majority of these cases involve serious drug offenses such as Intent to Manufacture or Distribute Narcotics. This graphic undercounts drug-involved offenses because drug charges often occur alongside violent or firearms charges, and the latter take precedence in our coding scheme. In total, at least one drug charge was filed in 43% of Circuit Court cases. The next most common primary offense type involved firearms offenses followed by assault and robbery. None of the remaining categories accounted for more than 5% of the Circuit Court caseload.<sup>9</sup>

**Figure 2.5. Primary Offense Type for Baltimore City Circuit Court Cases, 2017-2018**



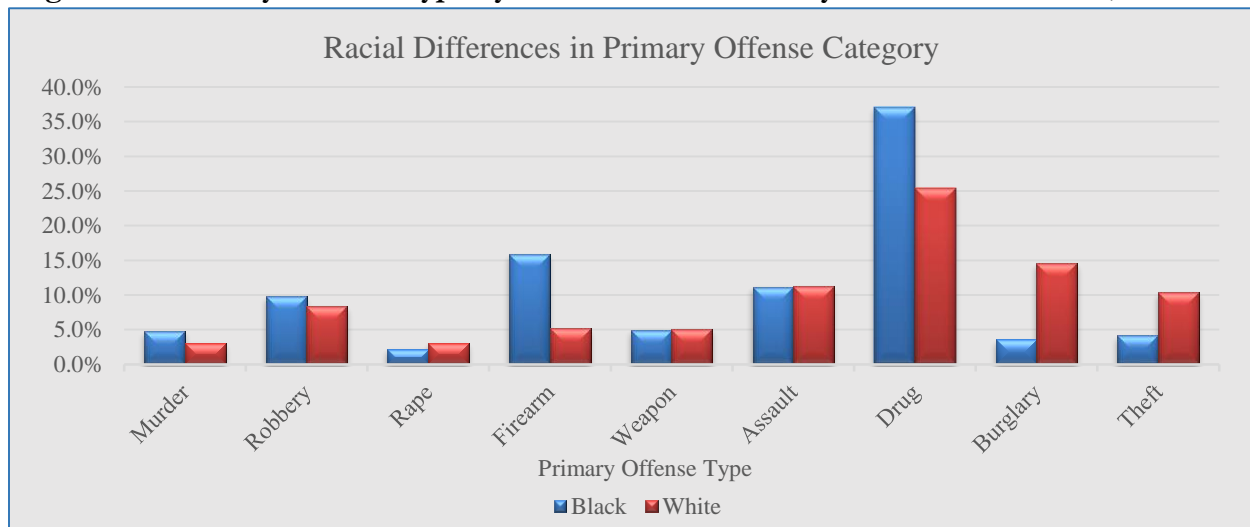
## Offense Type by Race

Figure 2.6 below reports racial differences in primary offense categories. The bars represent the relative proportion of cases within each racial group. For example, among Black defendants, a slightly higher proportion of cases involved murder charges than for White defendants. Most notably, **Black defendants account for a relatively higher proportion of drug and firearms cases,** whereas **White defendants account for a higher proportion of burglary and theft cases.**

<sup>8</sup> Cases are categorized hierarchically according to the most severe charge. For example, any case with a murder charge is coded as a murder case, any case with a robbery charge (but no murder charge) is coded as a robbery and so on according to the order that the offense types are presented.

<sup>9</sup> The “other violent” category includes charges such as child abuse and harassment/stalking, the “other property” category includes charges such as malicious destruction of property and arson. The “other offense” category includes charges not easily classified in other categories, such as probation violations, traffic offenses, failure to register and prostitution.

**Figure 2.6. Primary Offense Type by Race for Baltimore City Circuit Court Cases, 2017-2018**



It is important to emphasize that these data do not allow us to investigate whether these racial differences reflect underlying offense behavior, arrest practices, charging decisions, or other factors, but they are largely consistent with national arrest data. According to the 2018 FBI's Uniform Crime Reports, Black defendants accounted for 58% of murder arrests and 54% of robbery arrests, while White defendants comprised 63% of rape, 65% of burglary, and 66% of theft arrests. The notable exception, relative to national data, is that Black defendants in Baltimore City are especially overrepresented in firearms and drug cases.<sup>10</sup>

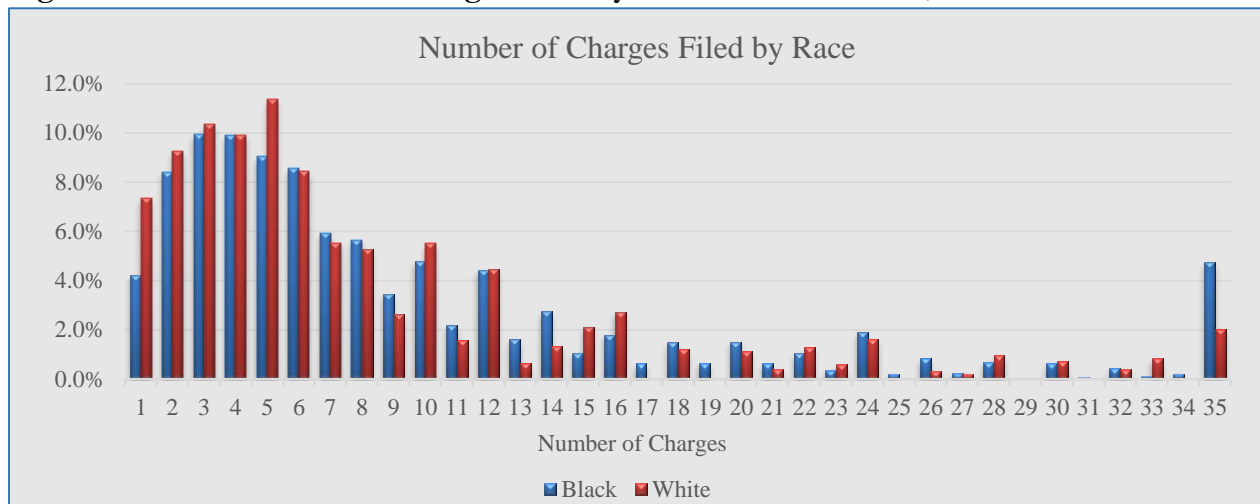


## Number of Charges

Figure 2.7 below presents the average number of charges for Black and White defendants. The mean number of charges filed (including multiple counts) against Black defendants is 11 compared to 8.6 for White defendants. Because there are some extreme outliers, number of charges is capped at 35 (99<sup>th</sup> percentile). Black defendants are less likely to have a single charge filed and more likely to have 35 or more charges filed. These results provide simple descriptions of the number of charges by race but do not account for other relevant factors that may justify or account for these differences.

<sup>10</sup> According to the UCR (2019), Black defendants comprise 28% of drug arrests nationally and 46% of weapons offenses (which include illegal carrying and possession of firearms).

**Figure 2.7. Total Number of Charges Filed by Race in Circuit Court, 2017-2018**



## Severity of Charges

Severity of charges is measured by a scale that combines information on the statutory maximum sentence and maximum fine amount. Table 2.3 shows that the vast majority of Circuit Court charges involved serious offenses. More than half of all charges filed were category 10 or higher on the charge severity scale and the modal category was a Level 13 offense, which carries a statutory maximum of 20 years in prison and a \$10,000 to \$100,000 fine.

**Table 2.3. Charging Severity Levels Based on Statutory Maximum Sentences**

Charge Severity Level	Maximum Sentence	Maximum Fine	% Charges Filed
1	30 to 90 days	\$100 to \$1500	0.2%
2	6 months to 12 months	\$0 to \$2,500	0.9%
3	12 months	\$5,000 to \$25,000	0.6%
4	18 months to 2 years	\$0 to \$5,000	0.3%
5	3 years	\$0 to \$1,000	0.8%
6	3 years	\$1,500 to \$5,000	1.2%
7	4 years	\$0 to \$25,000	1.9%
8	5 years	\$0 to \$5,000	0.3%
9	5 years	\$10,000 to \$100,000	4.8%
10	9 to 10 years	\$0 to \$100,000	8.3%
11	12 to 15 years	\$0 to \$25,000	8.6%
12	20 years	Less than \$10,000	7.7%
13	20 years	\$10,000 to \$100,000	26.0%
14	25 years	\$0 to \$250,000	19.4%
15	30 to 40 years	\$0 to \$50,000 fine	7.0%
16	Life Sentence	--	12.0%



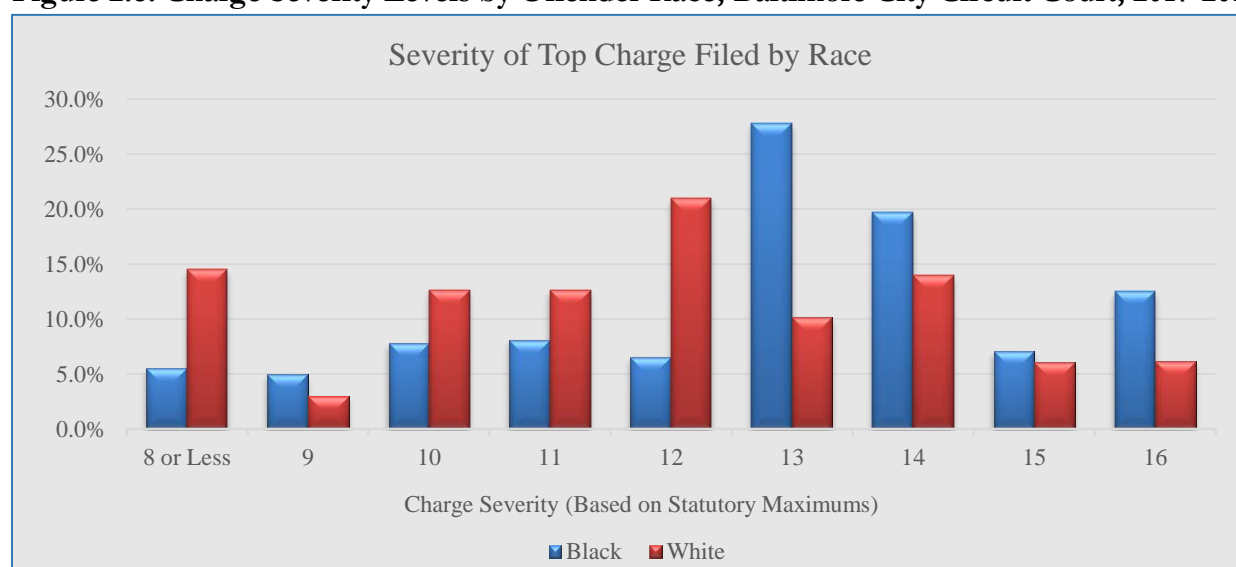


## THE MODAL CHARGE SEVERITY LEVEL INVOLVES A 20 YEAR STATUTORY MAXIMUM AND A \$10,000 TO \$100,000 FINE

### Severity of Charges by Race

Figure 2.8 reports severity of filed charges by defendant race. The sum of values for all of the blue bars total 100% and represent all charges involving Black defendants. The same is true for the red bars for White defendants. Overall, **Black defendants are disproportionately represented in the top charge severity categories** (categories 13-16), which include maximum punishments of 20 years or more. It is important to reiterate, though, that these numbers are simple summaries that do not account for other factors, such as racial differences in underlying offense behaviors.

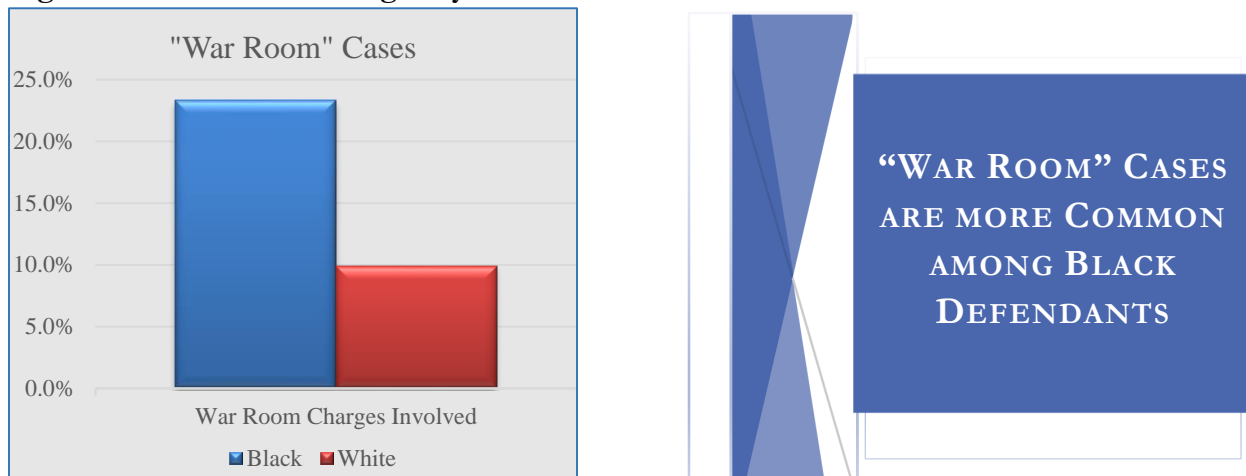
**Figure 2.8. Charge Severity Levels by Offender Race, Baltimore City Circuit Court, 2017-2018**



### Other Case Characteristics by Race

Another indicator of the relative seriousness of a case involves whether it is classified as a “War Room” case. War Room cases typically involve serious and repeat offenders, including those on parole for violent or handgun offenses, repeat violent offenders, and certain felony drug offenders. Figure 2.9 shows that nearly 1 in 4 cases involving a Black defendant is classified as a “War Room” case compared to about 1 in 10 for White defendants. Whether this can be accounted for by other case factors like criminal history and type of offense is examined later in this Report.

**Figure 2.9. War Room Charges by Race**



We also considered other case characteristics, such as whether a bail recommendation was made in the case and whether or not discovery was filed, but data on bail recommendations and discovery are not reliably recorded in the case management system. Feedback from the BCSAO suggests bail recommendations are often made and that discovery is filed in the vast majority Circuit Court cases.

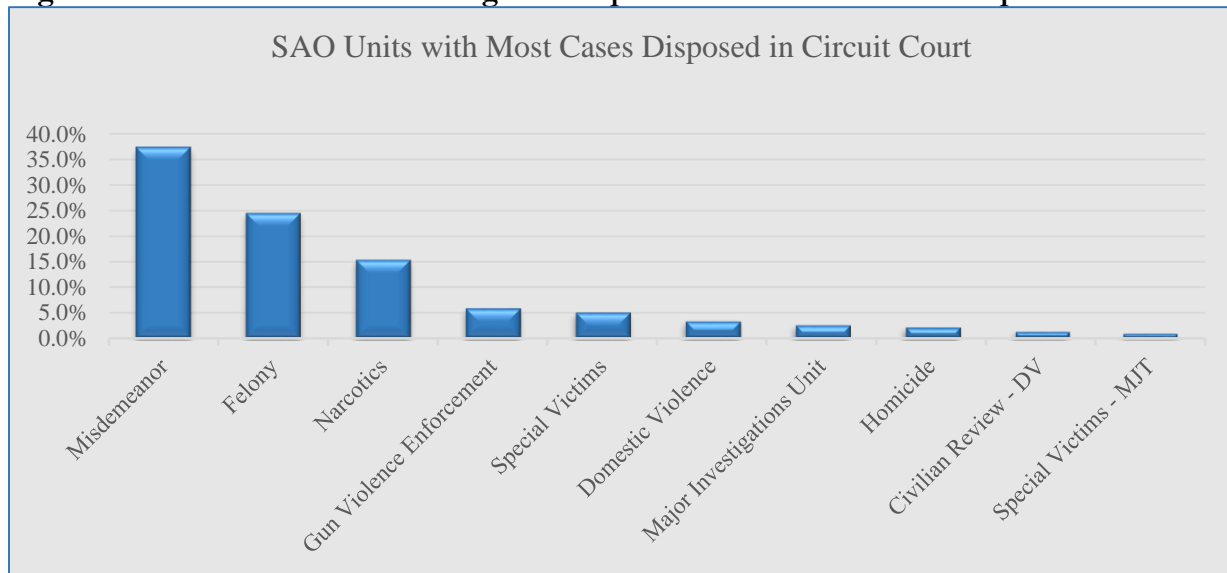
## Office Characteristics

The BCSAO is organized into bureaus with several divisions and multiple units (see Figure A1 in the Technical Appendix). Major Crimes is the largest criminal division and includes separate units for Major Investigations, Special Victims, Homicide, Gun Violence, General Felonies, and Narcotics. Below, we briefly summarize the number of cases disposed by different units within the office.

### Circuit Court Caseload

Figure 2.10 presents a descriptive summary of Circuit Court cases across units within the BCSAO. The largest share of cases comes from the Misdemeanor Unit, though the most individual charges originated in the Felony Unit. This is because cases handled by the Felony Unit have more average charges per case (Felony=9.9 charges vs. Misdemeanor=2.7 charges). Overall, the Felony Unit accounts for about 1 out of every 4 Circuit Court cases. The Narcotics Unit is responsible for the next largest case share, followed by the Gun Violence Enforcement Unit and the Special Victims Unit (SVU).

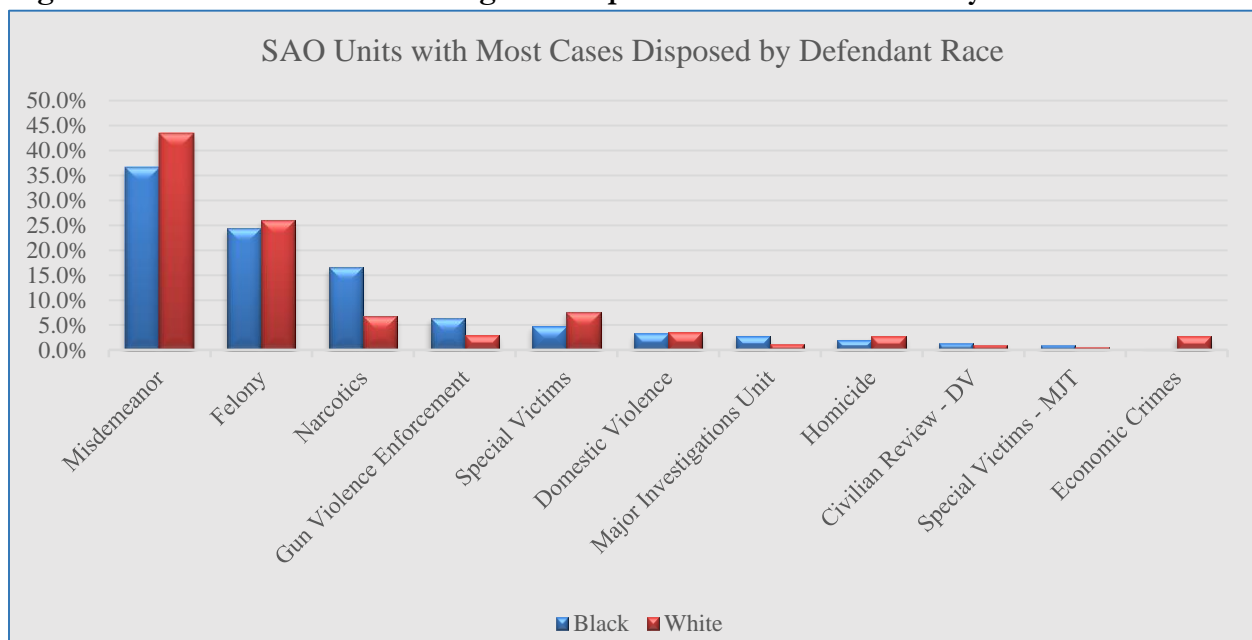
**Figure 2.10. SAO Units with the Highest Proportions of Circuit Cases Disposed**



## Caseload by Race

Figure 2.11 below reports the same information by race of the defendant. The Misdemeanor Unit accounts for 43% of all cases involving White defendants, compared to 36.5% of cases for Black defendants. In contrast, a higher proportion of cases involving Black defendants originates in the Narcotics and Gun Violence Enforcement Units. For the most part, these racial differences align with observed differences in the most common types of offenses reported above.

