

Flat Fee Compensation, Lawyer Incentives, and Case Outcomes in Indigent Criminal Defense

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November 13, 2021
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Abstract

Most criminal defendants in the United States are in poverty and receive publicly financed legal defense, which is provided by contractors in many jurisdictions across the country. This paper assesses whether compensation structures for court appointed attorneys impact the quality of legal representation for indigent criminal defendants. I study a natural experiment in North Carolina, in which six counties were mandated to pay assigned counsel a flat fee per case disposed instead of an hourly rate. For my empirical analysis, I link two detailed administrative datasets containing court records for the universe of criminal cases in North Carolina, as well as compensation records for every lawyer that accepted an indigent case in the state as assigned counsel. Using a difference-in-differences strategy, I find that defendants represented by lawyers paid under flat fees were 4.7 p.p. (11%) more likely to be convicted, a result driven by an increase in guilty pleas. Further, defendants were 4.4 p.p. (15%) more likely to be convicted on their highest original charge, 3.7 p.p. (5%) less likely to have charges dismissed or reduced, and 4.6 p.p. (37%) more likely to be incarcerated. Exploring potential mechanisms, I find that these results are primarily driven by a reduction of effort by lawyers, who reported spending 11% fewer hours on indigent cases, disposed cases 25% sooner on average, and were 4.3 p.p. (36%) more likely to dispose a case on the same day as their first meeting with the defendant. I do not find evidence of significant changes in lawyer composition or migration, although I find that some lawyers with consistent new private casework as an outside option are less likely to continue accepting indigent cases following the implementation of flat fees. Exploring heterogeneity in these results, I find that male and minority defendants are more likely to have unfavorable case outcomes. My main results are robust to a variety of alternative specifications, including a variant of Fisher's randomization test. This paper informs policy questions on funding and compensation for publicly financed criminal defense. It also provides novel supporting evidence that when contracting for indigent defense services, incentives are critical to providing the effective representation necessary to fulfill the right to counsel guaranteed under the Sixth Amendment.

JEL Classification: I30, K14, K41, M52

Keywords: Indigent Defense, Crime, Poverty, Personnel Economics

*Email: ajlee@utexas.edu. For helpful comments and suggestions, I thank Manuela Angelucci, Sam Arenberg, Scott Cunningham, Nir Eilam, Mike Geruso, Dan Hamermesh, Bokyung Kim, Leigh Linden, Rich Murphy, Gerald Oettinger, Sam Stripling, Steve Trejo, Cody Tuttle, and seminar participants at Claremont Graduate University and the University of Texas at Austin. I also thank Margaret Gressens, Stephen Lich-Tyler, and Mary Pollard of the North Carolina Office of Indigent Defense Services for their generosity in sharing data and providing insight into indigent defense in North Carolina. Apoorva Chintala, Soo Gee Choi, and Brooke Jones provided excellent research assistance. All remaining errors are my own.

1 Introduction

Defense lawyers serve as advocates and counsel for individuals facing criminal charges, and effective legal representation is critical to protecting the rights of those who interact with the United States criminal justice system. For this reason, the Sixth Amendment of the United States Constitution guarantees legal counsel for any individual who faces criminal charges that may result in imprisonment. To fulfill this constitutional right, governments are required by law to provide a publicly financed defense lawyer for criminal defendants in poverty, who comprise 60% to 90% of all criminal defendants in the United States.¹ Despite these provisions, a persistent concern is that many indigent defense systems throughout the country have failed to provide defendants *effective* representation, a requirement under the Sixth Amendment's right to counsel.²

One commonly-cited contributor to weakened public defense in the United States is the method by which court-appointed attorneys are compensated.³ Virtually all jurisdictions contract with private lawyers to represent indigent criminal defendants, and a large portion do so as their primary indigent defense system.⁴ The most common pay structure for indigent defense lawyers in these systems is a flat fee,⁵ which has raised concerns among policymakers because it provides no financial incentive on the margin for lawyers to supply the time and effort necessary to provide effective representation, potentially undermining the Sixth Amendment's right to effective counsel guaranteed to defendants experiencing poverty. Lawyers have a professional obligation to provide zealous representation for their clients,⁶ and although a strong sense of public duty is a leading motivation for lawyers accepting indigent cases, prior

¹U.S. Department of Justice, Contracting for Indigent Services: A Special Report (April 2000), <https://www.ojp.gov/pdffiles1/bja/181160.pdf>. See also, Bureau of Justice Statistics, Defense Counsel in Criminal Cases (November 2000), <https://bjs.ojp.gov/content/pub/pdf/dccc.pdf>, which estimates that 82% of felony defendants in the 75 largest counties of the U.S. were represented by court-appointed attorneys. The National Legal Aid & Defender Association (NLADA) estimates that 80% of all criminal defendants are indigent and receive publicly financed legal representation. See, <https://www.nlada.org/AmeriCorps-VISTA>.

²See, e.g. *United States v. Cronic* (1984) and *Strickland v. Washington* (1984).

³See, e.g. National Association of Criminal Defense Lawyers, "Gideon at 50: A Three-Part Examination of Indigent Defense in America" (March 2013) at <https://www.nacdl.org/getattachment/cf613fe0-8f46-4dc1-b747-82346328522e/gideon-at-50-rationing-justice-the-underfunding-of-assigned-counsel-systems-part-1-.pdf>, and Prison Policy Initiative, "Nine Ways that States Can Provide Better Public Defense" (July 2021) at <https://www.prisonpolicy.org/blog/2021/07/27/public-defenders/>.

⁴Jurisdictions with a public defender's office need to contract with private defenders for cases that the public defender's office cannot accept due to an ethical conflict of interest. In 2012, the Sixth Amendment Center estimated that the majority of jurisdictions in the United States contracted with private lawyers as the primary system of indigent defense, based on a 2007 Bureau of Justice Statistics report and a 2012 Government Accountability Office report. See, <https://sixthamendment.org/understanding-the-gao-report-on-indigent-defense/> and <https://bjs.ojp.gov/content/pub/pdf/pdo07st.pdf>. More recently, Geoffrey Burkhardt of the Texas Indigent Defense Commission (TIDC) provided written testimony that the majority of jurisdictions in the U.S. rely on contracting with private lawyers for the provision of indigent defense. See, President's Commission on Law Enforcement and the Administration of Justice. Written Testimony of Geoffrey Burkhardt (June 2, 2020). <https://www.justice.gov/file/1318476/download>

⁵A flat fee can be in the form of a single flat fee for each case disposed, or a single flat fee for representing all indigent criminal defendants over a predetermined period of time. According to the Sixth Amendment Center, the latter is the most common method for delivering indigent defense in the United States. See, <https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/abolishing-flat-fee-contracts-for-public-defense-services-aba-principle-8/>

⁶Lawyers must provide zealous representation within the boundaries of the law; this applies regardless of whether the defendant is (or is believed to be) guilty or innocent. See, the American Bar Association's *Model Rules for Professional Conduct*, Rule 1.3.

legal literature, such as [Carrington \(1979\)](#), have postulated that zealous advocacy from lawyers must be incentivized because it rarely results from professional obligation or altruism alone. These predictions are plausible in light of prior labor and personnel economics literature finding that workers respond in their behavior and effort to changes in compensation structures, and recent work in the economics of crime literature that have demonstrated empirically that defense lawyers can influence case outcomes for the indigent defendants they represent.⁷ However, there has been little empirical work on the motivations and incentives of court-appointed attorneys, and the impact of lawyer compensation structures on the quality of representation in indigent defense remains an open question.

In this paper, I assess whether the *structure* of compensation impacts the quality of legal representation that court-appointed attorneys provide for indigent criminal defendants. I focus on how lawyers behave under flat fee and hourly pay, which are the two primary methods by which lawyers in the United States can be paid when working on any criminal case.⁸ I also focus on assigned counsel, an indigent defense system common across the United States in which private lawyers contract with a jurisdiction to represent indigent criminal defendants and are appointed to cases on a rotational basis. To study this question empirically, I examine a natural experiment in North Carolina, in which six counties were mandated as part of a pilot program to change compensation for assigned counsel to a schedule of flat fees for each case disposed, while other untreated counties continued to pay assigned counsel according to statewide hourly rates. For my empirical analysis, I obtain and link two detailed administrative datasets North Carolina: one from the North Carolina Administrative Office of the Courts (AOC) containing case-level records for the universe of criminal cases in state, and one from the North Carolina Office of Indigent Defense Services (IDS) containing compensation records for every lawyer that accepted indigent cases in the state as assigned counsel. These datasets contain detail necessary to study my research question, including identities and demographics for each defendant and lawyer, information about criminal charges, and the outcome of each case. For case outcomes, I focus on whether defendants were convicted, entered a guilty plea, had a case dismissed, or were incarcerated. For measures of lawyer effort, I examine the self-reported hours that lawyers reported spending on each case, as well as the number of days between case assignment and disposition, and whether a lawyer disposed a case on the same day as the first meeting with the client.

Within this setting, I study whether switching from hourly to flat fee pay in the pilot counties in-

⁷See, e.g. [Anderson and Heaton \(2012\)](#), [Fischer \(2020\)](#), [Iyengar \(2007\)](#), [Roach \(2014\)](#), and [Shem-Tov \(2020\)](#), who focus on the type of court-appointed attorney that an indigent defendant receives.

⁸Contingent pay, i.e. pay that is conditional on the outcome of a case, is illegal in most states. The American Bar Association's Model Rules of Professional Conduct provides a model of rules for states to use when determining standards of ethical conduct for practicing lawyers. Specifically, Rule 1.5(d)(2) prohibits the use of "a contingent fee for representing a defendant in a criminal case." The majority of states have adopted Rule 1.5(d)(2), making contingent fee payments illegal for lawyers working in those states.

creased the probability that indigent defendants had unfavorable case outcomes, such as conviction and incarceration. Further, I explore two potential mechanisms for these effects: an intensive margin response on lawyer labor supply and selection of lawyers on the extensive margin. To estimate the causal effect of switching from hourly to flat fee compensation on lawyer effort and defendant outcomes in indigent cases, I use a difference-in-differences strategy that compares each outcome of interest in the treated counties before and after the start of the pilot program with those in the non-treated counties, which paid assigned counsel hourly rates during the entire sample period. Overall, I find that indigent defendants are more likely to have adverse case outcomes when their court-appointed attorney is paid a flat fee instead of on the basis of time on the case. Following the switch to flat fees, defendants are 4.7 percentage points (11%) more likely to be convicted, a result that is driven by an increase in guilty pleas. Further, defendants are 4.6 percentage points (15.3%) more likely to be convicted on their highest original charge, 3.7 percentage points (5.3%) less likely to have charges dismissed or reduced, and 4.6 percentage points (36.5%) more likely to be incarcerated.

Next, I examine two potential mechanisms for this result: an intensive margin response by lawyers and the selection of lawyers on the extensive margin. First, I examine three proxies for lawyer effort: the hours that lawyers reported spending on each case, the number of days between case assignment and disposition, and the probability of disposing a case on the same day as the first meeting with the defendant. In my analysis, I find evidence suggesting that lawyers exert less effort on indigent cases after compensation switches from an hourly to a flat fee basis. Lawyers on average reported spending 11.4% fewer hours on cases under flat fee compensation. Examining two other outcomes that may be less subject to reporting bias, I find that after compensation switches from an hourly to a flat fee basis, lawyers in the treated counties disposed cases 25% sooner on average and were 4.3 percentage points (35.8%) more likely to dispose a case on the same day as their first meeting with the defendant. Next, I examine whether the switch from hourly to flat fee compensation changed the composition of lawyers who choose to accept indigent cases in the treated counties. Overall, I do not find evidence of significant changes the composition of lawyers in the treated counties However, I find evidence suggesting that lawyers with good outside options in the form of consistent private criminal casework are less likely to continue accepting indigent cases under flat fee compensation.

I explore heterogeneity in my main results among the following groups: lawyer gender, defendant gender, and defendant race. Some results from this exercise are noteworthy. First, I find that defendants represented by female lawyers are less likely to have adverse outcomes than those represented by male lawyers. In addition, I find that female lawyers respond less strongly in their effort response to the switch to flat fee pay than male lawyers do. Second, I find evidence that following the switch to flat fees, male

defendants were more likely to have adverse outcomes compared to female defendants, and that lawyers on average were more likely to exert less effort when representing male defendants compared. Finally, I find that switching to flat fee compensation for assigned counsel resulted in minority defendants were more likely to have adverse outcomes compared to white defendants, and that lawyers on average were more likely to exert less effort for minority defendants compared to white defendants.

My estimates are robust to a variety of sensitivity analyses that use alternative empirical specifications and examine alternative subsamples of my data. In addition, to address potential concerns with inference in due to a relatively small number of treated counties in this setting, I implement a variant of Fisher's randomization test in which I generate placebo groups by randomly selecting 6 out of the 80 counties for each, estimate effects for each placebo group, and compare the estimates from my main results with these placebo estimates. Effectively, this test assumes that the placebo estimates represent the sampling distribution for my main estimates, and I use this methodology to calculate exact p-values as the percentile of my main estimates within the placebo distribution. Overall, I find that my main results are robust to this methodology, which has been noted as a conservative and demanding statistical test for obtaining statistical significance for estimates at conventional levels.⁹

This paper contributes to multiple bodies of literature. First, it adds to the literature on compensation structures for indigent defense lawyers. Two prior papers study statewide changes in compensation: [Schwall \(2018\)](#) examines a statewide switch to a flat fee contract system in South Carolina, and [Roach \(2017\)](#) studies a statewide change in hourly rates for assigned counsel in New York. The main contribution of this paper is to provide quasi-experimental evidence on the impact of compensation structures on the quality of indigent defense by comparing outcomes in (1) counties in North Carolina that were mandated to change assigned counsel pay from an hourly to a flat fee basis to those in (2) other counties in which assigned counsel pay remained under an hourly basis during the entire sample period. As summarized above, I find that lawyers spend less effort on indigent cases after compensation switches from an hourly to a flat fee basis, and that the defendants they represent are more likely to be convicted, enter a guilty plea, and be sentenced to incarceration. These results differ from those of [Schwall \(2018\)](#), who finds substantially larger declines in lawyers' hours (48%), but no effect on defendant outcomes.

More generally, this paper contributes to the economics literature on indigent defense. Much prior work in this field – such as [Anderson and Heaton \(2012\)](#), [Fischer \(2020\)](#), [Iyengar \(2007\)](#), [Roach \(2014\)](#), and [Shem-Tov \(2020\)](#) – focus on comparing outcomes of indigent defendants represented by public defenders and assigned counsel, generally finding the latter are more likely to generate unfavorable outcomes for the defendants they represent. [Agan et al. \(2021\)](#) focuses on decomposing the disparities in outcomes of

⁹See, e.g. [Buchmueller et al. \(2011\)](#) and [Cunningham and Shah \(2018\)](#).

criminal defendants that represented by private attorneys and assigned counsel, and finds evidence that moral hazard may be the source of these disparities. In this paper, I focus on motivation and incentives among lawyers in assigned counsel systems, which are present in many jurisdictions across the United States. This paper expands the literature by using a quasi-experimental framework to study whether compensation structures can impact lawyer effort in indigent cases and in turn, outcomes of the defendants they represent.

This paper also contributes to the literature in labor and personnel economics that studies worker behavior under different compensation structures. Much of this literature – such as [Lazear \(1986\)](#), [Lazear \(2000\)](#), [Paarsch and Shearer \(2000\)](#), and [Shearer \(2004\)](#) – has focused on responses in worker output under piece rate pay compared to salaried or hourly pay, the latter of which does not vary with output produced. Empirical work in these papers focus on workers in blue collar or agricultural jobs, in which output and effort can be measured based on the units a worker produces. On the other hand, there has been less empirical work that studies how workers respond to compensation structures when effort is mental or intellectual, and output is intangible, which – as [Fama \(1991\)](#) explains – is more common in professional services and white collar jobs. My paper adds to this literature by examining a change in compensation structure in this type of career (legal work in indigent defense), and examining observable defendant outcomes as variables that could plausibly respond to changes in lawyer effort. In this sense, it is similar to [Douven et al. \(2019\)](#), who studies mental healthcare workers, and [Ellis and McGuire \(1986\)](#), who provide a theoretical discussion of capitated and fee-for-service reimbursement in Medicare.

Finally, this paper relates to the literature on agents' social preferences and prosocial motivation in the provision of public services. [Besley and Ghatak \(2005\)](#) and [Besley and Ghatak \(2018\)](#) provide a theoretical discussion, and [Bandiera et al. \(2005\)](#) ties this literature with compensation structures by studying how workers' social preferences interact with their choice of effort under relative incentive and piece rate compensation. In this paper, I consider how social preferences of lawyers, in the form of prosocial motivation, determine how lawyers respond in the effort they exert on indigent criminal cases when compensation changes from hourly rates to a flat fee per case.

The remainder of the paper proceeds as follows. Section 2 provides background on indigent defense and the setting of this paper. Section 3 presents a simple conceptual model to illustrate how lawyer choose their level of effort under hourly and flat fee compensation structures, and how these responses may impact the outcomes of the indigent defendants they represent. Section 4 describes the data and empirical framework. Section 5 presents my main results. Section 6 discusses the costs to society from moving to flat fee compensation for assigned counsel. Section 7 concludes.

2 Institutional Setting

To assess whether compensation structures for court-appointed attorneys impact the quality of legal representation for indigent criminal defendants, I examine a pilot program in North Carolina where six counties were chosen to switch compensation for court-appointed attorneys from statewide hourly rates to a schedule of flat fees per case. In this section, I provide institutional background about indigent defense in North Carolina and describe the pilot program in more detail.

2.1 *Indigent Defense in North Carolina*

North Carolina provides an ideal setting for addressing the research questions of this paper. As I describe in a later section, I exploit a natural experiment for my empirical analysis in which six counties were mandated to change compensation for assigned counsel from statewide hourly rates to a schedule of flat fees per case disposed. With respect to representativeness, North Carolina is the ninth largest state by population¹⁰ and has a racially and socioeconomically diverse population, with racial diversity and poverty indices that are similar to those of the overall United States.¹¹

There are 100 counties in North Carolina, and each uses one of three main types of indigent defense systems found in jurisdictions throughout the United States. First, an assigned counsel system is one in which a jurisdiction provides indigent defense by contracting with multiple private lawyers, who are added to an appointment list and are assigned to cases through a system of rotation. Second, a contract counsel system is one in which a jurisdiction contracts with a lawyer or law firm that agrees to represent all indigent defendants in the jurisdiction over a specified period (e.g. 1 year). Finally, a public defender system is one in which lawyers who are salaried full-time government employees (public defenders) represent indigent criminal defendants within a given jurisdiction. Some situations, such those where representation would create an ethical conflict of interest, prevent a public defender's office from accepting an indigent case.¹² Jurisdictions typically appoint assigned counsel or contract counsel to cases that a public defender's office cannot accept.

In North Carolina, the most prevalent form of indigent defense is assigned counsel, with 82 out of the 100 counties using it as a primary or auxiliary system. Among these counties, 52 contract with assigned

¹⁰In the 2020 Census, the estimated population of North Carolina was 10,439,388.

¹¹To measure racial and ethnic diversity in the United States, the Census Bureau uses a Diversity Index, which measures the probability that two randomly chosen individuals will be of different racial and ethnic groups. In the 2020 Census, the Diversity Index for the United States was 61.1%. The Diversity Index for North Carolina was 57.9%, which ranks 19th among the 50 states and the District of Columbia. See, <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>. Additionally, the U.S. Census Bureau estimates that 11.2% of the United States population were in poverty between 2018–2020. In North Carolina, the poverty rate was estimated to be 13.2% during this period; this is the 12th highest among the 50 states and the District of Columbia.

¹²For example, a public defender's office cannot represent more than one defendant in a multi-defendant case, as doing so would create a conflict of interest.

counsel to represent all indigent defendants, while the remaining 30 have a public defender's office, but contract with assigned counsel for the cases that the public defender is unable to accept. The second most prevalent indigent defense system in North Carolina is a public defender; there are 35 counties in North Carolina that use this as the primary indigent defense system. Finally, the remaining counties use contract counsel. 13 counties use contract counsel as the primary indigent defense system, while 5 counties have a public defender, but use contract counsel for cases that the public defender cannot accept because of a conflict of interest.

The North Carolina Office of Indigent Defense Services (IDS) is the state office that administers the indigent defense system in North Carolina. One of its duties is to manage the state indigent defense budget, which is financed through two sources. The primary source of funding for indigent defense is through appropriations from the General Fund, or the state budget.¹³ Indigent defense in North Carolina does not rely on local funding. Second, the state partially finances indigent defense through "recoupment revenues," or the court and attorney fees that indigent defendants are required to pay in the event of a conviction.¹⁴ IDS is also responsible for compensating lawyers who represent indigent defendants in the state as assigned counsel or contract counsel,¹⁵ and keeps detailed records on each case for which it processes a fee application.

2.2 Procedural Background: North Carolina

In this section, I provide a brief procedural background for criminal cases in North Carolina that is relevant to this research question. First, there are two main types of crimes in North Carolina that could result in imprisonment for adult criminal defendants. Felonies are serious crimes for which a conviction can result in a severe punishment, such as a prison sentence, and the deprivation of certain rights, such as the right to vote. Misdemeanors are crimes that carry less severe punishments than felonies in the form of fines and/or a jail sentence. Second, adult criminal cases in North Carolina are resolved in one of two trial court divisions. District Court handles 75% of all criminal cases in the state, and primarily hears misdemeanor cases. Superior Court primarily hears felony cases, which begin in District Court during the pre-trial phase, and appeals from District Court cases. In some situations, felony cases may be disposed in District Court in the form of a guilty plea with consent from the judge, prosecutor, and defendant.

