The Role of Race in the Legal Representation of Low-Income Defendants

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First draft: November 1, 2023
Last updated: September 10, 2024

Abstract

While most criminal defendants rely on assigned counsel for legal representation, little is known about the role of race in the defense of low-income defendants by court-appointed attorneys. Exploiting the quasi-random assignment of court-appointed attorneys to cases in Travis County, Texas, we test whether attorneys secure better deals for same-race defendants. Results indicate that while Black and White attorneys are similarly effective at representing White defendants, Black defendants who are represented by White rather than Black attorneys are 14-16 percent more likely to have their charges dismissed and 15-23 percent less likely to be incarcerated. Moreover, we show that Black defendants who are represented by White attorneys are not more likely to re-offend in the future.

Keywords: Race, discrimination, criminal justice, law and economics, indigent defense, legal representation

JEL codes: H76, J15, K14, K42

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Acknowledgments: We thank Laura Dague, Jorge Garcia, Priyanka Goonetilleke, Mark Hoekstra, Jonathan Meer, Steve Puller, CarlyWill Sloan, Brittany Street, Meradee Tangvatcharapong, the seminar participants at the London School of Economics Crime Workshop, University of Missouri, UC Riverside, University of South Florida, Colorado State University, and Louisiana State University, and the participants at the Southern Economic Association (SEA) conference for their invaluable feedback.

1 Introduction

Racial disparities in the criminal justice system are well-documented. For example, Black individuals are almost four times more likely to be arrested for marijuana possession relative to White individuals (Union (2013)). Moreover, 33 percent of Black adult males have a felony conviction, compared to only 12.8 percent of the total adult male population (Shannon et al. (2017)). Importantly, some empirical evidence suggests that these disparities are driven in part by racial discrimination by other agents in the system, such as police officers (e.g., Goncalves and Mello (2021); West (2018); Horrace and Rohlin (2016)), prosecutors (e.g., Tuttle (2019)), and judges (e.g., Arnold et al. (2018); Alesina and La Ferrara (2014)). However, little is known about the role of race in the indigent defense system, even though 80 percent of criminal defendants rely on appointed counsel for legal defense (ACLU, 2013).

Certainly, the availability of legal defense is invaluable; attorneys can significantly affect case outcomes through several channels such as challenging charges and negotiating plea deals. Perhaps most importantly, attorneys advise defendants on whether to accept a given plea deal. However, there are widespread concerns that indigent defendants are not receiving quality legal counsel, as required under the U.S. Constitution (e.g., Backus and Marcus (2018); Tucker v. State of Idaho, 2017 [1]; Hurrell-Harring v. State of New York, 2010 [2]). Moreover, the scope for differential treatment on the basis of race among court-appointed attorneys is high, given high caseloads may lead attorneys to necessarily prioritize some cases over others (Oppel and Patel (2019)). While there is some anecdotal evidence that court-appointed attorneys might be racially biased (Clair (2021); Adachi (2016)), empirical evidence on the role of race in the defense of low-income defendants is scarce.

In this paper, we ask whether attorneys secure better or worse outcomes for different-race defendants. We do so by exploiting the quasi-random assignment of attorneys to more than 17,000 misdemeanor cases in Travis County, Texas. Court-appointed attorneys are assigned

[1] Tucker v. State, 162 Idaho 11, 394 P.3d 54 (Idaho 2017)

[2] Hurrell-Harring v. State of New York, 75 A.D.3d 667, 2010 N.Y. Slip Op. 5815, 905 N.Y.S.2d 334 (N.Y. App. Div. 2010)

to indigent cases using a "wheel" system, in which their names are listed alphabetically. Once a case is filed, the responsible authority assigns the first available (and eligible) attorney on the list. This implies that conditional on the filing date and court fixed effects, attorney assignment to cases is as-good-as-random. We use a difference-in-differences approach to test whether White attorneys are less likely to earn a dismissal for Black versus White defendants, relative to the dismissal rate of Black attorneys for Black versus White defendants. In doing so, we use the same method as that used in previous research to examine the impact of race in other contexts (e.g., Hoekstra and Sloan (2022); Anwar et al. (2012); Price and Wolfers (2010)).

Our main difference-in-differences results show that while Black and White attorneys are similarly effective at securing dismissals for White defendants, Black attorneys are less effective than White attorneys at securing dismissals for Black defendants. Specifically, if Black defendants are represented by White attorneys rather than Black attorneys, the likelihood that their case gets dismissed increases by 14-16 percent. Moreover, we find evidence that the likelihood of incarceration decreases by 15-23 percent for Black defendants who are represented by a White attorney relative to a Black attorney. These effects are statistically significant and are robust to controlling for case characteristics and interaction terms of case characteristics and attorney race. We then estimate the distribution of attorney (shrunken) individual effects, and we show that the results are due to a shift in the overall distribution of White attorneys, which means that they are driven by the entire sample of White attorneys rather than just a few.

Importantly, we show that the effect of a different-race attorney on case outcomes is not driven by other non-race (defendant or attorney) characteristics that matter for the defendant-attorney race pairing. For instance, the different-race effects could, in theory, be due to White attorneys being better skilled at representing crimes that are more likely to be committed by Black defendants. However, we show that the results are robust to controlling for the interaction terms of defendant race and attorney characteristics (including years

of experience and law school ranking) and to controlling for interaction terms of attorney race and case characteristics (including dummy variables for crime type, day of the week, defendant criminal history, sex, and age). This suggests that effects are not due to non-race disparate impact, at least to the extent that non-race factors are correlated with observed characteristics.

