



Building a Safer Tomorrow: Analyzing Misdemeanor Recidivism Trends through Deferred Findings in Arlington County, Virginia

Executive Summary

Background

Arlington County, Virginia has a population of 240,900 and is situated across the Potomac River from Washington, D.C. The Arlington County Commonwealth's Attorney Office is responsible for the prosecution of all state, criminal charges in the jurisdiction. In 2019 the voters of Arlington County elected a reformer as the top prosecutor who ran on a platform of building a more equitable criminal justice system while at the same time ensuring community safety. In 2020, the Virginia General Assembly passed Code 19.2-298.02 which allows judges and prosecutors to defer findings of guilt in any criminal case. Arlington prosecutors regularly utilize this statute to incentivize individuals to comply with treatment and services and avoid a criminal conviction.

My evaluation focused on the question: "Does this policy make our community safer?". To answer that question, I used a quantitative analysis to compare recidivism rates between those who were convicted of a crime and those that had their convictions deferred. I also

conducted qualitative research to examine the effect of 298.02 dispositions with various stakeholders throughout the Arlington County Courthouse such as judges, probation officers, and prosecutors. Guiding this study were two evaluation questions.

1. Are individuals who receive deferred findings less likely to commit new crimes?
2. What is the effect of deferral programs on individual actors including defendants, law enforcement, judges, and prosecutors?

Through the lens of these questions, I aim to provide an accurate representation of the current state of this reform initiative in Arlington County, VA. The goal is for stakeholders to use the results in crafting future policy goals and funding initiatives.

Key Findings

Are individuals who receive deferred findings less likely to commit new crimes?

The analysis of administrative data shows a 7% drop in recidivism when those who received a misdemeanor conviction between 2018-2019 are compared to those who received a deferred finding between 2020-2021.

What is the effect of deferral programs on individual actors in the criminal justice system?

There were two key findings from our qualitative analysis. First, stakeholders observe that deferred dispositions are effective tools to incentivize compliance with treatment and services. Second, individuals who do not have prior contact with the criminal justice system are more likely to successfully complete a deferred finding program and less likely to be arrested on new charges.

Recommendations

Based on the findings of the quantitative and qualitative analysis, I developed program recommendations as well as recommendations for future research.

Program recommendations:

- **Target Early Intervention in Deferred Finding Implementation**
- **Use Quantitative Data Results in Advocacy**
- **Increase Services for Deferral Programs**

Recommendations for future research:

- **Demographic Effects of Deferred Dispositions:** This research could focus on the demographic impact of deferred findings in Arlington County. National research shows that deferred findings have a larger, positive effect on communities of color.
- **Research on Expanded Case Types:** Future research could incorporate felony cases to identify whether the recidivism trend holds true for more serious cases.
- **Length of Deferral Period and Record at Time of Deferral:** Additional analysis should include a longer period of recidivism to identify the lasting effects of deferred findings.
- **Financial Impact on Deferred Findings:** The community interest in deferred findings is better served when results are quantified into dollar amounts. Future research should calculate the cost saving benefits of deferred finding programs to the Arlington taxpayer.

Program Overview

Background

In 1935, Supreme Court Justice George Sutherland wrote,

“The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all. And whose interest, therefore, in a criminal prosecution is not that it shall win a case, that justice shall be done. As such, he is in the peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor, indeed he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his

duty to refrain from improper methods calculated to produce wrongful conviction as it is use every legitimate means to bring about a just one.”¹

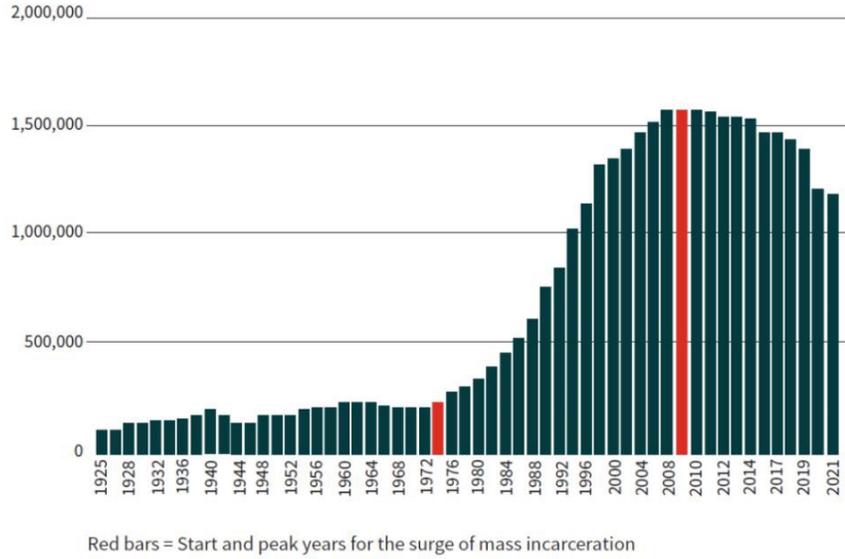
For decades, our criminal justice system has focused on punishment as its main tool in the name of increasing and preserving safety in communities. Prosecutors play an essential role in this endeavor. The idea of only utilizing punitive measures in the search for “justice” has not made our communities any safer. Additionally, this same system disproportionately targets black, Hispanic, and other people of color. In 2023 the Sentencing Project released a report indicating that “[i]n 2019, Black Americans represented 14% of the total U.S. population, 33% of the total prison population, and 46% of the prison population who had already served at least 10 years.”² People of color receive more than two-thirds of all life sentences with over half being black. One third of those executed between 1976 and 2022 were black Americans. The United States is the world’s number one incarcerator with 6.7 million people under some sort of correctional control³.

¹ Berger v. U.S. 295 U.S. 78 (1935)

² Ghandnoosh, Nazgol, Celeste Barry, and Luke Trinko. 2023. “One in Five: Racial Disparity in Imprisonment — Causes and Remedies.” The Sentencing Project. December 7, 2023. <https://www.sentencingproject.org/publications/one-in-five-racial-disparity-in-imprisonment-causes-and-remedies/>.

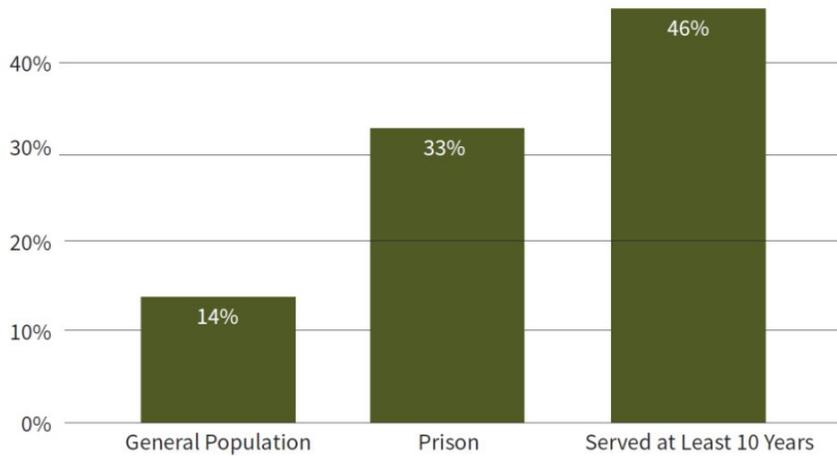
³ Eisen, Lauren-Brooke. 2019. “The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System.” Brennan Center for Justice. September 9, 2019. <https://www.brennancenter.org/our-work/analysis-opinion/1994-crime-bill-and-beyond-how-federal-funding-shapes-criminal-justice>.

Figure 1. U.S. State and Federal Prison Population, 1925-2021



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Figure 9. Black Americans as a Percentage of U.S. Population, Total Prison Population, and Prison Population Who Have Served At Least 10 Years, 2019



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⁴ Nellis, Ashley . 2023. "Mass Incarceration Trends." The Sentencing Project. January 25, 2023. <https://www.sentencingproject.org/reports/mass-incarceration-trends/>.

⁵ Nellis, Ashley . 2023. "Mass Incarceration Trends." The Sentencing Project. January 25, 2023. <https://www.sentencingproject.org/reports/mass-incarceration-trends/>.

The Unintended Consequences of Mass Incarceration:

This focus on mass incarceration to achieve public safety is exemplified by the 1994 Violent Crime Control and Law Enforcement Act.⁶ This bill allocated \$9.7 billion for prison systems throughout the country. Soon after, states followed the lead of the federal government. The Brennan Center for Justice reported that, “in retrospect, among the most significant and long-lasting impacts of the legislation was the authorization of incentive grants to build or expand correctional facilities through the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Program. This provided \$12.5 billion in grants to fund incarceration, with nearly 50 percent earmarked for states that adopted tough “truth-in-sentencing” laws that scaled back parole.”⁷

In Virginia, a year after President Clinton signed his signature crime bill, parole was abolished as the Commonwealth shifted toward a more punitive approach to fighting crime.⁸ Virginia passed its first mandatory minimums law in 1968. Today, the criminal code of the Commonwealth has a multitude of mandatory minimum laws that apply to a wide range of crimes.⁹

As the federal government, the Commonwealth of Virginia, and Arlington County continue to increase their budgets to prop up the institution of mass incarceration, a simple

⁶ “50 Years of Building Solutions, Supporting Communities and Advancing Justice | 1994 Violent Crime Control and Law Enforcement Act.” 2020. Office of Justice Programs. February 14, 2020. <https://www.ojp.gov/ojp50/1994-violent-crime-control-and-law-enforcement-act>.