¹³See, e.g. "Improving Indigent Defense in North Carolina" (October 2016) at https://cjil.sog.unc.edu/wp-content/uploads/sites/19452/2019/02/nccalj_criminal_investigation_and_adjudication_committee_report_improving_indigent_defense.pdf. The General Fund receives its revenues primarily through the individual income tax and state tax. See, <https://digital.ncdcr.gov/digital/collection/p249901coll22/id/486913>.

¹⁴Indigent defense in North Carolina is not free; convicted indigent defendants must pay attorney fees as part of a fine. I discuss this in the next section.

¹⁵See, e.g. "Annual Report of the Commission on Indigent Defense Services, July 1, 2019 – June 30, 2020" at <https://www.ncids.org/wp-content/uploads/2021/05/IDS-Annual-Report-to-Legislature-2020.pdf>.

Figure 1 provides a map of the criminal justice process from the North Carolina Judicial Branch. A defendant's interaction with the criminal justice system begins with arrest, after which they are taken to a local jail and booked.¹⁶ For the next 48 hours, defendants remain in jail, after which they are brought before a magistrate for a bail hearing, during which they are also informed of the criminal charges against them.

For all indigent defendants in North Carolina, interactions with a defense lawyer in the criminal justice pipeline typically begins after arraignment, or their first appearance before a judge, which occurs in District Court. During arraignment, the judge informs defendants of their rights, which includes the right to counsel. If defendants do not have the means to hire a private defense lawyer, they may request a court-appointed attorney. If defendants choose to do so, they must complete an affidavit of indigency, sign under oath that they are in need of publicly financed defense, and provide information on their employment status, income, expenses, assets, and liabilities, which are reviewed by a judge to determine the defendants' indigency.¹⁷ Defendants also affirm their understanding that indigent defense in North Carolina is not free; defendants who are convicted of a criminal charge or enter a plea of guilty or no contest to resolve a case must pay lawyer fees as part of their sentence.¹⁸ Despite determining indigency using information in the affidavit of indigency, North Carolina, like most states, does not have a strict definition for indigency, and instead, uses a general definition in which a defendant must demonstrate financial hardship in retaining a private lawyer.¹⁹ In North Carolina, jurisdictions typically assign a court appointed attorney for any defendant who displays financial hardship and requests a court-appointed attorney.²⁰

IDS recommends that court-appointed attorneys contact their indigent clients within two days of appointment. At this stage, the duty of court-appointed attorney's is to guide defendants, provide advocacy, and help them make informed decisions during the criminal justice process. Misdemeanor defendants at this stage may have a case dismissed before trial, enter a plea deal before trial, or go to trial in District Court, which will be in front of a judge, but without a jury. After trial, misdemeanor cases can be appealed in Superior Court before a jury. On the other hand, felony cases proceed to a probable cause hearing, which may result in the defendant's indictment (accusation of one or more charged crimes) by a

¹⁶During the booking process, the detention facility takes photographs ("mugshots") and fingerprints of the defendants and records vital and identifying information.

¹⁷See, Affidavit of Indigency, at https://www.nccourts.gov/assets/documents/forms/cr226.pdf?exS7WjwfuALB5YDffVjOMVnf_cYVOHOx.

¹⁸The state partially finances indigent defense through these "recoupment fees." On the other hand, defendants are not responsible for paying lawyer fees if all charges against them are dismissed. See also, Affidavit of Indigency, at https://www.nccourts.gov/assets/documents/forms/cr226.pdf?exS7WjwfuALB5YDffVjOMVnf_cYVOHOx.

¹⁹See, "Frequently Asked Questions and Recurring Issues in Criminal Cases District Court, Judges' Summer Conference" (June 2014) at https://www.sog.unc.edu/sites/www.sog.unc.edu/files/course_materials/5.27.14Questions%20for%20panelists%20at%20criminal%20law%20session.pdf.

²⁰Conversation with Mary Pollard, March 2021.

grand jury and move the case to Superior Court. After indictment, a felony case may result in a dismissal of charges, resolution through a plea deal, or go to trial before a judge and/or jury in Superior Court.

2.3 Assigned Counsel in North Carolina

This project focuses on compensation structures for assigned counsel. As described above, in an assigned counsel system, the local jurisdiction provides indigent defense by contracting with private lawyers, who are assigned to indigent defendants on a case-by-case basis. Importantly, assigned counsel are contractors, rather than government employees. The compensation that assigned counsel receives for each indigent case reflects gross, rather than net, earnings, as they are responsible for covering expenses such as overhead costs, self-employment tax, health insurance, and retirement savings.²¹

Lawyers interested in accepting indigent cases as assigned counsel in North Carolina may apply at the county (jurisdiction) level. Lawyers must meet basic requirements, such as being eligible to practice law in the state and having means of communication and availability for meeting clients. Lawyers may apply to accept indigent cases from any of three appointment lists, which are organized by charge severity: Class A-E (higher-level) felonies, Class F-I (lower-level) felonies, and misdemeanor offenses. Each list has different levels of eligibility requirements, with the Class A-E felony list requiring the greatest amount of experience and the misdemeanor list requiring the fewest. A Committee on Indigent Appointments within each county reviews all applications and approves those who meet the requirements for working as assigned counsel. Attorneys that are found not to meet performance standards may be removed or temporarily suspended from the appointment lists.

After joining an appointment list, lawyers are assigned to indigent cases through a strict system of rotation; the lawyer at the top of the appointment list is assigned to the next indigent case, after which that lawyer is moved to the bottom of the appointment list. Lawyers generally cannot turn down a case they are assigned to, unless an ethical conflict of interest prevents them from accepting one. Lawyers who cannot accept a case because of a conflict of interest remain at the top of the appointment list and are assigned to the next indigent case that becomes available.²²

Before June 2017, 80 of the 82 counties with an assigned counsel system paid lawyers an hourly rates for time they spent working on each indigent case. Since 2001, two of the 82 counties with an assigned counsel system – Cabarrus and Rowan counties – have paid assigned counsel a flat fee for each adult

²¹These are typically covered for other agents in the criminal justice system, such as prosecutors and judges, who are employed by the government. See, "FY19 Private Appointed Counsel (PAC), Effective Pay Rate Study" (March 2019) at <https://www.ncids.org/wp-content/uploads/2021/05/FY19-Effective-Pay-Rate-Overhead-Report-1.pdf>

²²See, e.g. the appointment plan for Judicial District 22B at <https://www.ncids.org/wp-content/uploads/2019/01/Dist-22b-appt-reg-effective-1-2-21.pdf>.

criminal case disposed in District Court.²³ Lawyers working as assigned counsel are required to track and report the hours they spend on each case in six-minute increments, regardless of how they are compensated.²⁴ Lawyers working as assigned counsel are compensated for time working each case, which can be from three sources: (1) time in court, defined as time spent in court proceedings before a judge; (2) time waiting in court, defined as the time attorneys spend waiting in court for their case to be called or heard, during which they are unable to spend time on other cases; and (3) time outside of court; defined as the time lawyers spend preparing cases outside of court, which can include researching the case, gathering evidence, and negotiating with prosecutors and/or other opposing counsel.²⁵ Table 1 summarizes the statewide schedule of hourly rates for assigned counsel in adult criminal cases. Lawyers earn a higher hourly rate when representing defendants facing more severe charges, and the hourly rate a lawyer receives for work on each case is determined by the most severe original charge that the defendant faces.²⁶ Unlike many indigent defense systems outside of the state, lawyers working as assigned counsel in North Carolina are not limited by a cap on compensation for each indigent case they work on.

2.4 Policy Change: Uniform Fee Pilot Program

In July 2016, the North Carolina state legislature directed the Administrative Office of the Courts (AOC) and IDS to implement the Uniform Fee Pilot Program, which would implement flat fee compensation for assigned counsel accepting indigent cases in District Court. For the pilot program, AOC and IDS were required to select one or more counties in six judicial districts, with at least two counties having small caseloads, two with medium caseloads, and two with large caseloads. Districts 10, 18, and 26 were to be excluded from consideration for the pilot.²⁷ The goal of the state legislature in implementing the pilot program was to explore whether implementing flat fee compensation for assigned counsel statewide could reduce and improve predictability of state spending on indigent defense.²⁸

AOC and IDS were given discretion over setting the flat fee schedule and choosing the counties that

²³See, "District Court DWI and Misdemeanor Flat Fees and Case Outcomes" (September 2011) at <http://www.ncids.org/systems%20evaluation%20project/%20caseoutcome/research/districtcourt.pdf>.

²⁴Most counties with assigned counsel systems pay indigent defense lawyers an hourly rate. However, two counties (Cabarrus and Rowan) pay assigned counsel a flat fee per case disposed in District Court, and (as discussed in the next section) this paper studies a pilot program in which six counties (Davidson, Iredell, Lincoln, Burke, Macon, and Watauga) were required to pay assigned counsel according to a schedule of flat fees per case instead of the usual statewide hourly rates. All lawyers working as assigned counsel are required to track the hours they spend on each case, regardless of whether it is the basis for compensation, and must report these hours in the fee applications they submit to IDS.

²⁵See, "IDS Policies Governing Attorney Fee and Expense Applications in Non-Capital Criminal and Non-Criminal Cases at the Trial Level" (March 2021), at <https://www.ncids.org/wp-content/uploads/2021/03/Atty-Fee-policies-non-capital.pdf>.

²⁶For example, if a defendant was charged with three offenses – one Class D felony, one Class I felony, and one misdemeanor – then the lawyer assigned to the case would be paid \$75 for each hour spent representing this defendant. To prevent perverse incentives, the hourly rate remains the same even if the severity original charge is reduced. For example, if the same defendant's most severe original charge was reduced from a Class D to a Class E felony, then lawyer's hourly rate would remain the same at \$75.

²⁷These Districts contain the cities Raleigh, Greensboro, High Point, and Charlotte.

²⁸Thomas Maher, Director of the North Carolina Office of Indigent Defense Services. See, "Defense Strategy: Lawyers Question Flat Fees for Court-Appointed Counsel", Smoky Mountain News, p. 6 at https://issuu.com/smokymountain/docs/smn_07_05_17.

would switch to flat fee pay as part of the pilot program. To reduce potential harm to defendants in the counties chosen for the pilot program, the flat fee schedule was set according to statewide hourly averages for each type of criminal case, and a clause was included to allow lawyers to petition a judge for hourly compensation under extraordinary circumstances when a case requiring a significant time commitment. Table 2 summarizes the flat fee compensation schedule, which varies by charge severity, and calculates (1) the implicit hours under statewide hourly rates for assigned counsel and (2) the average number of hours that lawyers spent on cases, by case type. The implicit hours under the hourly schedule are generally lower, but similar to the average time that lawyers spend on indigent cases statewide.

The six pilot counties were chosen as follows.²⁹ First, counties in North Carolina with an assigned counsel system were ranked according to two metrics: the rate at which cases result in a non-conviction and the rate at which defendants were convicted on the highest charge. Next, a group of counties, which met the general county size requirements outlined by the state legislature and were considered to have "generally good outcomes for indigent clients," was chosen from the middle of this ranking; consideration was also given to counties with a sufficiently large roster of assigned counsel that could withstand potential attrition following the switch to flat fee compensation. Finally, from this group, Davidson and Iredell counties were chosen as the two counties with "large" caseloads; Burke and Lincoln counties were chosen as the two with "medium"-sized caseloads; and Macon and Watauga were chosen as the two with "small" caseloads. Figure 2 presents a county map of North Carolina, in which the pilot counties are in orange, the assigned counsel (primary) counties are in dark blue, and the assigned counsel (auxiliary) counties are in light blue.

The flat fee schedule was implemented in the pilot counties for all indigent cases that were assigned starting on June 1, 2017. The pilot program contained a provision allowing pilot counties to opt out, and both Macon and Watauga counties withdrew from the pilot program in early 2019. For the remaining counties, the pilot program is ongoing as of February 2021.³⁰

2.5 Lawyer Motivations

Lawyers accepting indigent criminal cases in North Carolina experience a tension between two motivations. One motivation is prosocial, as many lawyers report accepting indigent cases because of a strong sense of public service, and view the work as necessary for protecting the constitutional rights of defendants in need. The other motivation is financial, which has two components. First, indigent cases are a

²⁹Conversations with NC IDS staff. See also, "2017 Report on IDS Uniform Fee Schedule Pilot" at https://www.ncleg.gov/documents/sites/committees/JLOCJPS//Reports/FY%202016-17/IDS_Uniform_Fee_Schedule_Pilot_2017_05_01.pdf.

³⁰See "Notice of Targeted Rate Hikes for PAC and Contract Attorneys" (February 2021) at https://www.ncids.org/wp-content/uploads/2021/04/Notice-to-Attorney_Rate-Restoration-03_2021.pdf.

portion of the casework that these lawyers accept to earn income as part of their full-time profession. On the other hand, compensation for assigned counsel in North Carolina is low (especially after considering overhead costs), and many lawyers who accept indigent cases experience financial hardship that weighs in the level of representation they provide for their clients, as well as whether they choose to continue accepting indigent cases. I provide descriptive evidence for the tension between these motivations through three sources: (1) a 2019 IDS study on compensation for assigned counsel, (2) media coverage of the Uniform Fee Pilot Program, and (3) an IDS survey of lawyers who accepted indigent cases in the pilot counties.

In March 2019, IDS released a report on effective pay rates for assigned counsel in North Carolina.³¹ As prepare this report, IDS conducted a survey among all assigned counsel in the state regarding costs and finances. Among those surveyed, a significant number of lawyers indicated that they accept indigent cases because of a strong sense of public service, but need to make financial sacrifices to continue doing so. Assigned counsel are contractors, typically working as sole practitioners with no support staff, and must cover expenses such as overhead, self employment tax, and health insurance. For nearly all lawyers, assigned counsel work supplements another source of income.³² While assigned counsel earn an hourly rate between \$55 and \$75 in each case, their average effective hourly rate net of overhead costs was \$15.62; 20% report making an effective hourly rate below \$10, and 10% report losing money from working as assigned counsel. In addition, a large majority of these lawyers struggle financially; 84% of respondents indicated that they had experienced financial hardships such as credit card debt, late payments for student loans, and receiving income-based government assistance. Because of financial strain and low hourly rates from indigent work, 50% of lawyers surveyed reported reducing their indigent caseload or leaving appointment lists altogether. Those who continue accepting indigent cases do so in spite of the low pay, or respond by substituting hours away from indigent cases and toward more profitable work (e.g. criminal or civil private casework), or increasing their indigent caseload by joining multiple appointment lists within the same county or joining appointment lists in multiple counties.

The next two sources relate the tension between financial and prosocial motivation in context of the policy change I study in this paper. In July 2017, a weekly newspaper in western North Carolina published an article about the Uniform Fee Pilot program.³³ One lawyer interviewed for the article stated his belief that under flat fee compensation, lawyers will "be quicker to just make a plea deal instead of going above and beyond to make the best decision for their client," and that such a system may "[turn] criminal defense

³¹See, "FY19 Private Appointed Counsel (PAC), Effective Pay Rate Study" (March 2019) at <https://www.ncids.org/wp-content/uploads/2021/05/FY19-Effective-Pay-Rate-Overhead-Report-1.pdf>

³²Conversation with Margaret Gressens, June 2021. While many lawyers in North Carolina desire to run a practice consisting only of indigent criminal cases, few (if any) are able to do so because it is financially unsustainable.

³³See, "Defense Strategy: Lawyers Question Flat Fees for Court-Appointed Counsel", Smoky Mountain News, p. 6-7 at https://issuu.com/smokymountain/docs/smm_07_05_17.

into a volume business." The first quote relates to incentive effects; under flat fee pay, lawyers may have no financial incentive to invest additional time to a case. The second quote describes the possibility that the number of cases a lawyer accepts may be another margin that lawyers optimize on under flat fee compensation, though the extent of this depends in part on how many lawyers choose to remain on the appointment lists. The lawyer also stated his belief that the switch to flat fees "[pitted] an attorney's duty to zealously defend a client against his duty to feed himself and his family." A reduction in hours under flat fees due to incentive effects reflects a trade-off between a lawyer's financial interests and the sense of public service that motivates many of these lawyers to accept indigent cases. A 2018 IDS survey of assigned counsel in the pilot counties reflects these possibilities;³⁴ more than 50% of lawyers surveyed believed that flat fee compensation impacted the quality of representation for indigent defendants, with many reporting pressure to spend less time on each case than required to provide effective representation for their clients.

3 Conceptual Framework

The goal of this paper is to study whether compensation structures impact the quality of legal representation in indigent criminal defense. In the previous section, I provided institutional detail on North Carolina, described the natural experiment I will study to address my research question, and discussed the tension between financial and prosocial motivation that lawyers experience when representing indigent defendants in the state. In this section, I consider these lawyer motivations to construct a simple conceptual model describing the effort that lawyers choose to exert in indigent criminal cases under hourly and flat fee compensation. Similar in spirit to those in [Bandiera et al. \(2005\)](#), [Besley and Ghatak \(2005\)](#), and [Besley and Ghatak \(2018\)](#), this model considers how social preferences, particularly prosocial motivation, interact with the switch from hourly to flat fee compensation to determine how lawyers choose effort, and how changes in effort can impact outcomes of the indigent defendants that these lawyers represent. I also use this model to generate predictions for my empirical analysis of the flat fee pilot program.

3.1 *Conceptual Framework: Setup*

This simple model focuses on a lawyer i who works on a given indigent criminal case. The lawyer is being compensated for her work on the case, she was also chose to do so because of the social component of providing indigent defense. The lawyer's prosocial motivation is captured by θ_i , where $\theta = 0$ denotes

³⁴See, "Report on Model Fee Schedule, May 18, 2018" at https://www.ncleg.gov/documents/sites/committees/JL0CJPS/Reports/FY%202017-18/IDS-Fee_Pilot_Report-2018_03_14.pdf

no prosocial motivation, and $\theta = 1$ denotes the highest possible value of prosocial motivation. I assume that $0 < \theta_i < 1$, which rules out the possibility that lawyers may be antisocially motivated.

The lawyer chooses a true, unobserved level of effort $e_i > 0$ when working on the case. The lawyer's choice of e_i determines the number of observable hours $H_i = H_i(e_i)$ she spends on the case, where $\frac{\partial H_i}{\partial e_i} > 0$ and $H_i(\cdot)$ is strictly increasing. The number of hours the lawyer spends on a case is also determined by other underlying characteristics, such as ability and experience; for example, to achieve some level of legal "output," a lawyer with greater ability and/or experience may require less time than a lawyer with less experience and/or effort. Here, $H_i(\cdot)$ is specific to lawyer i , and holds fixed any underlying lawyer characteristic that may also influence the hours spent on the case.

As discussed above, the lawyers receives positive payoffs from two sources while working on the case. First, she obtains financial benefit Y_i^f from the amount she are paid for working on indigent cases. Compensation is $Y_i^f = w_H H_i$ under hourly rate w_H and $Y_i^f = w_F$ under flat fee w_F ; the lawyer takes w_H and w_F as given. Second, the lawyer obtains prosocial benefit Y_i^p from the indigent defendant's case outcome, which directly enters her utility function.³⁵ Y_i^p is equal to the production function for the indigent defendant's outcome $X_i(e_i)$, where $\frac{\partial X_i}{\partial e_i} > 0$, $\frac{\partial^2 X_i}{\partial e_i^2} < 0$, and higher values of $X_i(\cdot)$ denote a more favorable outcome. Combining these components, I describe the lawyer's payoff function as follows:

$$u_i = (1 - \theta_i)Y_i^f + \theta_i Y_i^p - \gamma \frac{e_i^2}{2} \quad (1)$$

Here, I assume that payoffs are a convex combination of the financial and prosocial benefits, weighed by prosocial motivation θ_i ; lawyers with zero prosocial motivation receive positive payoffs only from the financial benefits of working on indigent cases, while lawyers that are purely prosocially motivated receive positive payoffs only from the outcome of the indigent defendant they represent. $\gamma \frac{e_i^2}{2}$ is the lawyer's cost of effort, where γ is the inverse of lawyer ability.

3.2 Choice of Effort Under Hourly Compensation

Under hourly compensation, the lawyer is paid for the total number of hours she spends on the case, which is increasing in her choice of effort. To determine optimal effort under hourly compensation, the

³⁵In the context of Besley and Ghatak (2018), θ_i can be interpreted as altruism, in which agents are motivated by the payoffs of those who benefit from the agents' work. In contrast, agents with warm glow motivation receive positive utility from the effort they spend in producing higher payoffs for their beneficiaries. The predictions of the model remain the same when modeling θ_i as warm glow motivation rather than altruism.

lawyer solves the following problem:

$$\max_{e_i} \quad (1 - \theta_i)w_H H_i(e_i) + \theta_i X_i(e_i) - \gamma \frac{e_i^2}{2} \quad (2)$$

The lawyer's optimal level of effort solves the following first order condition under hourly compensation:

$$(1 - \theta_i)w_H H'_i(e_i) + \theta_i X'_i(e_i) = \gamma e_i \quad (3)$$

3.3 Choice of Effort Under Flat Fee Compensation

Under flat fee compensation, the lawyer is paid a fixed amount that does not vary with the hours or effort she chooses to spend on the case. The lawyer determines her optimal level of effort under flat fee compensation by solving the following problem:

$$\max_{e_i} \quad (1 - \theta_i)w_H + \theta_i X_i(e_i) - \gamma \frac{e_i^2}{2} \quad (4)$$

The lawyer's optimal level of effort solves the following first order condition under flat fee compensation:

$$\theta_i X'_i(e_i) = \gamma e_i \quad (5)$$

3.4 Comparison of Optimal Effort Under Hourly and Flat Fee Pay

The difference in the first order conditions under hourly and flat fee compensation is that under the latter structure, lawyers have no financial incentive on the margin to supply effort to a case. How strongly lawyers change their behavior when compensation changes from an hourly to flat fee basis will depend on their level of prosocial motivation θ . On one extreme, lawyers who are purely prosocially motivated ($\theta = 1$) will exert the same amount of effort under both compensation structures. Conversely, lawyers with no prosocial motivation ($\theta = 0$) will exert zero effort on indigent cases under flat fee compensation. Under the assumption that $0 < \theta_i < 1$, this model predicts that after compensation switches from an hourly to a flat fee basis, all assigned counsel will reduce their effort on indigent cases to some degree, the magnitude of which depends on their θ .