**Figure 2.11. SAO Units with the Highest Proportions of Circuit Cases by Race**



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## Summary of Descriptive Case Analyses

The above analyses report descriptive findings based on Baltimore City Circuit Court cases. These results summarize general patterns in the data but do not adjust for racial differences in other relevant case characteristics. These results offer some preliminary insights and useful background for informing the multivariate analyses that follow in subsequent sections of the Report.

- Relative to their proportion in the population, Black defendants, and especially Black, male defendants, are overrepresented in Baltimore City Circuit Court. Approximately 8 out of 10 Circuit Court cases involves a Black male defendant.
- Racial differences exist in criminal history. Black defendants have more accumulated charges and prior convictions and are more likely to have been charged and convicted of a prior jailable or felony offense.
- On average, Black defendants have more charges filed against them and face charges with a higher statutory severity level than White defendants. Black defendants are more likely to be arrested and charged for person, firearms, and drug offenses, whereas White defendants are over-represented in certain property crimes. Cases with Black defendants are also more likely to involve War Room charges.

Overall, these preliminary results highlight initial racial differences in typical case characteristics. In order to investigate racial disparity, it is necessary to statistically account for these and other relevant case factors when examining the impact that defendant race exerts on case outcomes. Proceeding sections of this Report investigate case dispositions, charging decisions, and sentencing outcomes, using descriptive summaries and more sophisticated multivariate analyses that are designed to account for racial differences in criminal case characteristics across defendants.



## 3. Case Dispositions



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### Case Outcomes

To investigate racial disparity in case outcomes, we examine descriptive patterns for overall racial differences in case dispositions. We then estimate multivariate statistical models that adjust for other relevant case factors. The descriptive summaries provide insight into the aggregate racial patterning of case outcomes; the multivariate results assess the independent association of defendant race with outcomes, net of other case and defendant characteristics. Below we examine racial differences in final case dispositions and in modes of conviction.

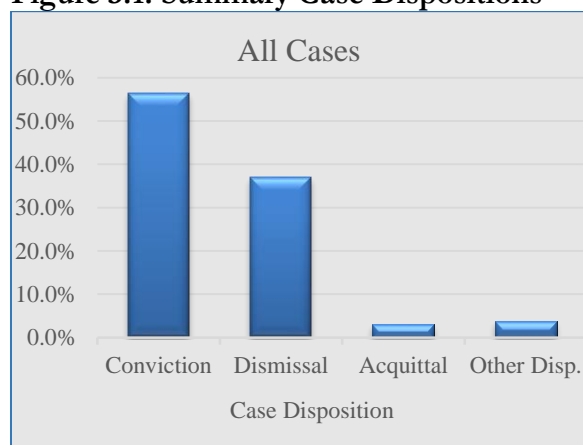
### Descriptive Results for Case Dispositions

Our overview of racial differences in case outcomes focuses on the final disposition of the case and the mode of disposition. Criminal cases can end in many ways, including a conviction, dismissal, or acquittal, as well as other less common outcomes like remand to another court, or abatement by death of the defendant. We focus on the most common outcomes of conviction and dismissal. The aggregated “dismissal” category combines all discontinued cases that involve a dismissal, nolle prosequi, or stet charges.

## Case Dispositions

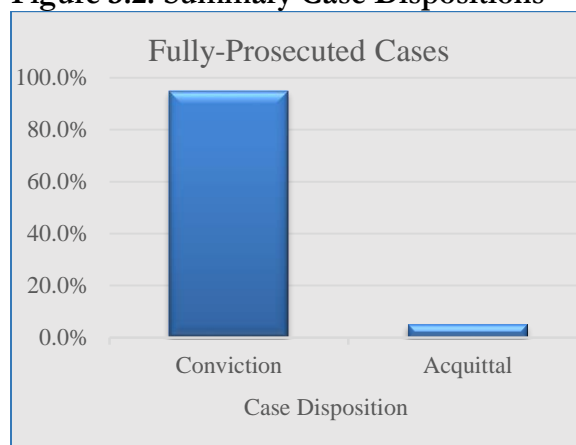
Figure 3.1 summarizes case dispositions for all Circuit Court cases. Among filed cases, 36.9% are discontinued, either because they are nol-prossed (25.6%), stetted (10.6%) or dismissed by the court (0.7%). Not all dismissed cases result in no conviction – e.g. charges may be discontinued pursuant to a plea in another case, or because the case is transferred to another jurisdiction like federal court. Detailed reasons for case dismissal are examined below. Overall, 3% of cases are acquitted and 4% are resolved in other, less common ways (i.e. Sub Curia, Not Criminally Responsible, Remand to Another Court or Agency, etc.). For cases that are fully prosecuted (i.e. not dismissed), and not disposed of in less common ways, **the overall conviction rate is nearly 95%** (see Fig. 3.2).

**Figure 3.1. Summary Case Dispositions**



NOTE: Conviction includes Probation Before Judgement (PBJ)

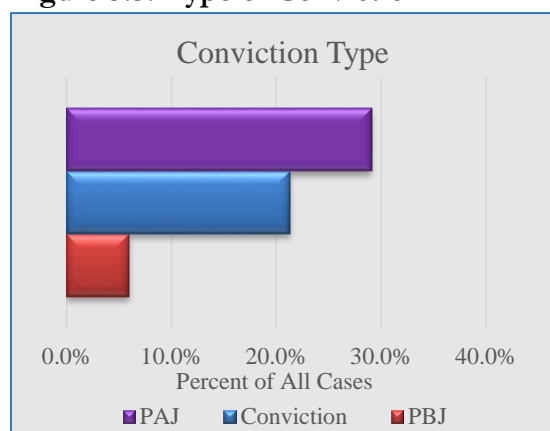
**Figure 3.2. Summary Case Dispositions**



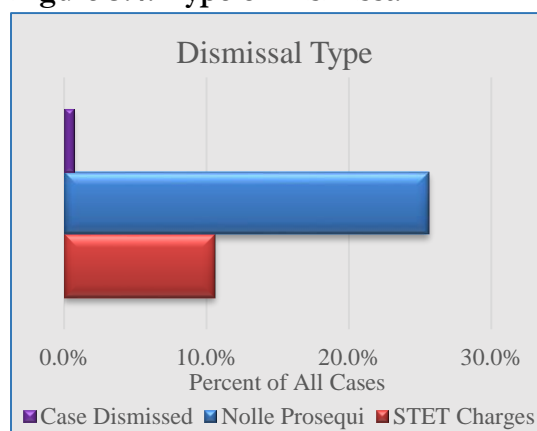
NOTE: Conviction includes Probation Before Judgement (PBJ)

Figures 3.3 and 3.4 present additional information on type of conviction and dismissal. In total, 21% of cases involve a defendant being Sentenced Guilty, 29% Probation After Judgement (PAJ) and 6% Probation Before Judgement (PBJ). More than 50% of convicted cases include PAJ. The most common dismissal category is nolle prosequi. Few cases are dismissed by the court. About 10% are placed on the stet docket, meaning they are no longer active but can still be pursued in the future.

**Figure 3.3. Type of Conviction**



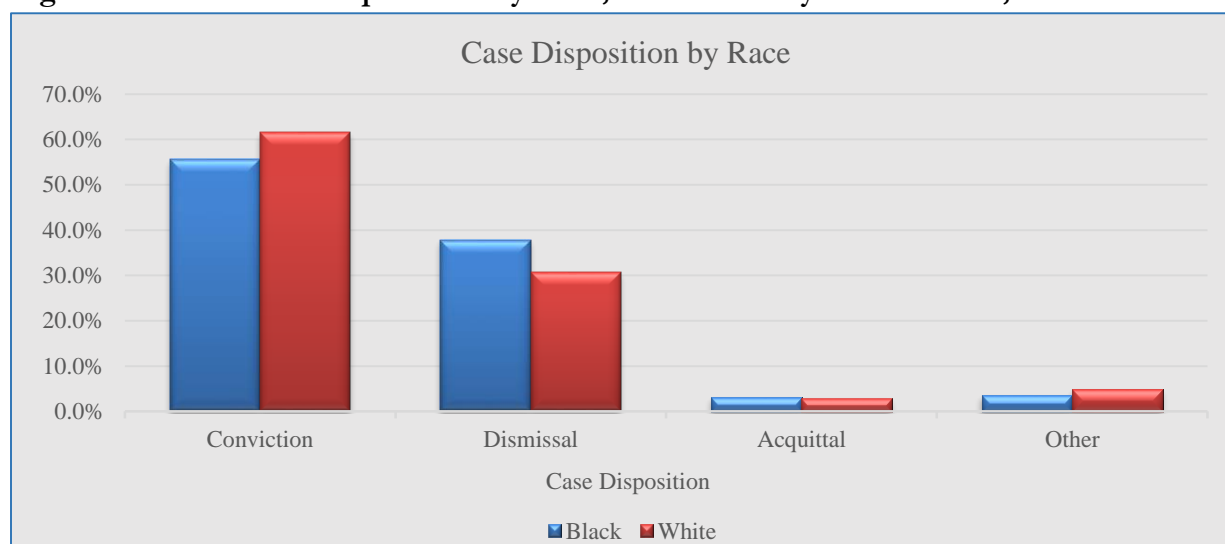
**Figure 3.4. Type of Dismissal**



## Case Dispositions by Race

Figure 3.5 reports summary case outcomes by defendant race. Across all cases, **Black defendants are less likely to be convicted and more likely to have their case discontinued.** Again, the aggregate “dismissal” category combines dismissed, nol-prossed, and stet charges. The “conviction” category combines PBJ, PAJ and other convictions.<sup>11</sup> Overall, 56% of cases with a Black defendant result in a conviction compared to 62% for White defendants. By contrast, 38% of cases with a Black defendant are discontinued compared to 31% for White defendants. For both, only small proportions of cases are resolved through acquittals or other dispositions (i.e. Sub Curia, Not Criminally Responsible, Remand to Another Court or Agency, Abatement by Death, etc.).

**Figure 3.5. Final Case Dispositions by Race, Baltimore City Circuit Court, 2017-2018**



NOTE: Conviction includes Probation Before Judgement (PBJ)

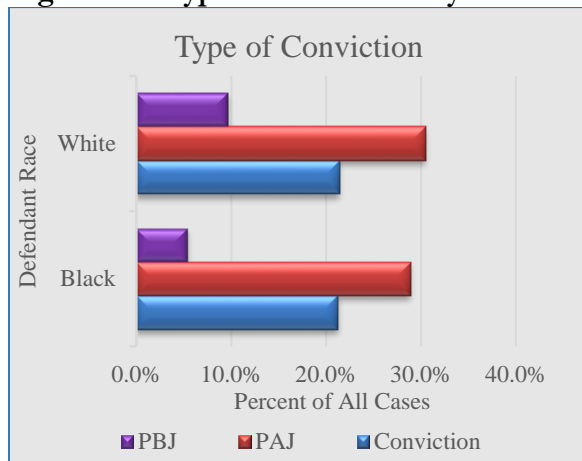
Figure 3.6 on the next page suggests that racial differences in conviction are driven primarily by a higher prevalence of Probation Before Judgment (PBJ) among White defendants. About 10% of all White defendants receive PBJ compared to 5% of Black defendants. PBJ also accounts for a relatively higher proportion of convictions among White defendants – 14% of all White convictions involve PBJ compared to 10% of all Black convictions (not shown).



**CASES WITH BLACK DEFENDANTS ARE LESS  
LIKELY TO BE CONVICTED AND MORE  
LIKELY TO BE NOL-PROSSED**

<sup>11</sup> Under Maryland law, Probation Before Judgement (PBJ) is not a criminal conviction. It refers to a defendant being placed on probation before a judgment has been rendered in their case, which means they have not been found guilty of a crime. Because PBJ typically requires a defendant to plead guilty, we examine it with other types of guilty dispositions, but it does not technically constitute a conviction.

**Figure 3.6. Type of Conviction by Race**



**Figure 3.7. Type of Dismissal by Race**

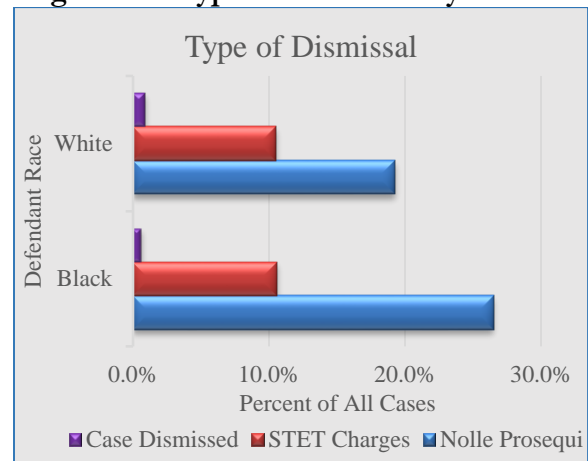


Figure 3.7 shows that few cases involve court dismissals for either racial group, with the most common reason for case discontinuation being nolle prosequi. On average, Black defendants are more likely to have their charges nol-pros. More than 1 in 4 cases with a Black defendant resulted in charges being nol-pros, compared to less than 1 in 5 cases for White defendants. Equal proportions of cases for both groups involved stetter charges.

## Reasons for Discontinued Cases

There are many reasons why criminal charges in a case might be dropped or discontinued. Issues with victims, witnesses, evidence, or other concerns can arise that lead an ASA to “nol-pros” a case. Alternatively, a case can also be discontinued because it is combined with another case, a defendant is prosecuted in another jurisdiction, or an alternative to prosecution is completed. Table 3.1 reports the top 5 most common reported reasons for cases being nol-pros, and Table 3.2 reports the same information for cases placed on the stet docket. The most commonly reported nol-pros reason was pursuant to a plea in another case, which accounted for one out of four nol-pros cases. The most common single reason for stet charges was because an alternative prosecution was completed.

**Table 3.1 Top 5 Reasons for Nol-Pros**

Reported Reasons	Nol-Pros Cases	
	N	%
Pursuant to a plea in another case	814	25%
Witness/victim was a necessary witness	700	22%
Police officer was a necessary witness	320	10%
Insufficient evidence	289	9%
Prosecuted federally	176	5%

**Table 3.2 Top 5 Reasons for Stet**

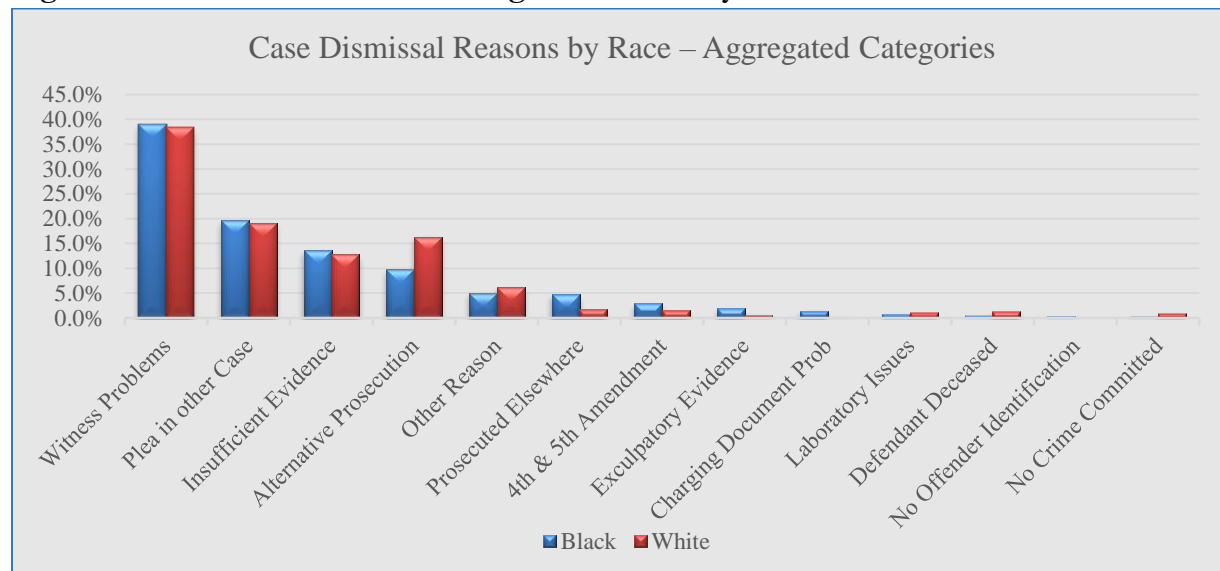
Reported Reasons	Stetter Cases	
	N	%
Alternative to prosecution completed	358	26%
Police officer was a necessary witness	244	18%
Witness/victim was a necessary witness	214	16%
Insufficient evidence	131	10%
Other, not listed on form	98	7%



## Reasons for Discontinued Cases by Race

Figure 3.8 reports case dismissal reasons by race, with similar reasons grouped into common categories (e.g. “Witness Problems” includes issues related to victim, witness or police officer testimony and/or failures to appear in court). **Overall, the most common category for why a case was discontinued involved Witness Problems (39%), followed by Plea in Another Case (20%) and then Insufficient Evidence (13%).**

**Figure 3.8. Reasons for Discontinuing Prosecution by Race**



As the graphic shows, **reported reasons are generally similar across racial groups**, but 16% of discontinued cases for White defendants involved the completion of an alternative to prosecution compared to only 10% for Black defendants. Black defendants were also slightly more likely to have 4<sup>th</sup> or 5<sup>th</sup> Amendment violations (3% vs. 1.5%) and exculpatory evidence (2% vs. 0.6%) reported, though overall these instances were rare in the data. During the study period, a total of 393 charges in 124 cases were reported as dismissed for 4<sup>th</sup> or 5<sup>th</sup> Amendment violations for Black defendants.

## Mode of Conviction

Figure 3.9 on the next page shows that just over half of all filed cases are resolved via guilty plea, whereas 6% involve a Not Guilty plea. The Guilty Plea category includes Alford Pleas. The “Other” category is comprised of cases where no plea was recorded, either because the case involved a dismissal or because an alternative disposition applied (e.g. Abated by Death, Sub Curia, etc.). When case dismissals are excluded from the data (see Fig. 3.10), 85% of prosecuted cases involve a Guilty Plea compared to 9% with a Not Guilty plea; 6% of cases involve an alternative disposition.

Figure 3.9. Guilty Pleas



Figure 3.10. Guilty Pleas – No Dismissals



## Mode of Conviction by Race

Figures 3.11 and 3.12 report the proportion of Circuit Court defendants who pled guilty to at least one charge (including Alford pleas) by defendant race. The first graphic includes all cases (regardless of outcome), the second excludes dismissals. In both instances, Black defendants are less likely to plead guilty. Overall, 62% of White defendants plead guilty to at least one charge compared to 53% of Black and 49% of Hispanic defendants. **Among cases resolved via guilty plea or trial, 90% of Black defendants plead guilty compared to 95% of White defendants.** These racial and ethnic differences may reflect a variety of factors, such as the severity of the offense, the quality of plea offers, or group differences in levels of trust and willingness to cooperate in the justice system.