⁷Eisen, Lauren-Brooke. 2019. “The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System.” Brennan Center for Justice. September 9, 2019. <https://www.brennancenter.org/our-work/analysis-opinion/1994-crime-bill-and-beyond-how-federal-funding-shapes-criminal-justice>.

⁸“Virginia Commission on Parole Review.” n.d. [Parolecommission.virginia.gov](https://parolecommission.virginia.gov). Accessed May 5, 2024. <https://parolecommission.virginia.gov/#:~:text=Parole%20was%20abolished%20in>

⁹ “Mandatory Minimums.” n.d. Justice Forward Virginia. Accessed May 5, 2024. <https://justiceforwardva.com/mandatory-minimums#:~:text=Virginia%20enacted%20its%20first%20mandatory>.

question is rarely asked- “Does this approach make us any safer?” The data has become increasingly clear that we can’t incarcerate our way to a safer community. The National Institute of Corrections stated that, “Despite its widespread use, research shows that the effect of incarceration as a deterrent to crime is minimal at best, and has been diminishing for several years. Indeed, increased rates of incarceration have no demonstrated effect on violent crime and in some instances may increase crime.”¹⁰

Arlington’s focus on mass incarceration made our community less safe. The Prison Scholar Fund reported that the data supports this fact. “67.8% of all released prisoners are re-arrested within three years of release. Incarceration and recidivism most directly affect non-white and poor individuals, reflecting the “disproportionate minority contact” of the criminal justice system, and the link between poverty and criminal justice system involvement.”¹¹ Not only do these policies make our County less safe, they come at the expense of massive collateral consequences that target black and brown communities.

Arlington County has a population of 240,900.¹² It is situated across the Potomac River from the nations’ capitol and serves as an important and integral community in the greater DMV area. Arlington is best characterized as a semi-urban community with dense neighborhoods surrounding the metro stations and tight knit single-family homes in other parts of the county. Arlington is a majority white community (73.4%) with a Hispanic population of

¹⁰ “The Prison Paradox: More Incarceration Will Not Make Us Safer (2017) | National Institute of Corrections.” n.d. Nicic.gov. <https://nicic.gov/weblink/prison-paradox-more-incarceration-will-not-make-us-safer-2017#:~:text=%22Despite%20its%20widespread%20use%2C%20research.>

¹¹ Prison Scholar Fund. n.d. “The Problem: Recidivism & Mass Incarceration.” Prison Scholar Fund. [https://www.prisonerscholars.org/what-we-do/222-2/.](https://www.prisonerscholars.org/what-we-do/222-2/)

¹² “Arlington County Profile.” n.d. www.arlingtonva.us. <https://www.arlingtonva.us/Government/Projects/Data-Research/Profile.>

15.6%, and a black community making up 10.6% of the county. It has a high median income at \$137,387 per household. It is also a very educated community with over 76.8% of the population having a bachelor's degree or higher.¹³

Throughout the country, prosecutors play an integral part in the machinery of the mass incarceration system. Until 2020, Arlington County modeled itself after this failed approach to criminal justice. Prosecutors in Arlington advocated for cash bail, withheld discovery, and used mandatory minimums to leverage pleas. In 2019, in the Arlington Commonwealth's Attorney Office, nearly 98% of felony convictions came from pleas of guilt.¹⁴ This ideology had a disproportionate effect on indigent, and black and brown people and did not make our community safer.

Criminal Justice Reform in the Commonwealth

In 2019, a wave of criminal justice reform candidates ran for office in Northern Virginia looking to unseat entrenched opponents.¹⁵ On June 11, 2019, the Washington Post reported that, "Northern Virginia voters delivered a forceful statement for sweeping criminal justice reform Tuesday, choosing progressive challengers over longtime incumbents in two hotly contested Democratic primaries for prosecutor in Arlington and Fairfax counties."¹⁶ They ran on a platform of reducing crime through restorative practices, diversion programs, and increasing

¹³ "U.S. Census Bureau QuickFacts: Arlington County, Virginia." n.d. www.census.gov.
<https://www.census.gov/quickfacts/fact/table/arlingtoncountyvirginia/PST045223>.

¹⁴Weiner, Rachel. 2019. "In Arlington, Veteran Prosecutor under Fire from the Left." Washington Post, June 6, 2019. https://www.washingtonpost.com/local/legal-issues/in-arlington-veteran-prosecutor-under-fire-from-the-left/2019/06/05/34162fb2-8234-11e9-933d-7501070ee669_story.html.

¹⁵ Jouvenal, Justin. 2019. "Progressive challengers oust longtime prosecutors in Northern Virginia." Washington Post, June 11, 2019. https://www.washingtonpost.com/local/public-safety/northern-virginia-democrats-to-deliver-referendum-on-criminal-justice-reform/2019/06/11/1fbbcd2a-8bac-11e9-8f69-a2795fca3343_story.html

¹⁶ Jouvenal, Justin. 2019. "Progressive challengers oust longtime prosecutors in Northern Virginia." Washington Post, June 11, 2019. https://www.washingtonpost.com/local/public-safety/northern-virginia-democrats-to-deliver-referendum-on-criminal-justice-reform/2019/06/11/1fbbcd2a-8bac-11e9-8f69-a2795fca3343_story.html

mental health and substance abuse treatment. The voters in Arlington County established a mandate to implement this policy agenda by electing a reformer over the entrenched incumbent. The voters recognized the enormous power that prosecutors wield in the criminal justice system and saw this election as an opportunity to effect change while at the same time increasing public safety. In 2020, during the height of the pandemic and following the death of George Floyd, the General Assembly in Virginia continued this theme and passed reform legislation including eliminating the jury trial penalty, affirming the right of prosecutors to dismiss cases, and prohibiting police from initiating searches based on the smell of marijuana.¹⁷

One of the most important legislative reforms of 2020 was the passage of Virginia Code Section 19.2-298.02¹⁸ which allowed any case to be deferred with the consent of the accused and the prosecutor. A deferred finding means that after a plea or trial a judge determines that there is enough evidence to convict the defendant, but holds off on making that decision. Instead, conditions are put in place which can include community service, substance abuse treatment, mental health treatment, or other conditions that the court finds appropriate. The accused only gets the benefit of the deferred finding if they successfully complete all the terms and conditions. Additionally, the statute allows for the possibility of expungement upon successful completion of the program.

Like the rest of the country, this effort in Arlington County to turn away from a narrow focus on incarceration to a more holistic and equitable approach in the criminal justice system

¹⁷ Oliver, Ned. 2020. "Every Criminal Justice Reform That Passed in Virginia after George Floyd's Death • Virginia Mercury." Virginia Mercury. November 11, 2020. <https://virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>.

¹⁸ "§ 19.2-298.02. Deferred Disposition in a Criminal Case." 2024. Virginia.gov. 2024. <https://law.lis.virginia.gov/vacode/title19.2/chapter18/section19.2-298.02/>.

has faced backlash. Various actors within the criminal justice system have resisted any change to the status quo.

The Arlington County Commonwealth's Attorney Office utilizes deferred findings in a variety of ways. After a review of the facts of the case, any mitigation evidence, speaking with the victim and law enforcement, and various other factors, the prosecutor assigned to the case will determine whether a deferred finding is appropriate. Once the prosecutor decides to defer the case, they either negotiate the conditions and length of the deferred finding or leave it up to the judge. A 298 disposition is available either before trial, through a plea, or after trial with the consent of all parties including the judge. The conditions of a deferred finding are tailored to address the concerns that stem from the criminal behavior and target the underlying problem. Additionally, deferred findings are tools to provide services for those charged with crimes through a diversion docket like the behavior health docket or drug court.

Is Reform Working?

As Justice Sutherland wrote, a prosecutor's job is do justice. Prior to reform efforts, justice was synonymous with convictions and jail time. Both sides of the criminal justice reform debate hold on to their policy proposals at all costs and engage in ideological rhetoric to argue their point. The average Arlingtonian wants to answer a simple question: "What policies will make Arlington County a safer place to live, work, and raise a family?" More than four years ago, and again in 2023, Arlington County bought into the idea that community safety and a more equitable criminal justice system are not in conflict with one another - instead, they go hand in hand. In the last four years deferred findings have been an essential tool in the

Arlington prosecutors' toolbox to further this idea. Has it worked? Is Arlington safer now, than it was four years ago?

Evaluation Goals and Questions

This study attempts to measure the impact of deferred findings after the administration change in 2020. The goal is to answer two simple questions:

- 1. Are individuals who receive deferred findings less likely to commit new crimes?
- 2. What is the effect of deferral programs on individual actors including defendants, law enforcement, judges, and prosecutors?

Why Focus on Misdemeanors?