Effort e_i is unobservable. However, there are some observable proxies for effort that can be investigated empirically. First, as described above, hours $H_i(e_i)$ is strictly increasing in effort, and any significant changes in effort resulting from a switch from hourly to flat fee pay could be reflected in data on hours that lawyers report spending on indigent cases. Another outcome that may be less subject to self-reporting

bias is the days to disposition, or the number of days that has elapsed between case assignment and disposition; this can be defined similarly as a function of effort, $D_i(e_i)$, where $\frac{\partial D_i}{\partial e_i} > 0$. In particular, large reductions in effort resulting from the switch to flat fees could result in a rise of incidences where cases are disposed soon after or on the same day as the case assignment. I study these outcomes in my empirical analysis, which I discuss in a later section.

3.5 *Lawyer Effort and Defendant Outcomes*

Above, I express defendant outcomes as a function of effort, $X_i(e_i)$, where a higher value of $X_i(\cdot)$ denotes a more favorable outcome. Similar to the discussion about hours $H_i(e_i)$, defendant outcomes can be influenced by variables other than a lawyer's choice of effort, such as the defendant's true unobserved level of guilt, the quality of evidence against the defendant, the jurisdiction's local attitudes toward criminal justice, and harshness/skill of the prosecutor. However, this model focuses on a single case, and $X_i(\cdot)$ treats these other factors as given.

This model predicts that switching from hourly to flat fee compensation will result in a decline in lawyer effort in indigent cases. Because $\frac{\partial X_i}{\partial e_i} > 0$, this model also predicts that indigent defendants will be more likely to experience adverse outcomes, such as conviction on the highest charge and incarceration, if their lawyer is paid a flat fee instead of on an hourly basis. In addition to proxies of lawyer effort, I study impacts of switching to flat fee compensation on conviction, guilty pleas, and incarceration in my empirical analysis.

4 Empirical Framework

In the previous two sections, I described the natural experiment I use to (1) estimate the causal impact of moving from hourly to flat fee pay on defendant outcomes and (2) explore lawyer effort and selection as potential mechanisms, as well as a simple conceptual model that generates predictions for how the switch from hourly to flat fee compensation impacts these variables. In this section, I describe the administrative data I use for my empirical analysis and the empirical methodology I use to estimate the causal effects described above.

4.1 *Data*

My empirical analysis relies on linkages between two administrative datasets from North Carolina. First, I obtained administrative criminal records data from the North Carolina Administrative Office of

the Courts. This dataset contains records at the charge level³⁶ for the universe of criminal cases in North Carolina from January 2015 – June 2020. For each case, this dataset contains information on defendant characteristics, including race and gender; case characteristics, such as information on the charge and charge severity; and case outcomes, such as whether the case was dismissed, convicted, or resulted in a guilty plea, and the type of sentence a defendant received in the event of a conviction. In addition, this dataset contains cases in which the defendant received publicly financed legal counsel, as well as those in which defendants hired a private defense lawyer.

Second, I obtained data from the North Carolina Office of Indigent Defense Services containing case-level compensation records for all lawyers who accepted criminal cases as assigned counsel in North Carolina between January 2015 – August 2021. For each case, this dataset contains information on the case identifier, the lawyer’s name, the lawyer’s bar identification number, the date of the lawyer’s first meeting with the defendant, the date on which the case was disposed, the amount the lawyer was paid, and the hours that the lawyer reported spending on the case.

I link these two datasets by case identification number and county, which uniquely identify each case. In addition, I obtained information on each lawyer’s gender and bar license date from the lawyer directory of the North Carolina State Bar. I merge this information with the two administrative datasets above using the lawyer bar identification number, which uniquely identifies each lawyer.

4.2 Sample Construction and Descriptive Statistics

To construct the data sample for my analysis, I limit my data in the following ways. First, I limit the data to criminal cases in North Carolina in which indigent defendants received court-appointed legal representation from assigned counsel; these consist of cases in the 82 counties that used assigned counsel as a primary or auxiliary system of indigent defense. I exclude cases in Cabarrus and Rowan counties, which paid assigned counsel a flat fee per case during the entire sample period. Next, I limit my data to indigent criminal cases handled by District Court. I also drop felony cases from my data, as (1) the pilot program changed compensation for cases disposed in District Court, which primarily handles adult misdemeanor criminal cases, and (2) felonies can only be disposed in District Court through a guilty plea in certain circumstances. I also limit the sample period to January 1, 2015 – December 31, 2019 in order to (1) adjust for censoring, since the court records data is missing case outcome and disposition information for a large share of cases in 2020, and (2) exclude observations for which the quality of legal representation could have been impacted by the COVID-19 pandemic.

³⁶A single criminal case can be associated with multiple charges.

Further, in the treated counties during the post period, I drop observations in which lawyers petitioned with a judge to receive hourly compensation instead of a flat fee due to extraordinary circumstances; these account for approximately 10% of criminal cases in the treated counties during the post period. I do so, since cases compensated under extraordinary pay on an hourly basis are effectively similar to cases in the control counties. However, in a later section, I report results from a robustness check in which I include these observations in the data and estimate intent-to-treat estimates. Overall, I find that both sets of results are similar.

Table 3 reports descriptive statistics for my dataset. There are a total of 165,526 observations in my data, with 19,605 from the treated group and 145,921 from the control group. The tables also calculate averages for the defendant demographics and case characteristics I observe in my data. The two groups are fairly similar in terms of averages, though the pilot counties have a higher percentage of white defendants and a lower percentage of black defendants among those who obtain court-appointed counsel.

4.3 Empirical Strategy

My empirical framework examines the impact of changing compensation for court appointed attorneys from an hourly to a flat fee per case basis on the time that lawyers spend on cases and the outcomes of the criminal defendants they represent. To do this, I use two empirical specifications. First, I estimate difference-in-differences models in which I compare changes in the outcomes of interest in the treated counties before and after the start of the pilot program with those of the control counties, in which assigned counsel were paid an hourly rate for the entire sample period. For my main analysis, I run regressions of the form:

$$Y_{iclt} = \beta(Treat_c \times Post_t) + X_i + \alpha_c + \lambda_\ell + \tau_t + \epsilon_{iclt} \quad (6)$$

where i indexes case, c indexes county, ℓ indexes lawyer, and t indexes time. Y_{iclt} is an outcome of interest, which are measures of lawyer effort (such as hours per case) or defendant outcomes (such as conviction and incarceration). $Treat_c$ is an indicator variable for whether a case was in a treated county, in which compensation for assigned counsel switched from an hourly to a flat fee basis. $Post_t$ is an indicator variable for whether a case was assigned to a court-appointed attorney following the start of the pilot program. X_{ct} is a set of indicator variables for case characteristics (charge severity) and defendant demographics (race, age, and gender). α_c is a county fixed effect, which accounts for time-invariant county characteristics for each county, which may include factors such as judge/prosecutor harshness, the lawyer culture within the jurisdiction, and local attitudes toward criminal justice. λ_ℓ is a lawyer fixed effect, which

accounts for time-invariant lawyer characteristics such as the lawyer's skill/ability and level of prosocial motivation. τ_t is a month-year fixed effect.³⁷ Following Bertrand et al. (2004), I cluster standard errors by county, the level at which treatment is assigned. In sample, there are a total of 80 clusters, with 6 treated and 74 untreated counties.

The coefficient of interest is β , which measures the difference in the change in outcomes following the start of the pilot program between (1) the treated counties, which changed compensation for assigned counsel from an hourly to a flat fee basis, and (2) the control counties, which remained under hourly compensation during the entire sample period.

Second, I use an event study specification to estimate the dynamic ATT of switching from hourly to flat fee pay. To do this, I run the following regression:

$$Y_{iclt} = \sum_{j=H1 \text{ 2015}}^{H2 \text{ 2019}} \beta_j [Treat_c \times \mathbb{1}(t = j, j \neq H2 \text{ 2016})] + X_i + \alpha_c + \lambda_i + \tau_t + \epsilon_{iclt} \quad (7)$$

where $H1$ and $H2$ represent half years, and variables are defined similarly to the difference-in-differences specification above.

The identifying assumption of this difference-in-differences specification is that average outcomes for both the pilot and non-pilot counties would have followed parallel trends in the absence of a change in compensation for assigned counsel from hourly rates to flat fees. Assumptions about counterfactual outcomes are fundamentally untestable. However, to provide support for the plausibility of the parallel trends assumption, I plot raw trends in the outcomes of interest between the treated and control counties, and also provide graphs of the coefficients and confidence intervals from the estimation of the event study specification in Equation (7).

In a later set of results, I check whether my results are sensitive to changes in the empirical specification. Specifically, I estimate variants of Equation (6) in which I (1) remove the lawyer fixed effect, (2) remove the county fixed effect, and (3) replace the lawyer and county fixed effects with a lawyer-by-county fixed effect, a more flexible specification that allows lawyers to differ among the counties they may accept indigent cases in. Finally, to address potential concerns with inference due to a relatively small number of treated counties in this setting, I implement a variant of Fisher's randomization test in which I generate placebo groups by randomly selecting 6 out of the 80 counties for each, estimate effects for each placebo group, and compare the estimates from my main results with these placebo estimates. Effectively, this test assumes that the placebo estimates represent the sampling distribution for my main estimates, and I use

³⁷e.g. January 2018

this methodology to calculate exact p-values as the percentile of my main estimates within the placebo distribution.

5 Results

In this section, I present results on the impact of switching from hourly to flat fee compensation for assigned counsel on the quality of indigent defense. First, I present a series of raw plots for my outcomes of interest to provide descriptive evidence as well as supporting evidence for the validity of my difference-in-differences methodology. Then, I present my main results, in which I describe difference-in-differences estimates for the impact of the pilot program on defendant outcomes and explore two potential mechanisms: an intensive margin response on effort by lawyers and the selection of lawyers on the extensive margin. Finally, I explore heterogeneity in my main results among different lawyer and defendant groups, and assess the sensitivity of my main results to a series of alternative specifications.

5.1 Raw Plots

Figures 3 and 4 present raw plots of the measures of defendant outcomes and lawyer effort that I will be focusing on in this paper. I calculate averages of each outcome variable by treated/non-treated group and half year, and Further, for each outcome of interest, divide the raw average for each group and half year by each group's average in H2 2016 (the last untreated half year) so that all plotted values are relative to this time period, and graph them as separate trends to assess whether the outcomes in the treatment and control groups (1) followed similar trends before the period in which the treatment occurred, and (2) diverged after the treatment began. Figure 3 focuses on the following defendant outcomes: conviction, conviction on the highest original charge, guilty plea, guilty plea on the highest original charge, dismissal or reduction of charges, and incarceration. Figure 4 focuses on the following proxies for lawyer effort in indigent criminal cases: average self-reported hours per case, average days to disposition, and whether a lawyer disposed a case on the same days as the first meeting with the defendant.

The trends in Figure 3 suggest that from 2015 through 2016, when all assigned counsel in North Carolina counties were paid according to the same hourly rates, defendant outcomes trended similarly between the treated and control counties. However, in the periods following the start of pilot program, there is a divergence in trends of defendant outcomes between the two groups. Rates at which defendants were convicted and entered guilty pleas increased in the treated counties relative to the control counties. Increases were even greater for the rate at which defendants were convicted on or entered guilty pleas for

their highest original charge. In addition, the trends show that following the treatment, defendants in the treated counties experienced a lower probability of having charges dismissed or reduced, and a higher probability of incarceration.

I observe similar patterns for lawyer effort in Figure 4. I focus on three proxies for lawyer effort: the hours that lawyers reported spending on each case, the number of days between case assignment and disposition, and whether a lawyer disposed a case on the same day as the first meeting with the defendant. Raw trends for lawyer effort trend similarly from 2015 through 2016. However, following the start of the pilot program, the treated counties experienced a strong divergence in these outcomes; lawyers on average report spending fewer hours on cases, dispose cases sooner, and are more likely to dispose a case on the same day as their first meeting with the defendant.

Taken together, Figures 3 and 4 provides supporting evidence for the validity of my difference-in-differences design, and suggests that moving from hourly to flat fee pay for assigned counsel increased the probability that indigent defendants experienced unfavorable case outcomes. The graphs also provides supporting evidence that one potential channel was a reduction in the effort that assigned counsel exerted in the indigent cases they accepted. In the remaining discussion of my empirical results, I assess whether the patterns suggested in these raw plots may have a causal interpretation.

5.2 *Potential Threats to Identification*

Next, I address potential threats to identification in my research design. First, I explore whether there general equilibrium effects, in which behavioral responses to the pilot program from agents in the criminal justice system other than assigned counsel may have impacted defendant outcomes. Second, I consider whether changes in defendant outcomes may be driven by changes in the composition of indigent criminal cases.

First, I explore whether some indigent defendants in the treated counties responded to the pilot program by hiring a private lawyer for their defense instead of accepting court-appointed counsel. For example, indigent defendants who became aware of the pilot program may have been concerned that a court-appointed attorney compensated under a flat fee schedule may not provide have an incentive to exert the effort required for effective legal representation, and a response that involves hiring a private lawyer can change the composition of defendants who obtain court-appointed counsel. However, the direction in which this response impacts average case outcomes at the county level is ambiguous. If only defendants facing more serious charges or a higher probability of conviction responded by hiring a private lawyer, then the charge severity and probability of conviction among defendants represented by court-appointed

counsel could become lower on average; under this scenario, it is possible that indigent cases in the treated counties may have more favorable outcomes on average under the pilot program. On the other hand, if only defendants on the margin of conviction responded by hiring private lawyers, then the charge severity and probability of conviction among defendants represented by court-appointed counsel could become worse on average; this scenario could increase the probability of an unfavorable outcome among indigent cases in the treated counties in a way that is unrelated to the incentive or selection effects from the change in lawyer compensation. Table 4 reports results from a difference-in-differences analysis examining the share of privately retained cases at the county-month level as the outcome of interest. The estimated coefficient is 0.007 and not statistically different from zero for (1) all criminal cases and (2) district court cases. I interpret these results as suggesting that indigent defendants in the treated counties were not more likely to retain private counsel during the pilot program.

Next, I examine whether there was a change in the number of criminal cases in the treated counties during the pilot program. One way that a rise in the number of criminal cases in a county (e.g. from an increase in crime) could impact defendant outcomes is by overloading court-appointed attorneys, and thereby reducing the quality of representation they can provide; on the other hand, a decline in the number of criminal cases could have the opposite effect. Table 5 presents results from a difference-in-differences analysis examining whether the pilot program was associated with a change in the number of criminal cases in the treated counties. The estimated coefficients are small, negative, and not statistically different from zero; I interpret these results as suggestive evidence that changes in the number of criminal cases did not impact case outcomes of indigent defendants in the treated counties during the pilot program.

Finally, Table 6 presents results from a difference-in-differences analysis examining changes in case composition - specifically, the share of cases associated with violent, property, and drug offenses, as well as felonies. The estimated coefficients for all outcomes are small and not statistically different from zero. I interpret these results as suggestive evidence that changes in case composition did not impact case outcomes of indigent defendants in the treated counties during the pilot program.

5.3 *Defendant Outcomes*

Having provided suggestive evidence that changes in case composition and defendant behavior did not change in the treated counties during the pilot program, I present results examining the impact of the pilot program – during which compensation for assigned counsel changed from an hourly to a flat fee basis in the treated counties – on case outcomes of indigent criminal defendants. Tables 7 - 10 report result for the estimation of Equation (6) on the following defendant outcomes: conviction, conviction on

the highest original charge, guilty plea, guilty plea on the highest original charge, dismissal or reduction of charges, and incarceration.

Tables 7 and 8 report results on convictions and guilty pleas. In my analysis, I find that switching from hourly to flat fee pay resulted in a 4.7 percentage point increase in convictions, a 10.5% increase from the pre-period mean, and a 4.7 percentage point (11.7%) increase in guilty pleas. However, convictions and guilty pleas are not unfavorable case outcomes in all situations. If it is not possible to have charges dismissed, the best possible outcome for a defendant is a conviction on a reduced charge that carries a less severe punishment or sentence. To assess the impact of switching from hourly to flat fee compensation on unfavorable defendant outcomes, I study impacts on convictions and guilty pleas on the defendant's highest original charge. In the same tables, I find that defendants were 4.4 percentage points (15.3%) more likely to be convicted on their highest original charge and 4.6 percentage points (16.8%) more likely to plea guilty on their highest original charge when their lawyer was paid under a flat fee structure. The results on convictions and guilty pleas on the defendant's highest original charge is consistent with lawyers exerting less effort in negotiating reduced charges and other favorable outcomes with the prosecutor during the plea bargaining process. Further, these results imply that the increase in convictions were primarily driven by guilty pleas, which account for 93% of convictions in the treated counties.

Table 9 reports results on two measures of favorable outcomes for defendants: (1) a case dismissal and (2) a reduction or dismissal of charges. My estimates suggest that after compensation for assigned counsel changes from an hourly to a flat fee basis, defendants were 4 percentage points (7.5%) less likely to have a case dismissed and 3.7 percentage points (5.3%) less likely to have charges dismissed or reduced. Finally, Table 10 reports results on incarcerations, the most severe punishment for a criminal offense. In my analysis, I find that defendants represented by a lawyer paid under a flat fee structure were 4.6 percentage points (36.5%) more likely to be incarcerated.

Figure 5 presents event study graphs for the outcomes studied in Tables 7 - 10. I construct these graphs by first estimating my event study specification in Equation (7) for each of the six defendant outcomes of interest, then plotting the estimated coefficients and 95% confidence intervals for interactions between the pilot county indicator and indicators for each half year. The graphs generally suggest that there are no significant differences in outcomes between the treated and control groups prior to the start of the pilot program, which provides additional supporting evidence for the validity of the parallel trends assumption. After the first treated period, the event study graphs show that case outcomes of indigent defendants diverged between the treated and control groups, suggesting that defendants were more likely to have unfavorable case outcomes when their lawyer was compensated under a flat fee structure.

Potential Mechanisms

Next, I discuss two potential mechanisms by which changing compensation for assigned counsel from an hourly to a flat fee basis may impact defendant outcomes. First, defendants may be more likely to have unfavorable outcomes because flat fee compensation discourages their lawyers from exerting effort on their case. As Equation (5) of the conceptual model suggests, lawyers have no financial incentive on the margin to exert effort on cases under flat fee compensation, and under the assumption that $0 < \theta < 1$, all lawyers will reduce effort to some degree. Second, I explore whether defendant outcomes could have been impacted by changes in the composition of lawyers that choose to accept indigent cases as assigned counsel.

5.4 Potential Mechanism #1: Intensive Margin Response on Effort

True lawyer effort in indigent cases is intangible and unobserved; as [Fama \(1991\)](#) notes, monitoring effort is difficult in professional services jobs such as legal work, where effort is mental and intellectual, and output is intangible. However, the setting of this paper and the detailed administrative data I obtained allow me to observe measures of lawyer behavior that are closely related to the effort they exert in each case. In my analysis, I focus on the following three proxies for lawyer effort: the hours that lawyers report working on each indigent case, the number of days between case assignment and disposition ("days to disposition"), and whether a lawyer disposed a case on the same day as the first meeting with the defendant.

First, I examine lawyers' reported hours on each case, as hours are a natural measure of effort, if they can be accurately recorded. Although assigned counsel in the treated counties were no longer paid under an hourly basis following the implementation of flat fees, IDS required that they continue to track and report hours in their fee applications to be compensated for each case. However, reporting bias in the data on lawyers' hours in each case is an important concern in this setting. I address these concerns in the discussion of my results on lawyers' reported hours below. I also examine the impact of the pilot program's implementation of flat fee compensation on other two proxies of effort that may be less subject to reporting bias. Days to disposition – defined as the number of days between the lawyer's first meeting with the defendant and case disposition – may reflect lawyer effort if switching from hourly to flat fee compensation reduced incentives for lawyers to spend time on each case, and if these effort responses manifested as lawyers choosing to spend less time on cases and resolve cases more quickly, such as through guilty pleas. The third proxy for effort – whether a lawyer disposes a case on the same day as the first meeting with the defendant – is closely related. Considering my results in Table 6, which suggest that

there was no change in case composition in the treated counties before and after the implementation of flat fees, observing lawyers disposing cases more quickly, and in particular, on the same day as their first meeting with the defendant, would provide supporting evidence that lawyers responded to the switch from hourly to flat fee compensation by reducing the time and effort they spent on indigent cases.

Tables 11 - 13 report difference-in-differences estimates for these three proxies for lawyer effort. First, Table 11 reports difference-in-differences results for the log of self-reported hours. My estimates suggest that switching from hourly pay to flat fees resulted in a 11.4% decline in the number of hours lawyers reported spending on indigent cases. As discussed in the previous paragraph, there is a concern that because lawyers self-report the hours they spend on each case, reporting bias may impact the interpretation of these results. For example, if lawyers are no longer paid under an hourly basis, they may have no incentive to accurately track and report the hours they work on each case. Another possibility is that lawyers may have an incentive to overestimate the time they spend on cases under hourly compensation, but no longer have an incentive to inflate hours under flat fee pay. Under this scenario, my main estimates of hours could be driven by changes in reporting behavior rather than changes in effort.