Figure 3.11. Guilty Pleas by Race

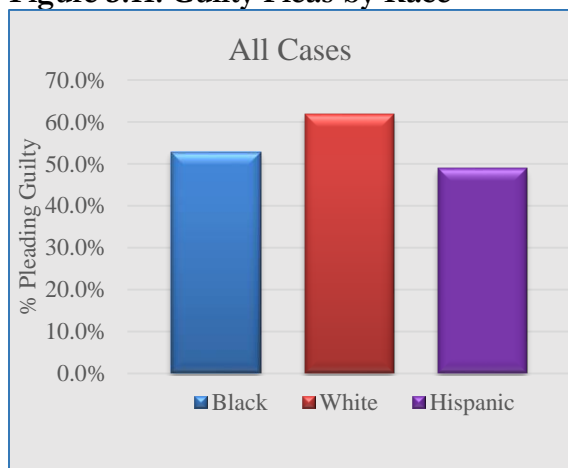
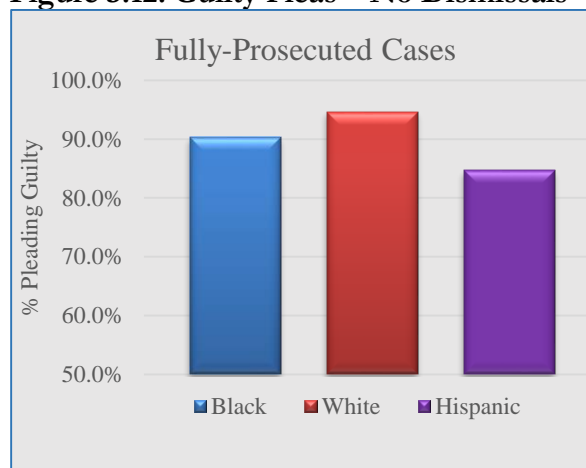
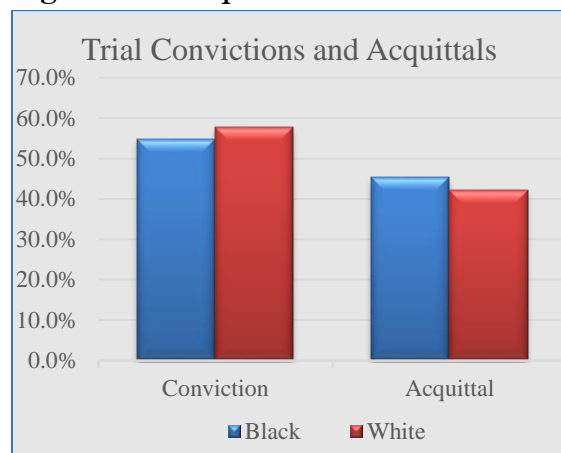


Figure 3.12. Guilty Pleas – No Dismissals



## Trial Acquittals by Race

**Figure 3.13. Acquittals – Trial Cases**



Lastly, a total of 780 cases were disposed at trial during the study period. Figure 3.13 reports trial outcomes by race. Overall, **45% of Black defendants compared to 42% of White defendants were acquitted at trial.** Taken as a whole, these results reveal small but notable racial differences in modes of conviction. Black defendants are less likely to plead guilty and they are slightly more likely to be acquitted at trial. However, these results do not adjust for other important case factors that could explain these differences.

## Multivariate Results for Case Outcomes

The prior results summarize aggregate racial differences without reference to other case and defendant characteristics. To assess the independent effect of race on case outcomes, it is necessary to account for other case factors. Multivariate regression models are designed to statistically adjust for other important characteristics when examining racial disparity. Full descriptive statistics for all measures included in these models are provided in the Technical Appendix.<sup>12</sup> By accounting for these other factors, we can better measure how race directly impacts case processing outcomes.

## Regression Analysis for Case Dispositions

Table 3.3 on the next page reports results for racial differences in the likelihood of a case ending in dismissal rather than conviction (acquittal and other dispositions not reported), using multivariate models that account for other relevant case and defendant factors. Relative rate ratios (RRR) greater than 1.00 indicate increased odds of experiencing an outcome, values below 1.00 indicate reduced odds.<sup>13</sup> We also show predicted probabilities in Figure 3.14, which reports the expected likelihood of each outcome by race, holding all other factors constant at their means. These results confirm that, even after adjusting for other case factors, **Black and Hispanic defendants have significantly lower odds of conviction and higher odds of dismissal relative to White defendants.**

<sup>12</sup> The multivariate models include controls for defendant age and gender, charges filed, type of conviction (plea, trial), top offense charge (e.g. murder, robbery, rape, firearm, weapon, assault, drug, burglary, theft), criminal history (e.g. prior total, jailable and felony convictions), evidence (e.g. video surveillance, DNA, Witness), War Room cases, and SAO Divisions. Standard errors are adjusted for clustering.

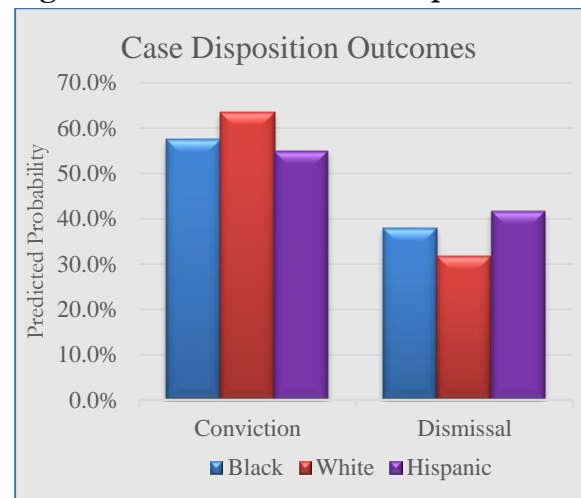
<sup>13</sup> The p-value can be interpreted as the probability that the observed difference might have occurred by chance. Values below .05 are used to identify “statistically significant” results. When race differences are “significant” it means it is very unlikely that the observed differences in the sample could have happened simply by chance.

Table 3.3. Race and Case Dispositions

Multinomial Regression for Case Disposition			
Disposition	RRR	Std. Err.	p-value
<b>Conviction</b>	--	--	--
<b>Dismissal</b>			
White	--	--	--
Black	1.32	0.09	0.00
Hispanic	1.52	0.25	0.01

NOTE: RRR=Relative rate ratio. The model accounts for all control variables previously discussed.

Figure 3.14. Race and Case Disposition



## Regression Analysis for Type of Conviction

The prior analysis includes Probation Before and After Judgement in the Conviction category. Figures 3.15 and 3.16 below separate them out and show that, overall, Black defendants have a slightly lower probability of Probation Before Judgement (PBJ). **Among all cases, Black defendants have a 3.4% chance of PBJ compared to 4.2% for White defendants.** However, when the data are limited only to convicted cases, as shown in Figure 3.16, racial differences in PBJ are not statistically significant. In other words, **for convicted cases, the probability of PBJ does not differ by race.** Black defendants are slightly more likely to receive Probation After Judgment.

Figure 3.15. Race and Type of Conviction

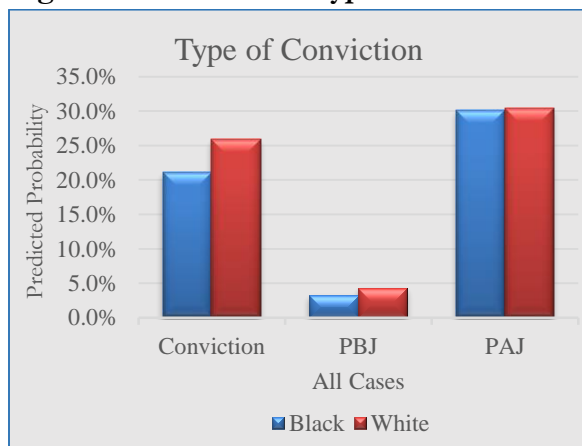
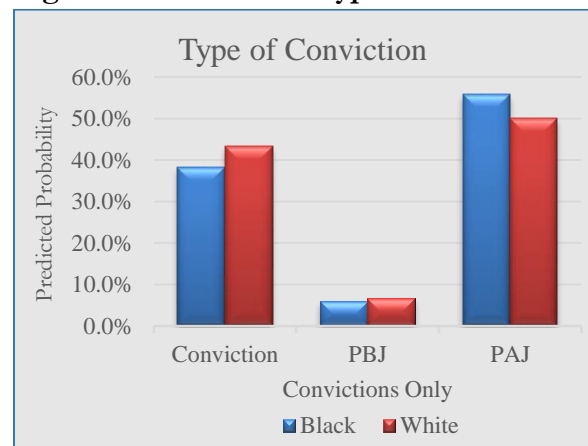


Figure 3.16. Race and Type of Conviction



## Regression Analysis for Type of Dismissal

Table 3.4 and Figure 3.17 report results examining whether, net of other case factors, defendants of color are more or less likely to have their cases nol-pros or stetted. Relative to White defendants, Black and Hispanic defendants both have higher odds of nolle prosequi, and Black defendants also have higher odds of stet charges. One in four Black defendants is predicted to have their case nol-pros compared to 1 in 5 White defendants. The probability of stet charges is 8.5% for Black defendants and 6.9% for White defendants. Among the subset of dismissed cases (not reported), types of dismissal are similar across racial groups. Overall, **Black defendants are more likely to have their cases discontinued, though types of dismissal follow similar patterns by race.**

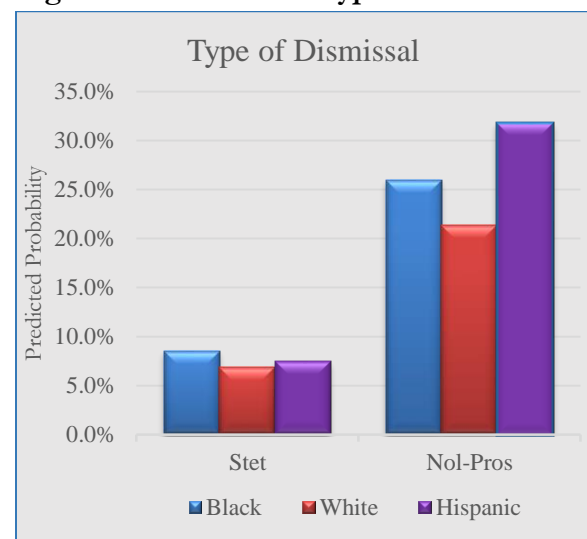
**Table 3.4. Race and Type of Dismissal**

Multinomial Regression for Dismissal Type			
Dismissal Type	RRR	Std. Err.	p-value
<b>No Dismissal</b>	--	--	--
<b>Stet Charges</b>			
White	--	--	--
Black	1.36	0.14	0.00
Hispanic	1.28	0.35	NS
<b>Nol-Pros</b>			
White	--	--	--
Black	1.33	0.11	0.00
Hispanic	1.75	0.32	0.00

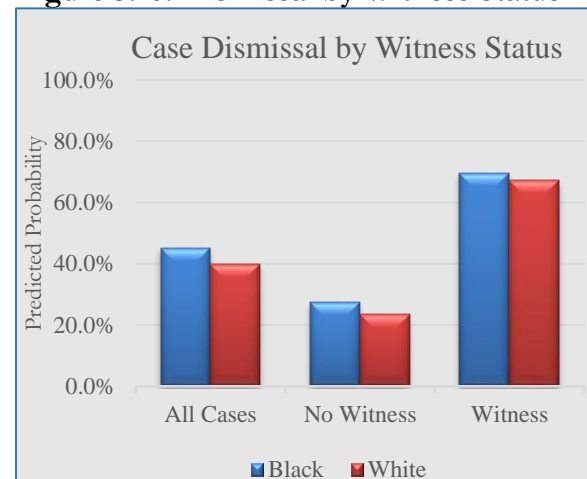
NOTE: NS=Not statistically significant. RRR=Relative rate ratio.  
The model accounts for control variables previously discussed.

One possibility is that higher nol-pros rates for Black defendants could reflect greater prevalence of Witness Problems in these cases. To examine this, Figure 3.18 reports probabilities of case dismissal by Witness Status. Cases that involve a witness are more likely to be discontinued for both White and Black defendants, but Black defendants have slightly higher probabilities of dismissals regardless of Witness Status, which suggests Witness Problems alone do not explain overall racial differences in dismissal rates.

**Figure 3.17. Race and Type of Dismissal**



**Figure 3.18. Dismissal by Witness Status**



## Regression Analysis for Mode of Conviction

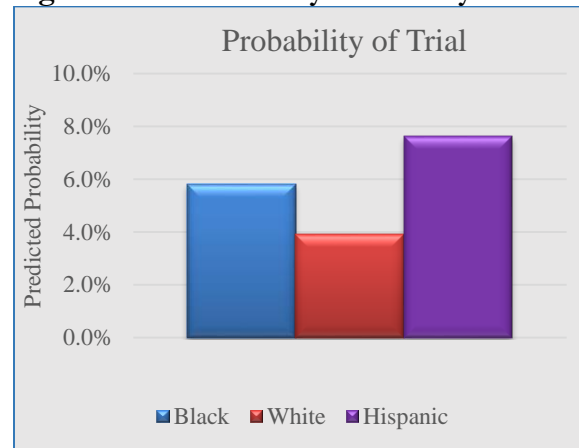
Plea decisions are impacted by many factors including the quality of a plea offer and the defendant's willingness to plead guilty. We cannot disentangle the specific reasons why defendants plead guilty, but as Table 3.5 shows, the **Odds of Black defendants going to trial are about 1.5 times greater than for White defendants**, whereas the odds for Hispanic defendants are about 2 times greater. Trial cases, however, are rare for all defendants. In terms of predicted probabilities, about 6% of Black defendants are expected to go to trial compared to 4% of White defendants (see Fig. 3.19).

Table 3.5. Race and Going to Trial

Logistic Regression for Going to Trial			
Trial	Odds	Std. Err.	p-value
Race			
White	--	--	--
Black	1.51	0.27	0.02
Hispanic	2.03	0.67	0.03

NOTE: Odds=Odds Ratio. The model accounts for control variables previously discussed.

Figure 3.19. Probability of Trial by Race



CASES WITH BLACK OR HISPANIC  
DEFENDANTS ARE MORE LIKELY  
TO GO TO TRIAL

## Regression Analysis of Trial Acquittals

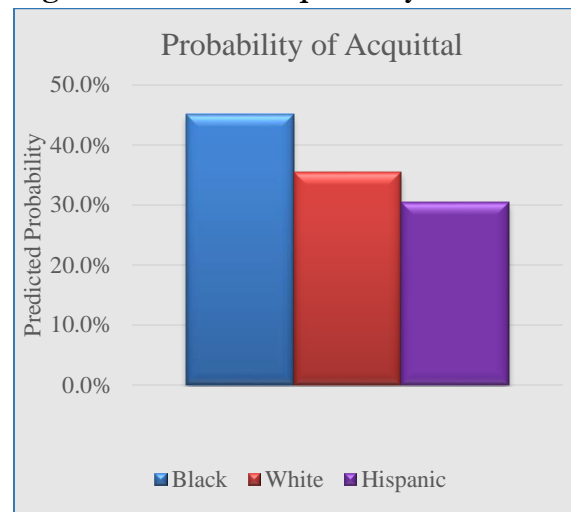
Table 3.6 and Figure 3.20 on the next page report information on racial differences in the likelihood of conviction in trial cases, after adjusting for other factors. Overall, **Black defendants have about a 10% higher predicted probability of trial acquittal, but this difference is not statistically significant**. The lack of statistical significance may reflect the fact that few cases go to trial, so there is limited statistical power to detect significant racial differences in the subsample of trial cases.

**Table 3.6. Race and Acquittal at Trial**

Logistic Regression for Acquittal at Trial			
Acquittal	Odds	Std. Err.	p-value
Race			
White	--	--	--
Black	1.49	0.54	NS
Hispanic	0.79	0.57	NS

NOTE: NS=Not statistically significant. Odds=Odds ratio. The model accounts for control variables previously discussed.

**Figure 3.20. Trial Acquittal by Race**



Interestingly, the predicted probability of trial acquittal seems to vary across SAO Units. The full regression model (not shown) indicates that acquittals at trial are most likely to occur in cases brought by Domestic Violence and Civilian Review Units (CRU), and least likely for Homicide, Narcotics, and Major Investigations Units (MIU). This may reflect underlying differences in the difficulty of obtaining a trial conviction for different types of cases, as well as the fact that relatively few cases were brought to trial by some units during the study period.

## Summary of Case Outcomes Analysis

The above analyses report descriptive and multivariate results for summary case dispositions in Baltimore City Circuit Court cases. These findings suggest several conclusions:

- Overall, Black defendants are less likely than White defendants to be convicted; 56% of all cases with Black defendants result in conviction versus 62% of cases with White defendants. This reflects a higher likelihood of nolle prosequi and stet charges for Black defendants as well as slightly higher acquittal rates at trial. Witness problems are the most commonly reported reason for discontinuing prosecution, but this alone does not explain racial differences in case dismissal. The data do not allow for a complete explication of this finding, which may be related to other unaccounted-for factors, such as racial differences in police arrest practices (Kochel et al., 2011) or initial screening and charging decisions (Spohn et al., 1987) that are beyond the purview of the current data.
- Black defendants are also less likely to plead guilty and more likely to go to trial. Among fully-prosecuted cases, about 90% of Black versus 95% of White defendants plead guilty. Racial differences in trial acquittals are not large enough to be statistically significant.

- 
- Among all cases, Black defendants have a lower rate of receiving Probation Before Judgement (PBJ), but this is explained by other case factors and is offset by the overall lower conviction rate for Black defendants. Among convicted cases, the likelihood of PBJ does not differ for Black and White defendants, and Black defendants are slightly more likely to receive Probation After Judgment (PAJ).
  - Overall, these analyses reveal small but statistically significant racial differences in case dispositions. Black defendants, on average, are less likely to be convicted and more likely to have their case nol-prossed. These results do not provide evidence of systematic patterns of bias against Black defendants in case dispositions, but instead may indicate partial prosecutorial corrections to inequities at earlier stages of the system related to arrest and initial filing decisions. Additional data would be needed to fully investigate this possibility.





## 4. Charging Analysis



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### Charge Outcomes

As with the previous analysis, in order to investigate racial disparity in charging outcomes, we provide descriptive summaries of overall racial differences across charging decisions, and then we report results from our full multivariate regression models. The former offers an overview of racial patterns in charging outcomes and the latter allows us to evaluate the impact that defendant race exerts on each outcome, net of other case and defendant characteristics. These analyses focus on the number of charges filed and convicted, and on charge alterations between filing and conviction.

### Descriptive Results for Charging Outcomes

Our investigation of racial differences in charging focuses on differences in the number and type of charges filed and convicted. We examine the number of charges at filing, the number of charges at conviction, and several indicators of charge reductions, including a lowering of the severity of the top charge and reductions from felony to non-felony offenses.

## Charge Reductions

The mean number of charges filed per case was 5.6, with a median of 3 charges. Most cases involved 5 or fewer charges, though a small number had very large charge counts; overall, 17% of Circuit Court cases involved a single charge, 18% involved two charges, and 15% involved three charges.