Generically speaking, misdemeanors are defined as crimes less serious than a felony.¹⁹ This definition is not specific and does not account for the massive impact that misdemeanors have on the criminal justice system in America. In Arlington County, and the Commonwealth as a whole, a misdemeanor conviction carries up to a maximum period of incarceration of twelve months and a maximum fine of \$2,500. In Arlington, misdemeanor crimes include non-violent property crimes such as trespassing and petit larceny, as well as crimes against individuals such as assault and battery and stalking.

Misdemeanor convictions impact the lives of individuals in serious ways. A misdemeanor conviction can prevent an individual from employment or social services. A misdemeanor conviction in Virginia is non-expungable meaning that it remains on a criminal record forever.

¹⁹ "Definition of MISDEMEANOR." 2024. www.merriam-Webster.com. May 2, 2024. <https://www.merriam-webster.com/dictionary/misdemeanor#:~:text=1>.

My evaluation focuses on misdemeanor convictions and deferred findings.

Misdemeanor cases make up more than 80% of all criminal cases in the United States. More than 13 million Americans are charged with misdemeanors every year.²⁰ Additionally, racial disparities in plea resolutions on misdemeanor cases are even more vast than in felony cases.²¹ Finally, misdemeanor convictions have real world, collateral consequences that can have devastating effects on an individuals' ability to provide for their family, receive social services, or get themselves out from under the weighty costs and fines.

Although misdemeanors constitute the vast majority of criminal cases throughout the country, data regarding these types of cases is sorely lacking in the academic research studying the criminal justice system. In 2022, the United States House of Representatives Committee on Appropriations stated, "The Committee is concerned with the lack of reliable data from the States and local jurisdictions on the processing of misdemeanor arrests. As the largest aspect of our criminal system, it is vitally important to ensure justice is being administered in a fair and equitable manner."²² The impact of misdemeanor prosecutions is an understudied yet necessary component in crafting effective criminal justice reform policy.

Research has shown that aggressively prosecuting low-level crimes can actually lead to more crime. Defendants prosecuted for nonviolent misdemeanors have a higher chance of

²⁰ Communications, NYU Web. n.d. "Prosecuting Nonviolent Misdemeanors Increases Rearrest Rates, New Study Shows." [www.nyu.edu](https://www.nyu.edu/about/news-publications/news/2021/march/prosecuting-nonviolent-misdemeanors-increases-rearrest-rates--ne.html). <https://www.nyu.edu/about/news-publications/news/2021/march/prosecuting-nonviolent-misdemeanors-increases-rearrest-rates--ne.html>.

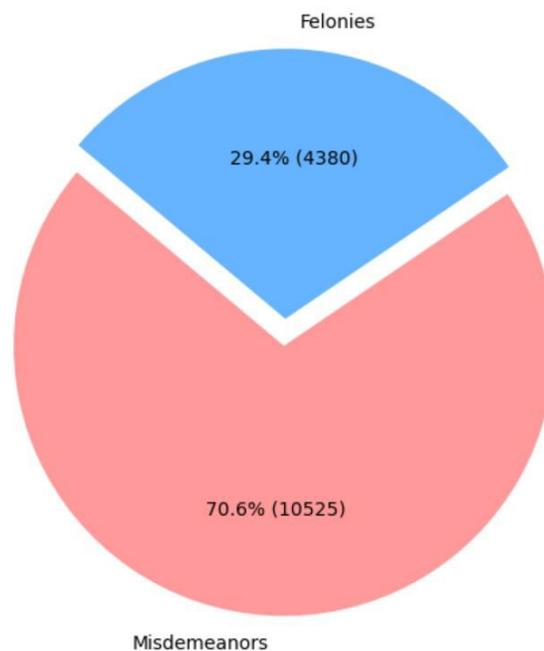
²¹ "America's Massive Misdemeanor System Deepens Inequality and Burdens Low-Income Communities." 2019. Equal Justice Initiative. January 9, 2019. <https://eji.org/news/americas-massive-misdemeanor-system-deepens-inequality/>.

²² "Data on Adjudication of Misdemeanor Offenses: Results from a Feasibility Study | Bureau of Justice Statistics." n.d. [bjs.ojp.gov](https://bjs.ojp.gov/library/publications/data-adjudication-misdemeanor-offenses-results-feasibility-study). Accessed May 5, 2024. <https://bjs.ojp.gov/library/publications/data-adjudication-misdemeanor-offenses-results-feasibility-study>.

picking up a new charge in the future. When they do pick up new charges it often includes arrests for violent and felony offenses.²³

In Arlington County, most criminal cases are misdemeanors. This means that the majority of individuals, whether they be witnesses, victims, or defendants, come into contact with the criminal system on a misdemeanor case. Between 2018 and 2021 there were approximately 14,905 criminal cases in Arlington County. Of those 14,905 cases, 10,525 were misdemeanor cases.²⁴ In 2018, 1,429 misdemeanor cases resulted in a conviction. In 2019, 1,268 misdemeanor cases resulted in a conviction. In 2020, as the 298 statute was just implemented, 96 misdemeanor cases that would have been convictions were deferred. In 2021, 110 misdemeanor cases were deferred.

Distribution of Criminal Cases in Arlington County (2018-2021)



²³ Communications, NYU Web. n.d. "Prosecuting Nonviolent Misdemeanors Increases Rearrest Rates, New Study Shows." Wwww.nyu.edu. <https://www.nyu.edu/about/news-publications/news/2021/march/prosecuting-nonviolent-misdemeanors-increases-rearrest-rates--ne.html>.

²⁴ See appendices

This evaluation analyzed a four-year period, 2018, 2019, 2020, and 2021. For 2018 and 2019 I looked at the total number of misdemeanor convictions. I then looked at whether those individuals picked up new charges within two years of their conviction. For 2020 and 2021 I gathered data on individuals who had their cases deferred. I then analyzed whether those individuals picked up new charges within two years of their deferral.

How is Recidivism Defined?

This study uses a 2-year recidivism timeframe beginning after conviction or deferral. There are various definitions for recidivism. The National Institutes of Justice define recidivism as, “criminal acts that resulted in rearrest, reconviction or return to prison with or without a new sentence during a three-year period following the person's release.”²⁵ The majority of recidivism occurs within the first three years.²⁶ The Virginia Department of Corrections measures recidivism using various timeframes ranging from 6 months to 36 months.²⁷ The reason a 2-year time frame was chosen in this study was two-fold. First, given how new the disposition is, data ranges on recidivism from deferred findings are shallow. Additionally, since I didn't include felony charges, the standard period of probation after a conviction or deferral is 12 months. Looking at a 2-year window allows us to determine whether an individual was arrested within the period of probation as well as a year after they are no longer under supervision. The shortened timeframe of misdemeanor cases makes the 2-year recidivism window ideal.

²⁵ National Institute of Justice. n.d. “Recidivism.” National Institute of Justice.

<https://nij.ojp.gov/topics/corrections/recidivism#:~:text=Recidivism%20is%20mea>

²⁶ Alper, Mariel, Matthew Durose, and Joshua Markman. 2018. “Special Report 2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014).” <https://bjs.ojp.gov/content/pub/pdf/18upr9yfup0514.pdf>.

²⁷ “Recidivism at a Glance Releases from State Responsible Incarceration.” 2017.

<https://vadoc.virginia.gov/media/1368/vadoc-recidivism-at-a-glance-report-2017-11.pdf>.

There are three types of recidivism analysis. In other words, there are three events that define whether an individual re-enters the criminal justice system. The first way is to determine whether an individual was re-arrested. The next method is to determine whether a defendant was convicted of a new crime. Finally, some studies measure recidivism by whether the individual was re-incarcerated.

Our goal was to measure the greatest impact to Arlington County. In answering the question, “does this policy make our community safer”, the ultimate result in the new charge is not the primary concern. The concern is if harm is caused. When a police officer in Arlington County makes an arrest, they must establish probable cause that a crime was committed. This means that more likely than not, the community is harmed. Additionally, this means that an accused went through the trauma of an arrest which can have lifelong, negative impacts. Since the largest community impact is the arrest itself, it is the most relevant data point in our recidivism analysis. The recidivism analysis was not limited by misdemeanors or felonies. I wanted to determine whether this individual was arrested in Arlington County within two years of the completion of their case and whether the original case was a conviction or deferral. A new arrest is more relevant as a data point than a conviction or period of incarceration. Therefore, I counted all future arrests in Arlington toward the recidivism number.

Methodology

Quantitative Methodology

Our study excludes cases in the Arlington County Juvenile and Domestic Relations District court. This court handles all cases involving domestic partners such as domestic violence, as well as all cases where a juvenile is either the accused or a victim. One of the

reasons I didn't analyze juvenile cases is because any case involving a juvenile is confidential and under seal. Those hearings are not open to the public. Additionally, juvenile criminal cases had a statutory deferred finding before the passage of 298 which is regularly used in that court. The primary purpose of this study was to track the effects of adult misdemeanor deferred findings and the shift from retributive justice to restorative justice.

