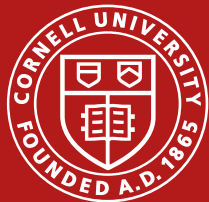


Causal Impacts of Case Declination

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The decision to prosecute or decline is a crucial step in the adjudication process

Manhattan district attorney announces he won't prosecute certain crimes



By [Sonia Moghe](#), CNN

🕒 3 minute read · Published 3:55 AM EST, Thu January 6, 2022

Loudoun Co. prosecutors will stop trying some misdemeanors

Suffolk County District Attorney Declines to Prosecute Low Level Offenses

Driver's License Suspension, Local Reforms, Prosecution, Public Safety | Massachusetts



What are the public safety impacts of reducing prosecution of non-violent misdemeanors?

Deterrence

Being caught and punished for minor crimes may make defendants less likely to commit future crimes

VS.

Collateral Consequences

Criminal records can have myriad consequences that may increase future offending.



Recent DA/Researcher collaboration to answer this question

- My co-authors and I collaborated with the **Suffolk County (Boston), MA** DA's office to analyze case management data from 2004-2018:

Misdemeanor Prosecution*

[Amanda Agan](#), [Jennifer L Doleac](#), [Anna Harvey](#)

The Quarterly Journal of Economics, Volume 138, Issue 3, August 2023, Pages 1453–1505,

- Like many questions we will ask at this convening, a quantitative answer is not necessarily straightforward



We *could* just compare outcomes for prosecuted and non-prosecuted defendants

Nonviolent Misdemeanor Cases, Suffolk County (MA) 2004-2018
Post-Case Outcomes

	Prosecuted	Not Prosecuted	% Decrease
Criminal Complaint Within 2 Years	37%	22%	41%
New Prosecution Within 2 Years	34%	16%	53%
New DCJIS Record Within 2 Years	31%	15%	52%
Number Observations	53,698	13,855	
Proportion of Sample	79%	21%	



But... cases that are prosecuted are different!

Nonviolent Misdemeanor Cases, Suffolk County (MA), 2004-2018

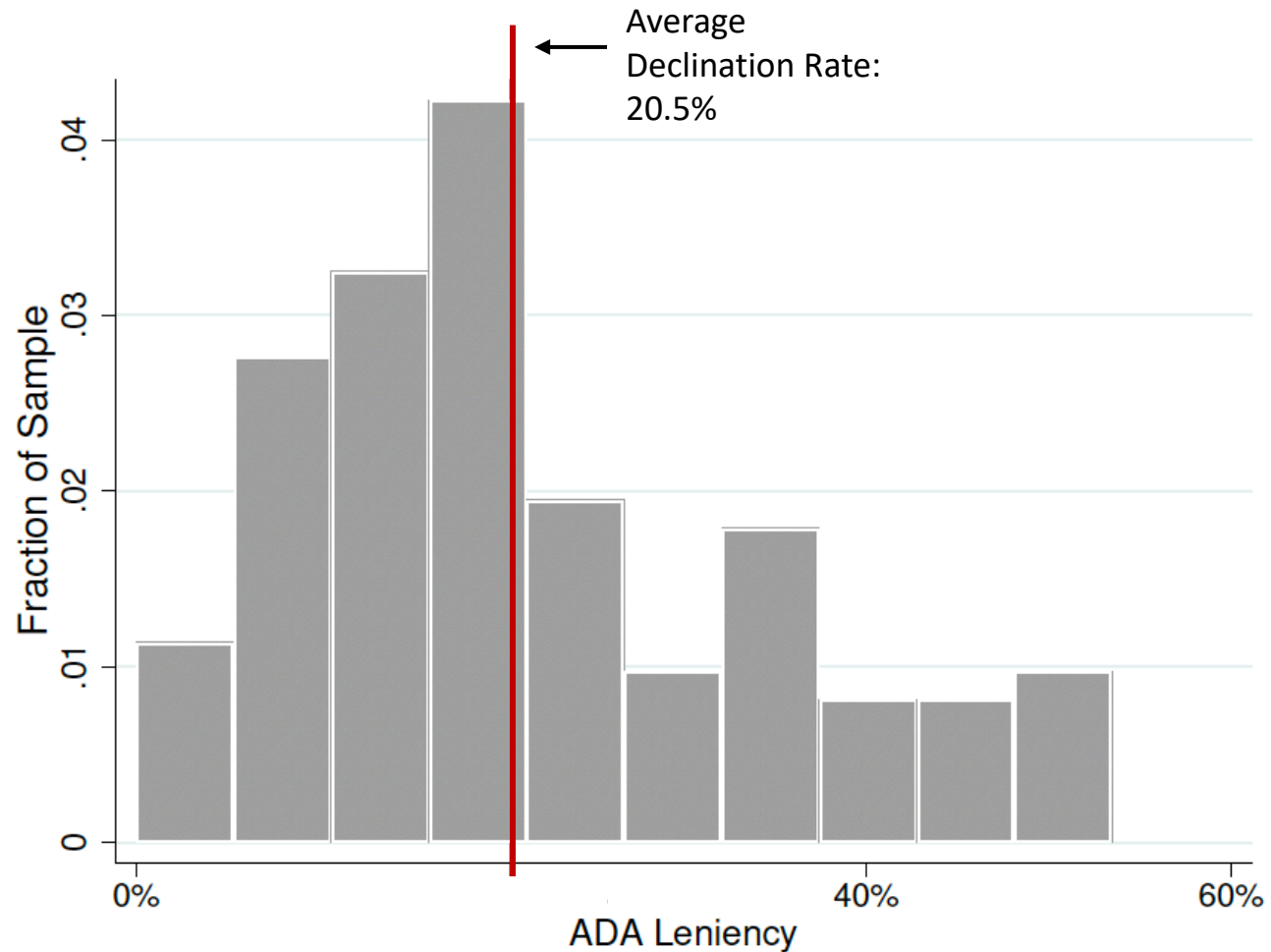
	Prosecuted	Not Prosecuted
Misd Conviction within Past Year	10%	3%
Felony Conviction within Past Year	5%	1%
Number Counts	1.75	1.58
Number Misdemeanor Counts	1.37	1.14
Number of Serious Misdemeanor Counts	0.65	0.29
Citizen	74%	85%
Disorderly/Theft	31%	19%
Motor Vehicle	33%	63%
Drug	18%	03%
Victimless Crime	79%	93%
Number Observations	53,698	13,855
Proportion of Sample	79%	21%