The vast majority of cases involved reductions in the number of charges from filing to conviction. Most cases were characterized by the filing of multiple charges, with most charges subsequently nol-prossed or combined with other charges to produce a conviction on a single charge. As Figure 4.1 demonstrates, **among cases with multiple charges filed, virtually all experience a reduction in the number of charges.**

Figure 4.1. Number of Charges Reduced

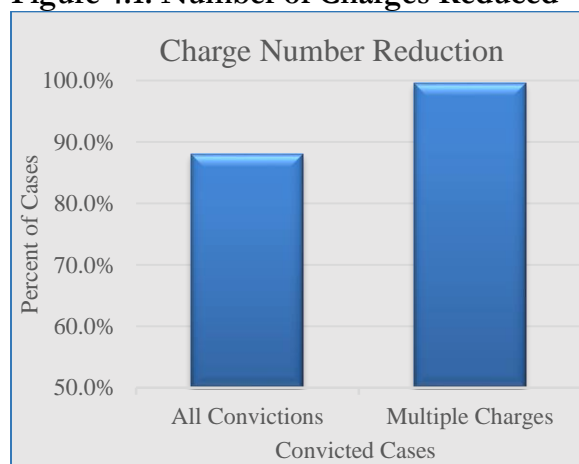


Figure 4.2. Severity of Charges Reduced

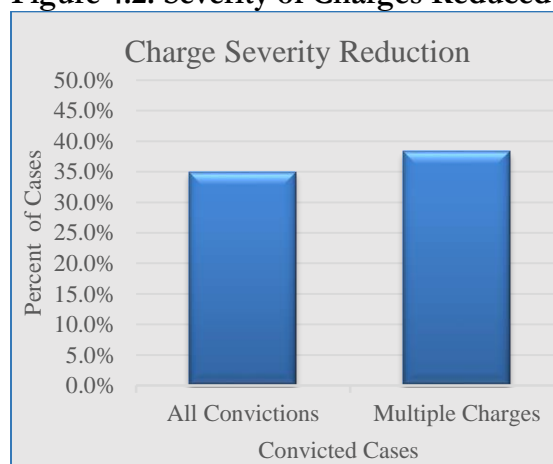
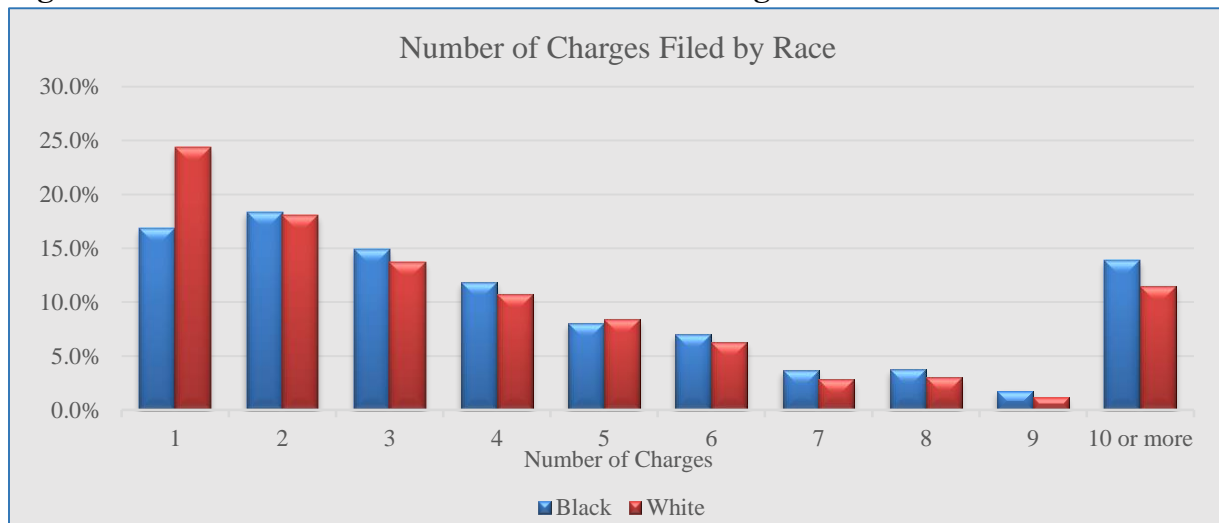


Figure 4.2 shows that a nontrivial number of cases also involves a decrease in the severity of the top charge from filing to conviction. This means that the top charge at filing was more serious (in terms of the statutory maximum sentence) than the top charge at conviction. **Among convicted cases, 35% involved a reduction in the severity of the top charge.** This is a conservative estimate because it only captures charge changes that reduce the statutory severity of the top charge.

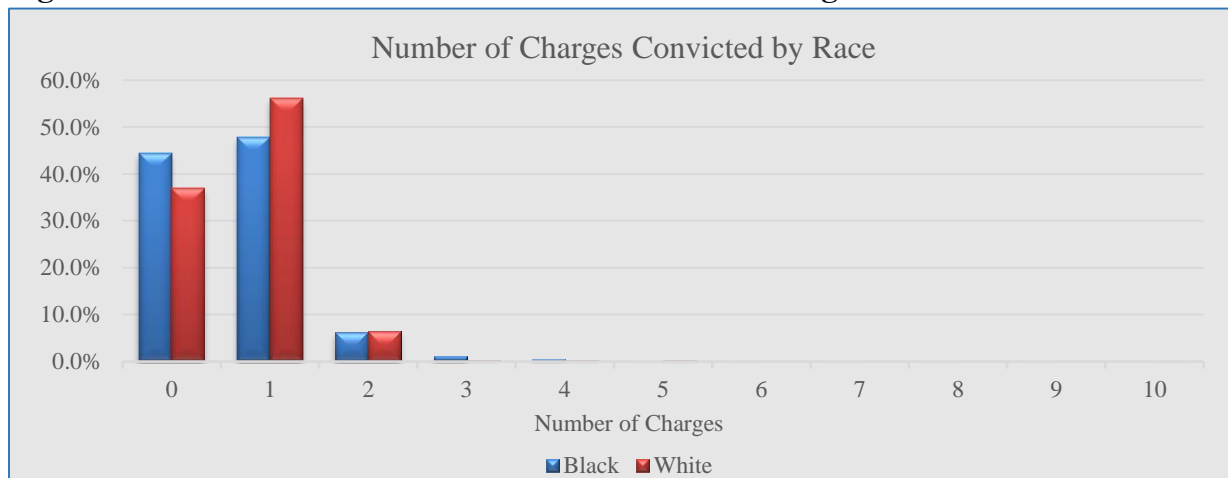
## Racial Differences in Charge Reductions

Figures 4.3 and 4.4 on the next page report the number of charges filed and convicted by defendant race. On average, Black defendants are less likely to have a single charge filed and more likely to have 10 or more charges filed. There are few meaningful differences in the number of charges at conviction because the majority of cases result in a conviction on a single charge. Fewer than 1 in 10 of all cases (and less than 1 in every 5 convictions) resulted in a conviction on more than one charge. **Among convicted cases, 85% of Black defendants and 87% of White defendants were convicted on a single criminal charge.** Consistent with prior results, Figure 4.4 below also shows Black defendants are more likely to not be convicted on any charges.

**Figure 4.3. Racial Differences in Number of Filed Charges**

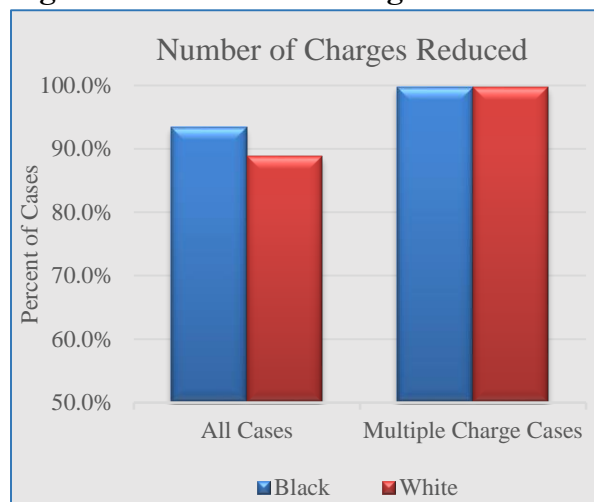


**Figure 4.4. Racial Differences in Number of Convicted Charges**



**THE MAJORITY OF BOTH BLACK AND WHITE DEFENDANTS HAVE MULTIPLE CHARGES FILED BUT ARE CONVICTED ON A SINGLE CHARGE**

**Figure 4.5. Number of Charges Reduced**

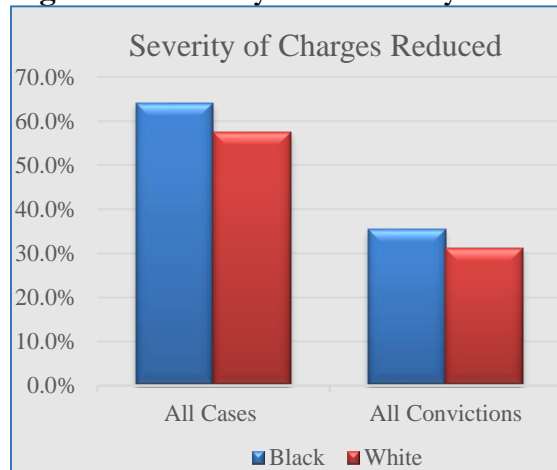


As Figure 4.5 shows, the majority of criminal defendants have their number of charges reduced at conviction. White defendants had an average of 5 and Black defendants an average of 6 charges filed, but both had a mean number of conviction charges near 1. In multiple charge cases, virtually all defendants receive a reduction in the number of charges. This includes cases where charges are merged with another case. Overall, this may suggest a pattern of overcharging because multiple charges are regularly filed but rarely result in multiple convictions (see e.g. *Lafler v. Cooper*, 2012).

## Charge Severity Reductions

Figure 4.6 reports racial differences in reductions in the severity of the top charge. **Among convicted cases, 36% of Black defendants received a charge severity reduction compared to 31% of White defendants.** It is important to note that there are several possible reasons for these differences, such as racial differences in severity and type of crime committed, which are further explored in multivariate analyses in the next section of the Report.

**Figure 4.6. Severity Reduction by Race**



**Figure 4.7. Felony Reduction by Race**

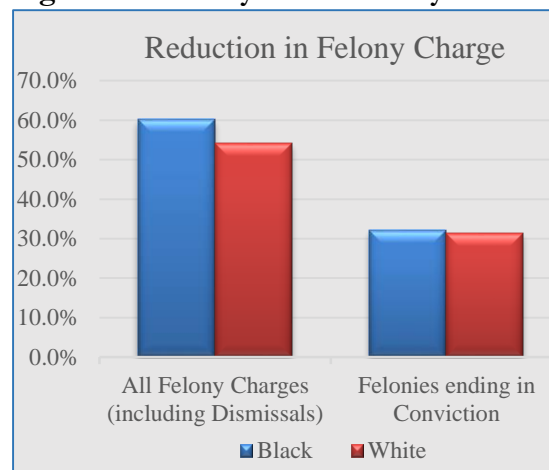


Figure 4.7 reports information on felony arrests that end in non-felony convictions or dismissals. The first set of bars reports the proportion of all felony charges that do not end in felony conviction (i.e. including dismissed cases). The second set is limited to felony charges ending in a conviction (i.e. fully-prosecuted cases). Among these cases, racial differences are minimal, with 32% of Black and 31% of White defendants having their felony charges reduced to a non-felony offense.

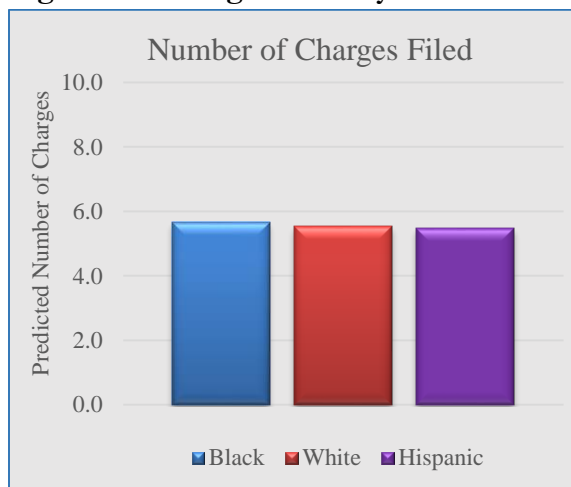
## Multivariate Results for Charging Outcomes

The previous descriptive results summarize average racial differences in charging outcomes before accounting for other relevant case characteristics. Because charging outcomes may be influenced by many other factors, multivariate analyses are needed to investigate racial disparities. The following statistical models include the same battery of control variables previously discussed.

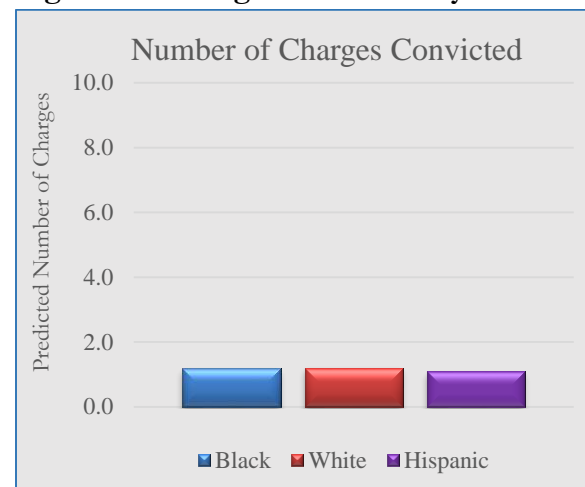
### Regression Analysis for Charges Filed and Convicted

First we investigate whether the number of charges filed and convicted differs by race after adjusting for other case factors. Figures 4.8 and 4.9 report predicted values from the full multivariate regression models. These results offer **no evidence of racial disparity in the average number of charges filed or in the number of final conviction charges**. Regardless of defendant race, most cases involve the filing of multiple charges and result in a conviction on a single charge.

**Figure 4.8. Charges Filed by Race**



**Figure 4.9. Charges Convicted by Race**



### Regression Analysis for “War Room” Charges

Table 4.1 and Figure 4.10 examine racial differences in “War Room” cases – a designation used to identify serious, repeat offenders, including those on parole for violent or handgun offenses, repeat violent offenders, and certain felony drug offenders. It indicates that cases with Black defendants are more likely to involve War Room charges, even after accounting for other observable case characteristics. It is possible these differences reflect other unaccounted-for factors, such as being on probation or parole at the time of the offense or having prior convictions for violent offenses. Overall, though, **the predicted probability of a case including “War Room” charges is 15% for Black defendants compared to 10% for White defendants**. War Room charges are also more common among defendants who are male, have more criminal history, and are convicted by trial.

Table 4.1. War Room Cases

Logistic Regression for War Room			
War Room	OR	Std. Err.	p-value
<b>Race</b>			
White	--	--	--
Black	1.95	0.17	0.00
Male	4.19	0.41	0.00

NOTE: OR=Odds ratio. The model accounts for control variables previously discussed.

Figure 4.10. War Room Charges by Race

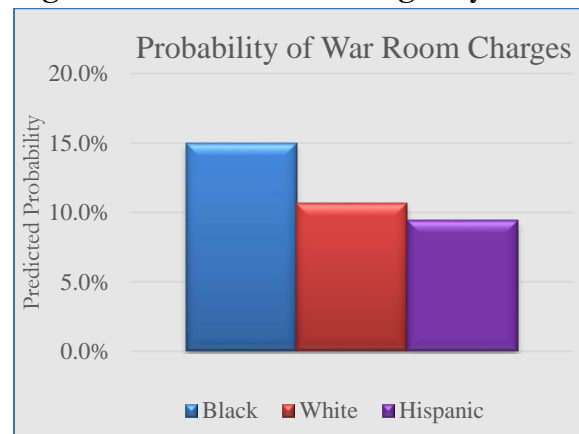
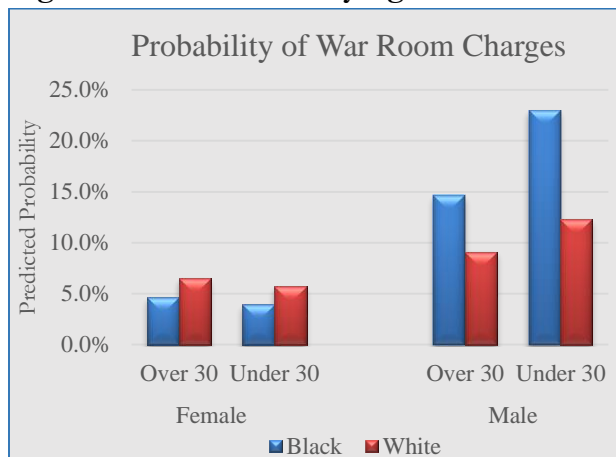


Figure 4.11 examines the confluence of age, gender and race. Even after adjusting for other case characteristics, **young, Black men have the highest probability of facing War Room charges.** Additional analysis (not shown) suggests that War Room charges are most common for Murder, Robbery, and Firearms offenses, but the largest disparities actually occur in Drug and Burglary cases. Again, it is important to emphasize that we do not have data on other relevant factors, such as current supervision status or gang involvement, which may account for some or all of this effect.

Figure 4.11. War Room by Age/Race/Gender



## Regression Analysis for Charge Severity Reductions

Table 4.2 and Figure 4.12 below report the odds of receiving a reduction in the severity of the top charge filed by race. Results show **Black defendants have greater odds of receiving a reduction in the severity of their top charge**, even after accounting for other case characteristics. Overall, Black defendants have nearly a 30% probability of having their top charge reduced compared to just over a 20% probability for White defendants. This finding is also consistent when a continuous measure of the number of severity levels reduced is utilized as the outcome (results not shown).

Table 4.2. Top Charge Reduced

Logistic Regression for Charge Reduction			
Charge Red.	OR	Std. Err.	p-value
Race			
White	--	--	--
Black	1.54	0.17	0.00
Hispanic	1.36	0.41	NS

NOTE: NS=Not statistically significant. OR=Odds ratio. The model accounts for control variables previously discussed.

Figure 4.12. Top Charge Reduced by Race

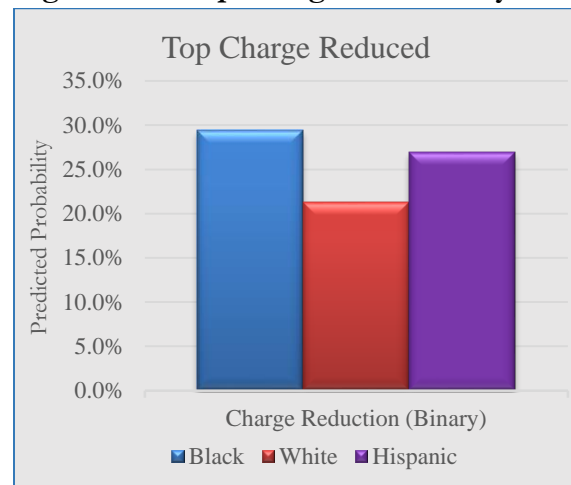


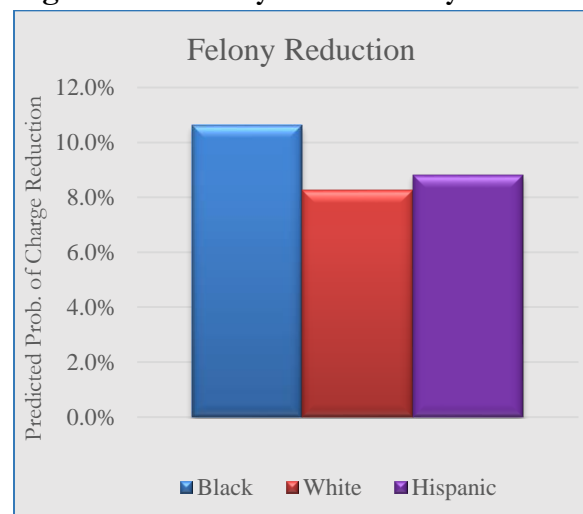
Table 4.3 and Figure 4.13 report information on felony charge reductions, which are defined as cases where the top charge filed was a felony, but the top charge of conviction was not. Net of other case factors, Black defendants have the highest odds of receiving a felony charge reduction. This is in contrast with the descriptive results above but indicate that after accounting for other case factors, **Black defendants have more than a 10% probability of a felony charge reduction, compared to 8% for White defendants.** This difference remains when the sample is limited to felony arrests, convicted cases, and cases disposed of by guilty plea. Supplemental models by offense type (not shown) indicate that this racial difference is most pronounced in rape and burglary cases.

Table 4.3. Felony Charge Reduction

Logistic Regression for Felony Reduction			
Felony Red.	OR	Std. Err.	p-value
Race			
White	--	--	--
Black	1.32	0.19	0.05
Hispanic	1.07	0.41	NS

NOTE: NS=Not statistically significant. OR=Odds ratio. The model accounts for control variables previously discussed.