I provide both descriptive and empirical supporting evidence that it is unlikely that lawyers are behaving in the ways described above that may impact the interpretation of my results. In the 2019 IDS report on effective pay rates for assigned counsel, discussed in Section 2.5 above, the author argues that the popular belief – that many lawyers representing indigent defendants as assigned counsel over-bill for their time on each case – is unlikely.³⁸ Conversely, lawyers experience pressure to under-report the hours they work on indigent cases. While North Carolina does not have a cap on compensation for assigned counsel in each case, judges can exercise discretion over attorney fees; over 15% of lawyers surveyed for the report indicated that judges cut their compensation for at least one fee application for month, and the average reduction of hours submitted in these instances was nearly 4. Further, lawyers surveyed for the report indicate that having their reported hours reduced by judges in open court can be a humiliating experience. To avoid these events, over 46% of lawyers surveyed for the report indicated that the hours they submitted for their fee applications were less than the hours they actually worked. Although the true effort and hours that lawyers spend on indigent cases is unobservable, the survey results and description of the culture of indigent defense in the state provides suggestive evidence that lawyers are unlikely to be overstating their time on each case under hourly pay.

Next, I address the possibility of another source of reporting bias in hours: when lawyers accepting indigent cases under the flat fee pilot program are no longer paid under an hourly basis, they may no

³⁸See, "FY19 Private Appointed Counsel (PAC), Effective Pay Rate Study" (March 2019) at <https://www.ncids.org/wp-content/uploads/2021/05/FY19-Effective-Pay-Rate-Overhead-Report-1.pdf>

longer have an incentive to accurately report their hours. I assess this by studying changes in how lawyers report hours, particularly whether lawyers are more or less likely to report their hours as whole or to the nearest half. Although not a precise measure of the accuracy of lawyers' reported hours, the rationale is that if lawyers (who are required to track time in six-minute increments) are no longer paid according to time under flat fees, they may have fewer incentives to closely track time, and may be more likely to estimate hours on their fee applications as a whole number or a number round to the nearest half. I estimate my main difference-in-differences and event study specifications of Equations (6) and (7) using one of two indicators as the dependent variable: whether a lawyer reports hours on a case as a whole number, and whether a lawyer reports hours on a case as either a whole number or to the nearest half. Table A1 reports the results of this analysis, and Figure A1 graphs the estimated coefficients and 95% confidence intervals from the event study specification. The difference-in-differences estimates suggest that following the implementation of flat fees in the pilot program, lawyers were 19 percentage points *less* likely to report hours on a case as a whole number, a 35.3% reduction from the pre-period mean. Similarly, following the implementation of flat fee compensation, lawyers were 19 percentage points (25%) less likely to report their hours on a case as a whole number or to the nearest half number. The event study graph suggest that while reporting behavior of lawyers between the treatment and control groups was minimal during the pre-period, these trends diverged strongly during the post-period, with lawyers in the treated counties following the implementation of flat fees being significantly less likely to report their hours on a case as either whole numbers or rounded to the nearest half. These results relate to the discussion in the previous paragraph; one potential interpretation is that lawyers in the treated counties were actually *more* likely to report their hours accurately, as judges no longer had a need to reduce the hours in lawyers' fee applications, nor did lawyers face pressure to reduce the hours they reported to avoid this event.

Taken together, these finding suggest that my results for lawyers' reported hours do reflect, at least in part, that following the implementation of flat fees, lawyers in the treated counties responded by reducing the amount of effort they supplied to indigent cases. Next, I examine two other proxies for lawyer effort that may be less subject to reporting bias. Table 12 reports difference-in-differences results for the log of days to disposition. My estimates suggest that following the implementation of flat fee compensation, lawyers in the treated counties on avearge disposed cases 24.5% sooner, equivalent to a reduction of about 27 days. Finally Table 13 reports results on the probability of disposing a case on the date of the lawyer's first meeting with the defendant. My estimates suggest that following the implementation of flat fees, lawyers in the treated counties were 4.3 percentage points (35.8%) more likely to dispose a case on the same day as their first meeting with the defendant. Considering my results in Tables 4 – 6, which suggest that there was no change in case composition in the treated counties before and after the start of the

pilot program, my results examining these last two outcomes provide additional evidence that lawyers responded to the switch from hourly to flat fee compensation by reducing their effort in indigent cases.

Figure 6 presents event study graphs for the outcomes studied in Tables 11 - 13. Similar to the previous set of event study graphs, I calculate estimates of my event study specification in Equation (7) for these three outcomes, then plot the estimated coefficients and 95% confidence intervals for interactions between the pilot county indicator and indicators for each half year. For all three outcomes, the event study graphs suggest that there are no differences in outcomes between the treated and control groups prior to the start of the pilot program. However, starting in the first treated period, the graphs suggest that measures of lawyer effort strongly diverged between the treated and control groups. The graphs suggest that lawyers on average spent less time on indigent cases, disposed of indigent cases more quickly, and were more likely to dispose a case on the same day as their first meeting with the defendant.

These results suggest that lawyers reduce their effort on each indigent case when compensation is a flat fee instead of an hourly rate. I also explore whether lawyers responded by increasing the number of cases accepted – another margin that lawyers may optimize on under flat fee compensation. To do this, I construct a balanced panel by limiting my dataset to lawyers who accepted indigent cases in more than half of the quarters in both the pre-and post-periods, count the number of quarterly indigent cases a lawyer accepted in a given county by collapsing the data to the lawyer-county-quarter level, and estimate Equation (6) on this collapsed dataset, using the log of quarterly cases accepted as the dependent variable. Table 14 summarizes the results of this regression. While the estimate suggests that following treatment, lawyers increased the number of quarterly indigent cases they accepted by 16.7%, it is not statistically different from zero. Any change in the number of indigent cases that lawyers choose to accept would also depend on (1) changes in the number of criminal cases in a given county and (2) the number of lawyers in a given county who are on the indigent appointment list. I explore the first point in Table (5), which suggests that there was no change in the number of indigent criminal cases in the treated counties before and after the implementation of the pilot program. On the other hand, the number of lawyers on an appointment list could change if the switch from hourly to flat fee pay affected the composition of lawyers who choosing to accept indigent cases as assigned counsel; I explore this possibility in my analysis of lawyer selection below.

5.5 Potential Mechanism #2: Selection of Lawyers on the Extensive Margin

Next, I examine whether switching from hourly to flat fee pay changed the composition of lawyers choosing to accept indigent criminal cases. Tables 15 summarizes difference-in-differences estimates from

an analysis studying the probability that lawyers accept indigent cases as assigned counsel in District Court. To construct the dataset for this analysis, I collapse my data to the lawyer-county-quarter level, and further limit the data to lawyers who accepted indigent cases in a given county for more than half of the quarters in the pre-period. I analyze three sets of lawyers. First, I focus on all lawyers who accepted indigent cases in District Court (in addition to the limitations above); while the estimate is negative, it is small in magnitude and not statistically different from zero. The next subset of lawyers I examine are those with good outside options in the form of consistent private casework, defined as having new private casework for more than half of the quarters over the entire sample period. The results of this analysis suggest that lawyers within this category in the treated counties are 9 percentage points more likely to leave the indigent appointment list following the start of the pilot program. Finally, I examine a subset of lawyers who have no consistent private casework. The estimated coefficient for this subset of lawyers is negative, but not statistically different from zero.

Table 16 reports difference-in-differences estimates from an analysis studying changes in lawyer composition at the county level. In the first column, I examine the number of lawyers accepting indigent cases as assigned counsel. The estimated coefficient from this analysis is negative, suggesting that fewer lawyers chose to accept indigent cases under flat fees, but it is not statistically different from zero. In the second column, I examine the average years of experience among all lawyers accepting indigent cases as assigned counsel. The estimated coefficient from this regression is negative, but not statistically different from zero.

Overall, I interpret these results as suggesting that while one subset of lawyers – those with outside options in the form of consistent new private casework – are more likely to exit the appointment lists under flat fees, there is no significant change in the number or composition of lawyers that choose to accept indigent cases under flat fee compensation in this specific setting.

5.6 Heterogeneity

In the previous section, I presented evidence suggesting that switching from hourly to flat fee compensation for assigned counsel resulted in a higher probability of adverse outcomes for defendant outcomes, and that these effects were primarily driven by reductions in lawyer effort. In this section, I use the individual-level lawyer and defendant information in my data to explore heterogeneity in these results across lawyer gender, defendant gender, and defendant race. To do this, I estimate Equation (6) separately for each group within these three categories. The results from this heterogeneity analysis are reported in Tables A3 – A29 and summarized in Figures 7 – 8, which plot the point estimates and their 95% confidence intervals for each outcome variable and specification. For each graph, the specification associated with

each result is labeled on the y-axis, values for the outcome of interest are labeled on the x-axis, and the red vertical line denotes the value of zero on the x-axis. The first specification plotted at the top of each graph is the point estimate and 95% confidence interval (dashed line) from the estimation of Equation (6) in my main result. Below the main result are the point estimates and confidence intervals for the results by lawyer gender, defendant gender, and defendant race.

There are some noteworthy patterns from this heterogeneity analysis. First, although the confidence intervals on the results for defendant outcomes by lawyer gender largely, the point estimates suggest that indigent defendants represented by female lawyers are less likely to have unfavorable outcomes than those represented by male lawyers. In addition, unlike male lawyers, female lawyers respond substantially less in their measures of effort following the switch to flat fee compensation in the pilot program. Specifically, while male lawyers reduced reported hours per case by 13.9%, disposed cases 34% sooner on average, and were 42% more likely to dispose a case on the same day as the first meeting with the defendant, the effort response by female lawyers were close to and not statistically different from zero for all three outcomes. Relating these observations to Equation (1) of my conceptual framework, the results may suggest that female lawyers are on average more prosocially motivated than male lawyers.

Second, the results suggest that male defendants are more likely than their female counterparts to have adverse outcomes across nearly all outcomes when their court-appointed attorney is paid under flat fees rather than an hourly rate. Male defendants were 12% more likely to be convicted, 17.9% more likely to be convicted on their highest original charge, 13.4% more likely to plea guilty, 19.6% more likely to plea guilty on their highest original charge, 6.9% less likely to have charges dismissed or reduced, and 41% more likely to be incarcerated. On the other hand, female defendants are 7.5% more likely to be convicted, 9.9% more likely to be convicted on their highest original charge, 8.7% more likely to plea guilty, 11.6% more likely to plea guilty on their highest original charge, 2.7% less likely to have charges dismissed or reduced, and 26.6% more likely to be incarcerated. While the confidence intervals for the estimates of lawyer effort largely overlap, the point estimates suggest that lawyers assigned to a male defendant disposed cases more quickly and are more likely to dispose a case on the same day as their first meeting with the defendants. Relating these observations to Equation (1) of my conceptual framework, the results may suggest that lawyers may have different values of θ depending on the gender of the defendant they are assigned to, and that on average, lawyers may be more prosocially motivated when representing a female client compared to a male client.

Finally, I study heterogeneity of results by defendant race. To do this, I categorize defendants into two groups – white defendants and minority (non-white) defendants.³⁹ I find substantial differences

³⁹About 87% of minority defendants in my sample are African-American.

between white and minorities for certain outcomes. On one hand, confidence intervals of the estimates for conviction and guilty pleas largely overlap, through the point estimates suggest that minority defendants experience higher rates of conviction and guilty pleas following the change to flat fee compensation. However, I find that minority defendants have substantially worse outcomes for the most unfavorable outcomes, with a 23.4% increase in convictions on the highest original charge, a 25% increase in guilty pleas on the highest original charge, a 7% reduction in charges dismissals and reductions, and a 41.8% increase in the probability of incarceration. In comparison, white defendants are 11.9% more likely to be convicted on their highest original charge, 4.3% less likely to have charges dismissed or reduced, and 13.4% more likely to plea guilty to the highest original charge, and 32.8% more likely to be incarcerated. With respect to effort, I find evidence suggesting that lawyers are also less likely to exert effort on indigent cases involving minority defendants. While the confidence intervals for the estimate of hours largely overlaps between the two groups, I find that for minority defendants, lawyers are dispose cases 33% sooner on average and are 47% more likely to dispose a case at the day of the first meeting. These results stand in contrast to those representing white defendants who dispose cases 23% sooner on average and are 32.3% more likely to disposed a case at the day of the first meeting. Relating these observations to Equation (1) of my conceptual framework, the results may suggest that lawyers may have different values of θ depending on the ethnicity of the defendant they are assigned to, and that on average, lawyers may be more prosocially motivated when representing white clients compared to minority clients.

5.7 Robustness

Next, I assess whether my main results are sensitive to different empirical specifications or limiting the data to different subsamples. The results of my sensitivity analysis are reported in Tables A30 - A38 and summarized in Figures 9 – 10, which plot the estimated coefficients and their 95% confidence intervals for each specification. Similar to the graphical summaries of the heterogeneity analysis in the previous section, the estimate and 95% confidence interval from my main results are at the top of each graph, and below them are the estimates and confidence intervals for each alternative specification.

I examine the following alternative specifications. First, I estimate my main specification in Equation (6), but including (1) only county and month-year fixed effects and (2) only lawyer and month-year fixed effects. Next, I replace the county and lawyer fixed effects of Equation (6) with lawyer-by-county fixed effects, which provide a more flexible specification that allows lawyers to be treated differently for each county they accept indigent criminal cases in. Next, I estimate Equation (6), but limiting the data to certain sub-samples. First, I limit my sample to the 50 counties in North Carolina that only contracted

with assigned counsel for the provision of indigent defense under hourly pay during the pre- and/or post-treatment period, similar to the six treated counties. Next, I estimate Equation (6) using a balanced panel, in which I keep only the lawyers who accepted indigent cases at a given county during the majority of quarters in *both* the pre-period and the post period. This addresses a potential concern that there may be selective attrition of assigned counsel following the switch from hourly to flat fee pay, which could potentially bias my main results on defendant outcomes and lawyer effort. Finally, I run an intent-to-treat (ITT) analysis in which I estimate Equation (6), but include in the dataset cases in the treated counties in which lawyers petitioned with the judge to continue being paid at an hourly rate; these account for 13% of the observations in the treated counties during the treatment period.

The results of my sensitivity analysis, reported in Tables A30 - A38 and summarized in Figures 9 – 10, show that my main results are robust to these alternative specifications, and that the estimates and confidence intervals from the results using these alternative specifications largely overlap with those from my main results.

5.8 Randomization Inference

Finally, I address concerns about inference with a small number of treated groups by implementing a variant of Fisher's randomization test (Fisher (1935)) similar to Buchmueller et al. (2011) and Cunningham and Shah (2018). I implement this test as follows. First, I construct placebo groups; for each placebo group, I randomly select 6 (the number of treated counties in my setting) of the 80 total counties in my sample, and repeat this step 1,000 times to generate 1,000 placebo groups.⁴⁰ Let $g \in [1, 1,000]$ index each placebo group, and denote $Placebo_c^g$ as an indicator variable for whether county c is in placebo group g). For each g , I estimate the following variant of Equation (6):

$$Y_{iclt} = \beta_g(Placebo_c^g \times Post_t) + X_i + \alpha_c + \lambda_\ell + \tau_t + \epsilon_{iclt} \quad (8)$$

Finally, for each outcome of interest, I compare the estimates from my main difference in-differences results with the 1,000 placebo estimates. In this procedure, I effectively assume that the 1,000 placebo estimates represent the sampling distribution for my main estimates, and calculate exact p-values for my main results as its percentile rank within the placebo distribution. Therefore, with 1,000 placebo estimates, achieving significance at the 10%, 5%, and 1% levels requires that the estimates from my main results be ranked within the top 100, 20, and 10 (respectively) in the distribution of placebo estimates β_g .

⁴⁰It is infeasible to calculate the test statistic for all possible combinations. Specifically, there are $\binom{80}{6} = 300,500,200$ possible combinations of 6 counties among the 80 in my sample. In their simulation exercise, Imbens and Rubin (2015) find that exact p-values calculated from 1,000 simulations converges to that of 1,000,000 simulations.

Tables 17 – 18 report results from this randomization inference procedure, and which summarized in Figures 11 – 12. In these figures, each graph plots a histogram of the placebo distribution, along with red vertical dashed lines that denote the 5% and 95% percentiles of this distribution and one solid vertical black line that denotes the estimate of β from my main results for a given outcome of interest.

For defendant outcomes Figure 11, my main results are close to the tail end of the placebo distribution, either above the 95th percentile or below the 5th percentile. In particular, my main estimates for the most unfavorable outcomes – conviction / guilty plea on the highest original charge and incarceration – achieve significance at either the 1% or 5% levels, while all outcomes of interest achieve at least 10% significance. I observe similar patterns for my results on proxies for lawyer effort. In Figure 12, my ain results are close to the tail end of the placebo distribution for all three outcomes. Further, all three proxies for lawyer effort achieve significance at either the 1% or 5% levels. Overall, I find that my results for both defendant outcomes and lawyer effort are robust to this randomization inference procedure.

6 Costs from Implementing Flat Fee Compensation

In the final portion of my analysis, I consider the costs to society in this setting from changing compensation for assigned counsel from an hourly to a flat fee basis. A standard cost-benefit analysis is difficult to perform in this setting because some important variables, such as each defendant’s true level of culpability, are unobservable. As a result, I turn my attention toward two ways in which the pilot program may have impacted spending on criminal justice in North Carolina. First, I examine whether the flat fee pilot program achieved the state’s legislature’s goal of reducing county-level spending on indigent defense. Second, based on my findings in Section 5, I estimate the change in criminal justice spending associated with increased incarcerations following the implementation of flat fee compensation.

First, I assess whether implementing flat fee compensation for assigned counsel impacted county-level spending on indigent defense. Figure A2 graphs raw plots of average county-level spending on indigent defense by half year; the left panel considers indigent defense spending on all types of cases, while the right panel considers indigent defense spending on cases in District Court. Both graphs in the figure suggest that trends are similar in both the treated and control counties. I also collapse my dataset to calculate total county-level indigent defense spending by month and run a difference-in-differences regression that estimates within-county changes in spending before and after the start of the flat fee pilot program. Table A2 reports the results of this regression, which I run for (1) indigent defense spending on all cases and (2) indigent defense spending on District Court cases. The estimated coefficients are not statistically different from zero; the estimate for District Court cases, to which the pilot program applied,

is positive. Together, I interpret the results of these analyses to suggest that implementing flat fees in the pilot program did not impact county-level spending on indigent defense.

Finally, I estimate the costs associated with an increase in incarcerations following the implementation of flat fee compensation for assigned counsel. Table 19 summarizes (1) the estimated costs to the treated counties from additional incarcerations following the implementation of flat fees and (2) my estimate of these costs in the event flat fees were implemented statewide. This analysis proceeds as follows. In the first row, I start with the observation that there were 1,402 incarcerations in the treated counties during the pre-period, or an average of 580 per year over this period. In the second row, I report my main estimates on incarceration from Table 10, which finds that the implementation of flat fees was associated with a 36.5% increase in the probability of incarceration. Using information from the first two rows, I estimate in the third row that there were about 211 additional incarcerations per year following the implementation of flat fees. In addition, I report the Pew Charitable Trust's estimation that the average annual cost of keeping one person in jail is \$33,922. In the fourth row, I use the information in the third row to estimate the costs of additional incarcerations in the treated counties for 3 different sentence lengths: \$7.2 million per year (assuming a 1-year sentence), \$0.6 million per year (assuming a 1-month sentence), and \$19,684 per year (assuming a 1-day sentence).

In the last row, I estimate what the costs of additional costs would have been if flat fee compensation for assigned counsel were implemented statewide. I start with the observation that there were 10,494 total incarcerations among all counties with assigned counsel systems during the pre-period, or 4,342 per year, and using my estimates from Table 10, I estimate that the implementation of flat fee compensation for assigned counsel statewide would have resulted in an additional 1,585 incarcerations per year. Similar to the exercise in the fourth row, I estimate the annual cost of these additional statewide incarcerations for three different sentence lengths: \$53.8 million (assuming a 1-year sentence), \$4.5 million (assuming a 1-month sentence), and \$147,333 (assuming a 1-day sentence).

Taken together, I find that implementing while flat fee compensation for assigned counsel did not reduce indigent defense spending, it can potentially generate large costs to counties through an increase in the number of defendants that are incarcerated. It is worth noting that this analysis does not consider other costs to society that an increase in convictions may create, such as community supervision for the additional convictions that did not result in incarceration, a potential increase in indigent defense spending from appeals in Superior Court due to poor representation in District Court, and various effects of incarceration on defendants, such as the loss of a job and forgone earnings.

7 Conclusion

The Sixth Amendment of the U.S. Constitution grants the right to counsel for individuals facing criminal charges that could result in imprisonment the right to legal counsel. The majority of criminal defendants in the United States are in poverty and receive publicly financed legal counsel from court-appointed attorneys, who are often contractors with local governments in many jurisdictions across the country. In light of concerns about shortcomings of indigent defense, a significant policy question of interest is whether compensation structures for court-appointed attorneys working as contractors have contributed to disparate outcomes along economic and ethnic lines in the criminal justice system by discouraging lawyer effort in indigent cases and thereby undermining the right to counsel guaranteed to those in poverty under the Sixth Amendment.

In this paper, I study whether compensating indigent defense lawyers according to an hourly rate or a flat fee – the two main compensation structures for criminal defense lawyers – can impact the quality of legal representation that indigent defendants receive. I studying a natural experiment in North Carolina, in which six counties were mandated to change compensation for assigned counsel from an hourly rate to a flat fee basis, while other counties remained under hourly pay during the entire sample period. Using a difference-in-differences strategy comparing within-county differences in case outcomes before and after the implementation of flat fee compensation in the pilot program, I find evidence that defendants represented by lawyers paid under a flat fee structure experienced large increases in the probability of an unfavorable outcome, particularly conviction on the highest original charge and incarceration. Further, I find evidence that these results are primarily driven by lawyers responding to switch from hourly to flat fee composition by exerting less effort on the indigent cases they are assigned to.