Cases are basically random assigned to ADAs in Suffolk County

- Nonviolent misdemeanor complaints are assigned to arraignment courtrooms without regard to identity of arraigning ADA or defendant
- During our sample period 315 ADAs rotated into and out of hearing arraignments

ADAs vary in their “leniency”: rate of declining cases at arraignment





High and Low Leniency ADAs see very similar cases

	All Cases	Assigned Low Leniency ADA	Assigned High Leniency ADA
Misd Conviction One Year Prior	8.5%	8.5%	8.6%
Felony Conviction One Year Prior	4.4%	4.4%	4.5%
Number Counts	1.72	1.71	1.72
Citizen	76%	77%	75%
Disorderly/Theft	28%	29%	28%
Trespass	39%	40%	39%
Disorderly	15%	15%	15%
Male	80%	80%	79%
Age	33.7	33.7	33.7
Num Observations	67,533	33,779	33,774



Use ADA Assignment as an “Experiment”

- Some defendants get lucky and get a lenient ADA, some are unlucky and get a harsher ADA
 - And for some defendants this impacts whether their case is ultimately prosecuted
- Our analysis focuses on cases for which less/more lenient ADAs would have made different prosecution decisions (the “marginal” cases)

Results

For these cases where ADA assignment matters for the arraignment outcome, declining to prosecute a nonviolent misdemeanor case causes:

- Probability of new criminal complaint in 2 years ↓58%
- Number of new criminal complaints in 2 years ↓69%
- Number of new misdemeanor complaints in 2 years ↓67%
- Number of new felony complaints in 2 years ↓75%



Why?

- Results were concentrated amongst *first-time* defendants
- Suggests avoiding the mark of criminal court contact on a defendant's criminal background may be partially driving this effect
 - Or put the other way: collateral consequences of a nonviolent misdemeanor charge can cause increases in recidivism



More Research Is Needed!

- Are these results specific to Suffolk County between 2004-2018?
 - Currently working with New York County to replicate and extend this research.
- What about violent misdemeanors? Felonies?
- What are the racial equity implications of discretionary case charging decisions?
 - We did not have sufficient data on race/ethnicity to study this in Suffolk



Outcomes Other Than Recidivism?

- Recidivism is usually easy to measure because we can measure it “internally” – does this defendant show up in the data again?
- But prosecutorial decisions like the decision to prosecute are likely to have impacts on outcomes other than recidivism:
 - Employment? Housing? Social welfare receipt? Well-being? Etc...
- Studying other outcomes would require data linking across agencies
 - Not easy, but crucial for fully understanding consequences of prosecutorial policies and practices