Figure 4.13. Felony Reduction by Race



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## Summary of Charging Outcomes Analysis

The above analyses report descriptive and multivariate results for charging outcomes in Baltimore City Circuit Court. These findings suggest several conclusions:

- The vast majority of criminal cases have multiple charges filed but result in a conviction on a single charge. This pattern does not differ by race or ethnicity, but it suggests the possibility of overcharging, because many charges that are filed do not result in a conviction.
- Cases with Black defendants – especially young, Black male defendants – are more likely to involve “War Room” charges, which are used to signal involvement of a serious repeat offender. This is true even after accounting for other case characteristics, such as offense type, severity, and prior criminal history. This may reflect other factors, though, such as being on probation or parole at the time of the offense, gang involvement, or use of specific types of firearms. Additional data on these factors is needed to investigate this possibility.
- Black defendants, on average, are more likely than White defendants to have the severity of their top charge reduced between filing and conviction. After accounting for other case characteristics, they are also more likely to have felony charges reduced to non-felonies. This may indicate that Black defendants benefit from discretionary charge reductions during the plea process, or it could reflect prosecutorial corrections to initial overcharging at arrest or filing. The current data cannot adjudicate between these possibilities. Although these differences are statistically significant, they are not substantively large in magnitude.
- Overall, statistical analyses reveal small but statistically significant racial differences in select charging outcomes: Black defendants are more likely to receive charge reductions, but they are also more likely to face “War Room” charges. As a whole, these results do not provide evidence of large, systemic patterns of bias against Black defendants in charging; however, they may suggest charging discounts are used to correct inequalities in earlier criminal justice processes, such as arrest practices. Additional data are needed to investigate this hypothesis.





## 5. Sentencing Analysis



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### Sentence Outcomes

To investigate racial inequality in sentencing, we provide descriptive overviews of average racial differences in sentence types and sentence lengths, including the total, suspended, and unsuspended sentence, and then we estimate full multivariate regression models to examine racial disparities in these outcomes. The descriptive analysis summarizes overall racial differences in sentencing patterns, and the multivariate models provide insight into the independent effect that defendant race exerts on sentencing outcomes, net of other case factors.

### Descriptive Results for Sentencing Outcomes

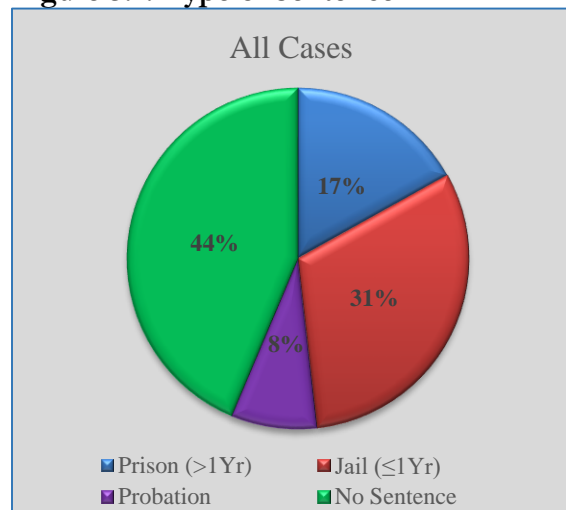
Our descriptive overview focuses on the final sentence in the case and the length of any associated probation, jail, or prison term. We use sentences of 1 year or less as a proxy for a likely jail sentence, and sentences in excess of 1 year as an indicator of a likely prison sentence, though it is important to note that these are imperfect indicators for jail and prison. Available sentencing information is restricted to the length of sentence, with limited detail about other facets of sentencing such as conditions of community supervision or intermediate sanctions. We therefore focus on the relative use of carceral sentences and on the length of total, suspended, and unsuspended terms of incarceration.

## Sentence Types

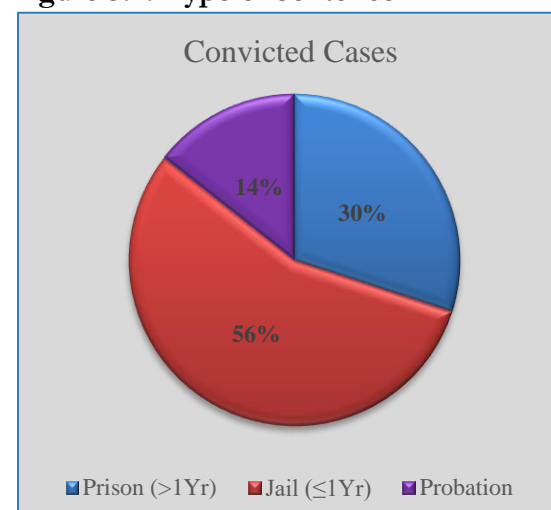
Information on sentencing outcomes is captured in the data as a combination of Total Sentence Time, Suspended Sentence, and Probation Time. We use these measures to examine both sentence type and sentence lengths. Sentence type distinguishes among cases that resulted in no sentence, a probation-only sentence, or a sentence with jail or prison time (using 1 year or less as a proxy for a likely jail sentence, and more than 1 year to identify a likely prison term).<sup>14</sup>

Figures 5.1 and 5.2 report descriptive information on types of sentences in Circuit Court cases. Consistent with previous results, 56% of all cases result in a conviction (including PBJs), and 44% end in no conviction and therefore have no sentence. **Among convicted offenders, 86% receive a term of unsuspended incarceration time.** Less than one-third of sentenced cases involves more than a year of incarceration (presumptive prison), and more than half result in a year or less (presumptive jail), though we are unable to identify time credited for pretrial detention in the data.

**Figure 5.1. Type of Sentence**



**Figure 5.2. Type of Sentence**

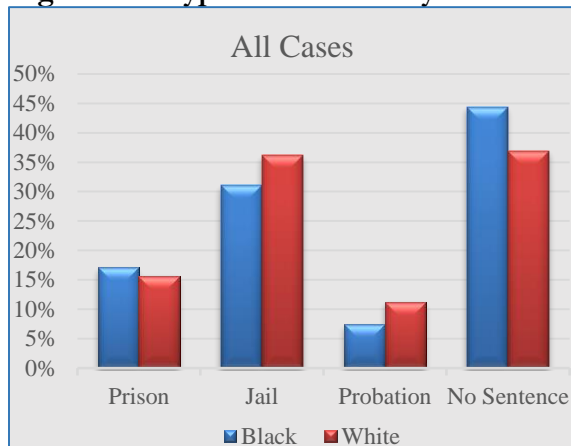


## Racial Differences in Sentence Types

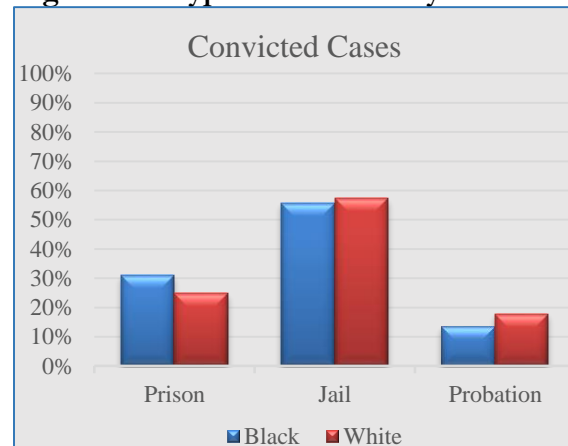
Figures 5.3 and 5.4 on the next page report summary information on sentence types for the full sample of cases and for convicted cases by race and ethnicity. Among all cases, a slightly higher proportion of Black than White defendants are sentenced to more than a year of incarceration (prison), but a higher proportion of White defendants receive 1 year or less (jail). Similar patterns exist for sentenced cases. **Black offenders are most likely to receive more than a year of incarceration and least likely to receive probation-only.**

<sup>14</sup> Information on State Attorneys' sentence recommendations are not investigated separately in this Report because they are only recorded in 29% of convicted cases and are not reported in a consistent format across cases in the data.

**Figure 5.3. Type of Sentence by Race**



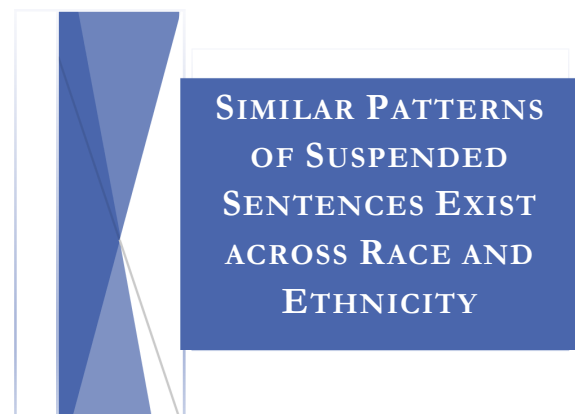
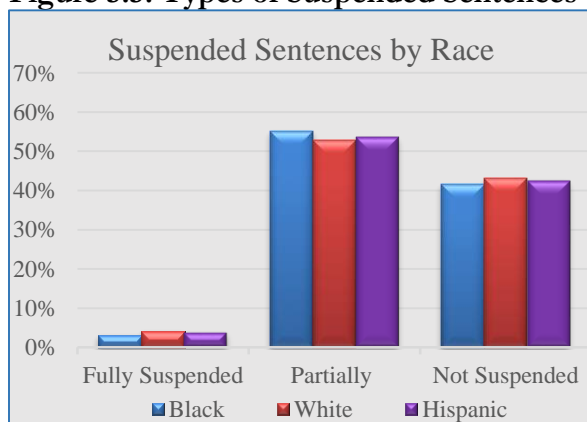
**Figure 5.4. Type of Sentence by Race**



## Suspended Sentences

Figure 5.5 examines different types of suspended sentences by defendant race. Overall, very few defendants have their sentence completely suspended, more than half have their sentence partially suspended, and the rest receive no suspended sentence time. The graphic suggests similar patterns of sentence suspension exist for defendants of all racial and ethnic groups.

**Figure 5.5. Types of Suspended Sentences**



## Sentence Lengths

We next investigate sentence lengths. Figure 5.6 on the next page summarizes mean sentences for all convicted cases across aggregate offense types. Information on sentence lengths includes the total sentence and the portion of the sentence that was suspended by the court. For example, sentences in cases involving murder-related offenses averaged 24 years with a mean of 6 years suspended.<sup>15</sup> Life sentences are coded as 15,000 days (the equivalent of about 40 years) for these analyses.

<sup>15</sup> The primary offense categories combine closely-related charges. For example, the “Murder” category includes 1<sup>st</sup> degree murder, 2<sup>nd</sup> degree murder, Attempted murder, and Manslaughter offenses.

**Figure 5.6. Sentence Lengths for Aggregate Offense Categories**

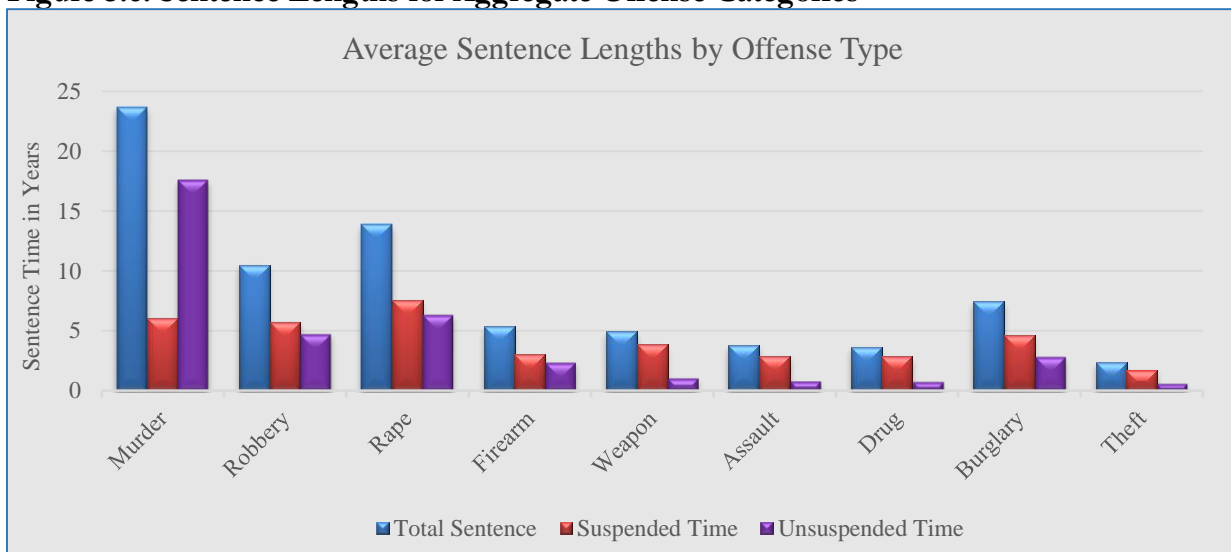
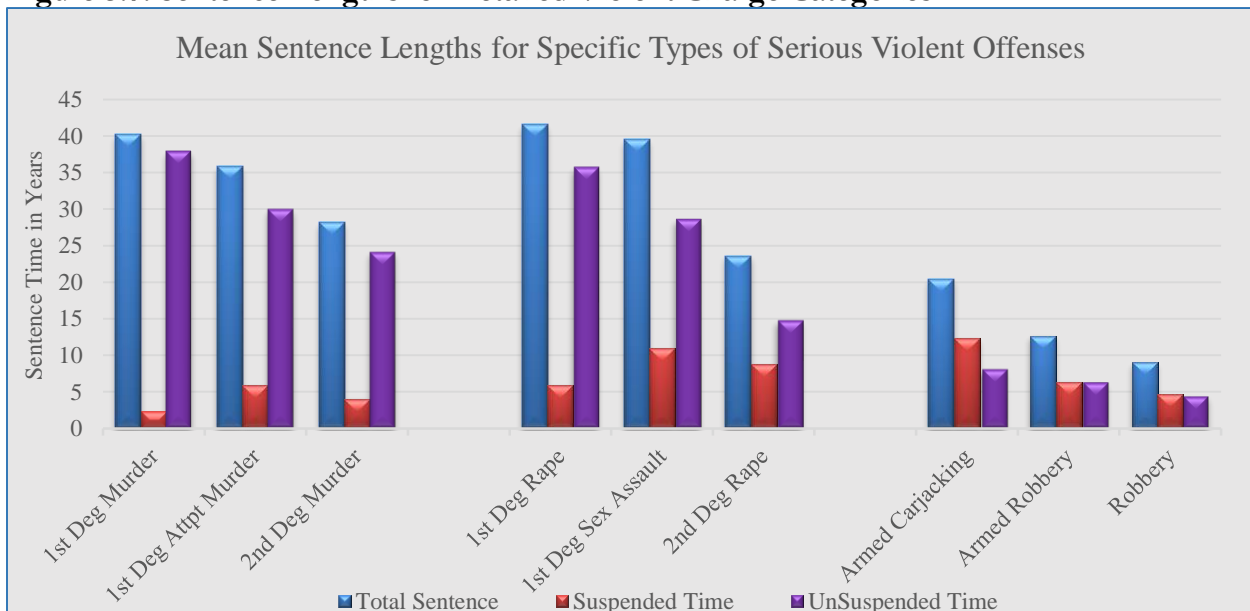


Figure 5.6 reported related charges in aggregated offense categories. For example, the “Murder” category includes all murder-related charges, including 1<sup>st</sup> and 2<sup>nd</sup> Degree Murder and Attempted Murder and Manslaughter. Figure 5.7 below reports mean sentences for more detailed categories of serious, violent crimes. Specifically, it reports average sentences for the most serious categories of murder, robbery, and rape-related offenses.

**Figure 5.7. Sentence Lengths for Detailed Violent Charge Categories**



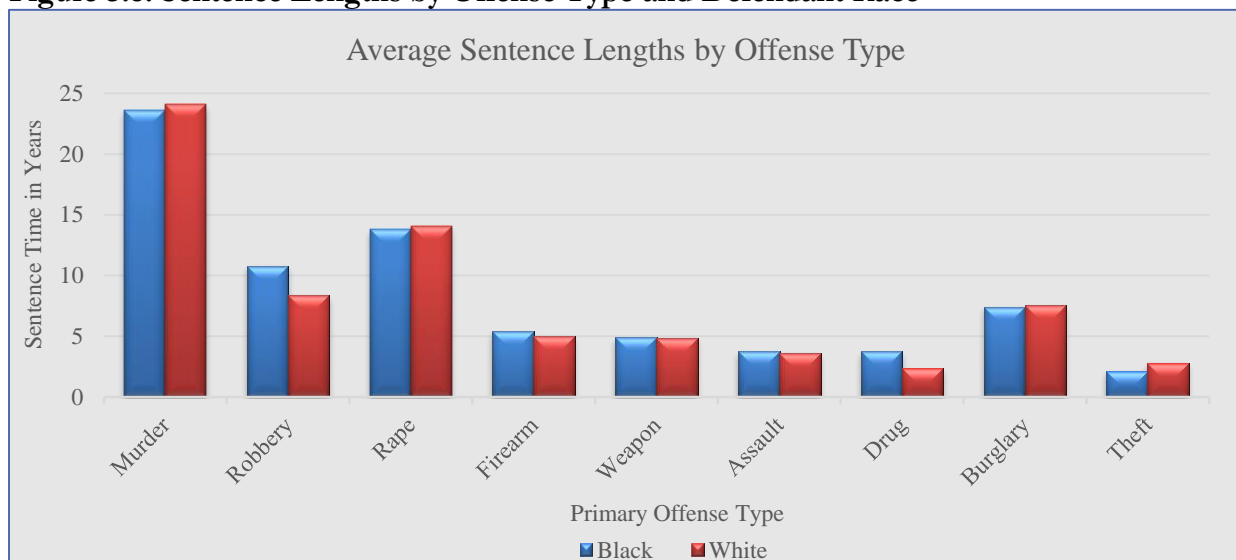
NOTE: Abbreviations include Deg=Degree; Atpt=Attempted; Sex=Sexual

Not surprisingly, average sentences are much longer for the most serious violent offenses. 1<sup>st</sup> Degree Murder convictions, for example, average more than 40 years, and most of them (95%) result in Life sentences (coded roughly as 40 years in the data). Similarly, first degree rape convictions result in average sentences of more than 40 years, most of which is unsuspended time.

## Racial Differences in Sentence Lengths

Figure 5.8 reports average sentence lengths for Black and White defendants by primary offense category. The overall pattern is similar for both racial groups, but small differences exist for some offenses. On average, Black defendants receive sentences that are about 2 years longer than White defendants for robbery-related crimes, and they receive sentences that are more than 1 year longer for drug-related offenses. White defendants, on the other hand, receive slightly longer sentences, on average, in murder, rape, and theft-related cases, but these raw differences do not yet adjust for other relevant sentencing factors. More detailed types of charges (e.g. 1<sup>st</sup> degree murder) are not examined by racial group because there are insufficient numbers of cases to support these analyses.