Public service is a strong motivation for many lawyers who choose to contract with jurisdictions and accept indigent cases as assigned counsel. However, this paper provides supporting evidence that when contracting for the provision of indigent defense, incentives – rather than professional obligation or prosocial motivation alone – are critical to providing the effective representation that is necessary to fulfill defendants' right to counsel under the Sixth Amendment. This supports the postulation by Carrington (1979) that prosocial motivation is not enough to encourage the zealous representation that lawyers are professionally obligated to provide for their clients, and that if zealous representation is not rewarded, then lawyers will have no incentive to supply it. Two separate but related questions that are not addressed in this paper are whether the amount of compensation impacts defendant outcomes and lawyer effort in indigent cases and, more generally, what the optimal methods for compensating court-appointed counsel are. These open questions are important areas for future research.

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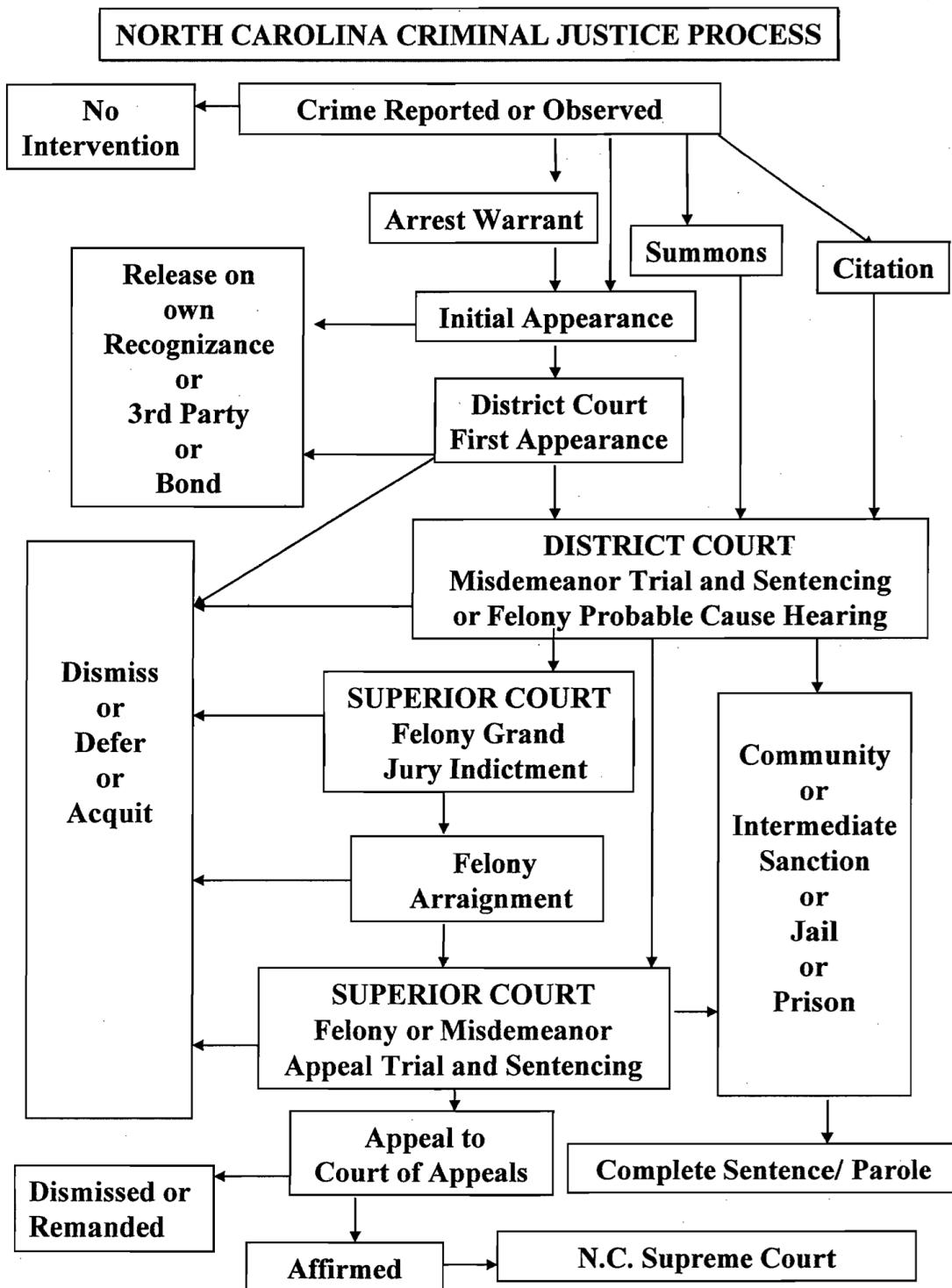
Yotam Shem-Tov. Make-or-Buy? The Provision of Indigent Defense Services in the U.S. *Forthcoming, The Review of Economics and Statistics*, 2020.

Table 1: Statewide Hourly Rates for Assigned Counsel in North Carolina

Case Type	Hourly Rate
Class A-D Felonies	\$75
Class E-I Felonies	\$60
All Other Cases	\$55

Source: North Carolina Office of Indigent Defense Services.

Figure 1: North Carolina Criminal Justice Roadmap



Source: North Carolina Judicial Branch. https://www.nccourts.gov/assets/inline-files/03_NC_Criminal_Justice_Process.pdf?DcpFTckMkxaqDBGdyhF.oi6FUf73bUUc.

Figure 2: North Carolina: Indigent Defense Systems, by County

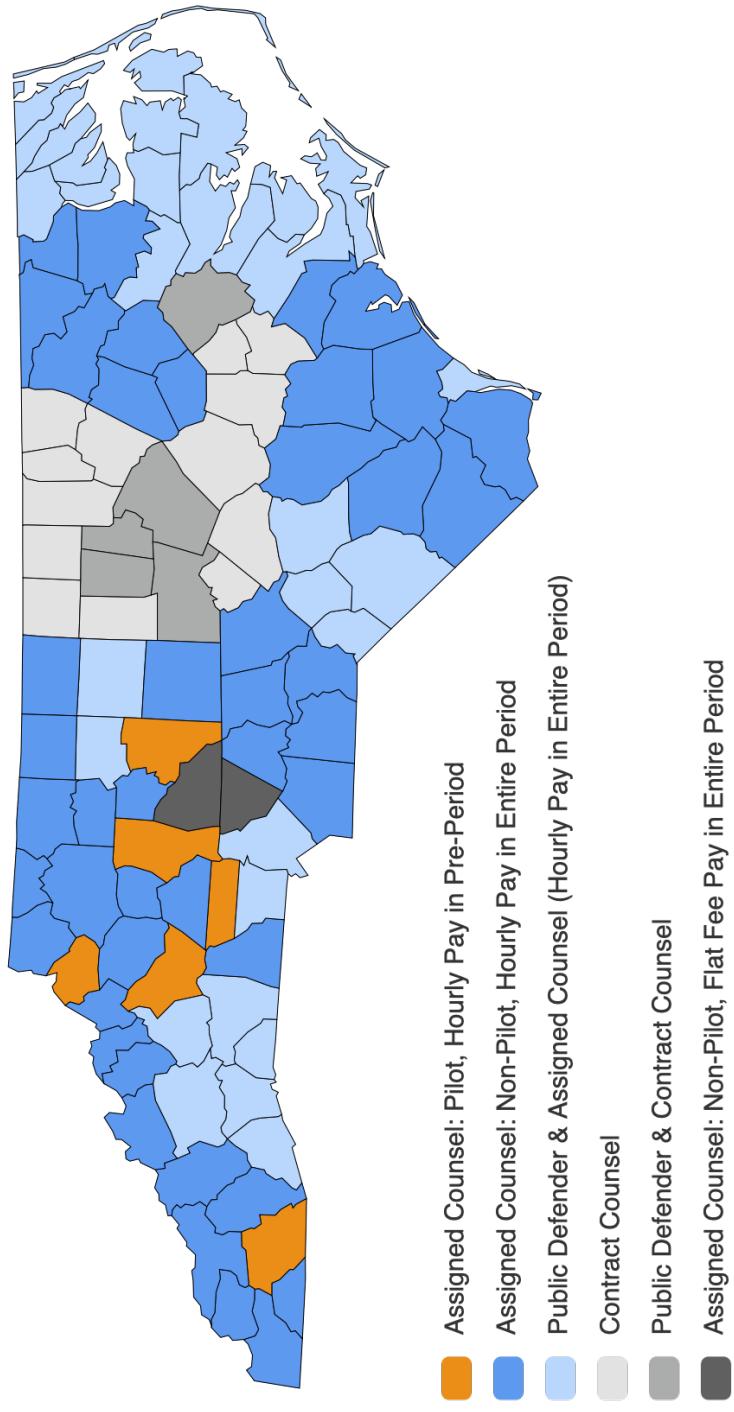
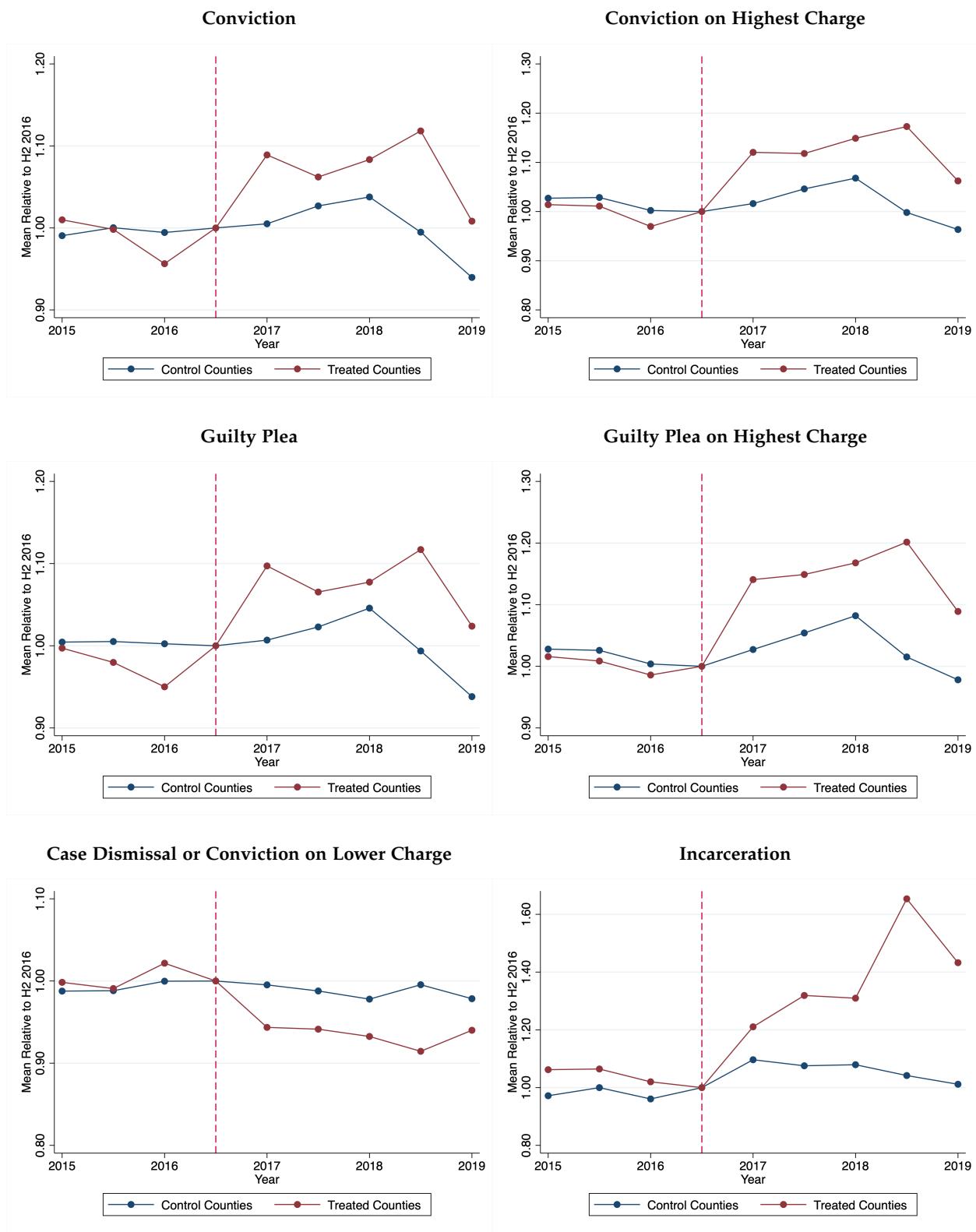
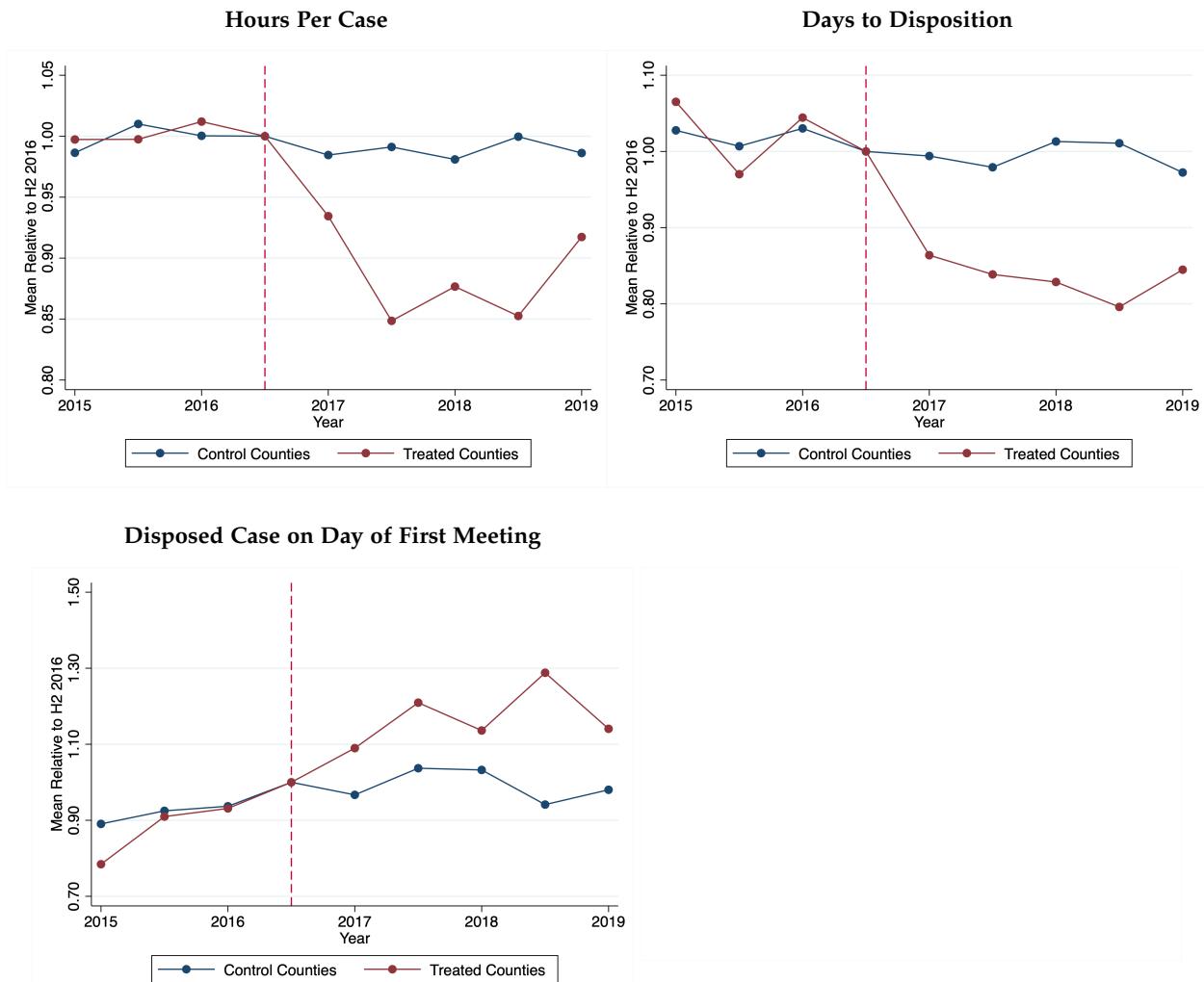


Figure 3: Raw Plots: Defendant Outcomes



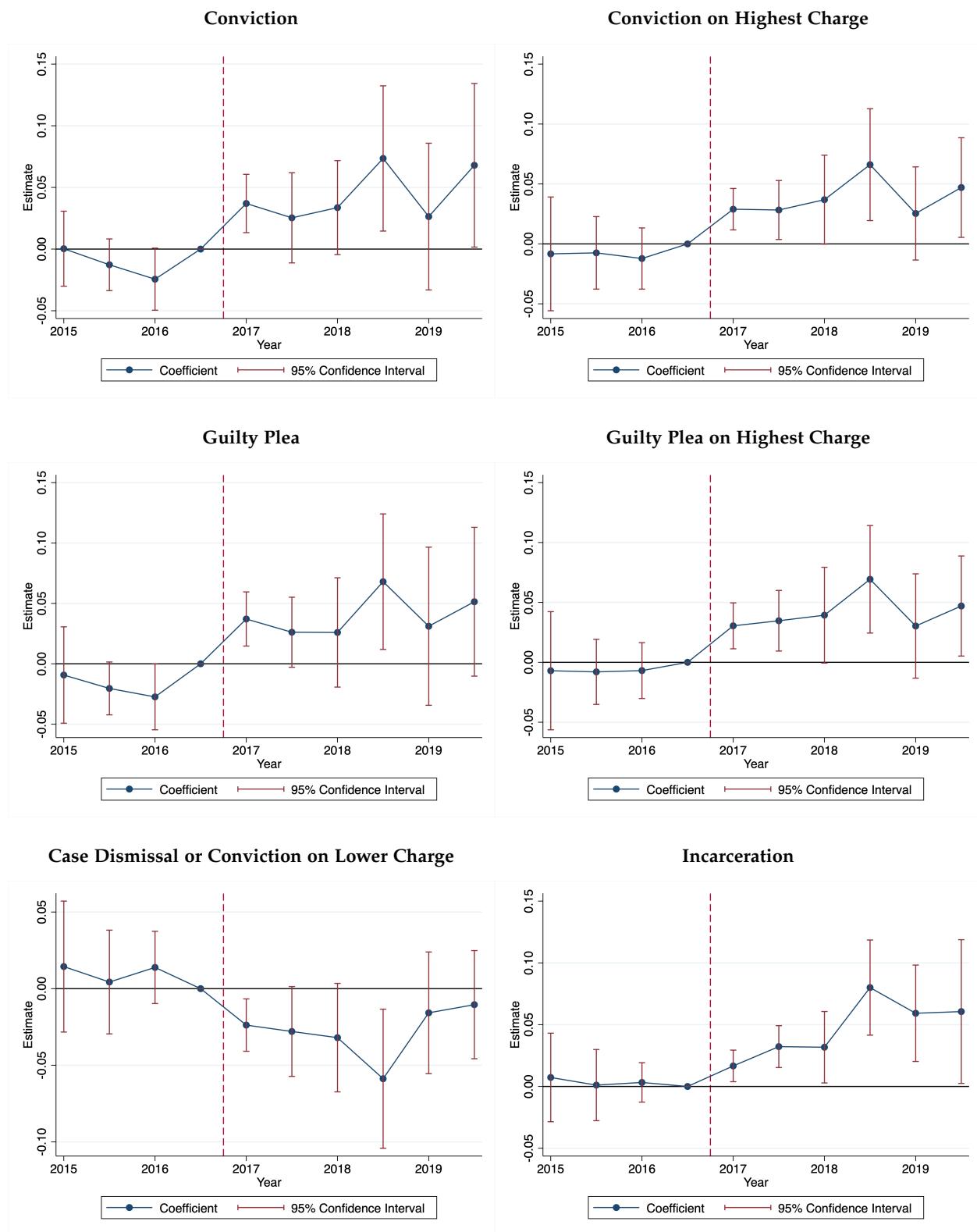
Source: North Carolina Administrative Data, 2015 – 2019