Our analysis is limited to Arlington County recidivism for two reasons. First, with the available resources, the data needed to determine if someone picked up a new charge in another jurisdiction was not in a readily coded format to analyze. More importantly, I wanted to take a microscope to the Arlington criminal justice system during the specified time period and focus on the impact of recidivism in our community. Individuals committing crimes in Arlington have the most direct impact on Arlington residents.

This study utilizes various resources. The Commonwealth's Attorney Office collects data primarily using the case management system, Prosecutor By Karpel (PBK). This database tracks the dispositions of cases in court. I collected this data to determine whether an individual picked up a new charge in Arlington County. Additionally, I utilized interviews with various stakeholders in the Arlington Criminal Justice system to gather qualitative data on their thoughts and views surrounding deferred findings and whether a lower recidivism rate would affect their opinions about these types of dispositions.

My evaluation first gathered data on the number of misdemeanor convictions during the years 2018, and 2019. I then collected the total number of misdemeanor deferred dispositions from 2020 and 2021. I then compared those two groups of individuals and calculated their

recidivism rates within two years from their conviction or two years after entering into their deferred finding.

The quantitative data collection plan was based on administrative data. Each case has a unique paper file that a prosecutor takes to court. During the hearing, the prosecutor makes handwritten notes on the file indicating what happened on that court date. This includes dispositions and sentencings that indicate whether a misdemeanor is outright dismissed, a deferred finding entered, or the individual is convicted of a misdemeanor. This information also notes the sentence and conditions. Once the prosecutor returns to the office from court, the file is turned into their paralegal who inputs the handwritten note into PBK. The data was digitized for the first time during this step. PBK data is categorized and narrowed. The raw data is exportable after parameters are created. I enlisted the help of our in-house data analyst and contracted with an outside analyst to perform the raw data analysis.

The study utilizes coded, raw data from 2018-2021 based on the notes from the prosecutor in court. Those codes referenced all types of misdemeanor deferrals to include 298 dispositions. Once I coded the data with the team, analyzing it became easier. I used algorithms to pull the relevant data such as time frame and disposition. I used this same process to determine the total number of cases and the total number of misdemeanors. Additionally, I used this data to determine whether someone picked up a new charge in Arlington. A new file is opened when someone is arrested by the Arlington County Police Department or any local law enforcement agency operating in in the county. The Commonwealth's Attorney's Office assigns a case number and opens a new file.

Our office utilized the case management system, PBK, to collect the total number of misdemeanor convictions from 2018 and 2019 and deferrals from 2020 and 2021. This process established both the total number of cases and misdemeanors for the four-year period. After determining the total number of criminal cases and misdemeanor case, we divided the latter by the former to calculate the percentage representing misdemeanor cases (total number of misdemeanors/total number of cases). We repeated this analysis for each year.

To determine whether an individual was arrested on a new charge, I limited the timeframe to two years after the conviction or deferral and created an algorithm to analyze all of the coded data. I used the same method for convictions in 2018-2019 and deferred findings in 2020-2021. The PBK coded data is updated and current through the end of 2021. Therefore, we were able to use that method to calculate recidivism rates from 2018 and 2019 convictions (number of defendants who picked up a new charge/total number of misdemeanor convictions). The 2020 and 2021 deferred findings were more difficult because I needed to use 2022-23 data, which was in PBK but not coded and in a usable format. At this point, the analysis became very analog. I used spreadsheets of the raw data to manually check for recidivism. I utilized interns in our office to physically check each defendant to see if they had picked up a new charge in Arlington within two years of their deferred findings. When I received their initial results, I checked them again myself for accuracy.

The number of cases that were deferred in 2020 and 2021 was significantly lower than convictions from 2018 and 2019. Once I determined the total number of individuals who picked up new charges within two-years of entering into a deferred finding, I took that number and

divided it by the total number of deferred findings (defendants who picked up new cases/total number of deferred findings) to get the recidivism percentage.

Qualitative Methodology

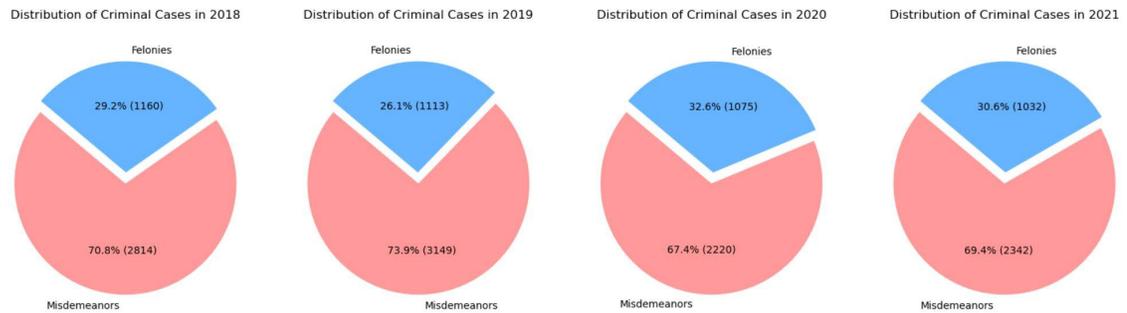
The qualitative data collection plan included interviews with stakeholders in the Arlington County Criminal Justice System. I interviewed two district court judges, a misdemeanor probation officer, and a prosecutor. I conducted all interviews in person. They took place either in my office, the interviewees office, or a neutral location such as a coffee shop here in Arlington. The interviews were all one-on-one and at separate times. They varied in length from 15 minutes to 1 hour.

I began each interview by sharing an overview of my quantitative data. I explained my methodology and the recidivism numbers that I collected. The interviews were free flowing but focused on the second evaluation question: What is the effect of deferral programs on individual actors in the Arlington County courthouse? After presenting the fact that recidivism numbers were significantly lower for individuals who received a deferred finding, I asked general questions such as “how do you use 298.02 dispositions in your work?”. The phrasing differed by the occupation of the interviewee. I followed up with questions such as, “after seeing the recidivism numbers, how does that change your view on deferred dispositions and their use.”

Findings

1. Are individuals who receive deferred findings less likely to commit new crimes?

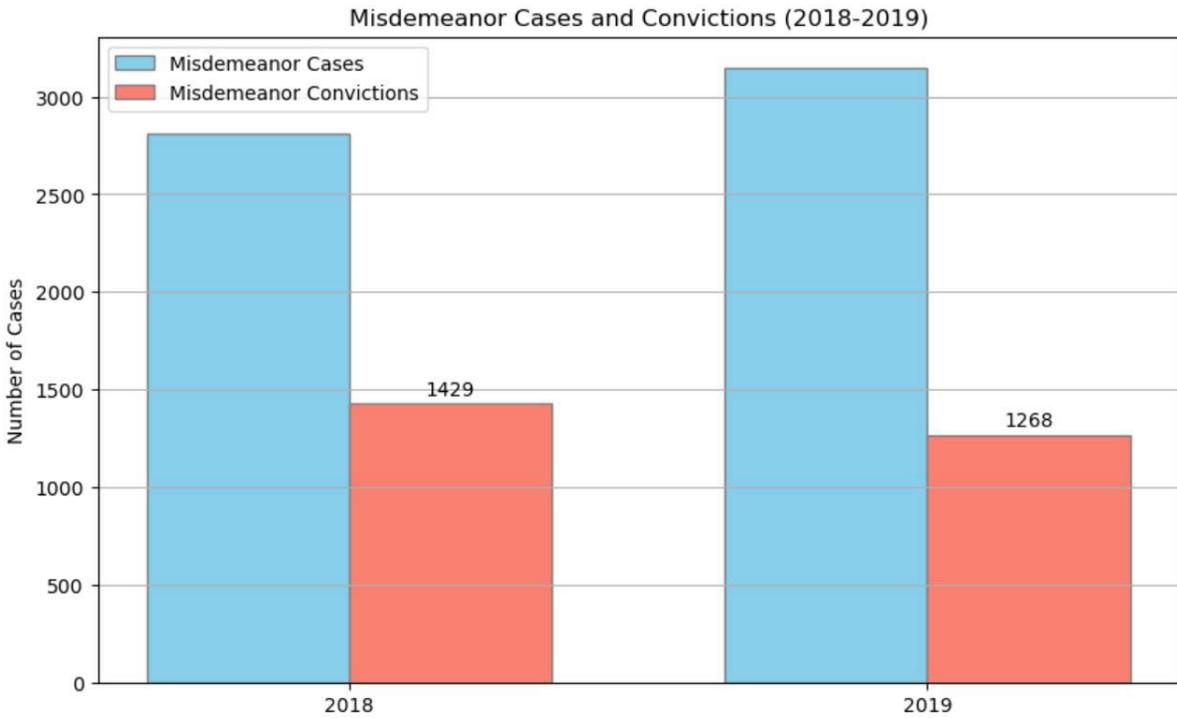
An analysis of PBK data showed that between 2018 and 2021 there were a total of approximately 14,905 criminal cases, misdemeanors, and felonies, in Arlington County.²⁸ In 2018 there were 3,974 criminal cases. In 2019 there were 4,262 cases. In 2020 there were 3,295 criminal cases. In 2021 there were 3,374 criminal cases. Between 2018 and 2021, 10,525 of the 14,905 criminal cases were misdemeanor cases. This means that 71% of the criminal cases in Arlington County between 2018 and 2021 were misdemeanors. In 2018, 2,814 of the total criminal cases were misdemeanors, 71%. In 2019, 3,149 cases were misdemeanors, 74%. In 2020, 2,220 cases were misdemeanors, 67%. Finally, in 2021, 2,342 cases were misdemeanors, 69%.