**Figure 5.8. Sentence Lengths by Offense Type and Defendant Race**



**Figure 5.9. Unsuspended Sentences by Offense Type and Defendant Race**

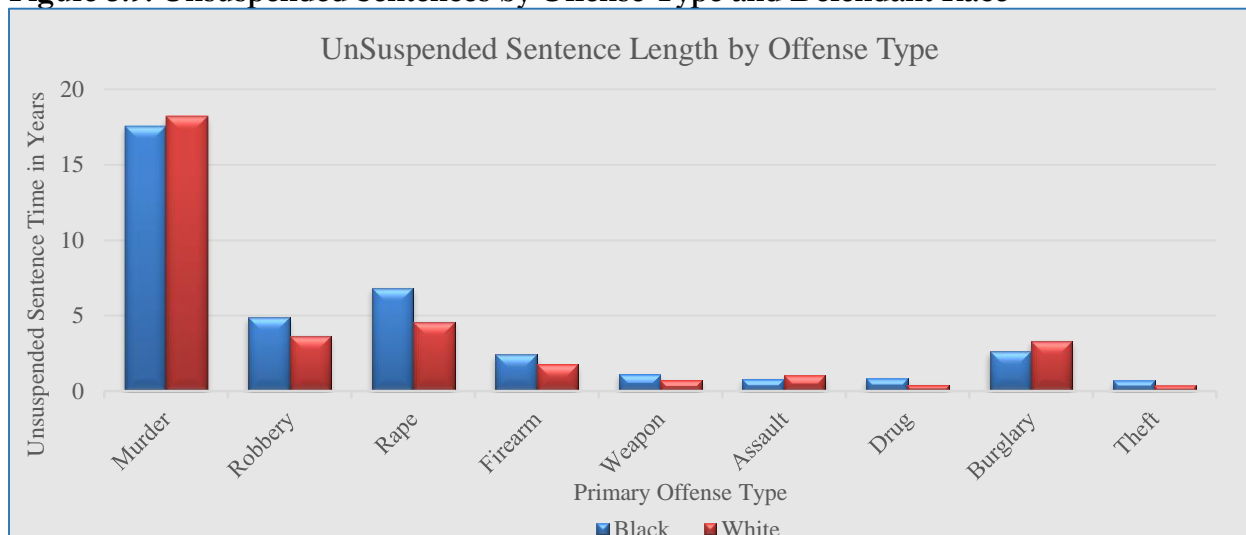
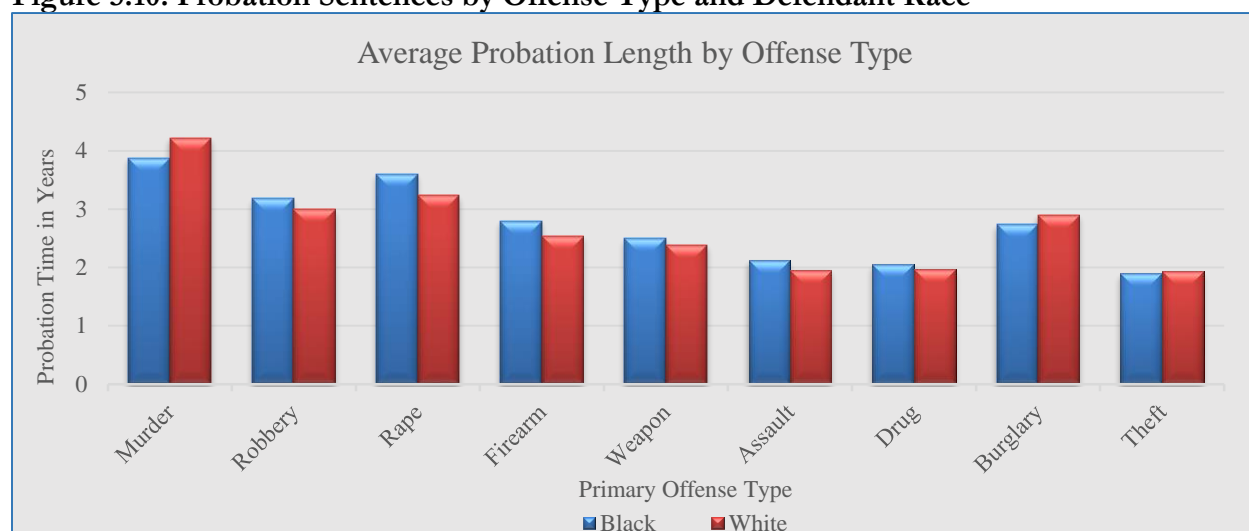


Figure 5.9 on the previous page reports average unsuspended sentence lengths by defendant race. White defendants have slightly longer unsuspended terms in murder, burglary and theft cases, whereas Black defendants fare worse in most other offense categories, including rape, robbery, and firearms offenses. On average, Black defendants receive more than an additional year of unsuspended incarceration time for robbery, more than 2 additional years for rape, and about 6 months more for firearms crimes. These differences, though, may reflect other case factors not yet accounted for in these analyses. Lastly, Figure 5.10 below shows that there are also relatively small differences in average terms of probation assigned to Black and White offenders.

**Figure 5.10. Probation Sentences by Offense Type and Defendant Race**



## Multivariate Results for Sentencing Outcomes

As with previous analyses, multivariate statistical models are needed that account for differences in relevant case characteristics when assessing racial disparity. Sentencing models include the same battery of case and defendant characteristics previously discussed, but the most serious filing charge is replaced with the most serious conviction offense, because it is more relevant in sentencing.

### Regression Analysis for Sentence Type

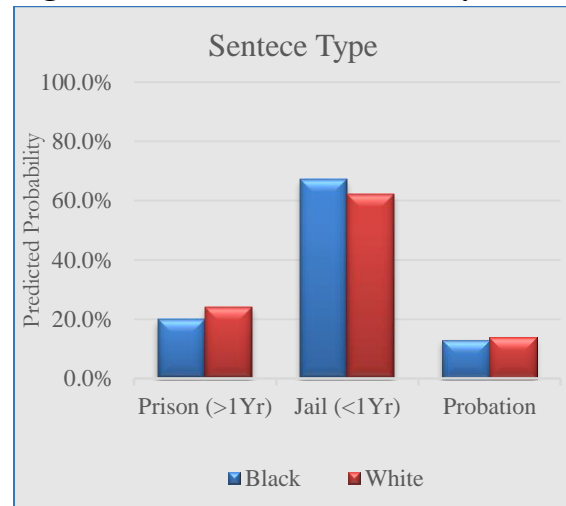
First we investigate whether the type of sentence differs by race after accounting for other case characteristics. Table 5.1, on the next page, shows there are no significant racial differences in the likelihood of Black and White defendants receiving jail and prison sentences. The same finding emerges when a binary incarceration variable is examined (not shown). Figure 5.11 similarly shows small and statistically non-significant differences in the predicted probability of different sentence types across racial groups. Overall, **there is no evidence of racial disparity in the probability of receiving an incarceration sentence**, once other sentencing considerations are taken into account.

**Table 5.1. Race Effects on Sentence Type**

Multinomial Regression for Sentence Type			
Sentence Type	RRR	Std. Err.	p-value
<b>Probation</b>	--	--	--
<b>Jail</b>			
White	--	--	--
Black	1.14	0.13	NS
<b>Prison</b>			
White	--	--	--
Black	0.86	0.13	NS

NOTE: NS=Not statistically significant. RRR=Relative rate ratio.  
The model accounts for control variables previously discussed.

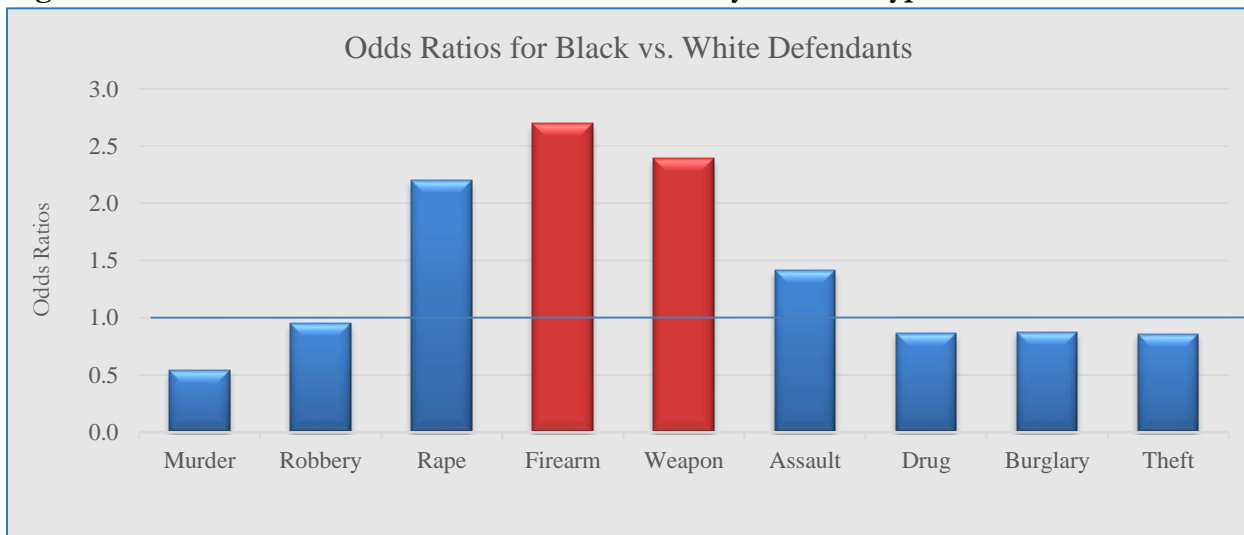
**Figure 5.11. Predicted Sentence by Race**



Notably, additional analyses (not shown) of the subset of cases sentenced to life imprisonment (n=97) also revealed no evidence of racial disparity in the use of life sentences for Black and White defendants in Baltimore City Circuit Court cases.

Figure 5.12, however, shows that there are some meaningful differences in the probability of incarceration for certain offense categories. Specifically, **for Firearms and Weapons-related offenses, Black defendants have odds of incarceration that are significantly higher than similarly-situated White defendants.** This suggests racial disparities in incarceration sentences may exist specifically for firearms and other weapons-related offenses.

**Figure 5.12. Odds Ratios for Incarceration Sentence by Offense Type**

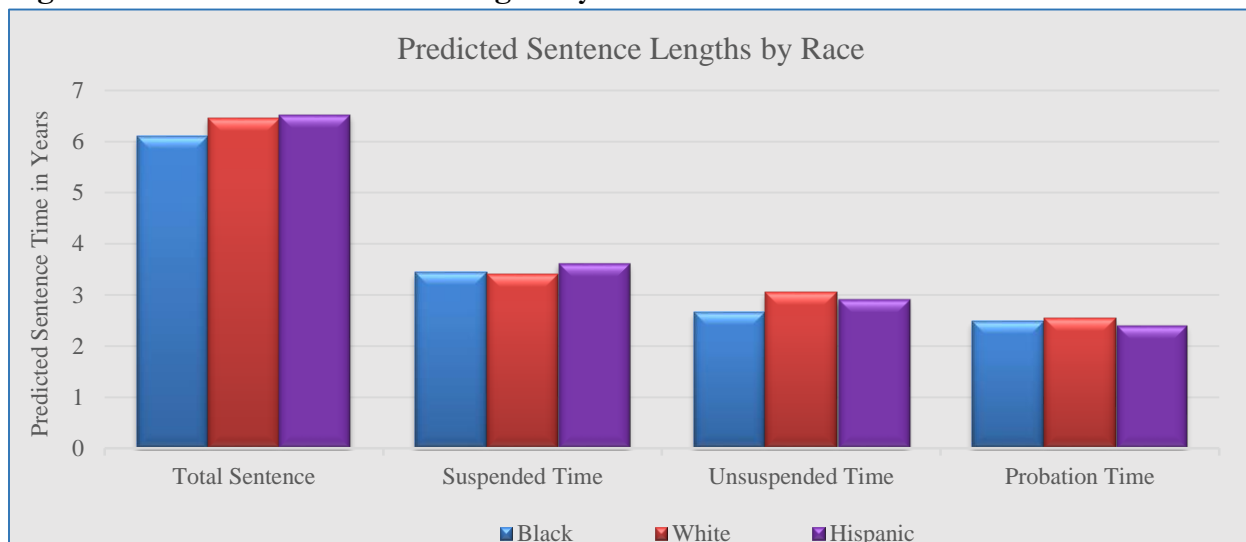


NOTE: Values over 1=increased odds of incarceration. Blue Bars=Not statistically significant. Red Bars=Statistically significant difference.  
The reported values here represent the odds of incarceration for Black defendants compared to White defendants (see Technical Appendix).

## Regression Analysis for Sentence Lengths

Next we investigate how average sentence lengths differ by race. We examine the total sentence, the suspended sentence, and the unsuspended sentence. Figure 5.13 summarizes predicted sentence lengths for each of these outcomes. After accounting for other relevant case factors, total expected sentences in Baltimore City Circuit Court are just over 6 years, with more than 3 years suspended, and with mean terms of probation between 2 and 3 years. The overall pattern is very similar for defendants across racial and ethnic groups.

**Figure 5.13. Predicted Sentence Lengths by Race**



**Table 5.2. OLS Sentence Length Models**

OLS Regression for Sentence Lengths			
Sentence Lengths	b	Std. Err.	p-value
<b>Total</b>			
Black	-0.18	0.19	NS
<b>Suspended</b>			
Black	0.17	0.18	NS
<b>Unsuspended</b>			
Black	-0.26	0.17	NS
<b>Probation</b>			
Black	-0.09	0.20	NS

NOTE: NS=Not statistically significant. b=Regression coefficient.  
The model accounts for control variables previously discussed.

Table 5.2 reports the regression coefficients, standard errors and statistical significance levels for the sentence length estimates comparing Black to White defendants. The results indicate that none of the racial differences in Figure 5.13 above are statistically significant. This means that once we account for other relevant case and defendant characteristics, we find **no statistical evidence that the race of defendant impacts average sentence lengths** in Baltimore City Circuit Court.

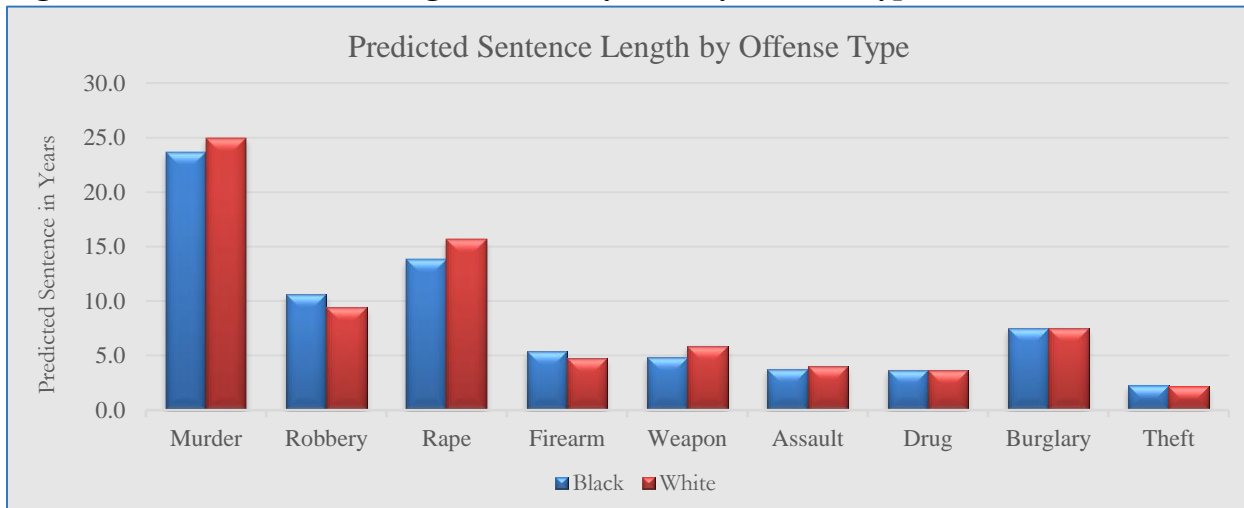


**NO SIGNIFICANT RACIAL DIFFERENCES  
EMERGED FOR TOTAL SENTENCE LENGTHS,  
SUSPENDED SENTENCE LENGTHS, OR  
LENGTHS OF PROBATION**



Next we examine racial differences in sentence lengths by primary offense category. Figure 5.14 reports estimates from these offense-specific models and shows **no statistically significant racial differences in expected sentence lengths for any of the primary offense categories**. Again, this offers no evidence of racial disparity in average sentence lengths for Black and White defendants.

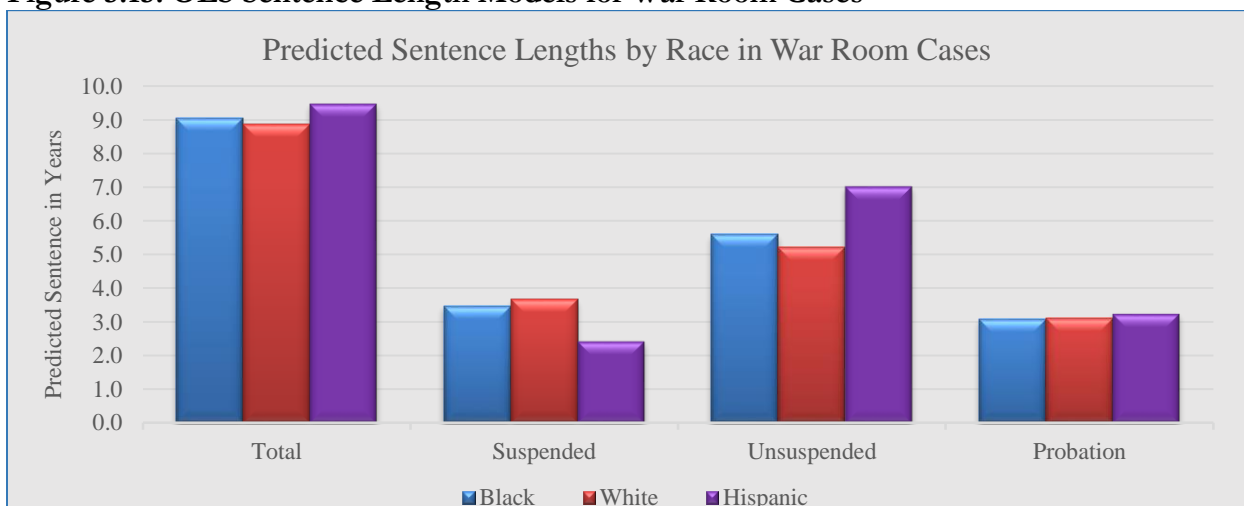
**Figure 5.14. OLS Sentence Length Models by Primary Offense Type**



**NOTE: None of these racial comparisons are statistically significant.**

Lastly, Figure 5.15 examines racial differences in sentence lengths specifically for “War Room” cases. These cases receive significantly longer sentences, on average, with a mean of 9 years, and with 5 to 7 years of unsuspended prison time, but none of the racial comparisons are statistically significant. Although War Room cases are more likely to involve Black defendants, Black and White defendants receive similar sentences in War Room cases; we find **no statistical evidence that expected sentences in War Room cases are impacted by the race of the defendant**.

**Figure 5.15. OLS Sentence Length Models for War Room Cases**



**NOTE: None of these racial comparisons are statistically significant.**

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We focus our discussion on defendant race, but it is worth noting that several other case characteristics have pronounced impacts on sentence severity. In line with prior work, male defendants are more likely to be incarcerated and for longer periods of time. Age has varying effects, but young defendants (under 25) tend to receive leniency. The factors that have the strongest impacts on sentencing are the offense type and offense severity variables, along with criminal history. Defendants convicted at trial and cases involving War Room charges also receive longer sentences on average. Full results for these other coefficient estimates are available upon request.

## Summary of Sentencing Outcomes Analysis

The above analyses report descriptive and multivariate analyses of sentencing outcomes in Baltimore City Circuit Court. These findings support several conclusions:

- Most convicted Circuit Court cases result in some period of incarceration. About 1 in 7 defendants receives a probation-only or fully-suspended sentence – the rest are sentenced to jail or prison. More than half of all defendants have some portion of their sentence suspended. The modal sentence involves a partially-suspended sentence, with a year or less of unsuspended incarceration time. No data is reported on credit for time-served so it is unclear how this might impact sentences or whether it varies by defendant race.
- Overall a higher proportion of Black (31%) than White (25%) defendants is sentenced to prison (defined as more than one year of incarceration), but this difference is explained by other case characteristics in the multivariate analysis. When factors such as age, gender, prior criminal record, and offense severity are accounted for, we find no evidence that defendant race has an impact on the type of sentence received. The two exceptions are for Firearms and Weapons offenses, where offense-specific models revealed a significant and positive impact of race on the odds of incarceration for Black defendants.
- In terms of mean sentence lengths, some aggregate racial differences exist – Black defendants, for example, receive about 2 additional years in robbery cases. However, White defendants also receive longer sentences for some crimes, such as murder-related offenses, and once other relevant sentencing factors are accounted for in the multivariate models, we find no evidence of racial disparity in total or unsuspended sentence lengths. This null finding is consistent across models examining each primary offense category.
- Overall, statistical analyses reveal few significant racial differences in sentencing outcomes. The lone exception is for Firearms and Weapons offenses where Black defendants are more likely to receive incarceration. It is possible that this is related to other omitted variables, such as recovery of a firearm, type of firearm/weapon used, or level of victim injury. More

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detailed data would be needed to investigate this possibility. As a whole, though, these results do not provide evidence of systemic racial disparity against Black defendants in sentencing outcomes. Disparities may exist in other sentencing outcomes, like probation conditions, intermediate sanctions, or discretionary guidelines departures, but additional and more detailed sentencing data would be needed to investigate these outcomes.