Figure 4: Raw Plots: Measures of Attorney Effort



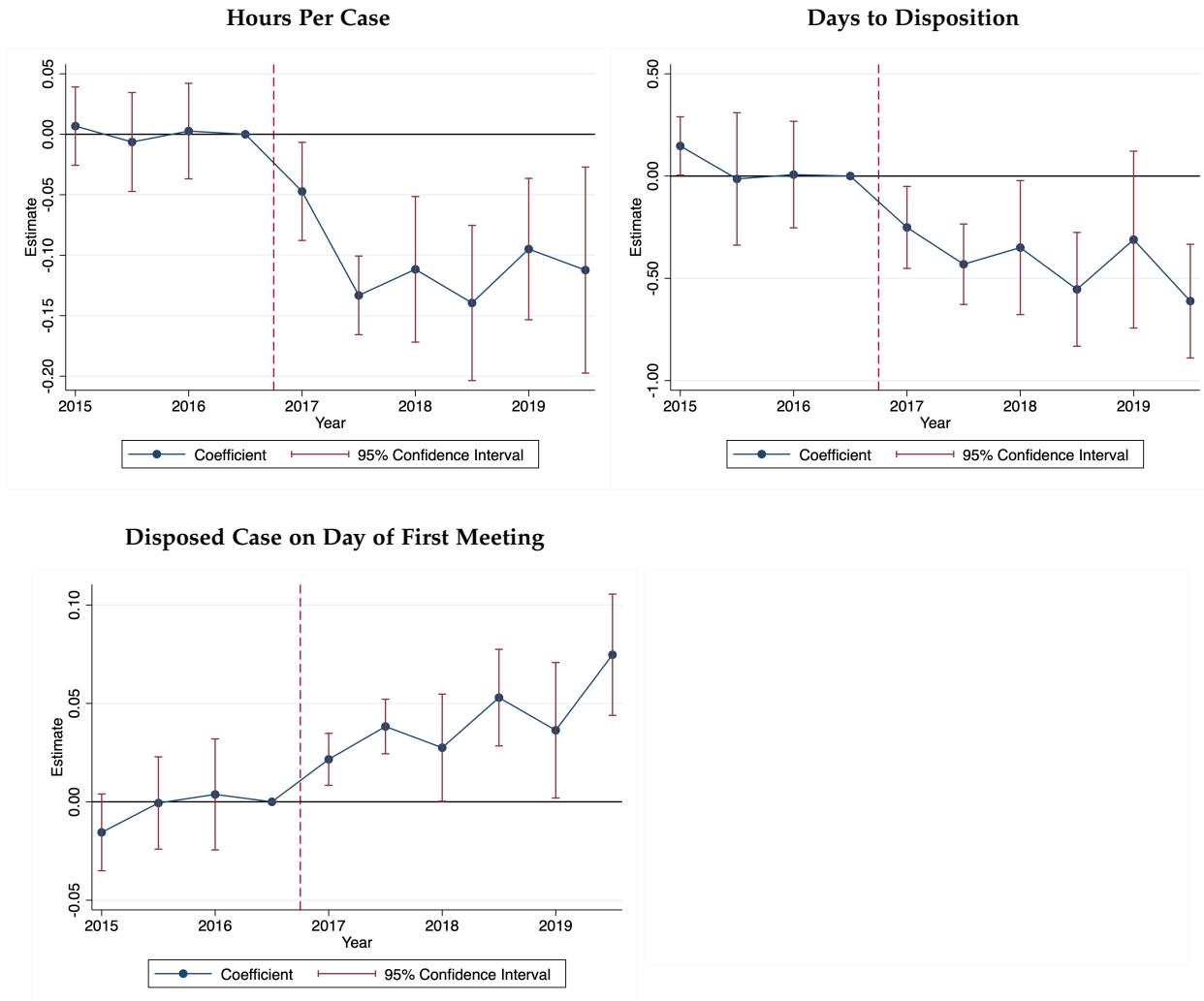
Source: North Carolina Administrative Data, 2015 – 2019

Figure 5: Event Study: Defendant Outcomes



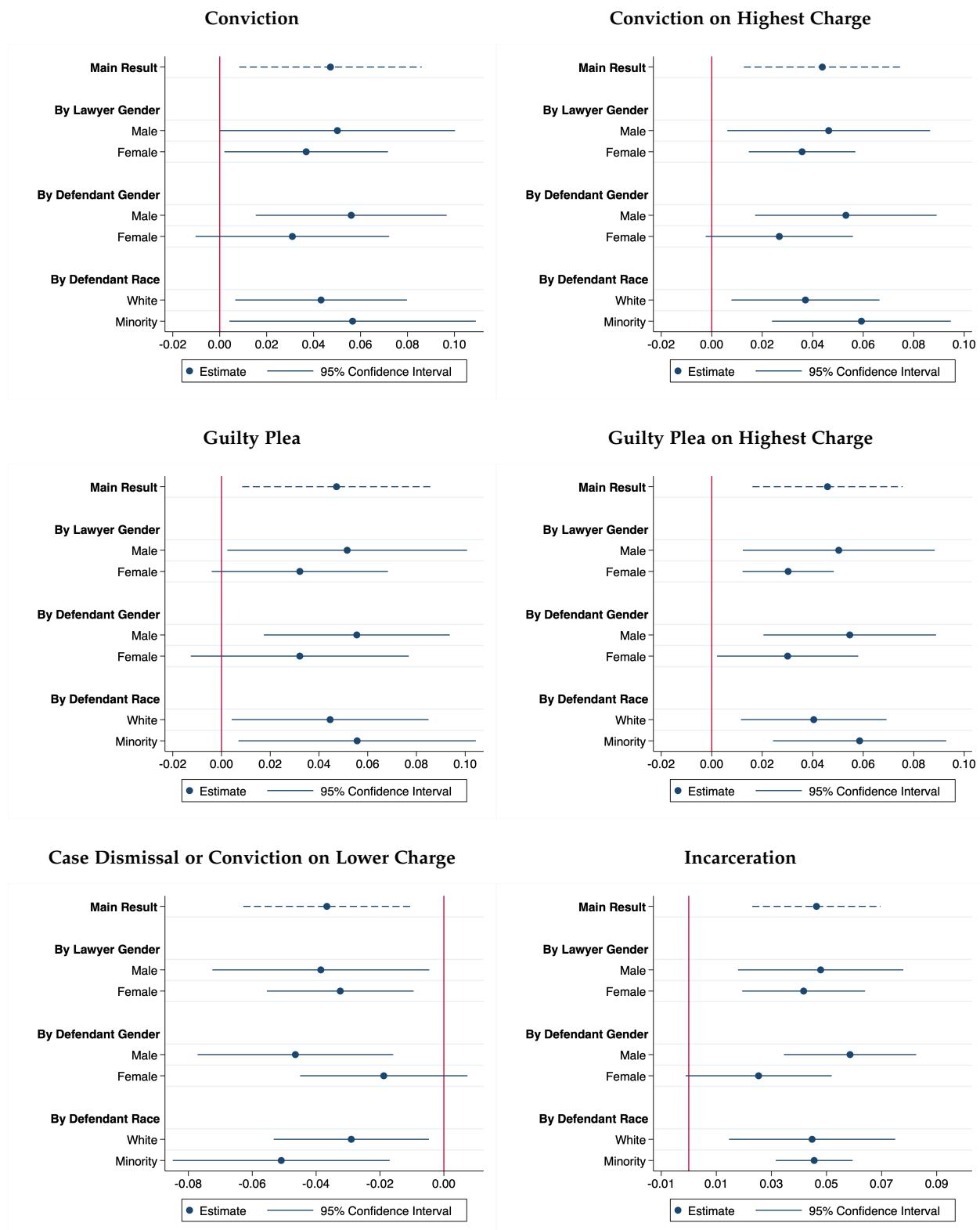
Source: North Carolina Administrative Data, 2015 – 2019

Figure 6: Event Study: Measures of Attorney Effort



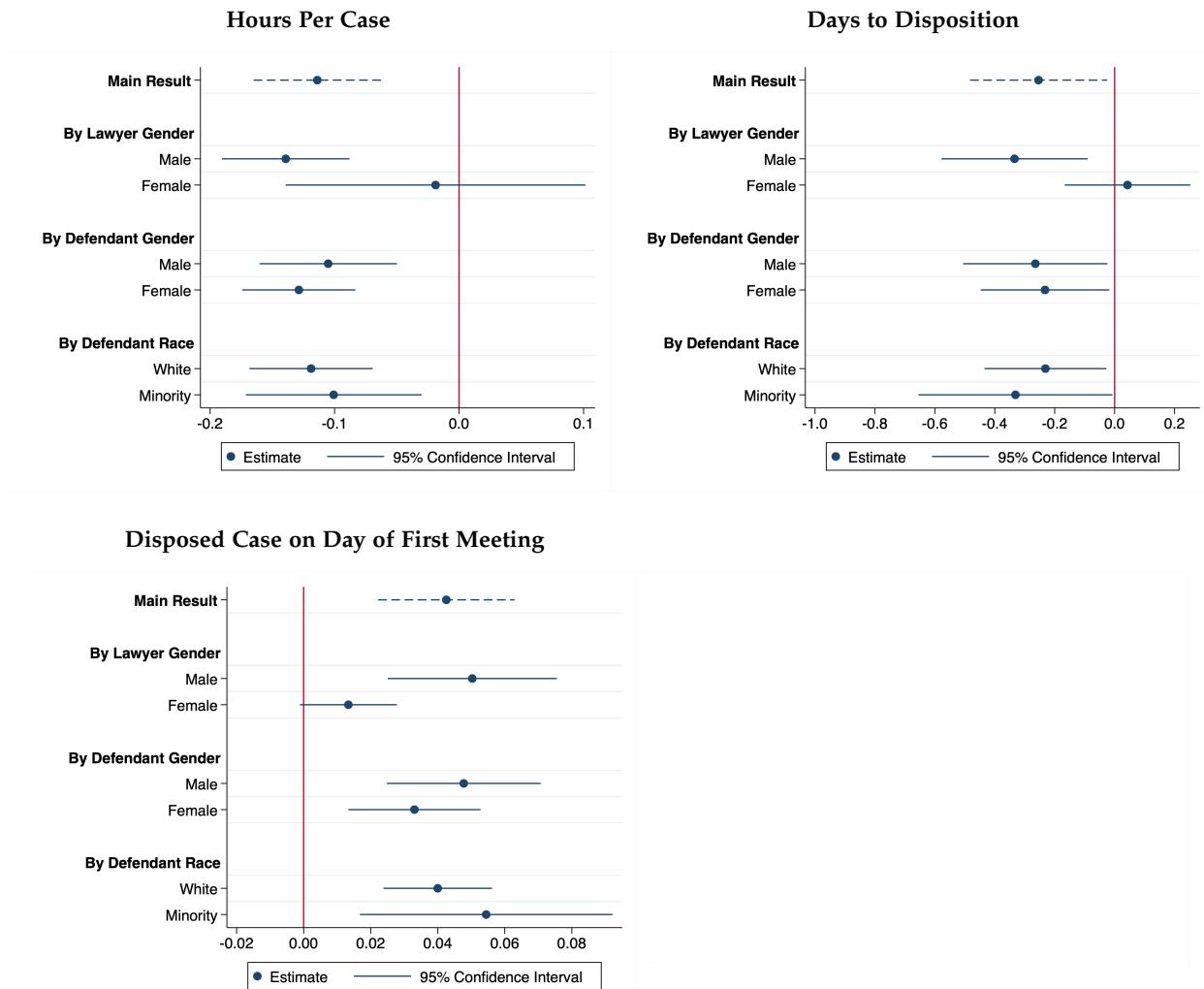
Source: North Carolina Administrative Data, 2015 – 2019

Figure 7: Heterogeneity Analysis: Defendant Outcomes



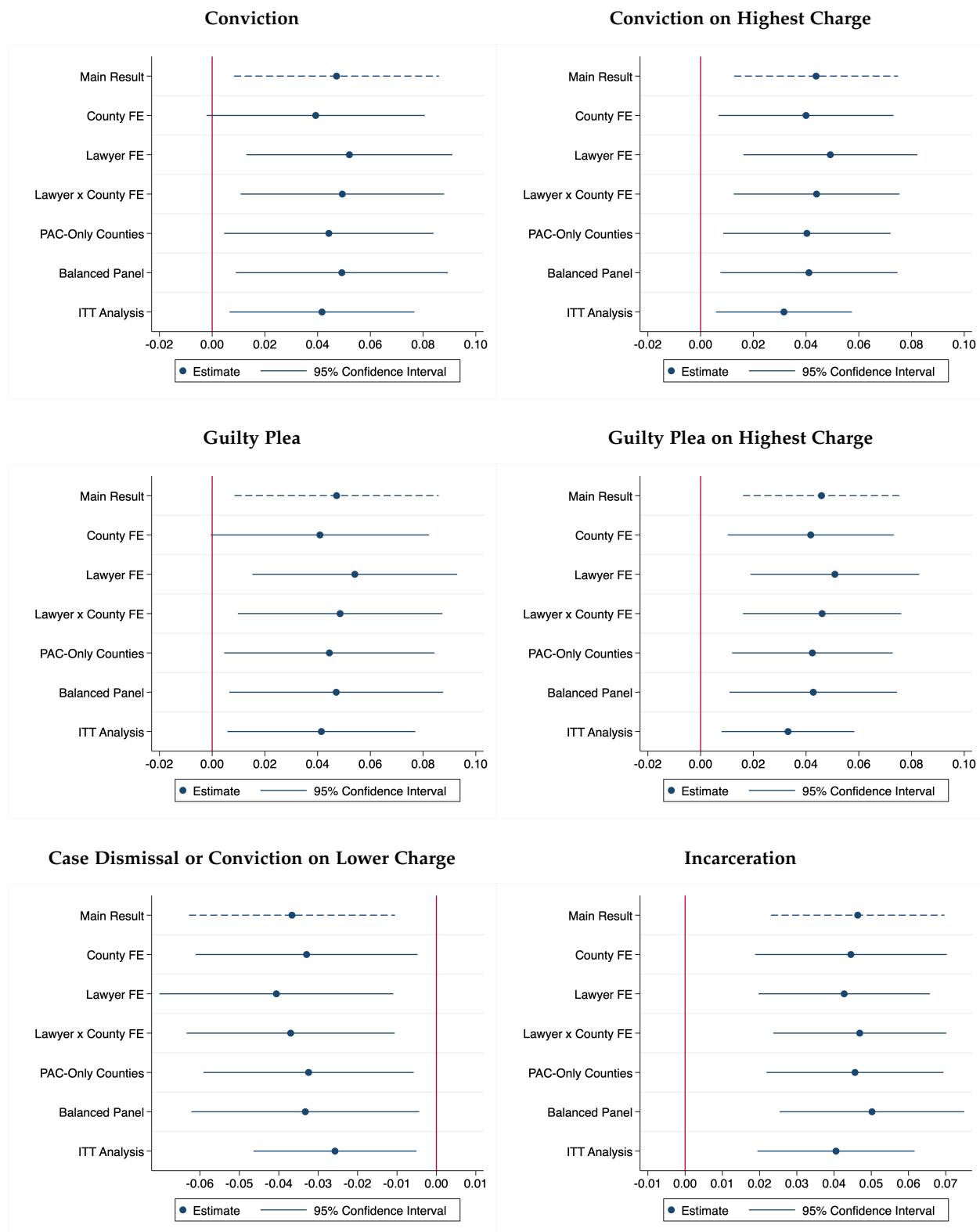
Source: North Carolina Administrative Data, 2015 – 2019

Figure 8: Heterogeneity Analysis: Measures of Attorney Effort



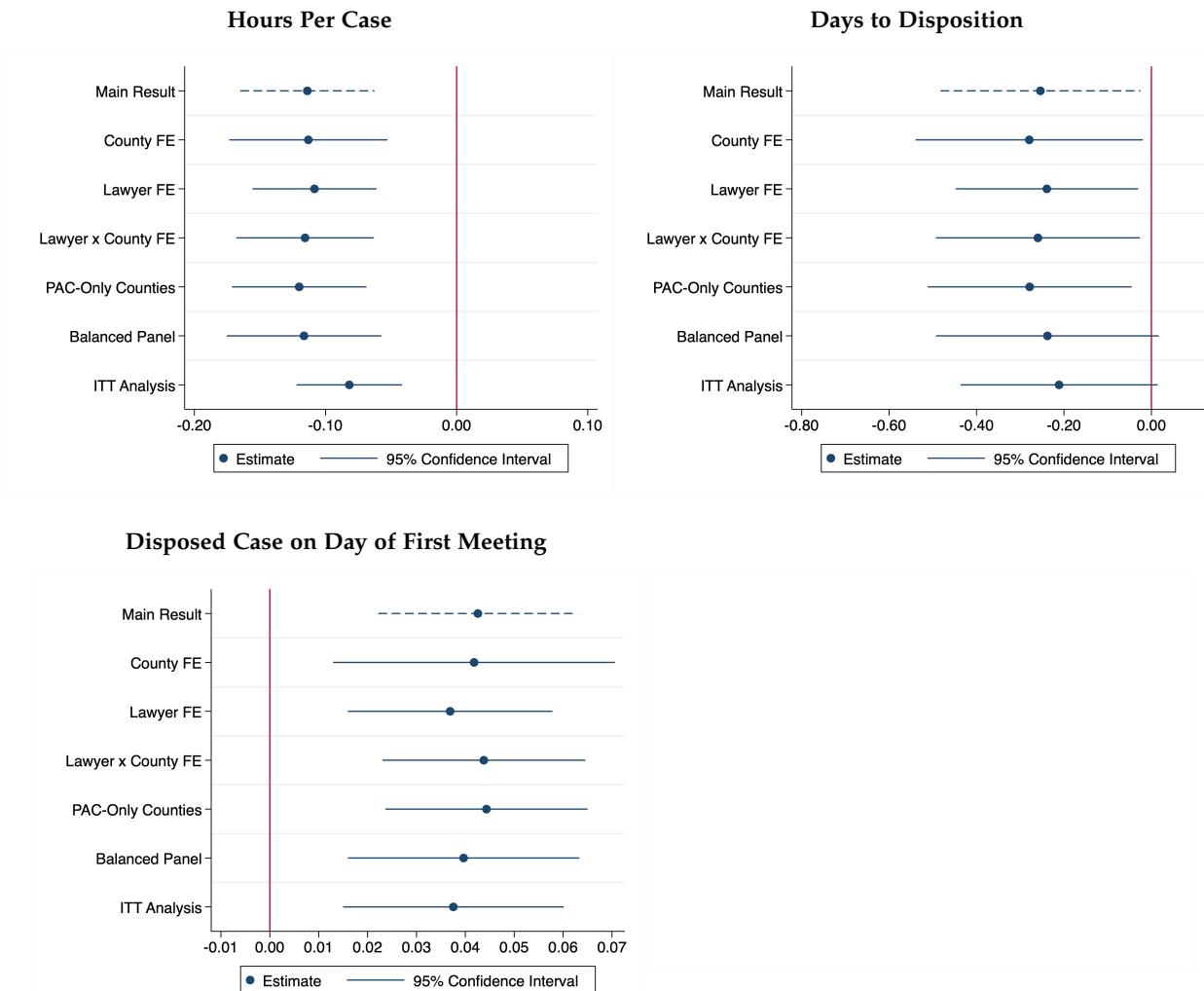
Source: North Carolina Administrative Data, 2015 – 2019

Figure 9: Robustness to Alternative Specifications: Defendant Outcomes



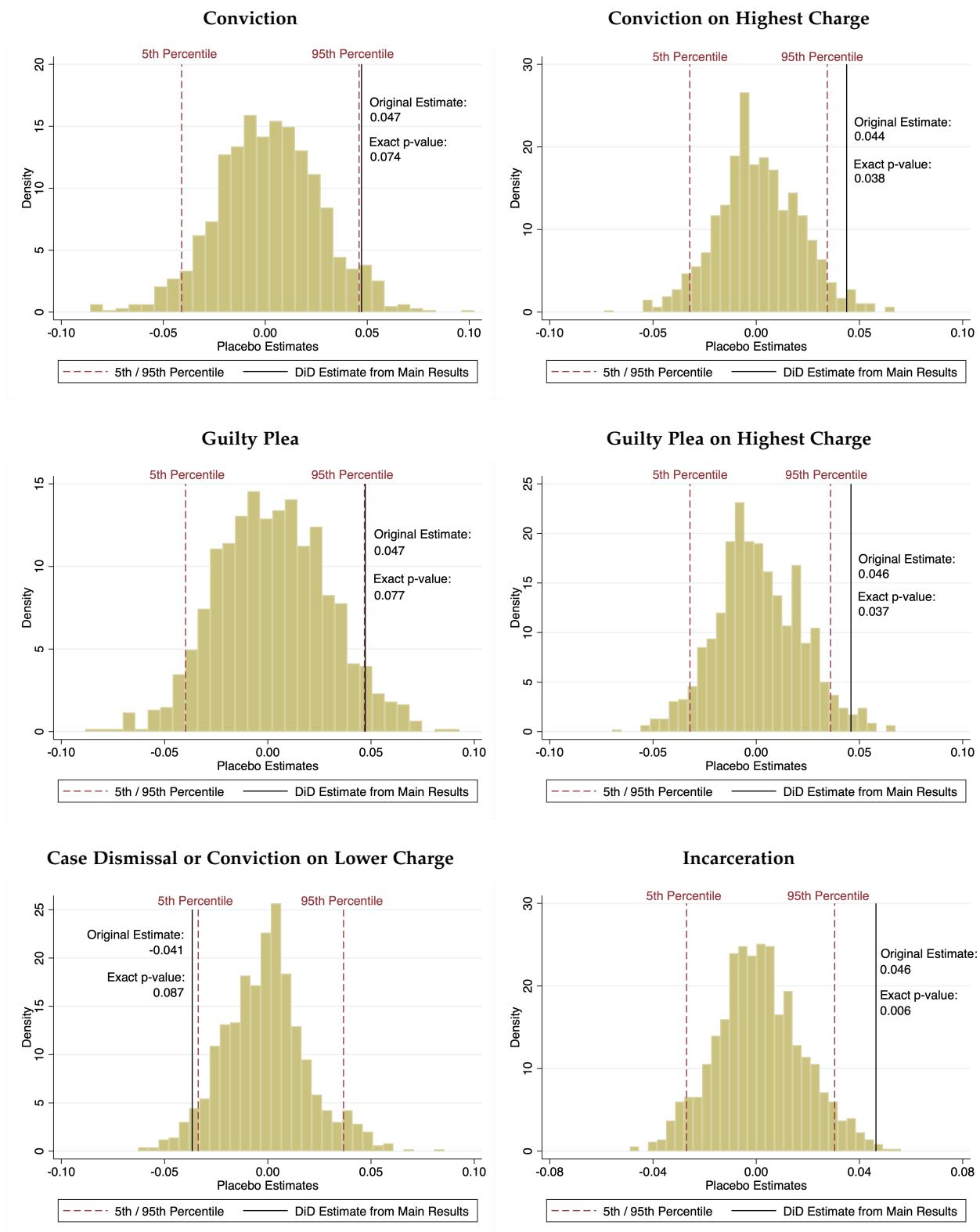
Source: North Carolina Administrative Data, 2015 – 2019