This first set of findings provides important context regarding the first evaluation question. The national studies showing that misdemeanors encompass the majority of the American legal system holds true in Arlington County. Although Arlington is slightly lower than the national percentage (80%) for proportion of misdemeanors out of the total number of criminal cases, it is still high and a significant majority. This tells us that the largest impacts to the criminal justice system happens at the misdemeanor level.

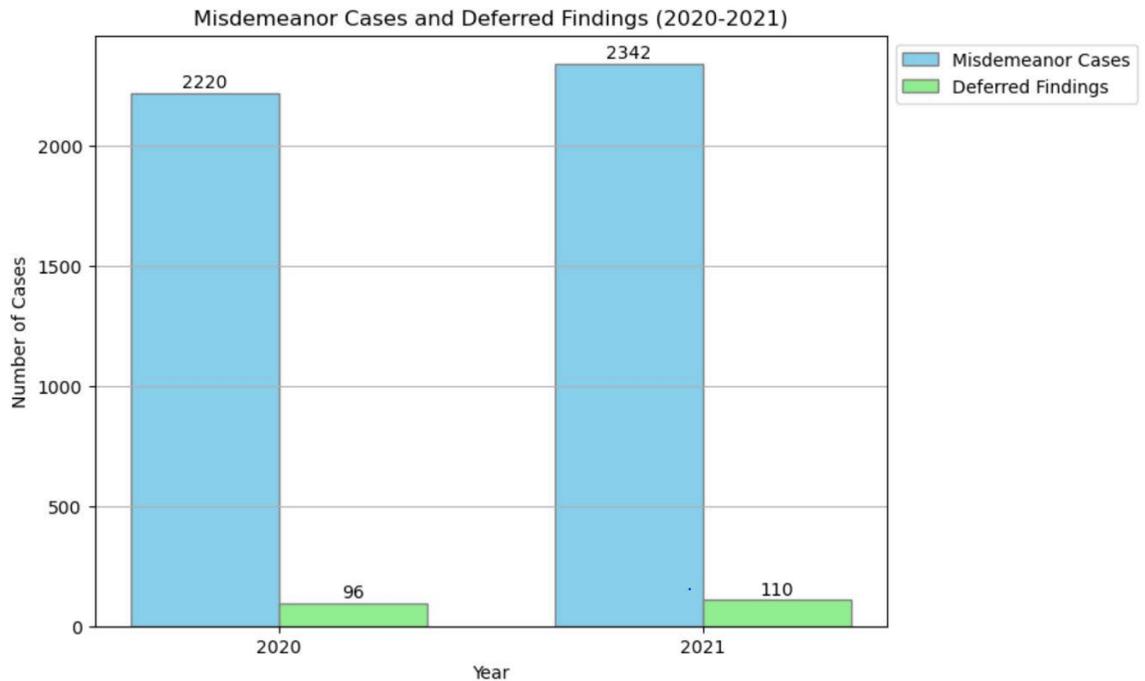
²⁸ See appendices

Next, the analysis showed that in 2018, 1,429 misdemeanor cases resulted in a conviction. In 2019, 1,268 misdemeanor cases resulted in a conviction. The total misdemeanor convictions for the period of 2018-2019 is 2,697. I wanted to look at 2018-2019 misdemeanor convictions and compare them to 2020-2021 misdemeanor deferred findings.



In 2020, 96 misdemeanor cases in the General District Court received deferred findings. In 2021, 110 misdemeanor cases in the General District Court received deferred findings. This adds up to a total of 206 deferred findings in 2020-2021. While these numbers seem low, it is important to remember a few key factors. Before 2020, prosecutors in Virginia rarely used deferred findings, but they became regular practice in the summer of 2020 following the passage of Virginia Code 19.2-298.02, granting Courts statutory authority to defer findings in any criminal case. This law went into effect on July 1, 2020. Additionally, the programming

needed to support deferred findings was practically nonexistent and was built up in Arlington County. This is an ongoing process.



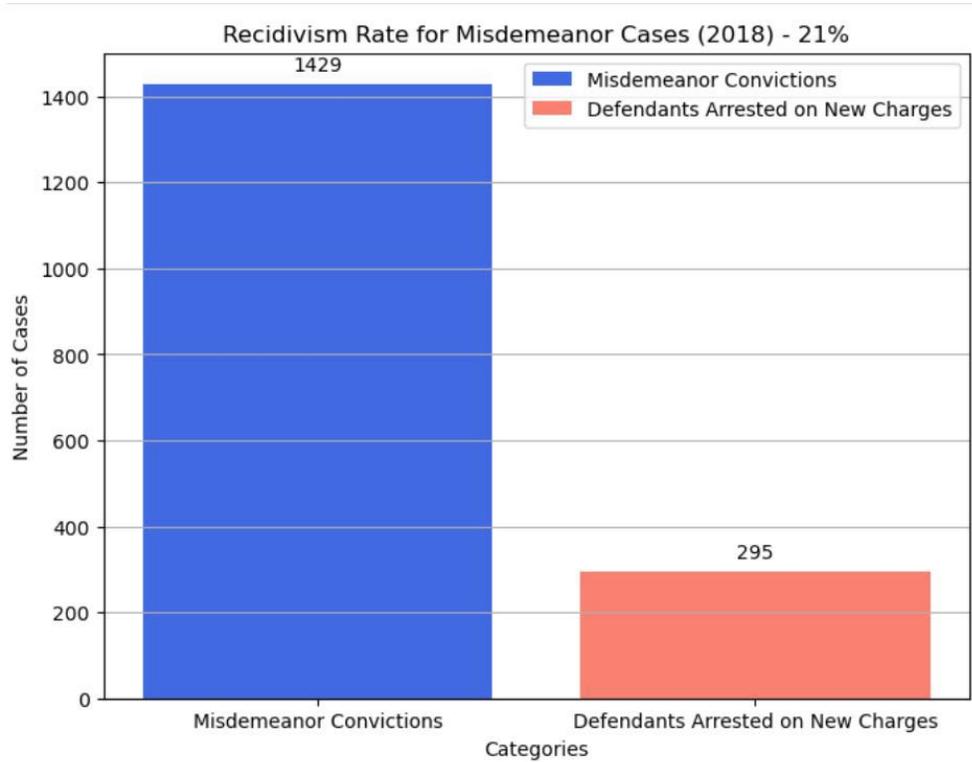
Additionally, Covid-19 had an impact on criminal cases nationally including in Arlington. The County Board scaled back social services dramatically in response to the budget shortfall. The total number of cases went down significantly, as is evident in the numbers above. The foundation needed for deferred findings was hit as well. Programming was almost nonexistent.²⁹

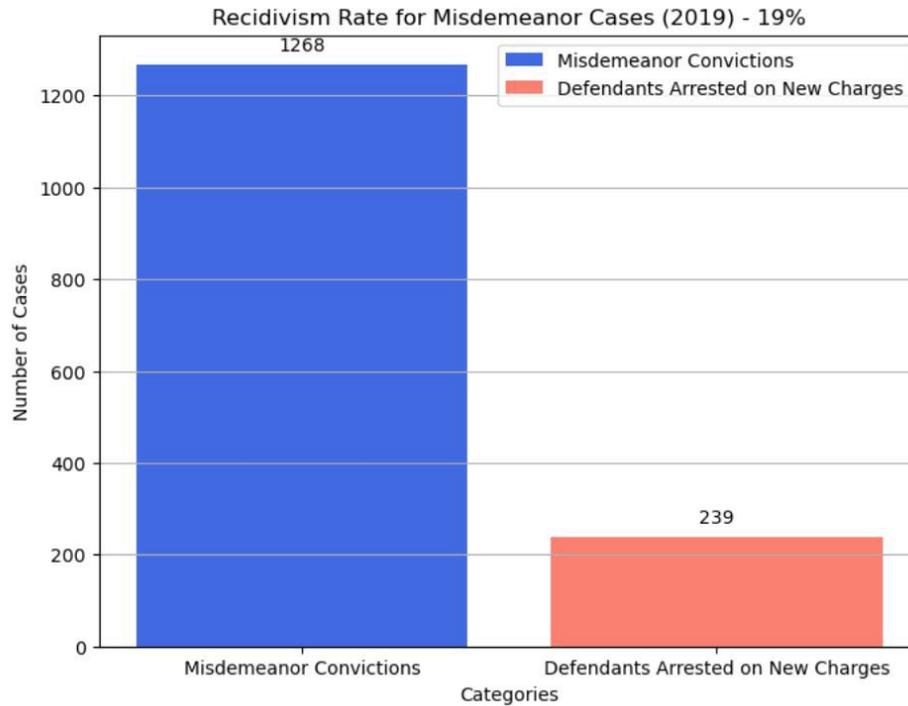
Deferred Findings Lead to Fewer Crimes Committed