## 6. Conclusions

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### Summary and Discussion of Key Findings

Defendants of color are substantially overrepresented at various stages of the American criminal justice system. This Report analyzes racial differences in Baltimore City Circuit Court cases from 2017-2018, leveraging detailed administrative data from the Baltimore City State's Attorney's Office. These data provide a valuable, if incomplete, picture of how the race of the defendant is related to various dispositional, charging, and sentencing outcomes.

Black citizens are overrepresented in Circuit Court relative to population and arrest numbers, and notable differences exist in typical case characteristics for Black and White defendants. Black defendants face more serious initial charges, have more extensive prior criminal histories, and are more likely to be involved in violent, firearm, and drug-related offenses. White defendants are overrepresented in select property and "other" crimes.

To isolate the independent effects of defendant race on case outcomes, multivariate statistical models are estimated that account for racial differences in other defendant and case factors. A summary of key findings from these analyses is provided in Table 6.1 on the following page.

**Table 6.1. Summary of Key Findings from Multivariate Analyses of Racial Disparity**

	Black Defendants More Likely	White Defendants More Likely	No Significant Difference
<b>Case Dispositions</b>			
Fully Prosecuted		✓	
Plead Guilty		✓	
Any Conviction		✓	
Probation Before Judgment (PBJ)			✓
Probation After Judgment (PAJ)	✓		
<b>Charging Decisions</b>			
Number of Charges Filed			✓
Number of Charges Convicted			✓
Number of Charges Reduced			✓
Charge Severity Reduced	✓		
Felony Charges Reduced	✓		
“War Room” Charges	✓		
<b>Sentencing Outcomes</b>			
Any Incarceration Sentence			✓
Incarceration for Firearms/Weapons	✓		
Total Sentence Length			✓
Unsuspended Sentence Length			✓
Average Probation Length			✓

Overall, Black defendants are more likely to have their cases discontinued, especially via nolle prosequi and stet charges. On the surface, this suggests possible leniency for Black defendants – prosecutors do not pursue cases against Black defendants more vigorously than for White defendants. However, this also raises important questions about why this difference exists. The higher rate of nolle prosequi, in particular, may indicate concerns with the quality of arrests, evidentiary issues, or witness-related concerns, though reported reasons for nolle prosequi in the data do not differ notably for Black and White defendants.

Black defendants are also less likely to plead guilty and less likely to be convicted. This may reflect differences in quality of arrests, plea offers, or levels of trust and perceived legitimacy in the justice system (Kutateladze et al., 2014; Bobo & Thompson, 2006). Additional efforts to collect and analyze detailed plea offer data are needed to better understand if and how plea processes vary by race.

Black defendants, overall, are less likely to receive Probation Before Judgment, but this is fully explained by other case factors. Average crime severity is higher for Black defendants and PBJ is utilized more often in less serious crimes. Black defendants are also slightly more likely to receive Probation After Judgment, but this difference is substantively small.

No meaningful statistical racial differences were found in the number of charges filed or convicted, or the likelihood of having the number of charges reduced during plea negotiations.

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On the one hand, this is encouraging because it reveals no racial disparity; on the other, it may indicate a possible pattern of “overcharging” because the vast majority of defendants face multiple charges but are convicted on a single charge. It is important to acknowledge that the stacking of charges can occur for many reasons – for example, drug charges may require a lab report to establish drug types, gun charges can be contingent on ballistics reports, and certain violent charges require interviews with victims or testimonies from bystanders to be substantiated. In other instances, multiple charges can result from separate criminal incidents that are combined into a single case, or they may involve the purposeful filing of lesser-included charges when there is uncertainty surrounding the top charge. All of these are valid reasons for multiple charges. Still, the fact that a typical case involves more than five filing charges but a single conviction charge suggests the BCSAO should take care to ensure that initial charges do not involve “bringing more and greater charges” than one “can prove at trial – solely to give...an advantage” in plea bargaining (Davis, 2018: 9).

There is also evidence that Black defendants face more severe initial charges. The fact that they are more likely to have the severity of their top-charge reduced, and to have felony charges lowered to non-felonies, can be interpreted in two ways. It could indicate favorable treatment, suggesting Black defendants enjoy advantageous charging discounts during plea negotiations, but that interpretation is at odds with the overall lower plea and conviction rates for Black defendants. More likely, it reflects prosecutorial corrections to initial arrest and charging decisions. Notably, the racial gap in charge severity is greater among filed charges than convicted charges, which suggests initial charges for Black defendants may be inflated. Higher severity at filing is also consistent with their increased odds of War Room charges. Studies of racial justice in other jurisdictions (Bishop et al., 2020) find similar results and conclude that this suggests race may be impacting how charges are filed. Follow-up investigations of initial charging decisions are therefore warranted in the future.

Finally, there is little empirical evidence of racial disparity in sentencing. Similar patterns exist in total and unsuspended sentences for all racial groups, and in average probation terms. The one notable exception is that Black defendants are significantly more likely to be incarcerated for firearms and weapons-related offenses. This may reflect implicit associations that link race to stereotypical notions of dangerousness (Payne, 2006), or it could result from differences in other case factors not accounted for in our statistical models, such as differences in weapon types or levels of victim injury. Overall, though, patterns of sentence severity are remarkably similar across race for most offenses.

## Policy Recommendations

Based on the statistical analyses in this Report, we offer a range of policy recommendations to consider. Some are relatively straightforward to implement, like internal data improvements, whereas others represent longer-term goals that will likely require cooperative efforts with other court actors, local organizations, law enforcement and/or community leaders.

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**1. We recommend that the BCSAO examine procedures used to review initial charges to investigate whether initial charging decisions are impacted by defendant race.**

One key finding is that Black defendants are more likely to have their initial charges reduced and their cases dismissed. On the surface, this could suggest favorable treatment for Black defendants, but it more likely reflects prosecutorial corrections to racial imbalances at earlier stages of the justice system. Varying arrest charges can often apply to the same underlying conduct, and part of the plea process involves prosecutors adjusting initial charges during the plea negotiation process in the interests of justice. The data show that Black defendants face more serious charges initially, but are more likely to have their initial charges reduced, resulting in charges at final conviction that are more similar to White defendants.<sup>16</sup>

We cannot determine conclusively the extent to which racial differences in initial charge severity, or subsequent charge reductions, reflect police or prosecutor discretion, or underlying differences in offense behavior. However, the pattern of findings, at a minimum, suggests greater scrutiny be directed at potential disparity in initial arrest and filing charges. In particular, higher rates of case dismissal and larger charge reductions for Black defendants suggest potential inequalities at the initial charging stage.

**2. We recommend that the BCSAO conduct a detailed investigation into the reasons witnesses, victims, and police officers do not cooperate or fail to appear in court.**

Black defendants are more likely to have their cases nol-prossed, and the most commonly reported explanation for why prosecution is discontinued in these cases involves witness problems, especially a “witness/victim” or “police officer” being a necessary witness. There are many reasons that a witness may be unwilling to cooperate or unable to show up to court, and they imply different policy solutions. If the reasons involve practical issues like not being aware of a court date, implementing solutions like automated text reminders can be effective (see Ferri, 2020). If reasons are logistical, like not having access to transportation, incentives like public transportation subsidies may be viable. If there are legal concerns, like outstanding bench warrants, reductions in their execution or non-enforcement agreements may be needed. By contrast, if victims fear for their safety, additional efforts to protect them might be needed, along with options like secure video testimony and reliable court updates regarding a suspect’s release status. Without a better understanding of the reasons for witness problems, it is difficult to identify and implement effective solutions. The same applies to police, who in theory, should be much easier to incentivize to cooperate and appear in court.

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<sup>16</sup> If prosecutors pursue serious cases more aggressively, and Black defendants are overrepresented in these cases, it could explain their larger charge reductions. However, this is at odds with lower plea rates and higher dismissal rates for Black defendants. An alternative is that prosecutors seek to obtain convictions on the most serious, readily provable charges, in which case larger charge reductions likely indicate that initial charges against Black defendants tend to be more severe than for similarly-situated White defendants. If this is the case, it has important implications because initial charges set the stage for subsequent plea negotiations and can produce inequalities in later outcomes (Bushway et al., 2014).



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**3. We recommend that the BCSAO continue its ongoing efforts to improve prosecutor-citizen relationships, especially in communities of color.**

Another reason that witnesses may be reticent to cooperate involves a broader lack of trust in the criminal justice system. Research finds communities of color have especially low levels of perceived legitimacy. This is consistent with the finding that Black and Hispanic defendants are significantly less likely to plead guilty and more likely to go to trial. Some scholars speculate that racial differences in pleading guilty reflect underlying differences in perceptions of fairness in the justice system (Testa & Johnson, 2019). If this is the case, continued efforts to improve police and prosecutor-citizen relations, especially in communities of color, are essential. Research shows that perceived legitimacy not only significantly affects cooperation with law enforcement, but also impacts future offending, meaning improved community relations can have salutary effects on crime (Tyler, 1990).

**4. We recommend that the BCSAO be cautious in its use of the War Room designation to inform other case processing decisions.**

We also find racial patterns in “War Room” cases. Black defendants are more likely than White defendants to be involved in these cases, net of other case characteristics. It is possible that this is the result of omitted variables in our data, such as current supervision status, gang affiliation, violent criminal histories, or specific types of firearms, like handguns. However, when we link the BCSAO data to MSCCSP sentencing data for guidelines-eligible cases, we find that this disparity remains even after accounting for current supervision status. Importantly, War Room charges are correlated with other outcomes – these cases are less likely to result in conviction but much more likely to eventuate in incarceration. The extent to which Black defendants are more likely to be implicated in War Room cases could contribute indirectly to racial differences in other case outcomes. At a minimum, it would be useful to scrutinize these cases more closely to investigate how and why Black defendants are overrepresented, and to implement procedures to ensure that the label is based only on objective legal criteria. It would also be beneficial to incorporate additional information into the case management system on factors related to War Room cases, like current supervision status, and specific reasons that the classification applies in individual cases.

**5. We recommend that the BCSAO continue to improve data collection efforts by refining existing data, collecting additional data, and integrating data systems.**

Overall, the Baltimore City State’s Attorney’s Office has a high quality, well-run and technologically sophisticated case management system that contains a wealth of valuable case processing information. Still, there are ways that data collection efforts could be improved to allow for additional insights into possible sources of racial disparity. Some of these are relatively easy to implement, like ensuring data are reliably entered into existing data fields, whereas others, like integrating information across data systems, including Central Booking, will require more effort and therefore represent longer-term goals.

First, existing data quality can be improved by expanding racial categories to include information on defendant ethnicity, including Hispanic origin. Current racial categories include no information on



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the ethnic background of defendants or victims. This may be because these data come from police arrest reports, in which case it would require collaborative efforts with the Baltimore Police Department to improve their record keeping. At a minimum, an added indicator should be incorporated for defendant ethnicity, identifying Hispanic/Latino origin, in the case management system. In addition, information on victim characteristics is collected, but often incompletely, making it difficult to examine victim-based disparities.<sup>17</sup> Prior research suggests victim race can impact case processing decisions (e.g. Paternoster & Brame, 2008). The BCSAO should take steps to improve the consistency of data on victim race. Requiring ASAs to consistently enter victim information would allow for investigations into possible victim-based disparities in future research.

Second, the case management system is structured to record information on other important factors, including defendant socioeconomic status (e.g. income, education, employment), type of attorney (public defender vs. private attorney), and citizenship and nationality status. These fields are available in the case management system but are not regularly recorded. Factors like socioeconomic status are important because they tend to be related to both defendant race and treatment in the justice system. Requiring Assistant State's Attorneys to collect and record information on these fields would help to ensure that any racial disparities that are found are not due to other unaccounted-for differences like class status, victim characteristics, or type of defense counsel.

Other data are collected but not in ways that allow for statistical analysis. For example, criminal history and plea offer details are retrievable only as separate PDF documents, making them difficult to analyze. Creating and populating additional data tables in the case management system to track core elements of plea offers, such as whether they involve custodial time, specific charge or sentence agreements, and whether or not initial plea offers are accepted, rejected or subsequently amended is recommended. Indicators for whether a case involved an ABA or non-ABA plea, and whether the defendant was under current supervision at the time of the offense would also be beneficial. In general, incorporating more detailed information on plea offers directly into the case management system would go a long way toward improving our ability to examine an important and often hidden source of potential disparity in the justice system.

Improving the reliability of data on other important case details, such as ASA sentence recommendations and the use of alternative dispositions, is also recommended. Details on ASA sentence recommendations are often entered inconsistently in the case management system, making them difficult to analyze, and limited information is currently reported on alternatives like Drug and Mental Health court. Systematizing the recording of these data and including them as additional variables in the case management system would streamline and improve future analyses, and would also allow the Office to better track its caseload statistics. These and other recommendations for data improvements are summarized in Table 6.2 below.

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<sup>17</sup> To illustrate, of the more than 6,000 violent and weapons-related offenses in the data, victim race was reported in only 113 cases, or less than 2% of all violent crimes. When only murder, robbery and assaults are examined, victim race is recorded in 2.5% of cases in the data.

**Table 6.2: Recommendations for Data Improvements**

<b>Existing Data Quality</b>
<ul style="list-style-type: none"><li>• Expand defendant race categories to include information on ethnicity</li><li>• Ensure that data on victim characteristics is reliably coded and consistently entered</li><li>• Systematize ASA sentence recommendations and ensure they are uniformly entered</li><li>• Clearly identify cases that are merged together into single sentencing events</li></ul>
<b>Collection of Additional Data</b>
<ul style="list-style-type: none"><li>• Populate existing data fields for key variables like socioeconomic status and type of attorney</li><li>• Ensure other fields are reliably collected (e.g. filing of discovery, presence of a witness, evidence)</li><li>• Create additional data fields to capture plea details, such as whether a plea is an ABA plea, a custodial plea, and whether it involves a charge or sentence offer</li><li>• Integrate summary information on defendant prior criminal record into case management data</li><li>• More clearly identify defendants diverted to alternatives such as Drug or Mental Health courts</li><li>• Use structured data fields that can be compiled into electronic data whenever possible (in lieu of PDF document attachments)</li></ul>
<b>Integrate Existing Data Systems</b>
<ul style="list-style-type: none"><li>• Incorporate information from Central Booking on other earlier case processing decisions</li><li>• Assimilate information on bail hearings and pretrial detention status into case management data</li><li>• Add other details from legal statutes, like whether charges carry a mandatory minimum</li><li>• Collect additional sentencing information on fines, fees, restitution and probation conditions, jail versus prison sentences, and whether a sentence is consecutive or concurrent</li></ul>

It would also be valuable to collect additional details about the strength of the case against a defendant and the quality of the evidence in each case. Information is currently recorded on whether video evidence, DNA evidence, or a witness was available, but additional indicators for whether currency, drugs, weapons, or stolen property was recovered, a confession occurred, there was other physical or exculpatory evidence, or significant victim injury in a case would be valuable to collect and would allow for more robust analysis of racial disparities. Efforts should also be made to more explicitly identify criminal cases that are combined into a single sentencing event, including whether sentences are to be served concurrently or consecutively, because this information is needed to accurately capture the time served by defendants.

Finally, to the extent possible, efforts should be made to integrate information across existing data systems, and to electronically record information on earlier case outcomes, even those not directly controlled by the BCSAO. Because data from the Charging Division of the Office of the State's Attorney are not integrated into the primary case management system from which we draw the

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current data, we are unable to directly investigate several outcomes, including initial decisions to charge or release defendants (e.g. Release Without Charges (RWOC)), or to divert offenders to Early Resolution Court (ERC) or Quality Case Review (QCR) dockets, where defendants can have their cases resolved expeditiously. We are also unable to investigate arraignment and bail hearing outcomes, including bail amounts, bail recommendations, ability to pay financial bail and whether a defendant is detained pretrial. This is important because these outcomes can have important impacts on later decisions (Dobbie, Goldin, & Yang, 2018). Ideally, detailed information about intake procedures at Central Booking would be integrated into the primary BCSAO case management system to allow for a closer examination of initial charges, bail, and diversion outcomes.

Additional data integration would allow for improved assessment of early case processing decisions and could help to ensure that only cases worth fully prosecuting are pursued. Currently, over one-third of Circuit Court cases are discontinued, most of which are nol-prossed. There are many valid reasons for this, such as a necessary witness failing to appear, a guilty plea occurring in another case, or emergent evidentiary concerns arising. Still, to the extent that cases with these or other concerns can be screened out earlier, it would save time and resources for the BCSAO and prevent unnecessary hardship for defendants. It might also have the corollary benefit of increasing the rate of fully-prosecuted cases, which could further improve public perceptions of the effectiveness of the BCSAO. Collecting and analyzing data on initial charging decisions is especially important in light of recent non-prosecution policies for low-level offenses like marijuana possession (Mosby, 2019).

Other data internal to the Office, such as information on police integrity and credibility concerns, might also be integrated into the case management system using simple flags to identify these cases. Finally, incorporating information from legal codes and statutes, such as whether any charges carry mandatory minimum sentences, would allow for analysis of additional sources of potential disparity. As a longer-term goal, the BCSAO should also seek to integrate their data systems with data from police, parole and probation, public safety, and the sentencing commission to expand information on what happens to defendants as cases move through stages of the justice system. For example, some research suggests financial penalties can have disparate impacts on defendants of color (Harris, 2016), but no information is currently collected on fees, fines, or restitution.

**6. We recommend that the BCSAO engage in ongoing efforts to study, identify and address potential sources of racial inequality in prosecution and punishment.**

Lastly, inequalities in the justice system are ever-evolving with shifting crime patterns, local policy developments and broader national influences. This is especially true in light of recent changes to the criminal courts in the wake of the COVID-19 pandemic. The data we analyze are from 2017-2018, so it is unclear whether and how racial patterns may have shifted more recently. Among other changes, the BCSAO announced a new progressive policy during this time that includes non-prosecution of minor offenses like drug possession, prostitution and trespassing (Prudente, 2021). When addressing racial disparity, it is important to continue to study up-to-date data to identify the impacts of these new policies as well as other emerging trends that may affect patterns of inequality; as such, we strongly encourage ongoing investigations of racial disparity in Baltimore and elsewhere.

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## Study Limitations

Findings and policy recommendations in this Report are based on statistical analyses of racial differences in prosecution that account for a wealth of relevant factors; still, these analyses have some notable limitations, which we summarize briefly below:

- The data analyzed measure contact with the criminal justice system via arrests rather than actual offending behavior. Law enforcement resources may be deployed in some areas more than others in ways that shape who is filtered into the justice system. This Report only analyzes the treatment of individuals after they enter the system. It cannot analyze or explain disparities in the process that leads to contact with the criminal justice system.
- Several potentially important decisions related to racial justice in prosecution are not directly examined in this report. As noted above, we lack data on initial case declinations, initial charging decisions, and certain types of alternative prosecutions, such as Early Resolution and Drug Treatment Courts. It is possible that meaningful racial differences could exist in these and other early case outcomes, though it is important to also note that this is likely less salient for the current analysis because Baltimore City employs a Court Commissioner to determine probable cause and because our focus on Circuit Court cases means early resolution is unlikely for most cases in our data.
- The data contain limited or no information on several other case processing outcomes that could also contribute indirectly to racial disparities, including pretrial detention and bail recommendations and outcomes. We have limited information and detail on the types of plea offers that are made and accepted, and we lack quality indicators for the application of mandatory minimums and discretionary sentencing enhancements. All of these are potentially important outcomes that should be examined in future studies.
- Although the data contain information on a wide range of relevant case details, many factors that may impact case outcomes are not directly observed in the data. Some examples include type of weapon, level of victim injury, current supervision status, gang affiliation, and defendant remorse and cooperation. To the extent that these or other unobserved factors are correlated with defendant race, estimates of racial disparity will reflect the impact of both race and any unobserved factors.
- Some potentially important defendant, victim, and court actor characteristics are also unavailable. These include the socioeconomic status of defendants and the demographic characteristics of victims, attorneys, and judges. Prosecutors' names are in the data, but information on their individual background characteristics, like experience, race, and gender, are not. Victim characteristics are too often missing or incomplete. Names of defense

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attorneys are reported intermittently but without complete information on whether they are public defenders, private attorneys, or appointed by the court.