Figure 10: Robustness to Alternative Specifications: Measures of Attorney Effort



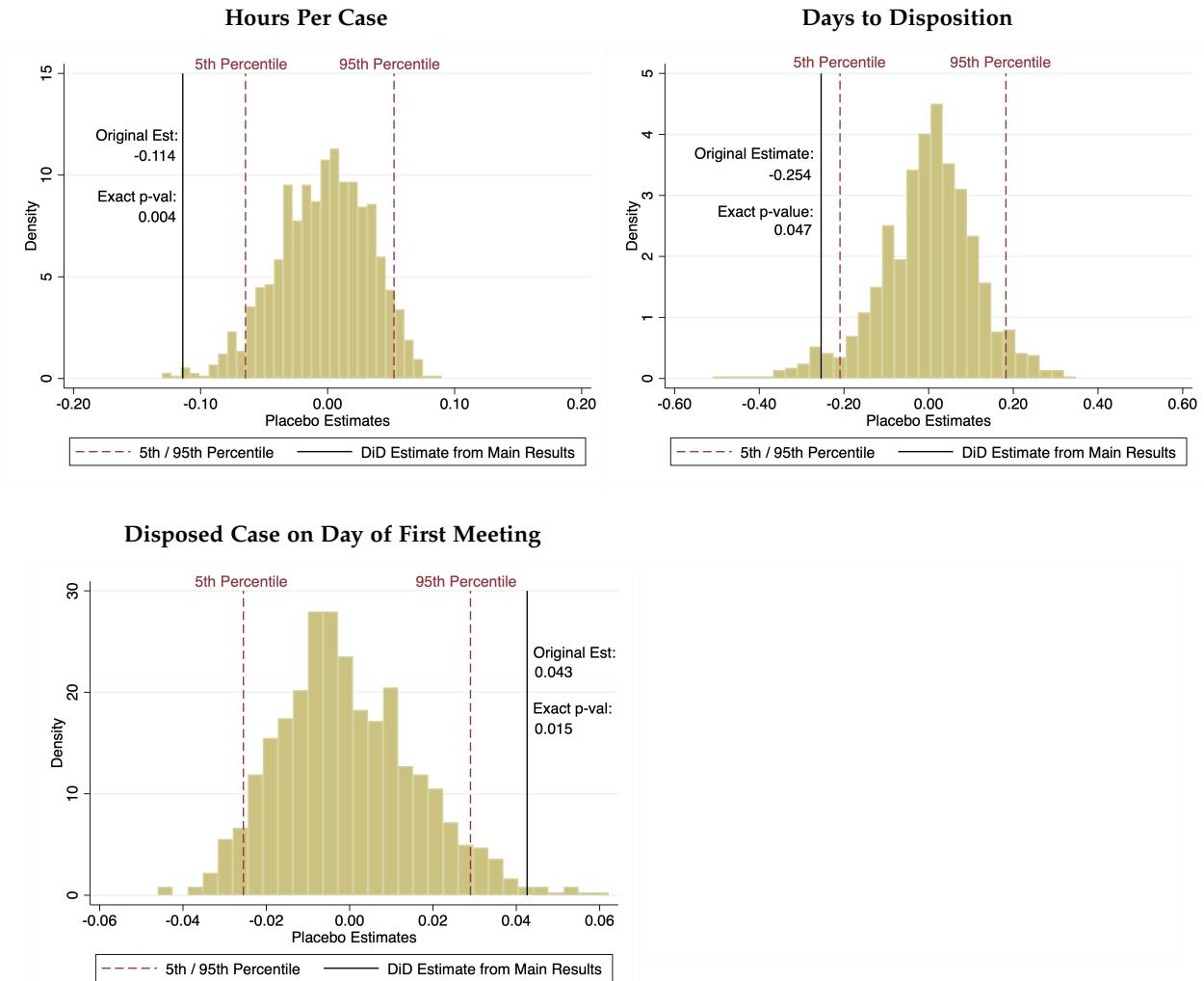
Source: North Carolina Administrative Data, 2015 – 2019

Figure 11: Randomization Inference: Defendant Outcomes



Source: North Carolina Administrative Data, 2015 – 2019

Figure 12: Randomization Inference: Measures of Attorney Effort



Source: North Carolina Administrative Data, 2015 – 2019

Table 2: Uniform Fee Pilot Fee Schedule

Case Type	Flat Fee Payment Per Case	Implicit Hours Under Hourly Schedule	Avg. Pre-Period Hours in Pilot Counties
Felonies			
Class A-D Felonies	\$425	5.67	5.73
All Other Felonies	\$230	3.83	4.73
Misdemeanors			
Class A1 Misdemeanors	\$200	3.64	4.07
Class 1-3 Misdemeanors and Other Traffic Offenses	\$185	3.36	3.30
DWI	\$300	5.45	5.83

Source: Report on Model Fee Schedule March 15, 2018. North Carolina Office of Indigent Defense Services

Table 3: Descriptive Statistics

Variable	Pilot Counties (Treated Group)	Non-Pilot Counties (Control Group)	Difference in Means
Defendant			
Male	0.623	0.637	-0.014
Age	33.634	33.718	-0.084
Asian	0.004	0.002	0.002
Black	0.213	0.380	-0.167
Hispanic	0.022	0.020	0.002
Indian	0.003	0.028	-0.025
Other Race	0.008	0.008	0.000
White	0.745	0.556	0.189
Case			
Class A1 Misdemeanor	0.095	0.110	-0.015
Non-Traffic Misdemeanor	0.794	0.788	0.006
Traffic Misdemeanor	0.111	0.118	-0.007
DWI	0.094	0.094	0.000
Observations	19,605	145,921	-

Source: North Carolina Administrative Data, 2015 – 2019

Table 4: Share of Criminal Cases with Privately Retained Counsel

Dependent Variable: Fraction of Total Cases with Private Counsel		
	All Cases	District Court Cases
Treat × Post	0.007 (0.010)	0.007 (0.010)
Observations	3,432	3,431

Source: North Carolina Administrative Data, 2015 – 2019

Notes:

1. For the results under "All Cases," I use data on cases that were in either District or Superior Court. For the results under the "District Court Cases," I limit the data to only cases in District Court.
2. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include county and month-year fixed effects. Standard errors are clustered at the county level.

Table 5: Number of Indigent Criminal Cases in Each County

Dependent Variable: log Number of Monthly Cases per County		
	All Cases	District Court Cases
Treat × Post	-0.026 (0.033)	-0.031 (0.039)
Observations	3,432	3,431

Source: North Carolina Administrative Data, 2015 – 2019

Notes:

1. For the results under "All Cases," I use data on cases that were in either District or Superior Court. For the results under the "District Court Cases," I limit the data to only cases in District Court.
2. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include county and month-year fixed effects. Standard errors are clustered at the county level.

Table 6: Composition of Criminal Cases

Dependent Variable: Fraction of Total Crimes by Type								
	Violent		Property		Drug		Felony	
	All	District Court	All	District Court	All	District Court	All	District Court
Treat × Post	-0.001 (0.006)	0.001 (0.005)	-0.001 (0.005)	-0.005 (0.004)	0.004 (0.005)	0.003 (0.006)	0.009 (0.008)	0.004 (0.008)
Observations	3,432	3,431	3,432	3,431	3,432	3,431	3,432	3,431

Source: North Carolina Administrative Data, 2015 – 2019

Notes:

1. For the results under "All Cases," I use data on cases that were in either District or Superior Court. For the results under the "District Court Cases," I limit the data to only cases in District Court.
2. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include county and month-year fixed effects. Standard errors are clustered at the county level.

Table 7: Impact of Flat Fee Lawyer Pay on Probability of Conviction

Dependent Var:	Conviction		Conviction on Highest Orig. Charge	
	(1)	(2)	(3)	(4)
Treat × Post	0.047** (0.020)	0.045** (0.018)	0.044*** (0.016)	0.045** (0.017)
Pre-Period Sample Mean	0.446	0.446	0.287	0.287
Demographic Controls		X		X
Observations	165,424	165,424	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 8: Impact of Flat Fee Lawyer Pay on Probability of Guilty Plea

Dependent Var:	Guilty Plea		Guilty Plea on Highest Orig. Charge	
	(1)	(2)	(3)	(4)
Treat × Post	0.047** (0.019)	0.046** (0.018)	0.046*** (0.015)	0.047*** (0.016)
Pre-Period Sample Mean	0.401	0.401	0.273	0.273
Demographic Controls		X		X
Observations	165,424	165,424	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 9: Impact of Flat Fee Lawyer Pay on Probability of Case Dismissal and Favorable Outcome

Dependent Var:	Case Dismissal		Favorable Outcome	
	(1)	(2)	(3)	(4)
Treat × Post	-0.040** (0.017)	-0.038** (0.015)	-0.037** (0.014)	-0.037*** (0.013)
Pre-Period Sample Mean	0.534	0.534	0.693	0.693
Demographic Controls		X		X
Observations	165,424	165,424	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: "Favorable Outcome" is defined as a dismissal or reduction of charges. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 10: Impact of Flat Fee Lawyer Pay on Probability of Incarceration

Dependent Var:	Incarceration	
	(1)	(2)
Treat × Post	0.046*** (0.012)	0.047*** (0.012)
Pre-Period Sample Mean	0.126	0.126
Demographic Controls		X
Observations	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 11: Impact of Flat Fee Lawyer Pay on Hours Per Case

Dependent Var:	log of Hours Per Case	
	(1)	(2)
Treat × Post	-0.114*** (0.026)	-0.115*** (0.024)
Pre-Period Sample Mean	3.728	3.728
Demographic Controls		X
Observations	165,033	165,033

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 12: Impact of Flat Fee Lawyer Pay on Days to Disposition

Dependent Var:	log of Days to Disposition	
	(1)	(2)
Treat × Post	-0.254** (0.115)	-0.260** (0.117)
Pre-Period Sample Mean	106.250	106.250
Demographic Controls		X
Observations	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 13: Impact of Flat Fee Lawyer Pay on Probability of Disposing Case on Day of First Meeting with Defendant

Dependent Var:	Case Disposed on Day of First Meeting	
	(1)	(2)
Treat × Post	0.043*** (0.010)	0.043*** (0.010)
Pre-Period Sample Mean	0.120	0.120
Demographic Controls		X
Observations	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 14: Quarterly Cases Accepted by Lawyer

Dependent Var:	log of Quarterly Cases Accepted
Treat × Post	0.167 (0.134)
Pre-Period Sample Mean	11.781
Observations	17,766

Source: North Carolina Administrative Data, 2015 – 2019

Note: The data used in this analysis has been collapsed to the attorney-county-quarter level, and includes only lawyers that accepted indigent cases for more than half of the quarters in the sample. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and quarter-year fixed effects. Standard errors are clustered at the county level.

Table 15: Probability of Accepting Indigent Cases in District Court

Dependent Var:	Probability of Accepting Indigent Cases in District Court		
	All Lawyers Accepting Indigent Cases in Pre-Period	With Consistent Private Casework	No Consistent Private Casework
Treat × Post	-0.004 (0.038)	-0.089*** (0.031)	-0.057 (0.043)
Observations	27,132	12,705	17,115

Source: North Carolina Administrative Data, 2015 – 2019

Note: The data used in this analysis has been collapsed to the attorney-county-quarter level. "Consistent private casework" is defined as working privately retained cases for at least half of the counties over the entire sample period. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer and quarter-year fixed effects. Standard errors are clustered at the county level.

Table 16: Lawyer Composition

Dependent Var:	Number of Lawyers Accepting Indigent Cases, by County	Average Lawyer Years of Experience, by County
Treat × Post	-2.903 (1.774)	-0.026 (0.132)
Observations	1,558	1,553

Source: North Carolina Administrative Data, 2015 – 2019

Note: The data used in this analysis has been collapsed to the county-quarter level. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include county and quarter-year fixed effects. Standard errors are clustered at the county level.

Table 17: Randomization Inference Results: Defendant Outcomes

Dependent Var:	Conviction	Conviction on Highest Charge	Guilty Plea	Guilty Plea on Highest Charge	Favorable Outcome	Incarceration
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047*	0.044**	0.047*	0.046**	-0.041*	0.046***
Placebo Tests:						
5th Percentile	-0.041	-0.032	-0.040	-0.032	-0.034	-0.027
95th Percentile	0.046	0.034	0.047	0.036	0.037	0.034
Two-Tailed p-value	[0.074]	[0.038]	[0.077]	[0.037]	[0.087]	[0.009]
Pre-Period Sample Mean	0.446	0.287	0.401	0.273	0.693	0.126
Observations	165,424	165,424	165,424	165,424	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 18: Randomization Inference Results: Lawyer Effort

Dependent Var:	log of Hours Per Case	log of Days to Disposition	Disposed Case on Day of First Meeting with Defendant
	(1)	(2)	(3)
Treat × Post	-0.114***	0.254**	0.043**
Placebo Tests:			
5th Percentile	-0.065	-0.209	-0.0260
95th Percentile	0.052	0.183	0.029
Two-Tailed p-value	[0.004]	[0.047]	[0.015]
Pre-Period	3.728	106.250	0.120
Sample Mean			
Observations	165,033	165,424	165,424

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table 19: Estimated Costs of the Increase in Incarceration Following Implementation of Flat Fee Compensation

Total Misdemeanor Incarcerations in Treated Counties, Pre-Period (1)	Number of Years, Pre-Period (Jan 2015 – May 2017) (2)	Avg Total Pre-Period Misdemeanor Incarcerations Per Year (3) = (1) / (2)
1,402	2.417	580.138
Percentage Point Change in Incarcerations from Implementing Flat Fees (4)	Pre-Period Mean Incarceration Rate in Pilot Counties (5)	% Change in Probability of Incarceration from Pre-Period Mean (6) = (4) / (5)
0.046	0.126	0.365
Additional Incarcerations Per Year from Implementing Flat Fees (7) = (3) × (6)	Estimated Cost of Jailing a Defendant for One Year (8)	
211.796	\$33,922	
Annual Cost of Additional Incarcerations, 1-Year Sentence (9) = (7) × (8)	Annual Cost of Additional Incarcerations, 1-Month Sentence (10) = (7) × (8) / 12	Annual Cost of Additional Incarcerations, 1-Day Sentence (11) = (7) × (8) / 365
\$7,184,557	\$596,713	\$19,684
Estimated Statewide Cost of Additional Incarcerations, 1-Year Sentence (12) = 1,585 × (8)	Estimated Statewide Cost of Additional Incarcerations, 1-Month Sentence (13) = 1,585 × (8) / 12	Estimated Statewide Cost of Additional Incarcerations, 1-Day Sentence (14) = 1,585 × (8) / 365
\$53,776,563	\$4,481,380	\$147,333

Sources:

(1): North Carolina Administrative Data, 2015 – 2019

(2) = (29 Months Between Jan 2015 – May 2017) / (12 Months Per Year)

(4), (5): Table 10

(8): Average annual cost of a year in jail per person, estimated by Pew Charitable Trust (2017) at

https://www.pewtrusts.org/-/media/assets/2021/01/pew_local_spending_on_jails_tops_25_billion.pdf

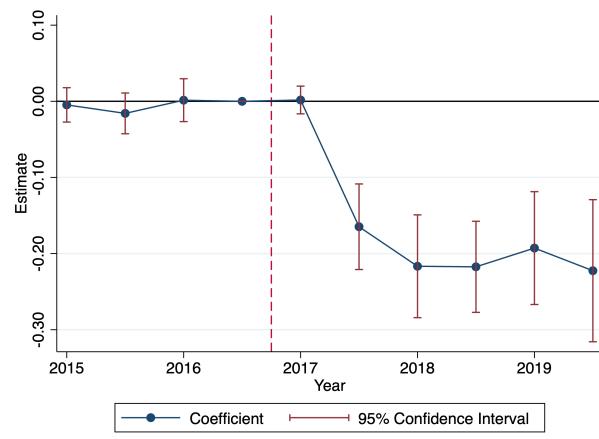
(12)–(14): There were 10,494 total incarcerations from misdemeanor cases in all assigned counsel counties during the pre-period. Based on my main results, I predict that if flat fees were implemented for assigned counsel statewide, there would have been an additional $10,494 \times (6) / (2) = 1,585$ incarcerations per year statewide.

Appendix

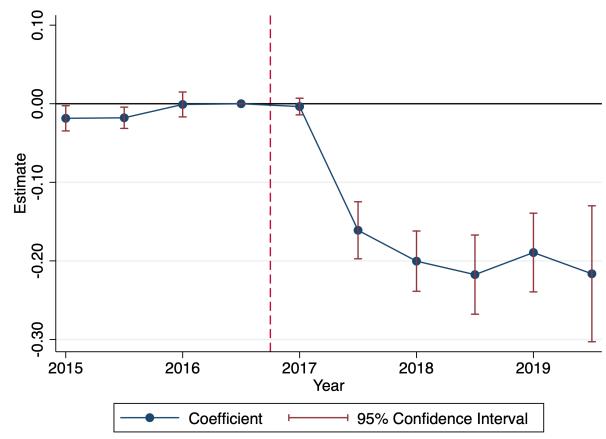
A.1 Appendix Tables and Figures

Figure A1: Event Study: Impact of Implementing Flat Fee Compensation on Lawyer Reporting of Hours per Case as Whole Numbers or to the Nearest Half Number

Probability of Reporting Hours per Case:
Whole Numbers

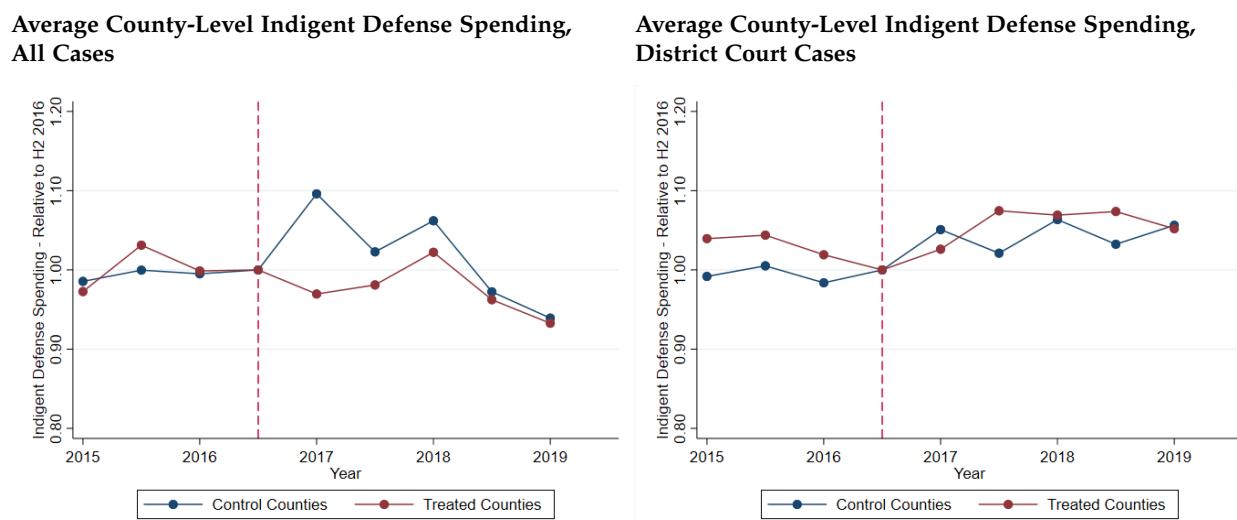


Probability of Reporting Hours per Case:
Whole Numbers or to the Nearest Half



Source: North Carolina Administrative Data, 2015 – 2019

Figure A2: Impact of Switching to Flat Fee Compensation on Average County-Level Spending on Indigent Defense



Source: North Carolina Administrative Data, 2015 – 2019

Notes: To construct these graphs, I calculate average county-level spending on indigent defense by half year and separately for the treated and control groups. For each group, I divide the average county-level spending for each half year by that of the second half of 2016, so that all values are relative to the last non-treated period. The left panel plots these calculations for all indigent defense spending, while the right panel does so for indigent defense spending on District Court cases. In each graph, the blue series represent control counties, while the red series represent the treated counties.

Table A1: Impact of Implementing Flat Fee Compensation on Whole Hour or Half-Hour Reporting by Lawyers in Indigent Cases

Dependent Var.	Whole Hours		Whole or Half Hours	
	(1)	(2)	(3)	(4)
Treat × Post	-0.208*** (0.026)	-0.208*** (0.026)	-0.190*** (0.022)	-0.190*** (0.022)
Pre-Period Sample Mean	0.589	0.589	0.761	0.761
Demographic Controls		X		X
Observations	165,042	165,042	165,042	165,042

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A2: Change in Monthly County-Level Spending on Indigent Defense

Dependent Var: log of Monthly Indigent Defense Spending		
	All Indigent Cases	District Court Cases
	(1)	(2)
Treat × Post	-0.025 (0.051)	0.018 (0.055)
Pre-Period Sample Mean	26,811.81	13,079.52
Observations	4,667	4,586

Source: North Carolina Administrative Data, 2015 – 2019

Note: The data used in this analysis has been collapsed to the county-month level. Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. I include county and month-year fixed effects, and cluster standard errors at the county level.