In 2018, 295 defendants convicted of a misdemeanor appeared again in the data with a new case within two years. In 2019, 239 defendants convicted of a misdemeanor in 2019

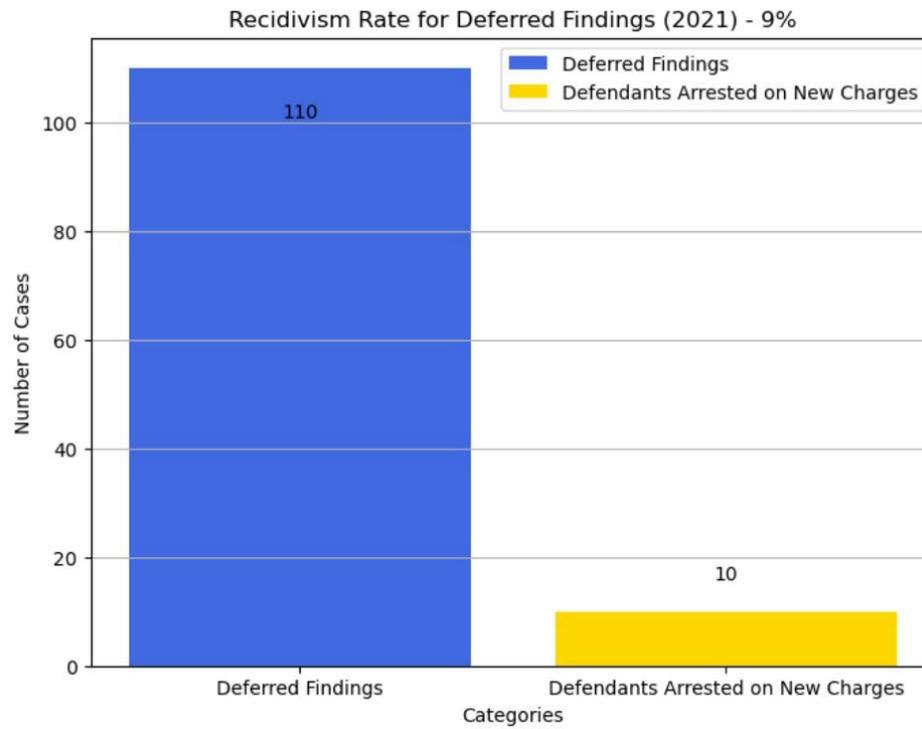
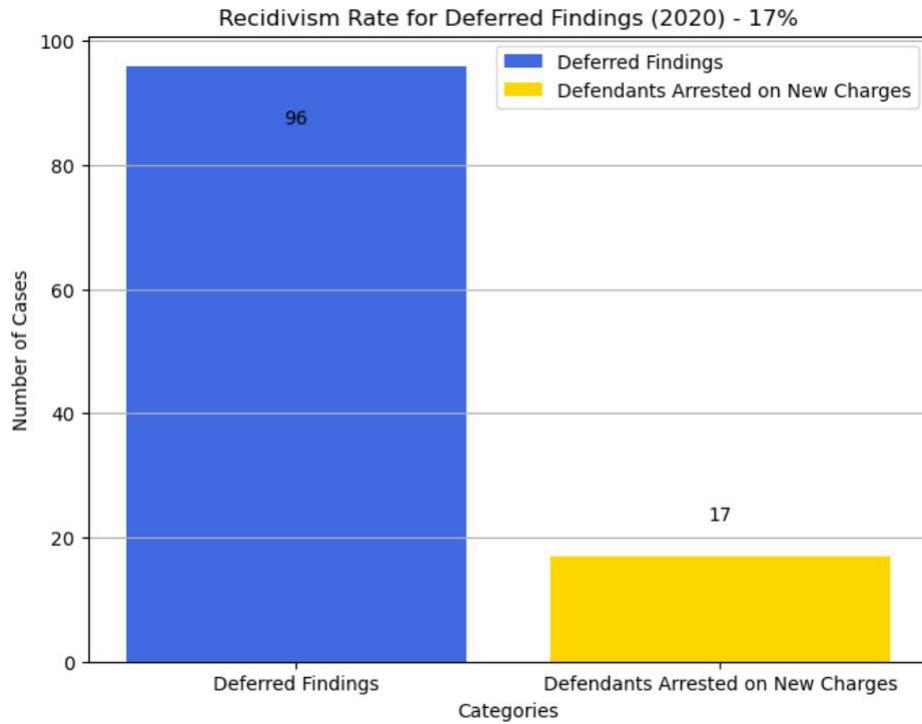
²⁹ “Budget Cuts on the Table as County Works to Overcome Fiscal Gap | ARLnow.com.” 2020. Www.arlnow.com. October 21, 2020. <https://www.arlnow.com/2020/10/21/budget-cuts-on-the-table-as-county-works-to-overcome-fiscal-gap/>.

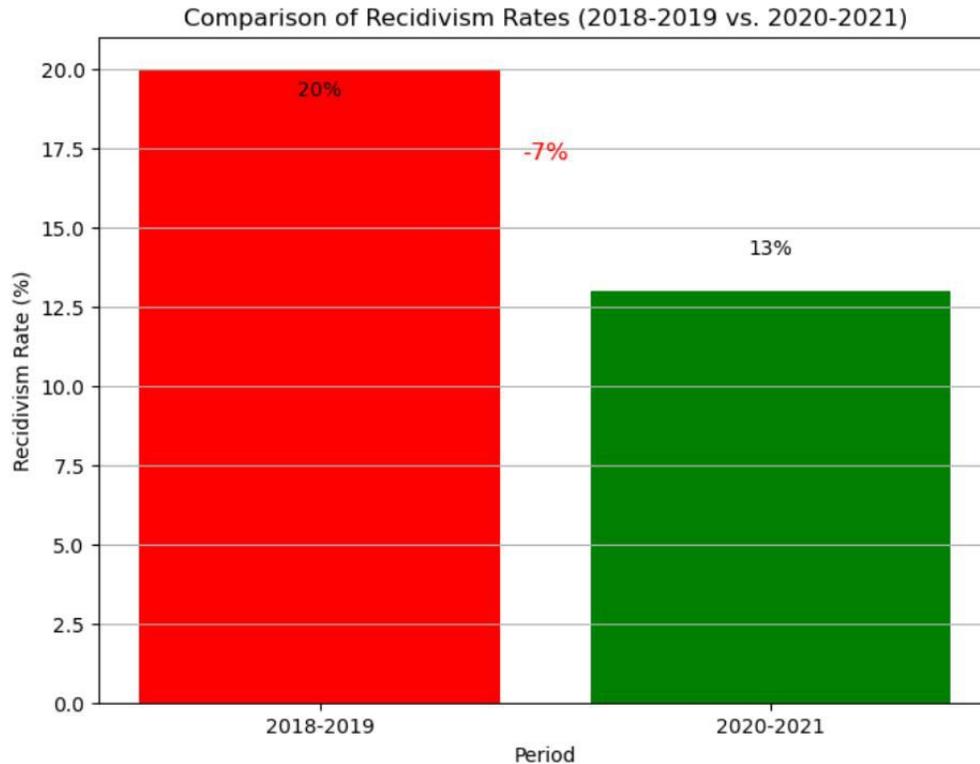
appeared again in the data with a new case within two years. In 2018-2019, 534 defendants who were convicted of a misdemeanor were arrested again in Arlington County within 2 years. Dividing this number by the total number of misdemeanor convictions in that time period gives us the recidivism rate. This calculation reveals a 20% recidivism rate for those convicted of a misdemeanor between 2018-2019. In 2018 the rate was 21%. In 2019 the rate was 19%.





I repeated the same process for the time period of 2020-2021 for deferred findings. In 2020, 96 misdemeanor cases received a deferred finding. In 2021, 110 misdemeanor cases received deferred findings. 206 defendants had their cases deferred between 2020 and 2021. For defendants who received a deferred finding in 2020, 17 of them received a new charge within 2 years. For defendants who received a deferred finding in 2021, 10 of them received a new charge within 2 years. 27 defendants who received a deferred finding between 2020 and 2021 picked up a new charge within 2 years. Dividing this number by the total number of cases deferred for that time period reveals a recidivism rate of 13%. In 2020 there was a recidivism rate of 17%. In 2021 the recidivism rate was 9%.





I conducted a preliminary inferential statistics analysis. This yielded some positive results. However, due to the nature of the data collected, the results were inconclusive. Future research should incorporate additional statistical analyses to determine the effect size and statistical significance of recidivism rates.

The significantly lower recidivism rate found in our analysis is consistent with larger studies and national trends. Although our focus is on misdemeanor cases, there is significant research showing that the results found in our analysis are consistent with all levels of crime. A 2019 study of Texas, first-time felony defendants, showed that diversion cuts reoffending rates

in half and grows quarterly employment rates by 53% over 10 years. The change was most significant in young black men and was consistent 20 years out.³⁰

[2. What is the effect of deferral programs on individual actors in the Arlington County criminal justice system?](#)

The second key question I set out to establish was what was the effect of deferral programs on individual actors including defendants, law enforcement, prosecutors, probation officers and the bench. My quantitative data analysis suggests that deferred findings lower the recidivism rate. I wanted to see how the results of our local study would affect the decision making or opinions of individuals who hold positions of power in our criminal justice system.