- Data on sentencing outcomes are limited to information on the length of the sentence imposed. Details involving other types of sanctions, like financial penalties, fines and restitution, or specifics about intermediate sanctions or community-based punishments are not reported and therefore could not be examined in this Report.
- A comprehensive evaluation of racial justice in prosecution requires analysis of more than just Circuit Court cases. Future analyses need to investigate racial disparities in District Court cases and other venues such as Traffic and Drug Court. Far fewer cases are disposed in Circuit Court than in Traffic or District Court. The current findings cannot be generalized beyond cases processed in Baltimore City Circuit Court.
- Finally, the current analysis is based on data from 2017-2018 that predates the onset of the global COVID-19 pandemic. It is likely that charging and case resolutions patterns were altered by the pandemic and related policy changes, and it is unclear how this might have impacted racial disparities. Additional data and research are needed to understand the influence of COVID-19 on issues related to racial justice in criminal case processing.

## Conclusion

Racial disparities in the criminal justice system represent an enduring social problem and a perennial concern for citizens, practitioners, and policymakers. Public consciousness about racial inequality in the justice system has been amplified by several recent high-profile police killings of Black citizens and has led to nationwide calls for criminal justice reform. In Baltimore, the death of Freddie Gray sparked local protests and spurred efforts to improve police accountability and enhance citizen trust. The Baltimore City State's Attorneys' Office has played an active role in these efforts. Consistent with the broader national movement toward "progressive" approaches to prosecution, Ms. Mosby has taken steps to reduce unnecessary justice involvement and to increase transparency, equality, and fairness in prosecution. As part of this effort, the BCSAO entered into a cooperative agreement with independent researchers to study, identify, and address potential sources of racial inequality in prosecution in Baltimore. This Report is the result of that partnership.

The findings of this study provide reasons for optimism, while also helping to identify additional avenues for improving racial equity in prosecution. Although the results reveal selective pockets of differential treatment, they do not offer any consistent evidence of widespread charging bias systematically disadvantaging defendants of color. Still, Black defendants are more likely to have their cases dismissed and they are less likely to be convicted, which suggests greater attention be directed at initial filing and screening decisions – the sooner that uncertain cases can be identified and removed from the system, the better for all parties involved. Other potential sources of

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inequality include War Room cases and sentences for firearms and weapons offenses. We cannot conclusively determine if these differences reflect police or prosecutor discretion, defendant conduct, or other factors not present in the data. The BCSAO case management system is high quality, but, as outlined above, data collection and integration can be improved in additional ways to facilitate future analyses of racial equity.

The results of this Report provide an important initial assessment of racial equity in prosecution in Baltimore City Circuit Court, but a complete evaluation will require additional analyses of case processing decisions in District Court and in Traffic and Problem-Solving Courts. It is also imperative to engage in ongoing analyses over time to capture the extended impacts of the COVID-19 pandemic and related policy shifts, such as the non-prosecution of low-level misdemeanors. Importantly, a key tenet of progressive prosecution is the continual use of data-driven and evidence-based approaches to assessing, identifying, and addressing racial inequality in the justice system; as such, this Report offers a valuable starting point for ongoing efforts that continue to seek to improve racial justice in the criminal courts.

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## Technical Appendix

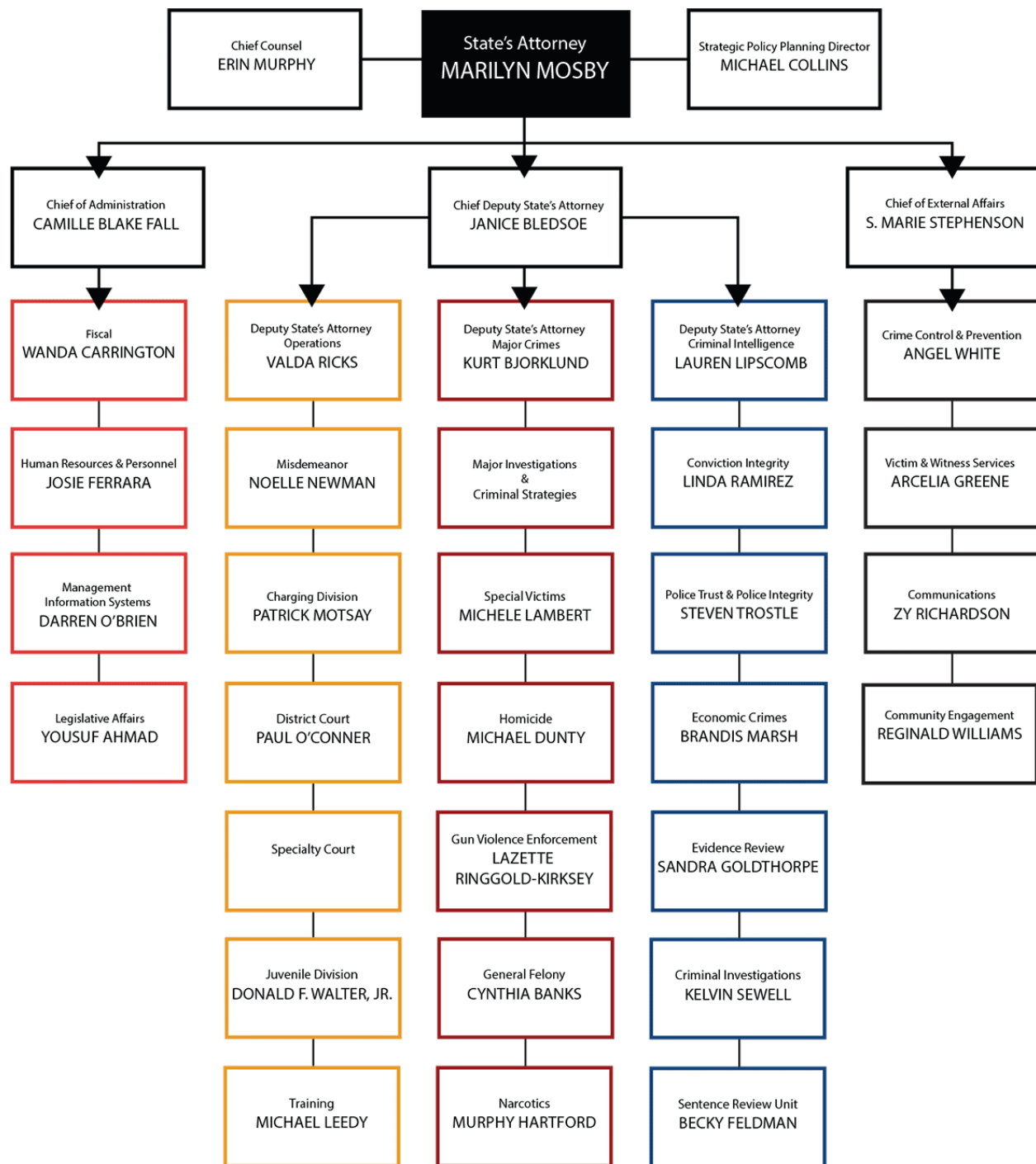
The statistical models featured in this report use common techniques to attempt to isolate the effect of one variable on another. We describe these techniques in this appendix.

When we refer to multivariate analysis or multivariate models, we hold constant other variables (known as “control” variables) that may affect our outcome of interest (e.g. charging/sentencing decision) in order to isolate the independent effect of our key variable of interest (e.g. defendant race). For example, we estimate the effect of being a Black defendant, relative to a White defendant, on the number of charges, holding constant defendant gender, age, charge type, charge severity, criminal history, offense type, existence of evidence, War Room status, and SAO Division assigned to the case. However, there may still be other variables – some mentioned in the discussion and some fundamentally unmeasurable – that we still have not accounted for that could be biasing our estimated effect of race on the number of charges.

We use Ordinary Least Squares (OLS) regression when the outcome variable can take on a range of continuous values (e.g. number of charges). Coefficient estimates are interpreted as the expected change in the outcome (e.g. number of charges) associated with a one-unit change in the independent variable of interest (e.g. Black vs. White defendant). We use a logistic regression when our outcome variable of interest is binary (it can only take on values of 0 and 1), such as conviction (=1 if convicted, =0 if not). We interpret the output as the estimated effect of race on the probability that the Y variable is equal to 1 (e.g. the predicted probability of conviction). These estimates are reported as odds ratios. Odds ratios (OR) greater than 1.00 indicate increased odds of experiencing the outcome; values below 1.00 indicate reduced odds.

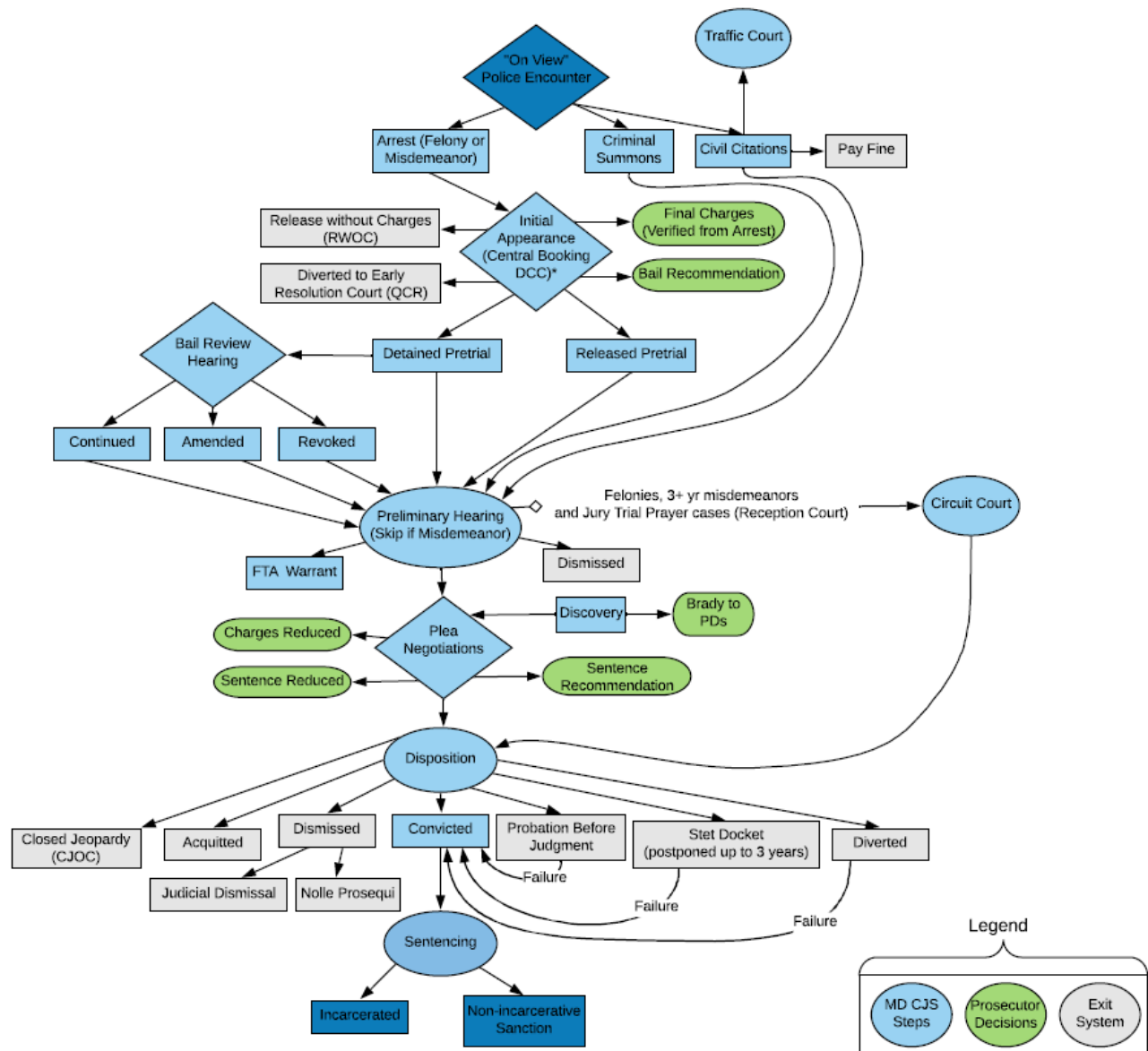
We use a multinomial logistic regression when our outcome variable of interest can take on several different categorical values, such as disposition type. We estimate the effect of race on each possible disposition type relative to an omitted reference category. For example, if we omit White defendant and conviction, we observe race effects on the probability of dismissal and acquittal for Black or Hispanic defendants relative to White defendants. These estimates are reported as relative rate ratios. Relative rate ratios (RRR) greater than 1.00 indicate increased odds of experiencing the outcome, values below 1.00 indicate reduced odds.

**Figure A1. Divisions of the Office of the State's Attorney for Baltimore City**



NOTE: BCSAO Units are grouped into three Divisions comprised of Operations (in yellow), which include District Court, Central Booking, Misdemeanor, Juvenile, Problems Solving Court and Training; Major Crimes (in red), which is the largest division and includes Felony Trial Units, including Major Investigations, Homicide, Special Victims, Gun Violence Enforcement, General Felony and Narcotics; and Criminal Intelligence (in blue), which includes the Conviction Integrity Unit as well as Public Trust and Police Integrity, Forfeiture and Economic Crimes, Criminal Strategies, and Evidence Review units.

Figure A2. Full Case-Flow Summary for BCSAO Criminal Cases



NOTE: Analyses in this Report are limited to criminal cases processed in Baltimore City Circuit Court.

**Table A1. Disposition Codes, Abbreviations and Summary Descriptions**

<b>Disposition Code</b>	<b>Abbreviations</b>	<b>Summary Description</b>
641	PBJ	Probation Before Judgement/Conviction (PBJ)
641A	PAJ	Probation After Judgment/Conviction (PAJ), Guilty - Sentenced
ABBD	Abated	Prosecution Abated by Death of Defendant
ACGA	Acquittal	Acquittal Judgement Granted
CJOC	Closed Jeopardy	Closed Jeopardy or Other Conviction (charges merged with other charges)
DISM	Dismissed	Charges Dismissed
LIOF	Lesser Included Offense	Commission of the Crime involved a Lesser Included Offense
MERG	Merged	Merged with other Counts - A Lesser Included Offense Absorbed into a More Serious Offense
NCRC	Not Criminally Responsible	Defendant is Not Criminally Responsible - Committed
NCTC	Incompetent	Defendant is Incompetent to Stand Trial - Committed
NG	Not Guilty	Not Guilty - Opting for Trial
NP	Nolle Prosequi	Nolle Prosequi (i.e. Nol-Prossed) - Charges against the Defendant are Discontinued
NSTJ	Not Sent to Jury	Case Not Sent to the Jury
OTHR	Other	Other Unspecified Disposition
RMDC	Remanded District Court	Case is sent to another court or agency for further action -- District Court
RMJC	Remanded Juvenile Court	Case is sent to another court or agency for further action -- Juvenile Court
SENC	Guilty	Charged Guilty and Sentenced
SENG	Guilty	Guilty Verdict - No Sentence
SENT	Guilty	Convicted and Sentenced Guilty
STET	Stet Charge	Charge Suspended -- Eventually Dropped if No New Offense or if Other Conditions Met
SUBC	Sub Curia	Held Pending Resolution -- Procedure, Rule or Statutory Requirement Prevents Resolution
VACT	Vacated	Removal of Default Entered on a Defendant's Record -- Charge is Void or Set Aside
VNRC	Verdict not Rendered	Verdict Not Rendered in Case
VOPC	Probation Continued	Probation Continued
VOPT	Probation Terminated	Probation Terminated

Table A2. Descriptive Statistics for All Variables, Circuit Court Cases, 2017-2018

	All Cases	Black	White
Dependent Variables	Mean/%	Mean/%	Mean/%
<b>Case Dispositions</b>			
Conviction (no PBJ, PAJ)	21%	21%	24%
Probation Before Judgement (PBJ)	6%	5%	9%
Probation After Judgement (PAJ)	29%	29%	31%
Dismissal	1%	1%	1%
Nolle Prosequi	26%	27%	19%
Stet charges	11%	11%	11%
Acquittal	3%	3%	2%
Other	4%	4%	4%
<b>Charge Reductions</b>			
Number of Charges Reduced	93%	93%	88%
Charge Severity Reduced	35%	36%	31%
Felony Charges Reduced	33%	34%	24%
<b>Mode of Disposition</b>			
Guilty Plea	54%	53%	62%
Trial	6%	6%	5%
Trial Conviction	54%	55%	58%
Trial Acquittal	46%	45%	42%
<b>Sentence Severity</b>			
Carceral Sentence	28%	27%	29%
Total Sentence Length (Yrs.)	6.13	6.18	5.24
Unsuspended Length (Yrs.)	1.38	1.41	1.22
Probation Length (Yrs.)	2.47	2.48	2.37
<b>Other Case Outcomes</b>			
War Room Case	22%	23%	10%
<b>Independent Variables</b>			
<b>Defendant Race</b>			
Black	88%	--	--
White	9%	--	--
Hispanic	1.5%	--	--
Other/Unknown	1.5%	--	--
<b>Control Variables</b>			
Defendant Age	33.97	33.48	37.42
Male Defendant	89%	90%	79%
Female Defendant	11%	10%	21%

General Offense Category			
Person Offense	28.66	28.32	31.10
Property Offense	10.80	8.78	25.25
Drug Offense	35.38	37.11	23.03
Weapon Offense	19.63	20.82	11.15
Other Offense	5.53	4.98	9.48
Specific Offense Type			
Murder/Manslaughter	5%	5%	4%
Robbery	10%	10%	9%
Rape	3%	3%	5%
Firearm	22%	24%	9%
Weapon	16%	16%	12%
Assault	32%	32%	33%
Drug	43%	46%	26%
Burglary	7%	6%	15%
Theft	21%	19%	33%
Traffic	5%	5%	4%
Other Violent	2%	2%	3%
Other Property	8%	7%	14%
Other or Unknown	14%	13%	19%
Charge Variables			
Max Charge Severity	10.58	10.72	9.61
Max Conviction Severity	9.51	9.62	8.78
Number Charges Filed	5.63	5.75	4.79
Number of Charges Convicted	1.18	1.18	1.15
Criminal History Variables			
Criminal History Index	0.00	0.02	-0.13
Prior Convictions	3.83	3.93	2.65
Jailable Convictions	3.67	3.77	2.54
Felony Convictions	1.67	1.72	1.06
Evidence Variables			
DNA Evidence	1%	1%	1%
Video Evidence	49%	51%	39%
Known Witness	24%	24%	21%
Other Control Variables			
Trial	5%	6%	4%
#War Room Charges	1.20	1.29	0.55
SES Index of Home Area	0.00	0.07	-0.52

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SAO Division			
Homicide Division	2%	2%	1%
Gun Division	6%	6%	3%
Narcotics Division	15%	16%	6%
Domestic Violence	3%	3%	3%
Civilian Review Unit	1%	1%	1%
Major Investigations Unit	2%	3%	1%
Felony Division	24%	23%	26%
Misdemeanor Division	36%	35%	47%
Other Divisions	11%	10%	13%