Table A3: Heterogeneity by Lawyer Gender: Conviction

Dependent Var: Conviction						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.020)	0.045** (0.018)	0.050** (0.025)	0.047** (0.022)	0.037** (0.017)	0.040*** (0.014)
Pre-Period Sample Mean	0.446	0.446	0.453	0.453	0.425	0.425
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A4: Heterogeneity by Lawyer Gender: Conviction on Highest Original Charge

Dependent Var: Conviction on Highest Original Charge						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.044*** (0.016)	0.045** (0.017)	0.046** (0.020)	0.046** (0.022)	0.036*** (0.011)	0.040*** (0.011)
Pre-Period Sample Mean	0.287	0.287	0.292	0.292	0.274	0.274
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A5: Heterogeneity by Lawyer Gender: Guilty Plea

Dependent Var: Guilty Plea						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.019)	0.046** (0.018)	0.052** (0.025)	0.049** (0.022)	0.032* (0.018)	0.034** (0.015)
Pre-Period Sample Mean	0.401	0.401	0.406	0.406	0.384	0.384
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A6: Heterogeneity by Lawyer Gender: Guilty Plea on Highest Original Charge

Dependent Var: Guilty Plea on Highest Original Charge						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.015)	0.047*** (0.016)	0.050** (0.019)	0.050** (0.021)	0.030*** (0.009)	0.035*** (0.010)
Pre-Period Sample Mean	0.273	0.273	0.277	0.277	0.261	0.261
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A7: Heterogeneity by Lawyer Gender: Case Dismissal or Conviction on Lower Charge

Dependent Var: Case Dismissal or Conviction on Lower Charge						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.037*** (0.013)	-0.037** (0.014)	-0.039** (0.017)	-0.038** (0.018)	-0.032*** (0.012)	-0.036*** (0.012)
Pre-Period Sample Mean	0.693	0.693	0.689	0.689	0.703	0.703
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A8: Heterogeneity by Lawyer Gender: Incarceration

Dependent Var: Incarceration						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.012)	0.047*** (0.012)	0.048*** (0.015)	0.048*** (0.016)	0.042*** (0.011)	0.042*** (0.012)
Pre-Period Sample Mean	0.126	0.126	0.129	0.129	0.114	0.114
Demographic Controls	X		X		X	
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A9: Heterogeneity by Lawyer Gender: Hours Per Case

Dependent Var: log of Hours Per Case						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.114*** (0.026)	-0.115*** (0.024)	-0.139*** (0.026)	-0.139*** (0.024)	-0.019 (0.060)	-0.022 (0.059)
Pre-Period Sample Mean	3.728	3.728	3.787	3.787	3.551	3.551
Demographic Controls	X		X		X	
Observations	165,033	165,033	123,262	123,262	41,334	41,334

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A10: Heterogeneity by Lawyer Gender: Days to Disposition

Dependent Var: log of Days to Disposition						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.254** (0.115)	-0.260** (0.117)	-0.334*** (0.122)	-0.339** (0.129)	0.043 (0.105)	0.037 (0.088)
Pre-Period Sample Mean	106.250	106.250	106.463	106.463	105.833	105.833
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A11: Heterogeneity by Lawyer Gender: Case Disposed on Day of First Meeting with Defendant

Dependent Var: Disposed Case on Day of First Meeting with Defendant						
	Main Result		Male Lawyers		Female Lawyers	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.043*** (0.010)	0.043*** (0.010)	0.050*** (0.013)	0.050*** (0.013)	0.013* (0.007)	0.014* (0.007)
Pre-Period Sample Mean	0.120	0.120	0.118	0.118	0.128	0.128
Demographic Controls		X		X		X
Observations	165,424	165,424	123,586	123,586	41,401	41,401

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A12: Heterogeneity by Defendant Gender: Conviction

Dependent Var: Conviction						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.020)	0.045** (0.018)	0.056*** (0.020)	0.052*** (0.019)	0.031 (0.021)	0.033* (0.019)
Pre-Period Sample Mean	0.446	0.446	0.465	0.465	0.412	0.412
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A13: Heterogeneity by Defendant Gender: Conviction on Highest Original Charge

Dependent Var: Conviction on Highest Original Charge						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.044*** (0.016)	0.045** (0.017)	0.053*** (0.018)	0.055*** (0.019)	0.027* (0.015)	0.027 (0.017)
Pre-Period Sample Mean	0.287	0.287	0.296	0.296	0.272	0.272
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A14: Heterogeneity by Defendant Gender: Guilty Plea

Dependent Var: Guilty Plea						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.019)	0.046** (0.018)	0.056*** (0.019)	0.052*** (0.018)	0.032 (0.022)	0.034 (0.021)
Pre-Period Sample Mean	0.401	0.401	0.419	0.419	0.369	0.369
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A15: Heterogeneity by Defendant Gender: Guilty Plea on Highest Original Charge

Dependent Var: Guilty Plea on Highest Original Charge						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.015)	0.047*** (0.016)	0.055*** (0.017)	0.056*** (0.018)	0.030** (0.014)	0.030* (0.017)
Pre-Period Sample Mean	0.273	0.273	0.281	0.281	0.258	0.258
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A16: Heterogeneity by Defendant Gender: Case Dismissal or Conviction on Lower Charge

Dependent Var: Case Dismissal or Conviction on Lower Charge						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.037*** (0.013)	-0.037** (0.014)	-0.047*** (0.015)	-0.048*** (0.016)	-0.019 (0.013)	-0.019 (0.015)
Pre-Period Sample Mean	0.693	0.693	0.685	0.685	0.706	0.706
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A17: Heterogeneity by Defendant Gender: Incarceration

Dependent Var: Incarceration						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.012)	0.047*** (0.012)	0.059*** (0.012)	0.059*** (0.013)	0.025* (0.013)	0.026* (0.014)
Pre-Period Sample Mean	0.126	0.126	0.144	0.144	0.094	0.094
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A18: Heterogeneity by Defendant Gender: Hours Per Case

Dependent Var: log of Hours Per Case						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.114*** (0.026)	-0.115*** (0.024)	-0.105*** (0.028)	-0.108*** (0.027)	-0.129*** (0.023)	-0.127*** (0.020)
Pre-Period Sample Mean	3.728	3.728	3.745	3.745	3.698	3.698
Demographic Controls		X		X		X
Observations	165,033	165,033	104,831	104,831	60,062	60,062

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A19: Heterogeneity by Defendant Gender: Days to Disposition

Dependent Var: log of Days to Disposition						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.254** (0.115)	-0.260** (0.117)	-0.265** (0.121)	-0.278** (0.123)	-0.232** (0.108)	-0.225** (0.109)
Pre-Period Sample Mean	106.250	106.250	104.868	104.868	108.665	108.665
Demographic Controls		X		X		X
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A20: Heterogeneity by Defendant Gender: Case Disposed on Day of First Meeting with Defendant

Dependent Var: Disposed Case on Day of First Meeting with Defendant						
	Main Result		Male Defendants		Female Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.043*** (0.010)	0.043*** (0.010)	0.048*** (0.012)	0.048*** (0.012)	0.033*** (0.010)	0.032*** (0.010)
Pre-Period Sample Mean	0.120	0.120	0.125	0.125	0.113	0.113
Demographic Controls	X		X		X	
Observations	165,424	165,424	105,071	105,071	60,211	60,211

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A21: Heterogeneity by Defendant Race: Conviction

Dependent Var: Conviction						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.020)	0.045** (0.018)	0.043** (0.018)	0.041** (0.016)	0.057** (0.026)	0.054* (0.028)
Pre-Period Sample Mean	0.446	0.446	0.476	0.476	0.404	0.404
Demographic Controls	X		X		X	
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A22: Heterogeneity by Defendant Race: Conviction on Highest Original Charge

Dependent Var: Conviction on Highest Original Charge						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.044*** (0.016)	0.045** (0.017)	0.037** (0.015)	0.039** (0.016)	0.059*** (0.018)	0.061*** (0.018)
Pre-Period Sample Mean	0.287	0.287	0.312	0.312	0.252	0.252
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A23: Heterogeneity by Defendant Race: Guilty Plea

Dependent Var: Guilty Plea						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.047** (0.019)	0.046** (0.018)	0.045** (0.020)	0.044** (0.018)	0.056** (0.024)	0.053** (0.025)
Pre-Period Sample Mean	0.401	0.401	0.434	0.434	0.355	0.355
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A24: Heterogeneity by Defendant Race: Guilty Plea on Highest Original Charge

Dependent Var: Guilty Plea on Highest Original Charge						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.015)	0.047*** (0.016)	0.040*** (0.014)	0.042** (0.016)	0.059*** (0.017)	0.060*** (0.018)
Pre-Period Sample Mean	0.273	0.273	0.299	0.299	0.236	0.236
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A25: Heterogeneity by Defendant Race: Case Dismissal or Conviction on Lower Charge

Dependent Var: Case Dismissal or Conviction on Lower Charge						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.037*** (0.013)	-0.037** (0.014)	-0.029** (0.012)	-0.031** (0.014)	-0.051*** (0.017)	-0.052*** (0.017)
Pre-Period Sample Mean	0.693	0.693	0.670	0.670	0.724	0.724
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A26: Heterogeneity by Defendant Race: Incarceration

Dependent Var: Incarceration						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.046*** (0.012)	0.047*** (0.012)	0.045*** (0.015)	0.046*** (0.016)	0.046*** (0.007)	0.045*** (0.007)
Pre-Period Sample Mean	0.126	0.126	0.137	0.137	0.110	0.110
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A27: Heterogeneity by Defendant Race: Hours Per Case

Dependent Var: log of Hours Per Case						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.114*** (0.026)	-0.115*** (0.024)	-0.119*** (0.025)	-0.122*** (0.021)	-0.101*** (0.035)	-0.103*** (0.035)
Pre-Period Sample Mean	3.728	3.728	3.660	3.660	3.822	3.822
Demographic Controls		X		X		X
Observations	165,033	165,033	95,345	95,345	68,632	68,632

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A28: Heterogeneity by Defendant Race: Days to Disposition

Dependent Var: log of Days to Disposition						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	-0.254** (0.115)	-0.260** (0.117)	-0.231** (0.102)	-0.241** (0.105)	-0.331** (0.163)	-0.336** (0.159)
Pre-Period Sample Mean	106.250	106.250	103.571	103.571	110.158	110.158
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A29: Heterogeneity by Defendant Race: Case Disposed on Day of First Meeting with Defendant

Dependent Var: Disposed Case on Day of First Meeting with Defendant						
	Main Result		White Defendants		Minority Defendants	
	(1)	(2)	(3)	(4)	(5)	(6)
Treat × Post	0.043*** (0.010)	0.043*** (0.010)	0.040*** (0.008)	0.041*** (0.008)	0.054*** (0.019)	0.055*** (0.019)
Pre-Period Sample Mean	0.120	0.120	0.124	0.124	0.115	0.115
Demographic Controls		X		X		X
Observations	165,424	165,424	95,646	95,646	68,720	68,720

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A3o: Robustness to Alternative Specifications: Conviction

		Dependent Variable: Conviction													
		Main Results		County FE No Lawyer FE		Lawyer FE No County FE		Lawyer × County FE		Assigned Counsel Counties Only		Balanced Panel		Intent-to-Treat Analysis	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	
Treat × Post	0.047** (0.020)	0.045** (0.018)	0.039* (0.021)	0.038** (0.019)	0.052*** (0.020)	0.052*** (0.018)	0.049** (0.019)	0.047*** (0.018)	0.044** (0.020)	0.043** (0.018)	0.045** (0.020)	0.045** (0.018)	0.042** (0.018)	0.036** (0.016)	
Pre-Period Sample Mean	0.446	0.446	0.446	0.446	0.446	0.446	0.446	0.446	0.446	0.464	0.450	0.450	0.446	0.446	
Demog. Controls	X		X		X		X		X		X		X	X	
Lawyer FE, No County FE	X	X			X	X			X		X		X	X	
County FE, No Lawyer FE	X	X	X	X					X		X		X	X	
Lawyer × County FE									X						
Assigned Counsel Counties Only										X		X			
Balanced Panel											X		X		
Intent-to-Treat Analysis												X	X		
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,424	165,120	165,120	122,610	121,986	166,708	

Source: North Carolina Administrative Data, 2015 – 2019
Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A31: Robustness to Alternative Specifications: Conviction on Highest Charge

		Dependent Variable: Conviction																	
		County FE No Lawyer FE				Lawyer FE No County FE				Lawyer × County FE				Assigned Counsel Counties Only		Balanced Panel		Intent-to-Treat Analysis	
Main Results		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)		
Treat × Post		0.044*** (0.016)	0.045** (0.017)	0.040** (0.017)	0.041** (0.018)	0.049*** (0.017)	0.049*** (0.018)	0.044*** (0.018)	0.045** (0.017)	0.046** (0.016)	0.046** (0.016)	0.041** (0.017)	0.043** (0.019)	0.032** (0.013)	0.035** (0.015)				
Pre-Period Sample Mean		0.287	0.287	0.287	0.287	0.287	0.287	0.287	0.287	0.287	0.290	0.287	0.287	0.287	0.287	0.287			
Demog. Controls		X		X		X		X		X		X		X		X			
Lawyer FE, No County FE	X	X				X		X			X		X		X				
County FE, No Lawyer FE	X	X	X	X	X					X	X	X	X	X		X			
Lawyer × County FE										X	X								
Assigned Counsel Counties Only												X	X						
Balanced Panel													X			X			
Intent-to-Treat Analysis																X			
Observations		165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424			

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A32: Robustness to Alternative Specifications: Guilty Plea

Dependent Variable: Conviction																	
Main Results		County FE No Lawyer FE			Lawyer FE No County FE			Lawyer × County FE			Assigned Counsel Counties Only			Balanced Panel		Intent-to-Treat Analysis	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)				
Treat × Post	0.047** (0.019)	0.046** (0.018)	0.041* (0.021)	0.039** (0.019)	0.054*** (0.020)	0.054*** (0.018)	0.049** (0.019)	0.047** (0.018)	0.044** (0.020)	0.043** (0.018)	0.047** (0.021)	0.044** (0.019)	0.041** (0.018)	0.037** (0.016)			
Pre-Period Sample Mean	0.401	0.401	0.401	0.401	0.401	0.401	0.401	0.401	0.418	0.418	0.404	0.401	0.401				
Demog. Controls	X		X		X		X		X	X	X	X	X	X	X	X	
Lawyer FE, No County FE	X	X			X	X			X	X	X	X	X	X	X	X	
County FE, No Lawyer FE	X	X	X	X					X	X	X	X	X	X	X	X	
Lawyer × County FE								X	X								
Assigned Counsel Counties Only										X	X						
Balanced Panel											X						
Intent-to-Treat Analysis												X	X	X	X	X	
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,120	165,120	122,610	122,610	121,986	121,986	166,708	166,708	

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A33: Robustness to Alternative Specifications: Guilty Plea on Highest Charge

	Dependent Variable: Conviction											
Main Results	County FE No Lawyer FE			Lawyer FE No County FE			Lawyer × County FE			Assigned Counsel Counties Only		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(14)
Treat × Post	0.046*** (0.015)	0.047*** (0.016)	0.042** (0.016)	0.051*** (0.017)	0.046*** (0.016)	0.047*** (0.017)	0.042*** (0.016)	0.044** (0.015)	0.043*** (0.017)	0.045** (0.016)	0.045** (0.018)	0.033** (0.013)
Pre-Period Sample Mean	0.273	0.273	0.273	0.273	0.273	0.273	0.273	0.276	0.276	0.273	0.273	0.273
Demog. Controls	X	X	X	X	X	X	X	X	X	X	X	X
Lawyer FE, No County FE	X	X		X	X		X	X	X	X	X	X
County FE, No Lawyer FE	X	X	X	X	X		X	X	X	X	X	X
Lawyer × County FE						X	X					
Assigned Counsel Counties Only							X	X				
Balanced Panel								X	X			
Intent-to-Treat Analysis										X	X	
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,120	165,120	122,610	122,610	121,986	166,708

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A34: Robustness to Alternative Specifications: Case Dismissal or Conviction on Highest Charge

	Dependent Variable: Conviction													
	Main Results			County FE No Lawyer FE			Lawyer FE × County FE			Assigned Counsel Counties Only			Balanced Panel	Intent-to-Treat Analysis
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Treat × Post	-0.037*** (0.013)	-0.037** (0.014)	-0.033** (0.014)	-0.034** (0.015)	-0.041*** (0.016)	-0.041** (0.015)	-0.037*** (0.013)	-0.038** (0.014)	-0.032** (0.013)	-0.034** (0.015)	-0.033** (0.014)	-0.035** (0.016)	-0.026** (0.010)	-0.028** (0.012)
Pre-Period Sample Mean	0.693	0.693	0.693	0.693	0.693	0.693	0.693	0.693	0.693	0.692	0.692	0.693	0.693	0.693
Demog. Controls	X		X		X		X		X		X		X	X
Lawyer FE, No County FE	X	X			X	X			X		X		X	X
County FE, No Lawyer FE	X	X	X	X					X		X		X	X
Lawyer × County FE									X					
Assigned Counsel Counties Only									X		X			
Balanced Panel									X		X		X	X
Intent-to-Treat Analysis													X	X
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424	166,708	166,708

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A35: Robustness to Alternative Specifications: Incarceration

	Dependent Variable: Conviction													
	County FE No Lawyer FE				Lawyer FE × County FE				Assigned Counsel Counties Only				Balanced Panel	Intent-to-Treat Analysis
Main Results	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Treat × Post	0.046*** (0.012)	0.047*** (0.012)	0.055*** (0.013)	0.044*** (0.013)	0.043*** (0.012)	0.043*** (0.012)	0.047*** (0.012)	0.047*** (0.012)	0.046*** (0.012)	0.046*** (0.012)	0.051*** (0.012)	0.052*** (0.012)	0.041*** (0.011)	0.041*** (0.011)
Pre-Period Sample Mean	0.126	0.126	0.126	0.126	0.126	0.126	0.126	0.126	0.126	0.126	0.128	0.126	0.126	0.126
Demog. Controls	X		X		X		X		X		X		X	X
Lawyer FE, No County FE	X	X			X	X			X		X		X	X
County FE, No Lawyer FE	X	X	X	X					X		X		X	X
Lawyer × County FE									X					
Assigned Counsel Counties Only									X					
Balanced Panel									X				X	
Intent-to-Treat Analysis									X				X	X
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,424	165,424	165,424	165,424	166,708	166,708

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A36. Robustness to Alternative Specifications: Hours Per Case

		Dependent Variable: Conviction													
		County FE No Lawyer FE				Lawyer FE × County FE				Assigned Counsel Counties Only				Balanced Panel	Intent-to-Treat Analysis
Main Results		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Treat × Post		-0.114*** (0.026)	-0.115*** (0.024)	-0.113*** (0.030)	-0.114*** (0.028)	-0.108*** (0.024)	-0.108*** (0.022)	-0.116*** (0.026)	-0.117*** (0.024)	-0.120*** (0.026)	-0.123*** (0.023)	-0.114*** (0.030)	-0.117*** (0.028)	-0.082*** (0.020)	-0.087*** (0.019)
Pre-Period Sample Mean		3.728	3.728	3.728	3.728	3.728	3.728	3.728	3.728	3.645	3.728	3.728	3.728	3.728	
Demog. Controls		X		X		X		X		X		X		X	
Lawyer FE, No County FE	X	X			X	X			X	X		X		X	
County FE, No Lawyer FE	X	X	X	X	X				X	X	X	X		X	
Lawyer × County FE								X	X						
Assigned Counsel Counties Only										X	X				
Balanced Panel											X				
Intent-to-Treat Analysis												X	X		
Observations		165,033	165,033	165,132	165,132	165,033	165,033	165,033	165,033	164,731	164,731	122,226	122,226	121,665	166,285

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A37: Robustness to Alternative Specifications: log of Days to Disposition

		Dependent Variable: Conviction													
		County FE No Lawyer FE				Lawyer FE × County FE				Assigned Counsel Counties Only				Balanced Panel	
Main Results		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Treat × Post		-0.254** (0.115)	-0.260** (0.117)	-0.279** (0.131)	-0.283** (0.131)	-0.239** (0.105)	-0.241** (0.108)	-0.260** (0.117)	-0.267** (0.120)	-0.279** (0.116)	-0.286** (0.119)	-0.235* (0.129)	-0.247* (0.133)	-0.211* (0.113)	-0.229* (0.117)
Pre-Period Sample Mean		106.250	106.250	106.250	106.250	106.250	106.250	106.250	106.250	103.883	103.883	111.248	106.250	106.250	106.250
Demog. Controls		X		X		X		X		X		X		X	X
Lawyer FE, No County FE	X	X				X		X		X		X		X	X
County FE, No Lawyer FE	X	X	X	X						X		X		X	X
Lawyer × County FE										X					
Assigned Counsel Counties Only											X		X		
Balanced Panel												X		X	
Intent-to-Treat Analysis													X	X	X
Observations		165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,120	165,120	122,610	122,610	121,986	166,708

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.

Table A38: Robustness to Alternative Specifications: Case Disposed on Day of First Meeting with Defendant

Dependent Variable: Conviction												
Main Results	County FE No Lawyer FE			Lawyer FE No County FE			Lawyer × County FE			Assigned Counsel Counties Only		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Treat × Post	0.043*** (0.010)	0.033*** (0.010)	0.042*** (0.014)	0.042*** (0.014)	0.037*** (0.011)	0.037*** (0.011)	0.044*** (0.010)	0.044*** (0.011)	0.044*** (0.010)	0.045*** (0.011)	0.040*** (0.012)	0.038*** (0.011)
Pre-Period Sample Mean	0.120	0.120	0.120	0.120	0.120	0.120	0.120	0.120	0.121	0.121	0.116	0.120
Demog. Controls	X		X		X		X		X		X	X
Lawyer FE, No County FE	X	X			X	X			X	X	X	X
County FE, No Lawyer FE	X	X	X	X					X	X	X	X
Lawyer × County FE							X	X				
Assigned Counsel Counties Only									X	X		
Balanced Panel										X	X	
Intent-to-Treat Analysis											X	X
Observations	165,424	165,424	165,526	165,526	165,424	165,424	165,424	165,424	165,120	165,120	122,610	121,986
											166,708	166,708

Source: North Carolina Administrative Data, 2015 – 2019

Note: Significance levels at the 1%, 5%, and 10% levels are denoted by ***, **, and *, respectively. All specifications include lawyer, county, and month-year fixed effects. The second specification includes indicator variables for defendant race, defendant gender, and the severity of the highest original charge. Standard errors are clustered at the county level.