Deferred Findings are a Useful Tool to Motivate Compliance

Interviews with judges, probation officers, and prosecutors revealed a variety of useful findings. The district court judges I interviewed handle dockets of misdemeanor cases daily. They make decisions about whether to accept or reject deferred dispositions. Some of the findings from the judges' experience with deferred dispositions was that deferred findings are an additional tool in their toolbox when adjudicating a case. It was clear from their responses that one of the most useful elements of 298 is that a conviction does not need to be immediately imposed even if there is a violation. This feature allows the judge to further incentivize treatment and compliance. A district court judge stated that specifically, the DUI deferral program in Arlington was an effective tool to incentivize compliance with supervision conditions.

³⁰ Mueller-Smith, Michael, and Kevin T. Schnepel. 2020. "Diversion in the Criminal Justice System." *The Review of Economic Studies* 88 (2). <https://doi.org/10.1093/restud/rdaa030>.

My findings revealed that on the question of whether deferred findings made the community safer, one judge stated, “Anything that motivates people to keep compliance, keeps the community safer.” Additionally, responses found that a motivating factor for defendants from the perspective of the bench was not simply the ability to defer a guilty finding, but the ability to have all options on the table when there was a violation. I also found that the judges appreciated the creativity of a 298.02 disposition.

Different Perspectives on Expansion of Deferred Findings

Judges differed on their perspective on the use, and potential expansion of 298.02. One judge noted that when an individual is given the opportunity at a 298.02, it gives them a chance. If they decide not to take advantage of the opportunity, the Court doesn’t lose anything and is in the same place as if the individual was convicted in the first place. They emphasized that deferred findings had little to no downside, but instead allowed individuals to take advantage of resources and treatment before a conviction.

I shared the findings of my quantitative study with both judges and asked whether the results influenced their position on the expanded use of deferred findings. One judge noted that it did not affect their belief that a defendant should be given the opportunity to avoid a conviction regardless of whether the recidivism rate was lower or higher. Another judge stated that the results of the study gave them more confidence that using deferred findings regularly was effective at lowering recidivism.

Individuals with No Criminal History are More Successful on a Deferred Finding

The interview with a probation officer who regularly supervises misdemeanor defendants, both those convicted of a crime and those on a deferred disposition, provided

useful findings as well. However, from the probation position, individuals with little to no criminal record were more likely to succeed while on a deferred finding as opposed to someone with a lengthy record. This finding makes intuitive sense, but it is also a very important point to highlight. The fact that individuals with little or no criminal record have more success on a deferred finding highlights the importance of utilizing tools like 298.02 during early intervention periods when someone is encountering the criminal justice system for the first time.

The probation officer also noted that 298.02 dispositions provide more incentive for individuals to comply because they run the risk of a conviction. Specifically, they noted that for individuals who have had limited exposure to the criminal justice system, often times the “wake up call” of being charged with and pleading to a crime was a powerful incentive to engage in the services needed to prevent recidivism. It was noted that misdemeanor jail time after a conviction was not as motivating as the possibility of avoiding a conviction, especially when individuals don’t have a criminal record. However, from the probation perspective it was clear that when an individual is placed on a felony 298.02, it is even more effective at encouraging compliance given the collateral risks of a felony conviction and possible significant prison sentences. Finally, it was clear that probation wanted more information about an individual prior to the start of their deferred finding. The probation officer mentioned that a pre-sentence report was an effective tool that allowed them to craft the conditions of the 298.02 disposition to optimize its effect and reduce future recidivism.

Stakeholders mostly agree that 298.02 dispositions are effective tools to incentive individuals to comply with treatment and avoid picking up new charges. When confronted with the findings of the study, most stakeholders found the data compelling. Of note, multiple

interviews revealed that the localized focus of the recidivism study was not a limitation, but a positive aspect of the analysis. The findings allow stakeholders to argue for implementation and expansion of deferred findings with data from Arlington County specifically. The local element of our study is an effective tool in advocating for deferred findings.

Implications of Findings

The results of this study correlate with national trends that show that reform efforts do not cause crime to rise. Although empirical data negates the claim³¹, opponents of criminal justice reform argue that crime is on the rise. Additionally, they argue that any rise in crime is a direct result of reform minded prosecutors. This false narrative is repeated in Arlington County as well. For example, a Republican candidate for the Arlington County Board stated in the Summer of 2023 that, [C]ommunity leaders must rebuke the pro-criminal elements in our justice system that are contributing to the culture of increased crime and reduced public safety in Arlington. Some in our own community have joined the nationwide effort to undermine police morale while refusing to prosecute certain offenses.”³²

Broad statements like the one quoted above are ineffective tools for policy debate. Instead, analysis like the one conducted in our study, provide the community with tangible results of a policy implementation. 19.2-298.02 and increased use of deferred findings is a policy advocated for by criminal justice reform advocates and those wishing to make our criminal justice system more equitable. The findings show that utilizing deferred findings

³¹ “Progressive Prosecutors Are Not Tied to the Rise in Violent Crime.” n.d. Center for American Progress. <https://www.americanprogress.org/article/progressive-prosecutors-are-not-tied-to-the-rise-in-violent-crime/>.

³² “Statement by Juan Carlos Fierro, Candidate for Arlington County Board, on Arlington’s Rising Crime.” Arlington GOP. October 30, 2023. <https://arlingtongop.org/2023/10/30/statement-by-juan-carlos-fierro-candidate-for-arlington-county-board-on-arlingtons-rising-crime/>.

significantly lowers the recidivism rate. This means that fewer crimes are being committed in the county and our community is safer. There is now hard data to dispute false narratives that assume that when our criminal justice system becomes more fair, we become less safe.

It was clear through both the qualitative and quantitative data that the efficacy of these diversion tools have a positive effect on individuals. I did not conduct interviews with the general public as part of this study. However, the qualitative interviews revealed that invested stakeholders reacted positively to the data and believe in the continued use of this tool. The public at large should be provided this information. The fact that stakeholders utilize and support deferred findings gives the policy legitimacy. Specifically, the fact that there was unanimous agreement that early intervention using 298 dispositions was extremely effective, should be a focal point of the community engagement and education effort.

Limitations

The findings provide a compelling case for the continued use and expansion of deferred findings in Arlington County. However, there are limitations and challenges with this analysis. Additionally, my office can't reach certain conclusions as a result of this study.

1. Recidivism Limited to Arlington County Charges

First, our data only dealt with Arlington County charges when calculating recidivism. This means that an individual could have picked up charges in other jurisdictions or another state and wasn't counted for purposes of recidivism in either the conviction or deferred finding group. Common sense would dictate that both numbers would be higher, but how high and how that number is distributed would be pure speculation. The limitation to Arlington County charges was not simply a decision based on limited resources. I also saw value in having data

specific to a single jurisdiction given the local political context and the continuing community conversation regarding criminal justice reform here in Arlington.

2. Individuals with Minimal Criminal History are Predisposed to Lower Recidivism

Another limitation is the argument that the recidivism numbers are misleading because individuals with no criminal history are more likely to receive a deferred finding and are already less likely to commit new crimes regardless of whether they receive a deferral. First, the assumption that individuals who don't have criminal records are inherently less likely to commit crimes is simple propensity evidence with no causal relationship. Second, regardless of whether this is the case, the fact remains that the utilization of 298.02 dispositions is effective and may be more effective when an individual first comes into contact with the criminal justice system.

3. Lack of Felony Analysis

A major limitation is the fact that felonies were not a part of the analysis. Serious crimes that the public are concerned about such as robbery, murder, rape and other violent offenses are not a part of this study. First, focusing on misdemeanors enables our office to make persuasive arguments on the implementation and expansion of deferred findings in a narrow and specific set of cases. Additionally, members of the public who are reluctant to make drastic changes to the criminal justice system are often more willing to make these changes to misdemeanor cases. Because felony cases involve lengthier periods of probation and supervision, the timeline for these cases made gathering that type of data outside the scope of this project due to resource constraints.

4. Using the Criminal Justice System to Lower Recidivism Ignores Other Solutions

Deferred findings are an effective tool for achieving the goal of community safety. However, this assumes that societal interventions before a criminal charge, could not also have an important impact in lowering recidivism. Some of these interventions include increased funding for public housing, expanded resources for mental health and substance abuse treatment, establishing a guaranteed living wage, and other effective tools at combating poverty, substance abuse, and other contributors to criminal behavior. The arguments of this study do not replace the need for these vital social services and their efficacy at reducing crime in Arlington County.

5. Lack of Juvenile Analysis

Additionally, our study did not examine juvenile dispositions. Juvenile deferred findings are frequently used in Arlington County and across the Commonwealth. Juveniles, given that their brains are still developing³³, are especially susceptible to early intervention. Juvenile dispositions were not a part of this study for a few reasons. Juvenile cases are not part of the public record and encompass an entirely new data set. I did not analyze those cases due to resource constraints.

6. Lack of Analysis on Successful Completion of Deferral Program (Not a Limitation)

Finally, it may be argued that our study did not differentiate between individuals who successfully completed a deferred finding and those that did not. I do not see this as a weakness. Our study looked at the fact that an individual was given a deferred finding in the first place, which showed a lower group rate of recidivism. While further study should be done

³³ National Institute of Mental Health. 2020. "The Teen Brain: 7 Things to Know." National Institute of Mental Health. National Institute of Mental Health. 2020. <https://www.nimh.nih.gov/health/publications/the-teen-brain-7-things-to-know>.

on that distinguishing factor, our study is bolstered by the fact that 298.02 dispositions may have positive effects on reducing recidivism regardless of the eventual outcome of the case. This makes sense given that an individual on a 298.02 disposition has access to resources and treatment, regardless of whether they ultimately successfully complete the deferred finding.

Recommendations

Program Recommendations

Our findings indicate a few specific recommendations for expanding and continuing the use of deferred findings such as 298.02. The data is clear that these types of programs are effective, and Arlington County should expand and use them more frequently. On misdemeanors the question becomes, why shouldn't a deferred finding be the default resolution in all cases? Breaking the stigmas and myths behind mass incarceration and retributive criminal justice practices are essential in finding effective policy solutions.

1. Target Early Intervention in Deferred Finding Implementation

Arlington County and the Commonwealth's Attorney Office should use deferred findings as a means of early intervention. This is especially true for individuals who have no prior criminal history and young adults. One of the findings for our qualitative interviews was that deferring a finding of guilt motivates individuals to keep their criminal record clean. This is less of an incentive if the individual already has a criminal record. Federal government data indicates that, "[e]arly intervention prevents the onset of delinquent behavior and supports the

development of a youth's assets and resilience. It also decreases rates of recidivism by a significant 16 percent when youth do go on to engage with the justice system."³⁴

2. Use Quantitative Data Results in Advocacy

The County should continue to advocate with stakeholders using the data in this study. Outreach should include law enforcement, judges, probation officers, and other community groups. These numbers are persuasive tools in advocating for the use of deferred findings. The recommendation from the probation officer interviewed about the need for pre-sentence investigations to craft effective conditions when placing someone on a deferred finding is something that prosecutors should request, and the Court should implement more often. Finally, the County Board and Commonwealth's Attorney Office should bring the community into this discussion. The Commonwealth's Attorney Office should make efforts to educate Arlington County citizens on the use and effectiveness of deferred findings. Additionally, government actors should request the input of the general public regarding the continued use and expansion of deferred findings.

3. Increase Services for Deferral Programs

The County Board must use the recidivism data in this study to allocate funds for social services that can be used as part of a deferred finding. Judges and probation officers both mentioned that 298 dispositions are effective when they are used to incentivize defendants into complying with treatment. Arlington County should expand the services made available to those who come into contact with the criminal justice system. The Board should specifically allocate

³⁴ Youth.Gov. n.d. "Prevention and Early Intervention | Youth.gov." Youth.gov. <https://youth.gov/youth-topics/juvenile-justice/prevention-and-early-intervention#:~:text=Early%20intervention%20prevents%20the%20onset.>

more funds to address mental health treatment, substance abuse, and housing concerns to directly target some of the root causes of crime.

Recommendations for future research

Stakeholders should continue to research and further study the effects of deferred findings. They should expand this study to calculate recidivism numbers for felony deferred findings and convictions, new charges picked up in other jurisdictions and other states, and a longer recidivism timeframe to see if the individual was arrested after the two years analyzed in this study.

Demographic Effects of Deferred Dispositions

My study did not include demographic data on individuals who entered into deferred findings. We know that the criminal justice system has a disproportionate and negative effect on black and brown communities in Arlington County and around the country. We also know that in other studies, deferred findings have been found to be particularly effective at reducing recidivism in those communities. The County Board should fund further research regarding deferred finding recidivism that includes demographic information such as race, gender, age and zip code.

Research on Expanded Case Types

In addition to juvenile cases, domestic violence cases are an area of Virginia law that has allowed for a deferred finding even before the enactment of 19.2-298.02. Further research is needed regarding the recidivism rate for those cases in Arlington given the historical length of time that those dispositions have been available. Additionally, researchers should include felony cases in any recidivism analysis of deferred dispositions. Finally, in addition to stakeholders,

future researchers should include community members in future qualitative data analysis to gain a perspective on the impact and efficacy of 298.02 dispositions in Arlington County.

Length of Deferral Period and Record at Time of Deferral

A key finding from the qualitative analysis was the fact that individuals with no record are more likely to be successful on a deferred finding. Researchers should analyze how the length and severity of a prior criminal record impacts the success of a deferred finding in terms of recidivism. Additionally, the County Board should fund further research that expands the timeline of the recidivism lens from two years to five years to get a better picture of recidivism over a longer period of time.

Financial Impact on Deferred Findings

The data is clear that deferred dispositions are costs effective in the long run, and also increase the employment rate for those who are charged with a crime. For example, the NIH reported that “diversion programs for low-level drug offenders are likely to be cost-effective, generating savings in the criminal justice system while only moderately increasing healthcare costs.”³⁵ A study of a felony deferral program in Harris County, Texas found that, “providing these individuals with an opportunity to avoid a felony conviction cuts their reoffending rates in half while also boosting their quarterly employment rates by nearly 50% over a 10-year follow-up period. Those at the highest risk of reoffending – young black men with prior arrests – gain the most from diversion.”³⁶

³⁵ Bernard, Cora L., Isabelle J. Rao, Konner K. Robison, and Margaret L. Brandeau. 2020. “Health Outcomes and Cost-Effectiveness of Diversion Programs for Low-Level Drug Offenders: A Model-Based Analysis.” Edited by Alexander C. Tsai. *PLOS Medicine* 17 (10): e1003239. <https://doi.org/10.1371/journal.pmed.1003239>.

³⁶ “Second Chance: The Social Benefits of Diversion in the Criminal Justice System.” 2021. *Microeconomic Insights*. March 16, 2021. <https://microeconomicinsights.org/second-chance-the-social-benefits-of-diversion-in-the-criminal-justice-system/>.

Appendices

Appendix A: Quantitative Analysis Data

Between 2018-2021, there were 14,905 cases (misdemeanor and felony). Of those 14,905 cases, 10,525 were initiated as misdemeanors-only.

All cases referred between 2018-2021 (regardless of disposition):

2018

case_type	Freq.	Percent	Cum.
Misdemeanors-only	2,814	70.81	70.81
Felony	1,160	29.19	100.00
Total	3,974	100.00	

2019

case_type	Freq.	Percent	Cum.
Misdemeanors-only	3,149	73.89	73.89
Felony	1,113	26.11	100.00
Total	4,262	100.00	

2020

case_type	Freq.	Percent	Cum.
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Misdemeanors-only	2,220	67.37	67.37
Felony	1,075	32.63	100.00
-----+			
Total	3,295	100.00	

2021

case_type	Freq.	Percent	Cum.
Misdemeanors-only	2,342	69.41	69.41
Felony	1,032	30.59	100.00
-----+			
Total	3,374	100.00	

Misdemeanor convictions in 2018 & 2019 (excludes cases with a deferred disposition)³⁷

2018: 1,429 misdemeanor cases resulted in a conviction

2019: 1,268 misdemeanor cases resulted in a conviction

Misdemeanor cases (regardless of conviction) in 2020 & 2021 with a deferred disposition (a list of these file numbers is provided in a separate excel file to be looked up in PbK to see if the defendant picked up another case within two years of their referral date for the extant case).

2020: 99 misdemeanor cases were offered a deferred disposition (according to the docket notes)

2021: 119 misdemeanor cases were offered a deferred disposition (according to the docket notes)

³⁷ Terms included in my deferred disposition code: " 298 | 298;|;298 |- 298|298.02|hrdd|hrdefrv|deferral|deferred on all charges|deferred finding|def finding|def. finding|deferred disp|deferred disposition|defers finding|def. dispo|def dispo|compliant dism|d for compliance|judgment def|np if compliant|d doesn't need to appear if compl"

Misdemeanor convictions referred in 2018 & 2019 in which the defendant picked up (at least one) additional case within two-years of the referral date (excludes misdemeanor cases in which the defendant received a deferred disposition)³⁸

2018: 295 defendants convicted of a misdemeanor in 2018, appeared again in the data with a new case within two years (of their original 2018 referral date)

2019: 239 defendants convicted of a misdemeanor in 2019, appeared again in the data with a new case within two years (of their original 2019 referral date)

[Appendix B: 2018-2019 Misdemeanor Conviction Data](#)

[Appendix C: 2020-2021 Deferred Finding Data](#)

³⁸ I calculated based on two years from the referral date because I have complete data on referral date, but some disposition dates are missing and – if I were to use the disposition date – I would miss cases where the defendant got a subsequent case (after their 2018 or 2019 misdemeanor conviction – if that subsequent case did not yet have a disposition.