While we do not find evidence of a change in attorney effort, we argue that the different-race effects are driven by a change in the attorney's behavior, the prosecutor's behavior, or both. While it is possible that Black attorneys might exhibit racial bias against Black defendants, the results over time suggest that this is unlikely: the different-race effects are more pronounced in more recent years, which is consistent with the hypothesis that the recent racial justice movement may have impacted how attorneys (and/or prosecutors) behave towards Black defendants.

Finally, we consider the long-run effect of being represented by a different-race attorney, which increases the likelihood of a case dismissal. This could theoretically increase the likelihood of recidivism if misdemeanor convictions have a deterrence effect. Having a different-race attorney could also increase recidivism if same-race attorneys serve as role models, such as in the context of education (Gershenson et al. (2022)). However, the reduced-form analysis shows that a Black defendant who is represented by a White attorney is not more likely to re-offend within two years from a given case.

The contribution of this paper is to provide the first estimates of the impact of race among court-appointed attorneys using the quasi-random variation in attorney assignment to cases. We are also the first to provide evidence on the long-term different-race effects in the context of the criminal justice system. In doing so, this paper contributes to at least two strands of the literature. First, it complements the literature on racial bias and the impact of race in the criminal justice system. Hoekstra and Sloan (2022) report that White officers scale up force more than Black officers when responding to calls in Black versus White neighborhoods, while Fryer Jr (2019) shows that police officers are more likely to use

non-lethal force against minorities. Additional research shows that officers exhibit racial bias when issuing traffic citations and making traffic stops (e.g., Goncalves and Mello (2021); Ba et al. (2021); West (2018); Horrace and Rohlin (2016); Antonovics and Knight (2009)), which contrasts with findings from earlier literature (e.g., Knowles et al. (2001)). At later stages, other papers have shown mixed evidence of the impact of race in prosecution (e.g., Sloan (n.d.); Tuttle (2019); Rehavi and Starr (2014)), among judges (e.g. Arnold et al. (2022); Arnold et al. (2018); Depew et al. (2017); Gazal-Ayal and Sulitzeanu-Kenan (2010)), in parole board decisions (e.g., Anwar and Fang (2015); Mechoulan and Sahuguet (2015)), and among jurors (e.g. Anwar et al. (2022); Flanagan (2018); Anwar et al. (2012)).

In addition, this study contributes to the economic literature on the quality of defense attorneys in the indigent defense system. For example, Agan et al. (2021b) provide suggestive evidence that the compensation structure adopted by the court leads to disparate outcomes between indigent and non-indigent cases. Unlike Hoag (2021), who argues for the expansion of the Sixth Amendment right to *counsel of choice*, they show that being assigned a lawyer who looks like a "better match" does not lead to better case outcomes, which is consistent with our findings. [3]

The results of this paper have important policy implications. Our difference-in-differences estimates suggest that in contrast to other settings, being assigned to a different-race attorney leads to better outcomes. This is particularly relevant to designing defendant-attorney matching mechanisms since our findings indicate that a same-race attorney does not translate to better outcomes.

[3]Examples of other papers on legal assistance include Shem-Tov (2022), Iyengar (2007), Cohen (2014), Roach (2014)), and Cassidy and Currie (2023).

2 Institutional Background

2.1 The indigent defense system

In 1963, the Supreme Court ruling in *Gideon v. Wainwright* established the constitutional right to counsel in the US. Under the Sixth Amendment, the courts must provide a lawyer for defendants who cannot afford one (i.e. indigent). There are three main models of indigent defense: assigned counsel, contract-based defender, and public defender. In the assigned counsel model (also called court-appointed attorneys), private defense attorneys sign up to be considered for indigent defense through a court-maintained list, called the wheel, and they get paid an hourly rate or a flat fee per case, depending on the jurisdiction. The contract-based defender is similar in nature, in the sense that the attorneys are not state employees. The difference is that they sign a contract to represent a predetermined number of cases for a given amount of money. Finally, public defenders are full-time state employees who receive a monthly salary to represent indigent defendants. Based on a survey conducted by the Bureau of Justice Statistics in 2013, the most common state-administered indigent defense model is public defenders (Strong (2016)).

In Texas, the Constitution guarantees that any indigent defendant is entitled to the appointment of counsel in any case that may result in punishment by confinement. Even though it is not required by federal law, Texas guarantees appointment at any stage of a criminal case.[4] Assigned counsel is the most commonly used model in Texas.[5] Less than 20 percent of Texas counties rely on public defenders. In counties where both assigned counsel and public defenders are available, judges choose which type of counsel to assign. Up until the year 2021, Travis County had relied on assigned counsel for both felony and misdemeanor cases. In 2021, they established a public defender's office to assist private attorneys.[6] Defense attorneys, conditional on meeting certain requirements, voluntarily sign up to be listed on

[4] www.sixthamendment.org

[5] It is the default assignment process as per state law unless the court employs an alternative method.

[6] The office will handle 30 percent of indigent defendants by 2024.

specific wheels for different offense categories, such as misdemeanor or various degrees of felony offenses.[7]

2.2 Case assignment in Travis County

Once a defendant is arrested, they are interviewed by the pretrial services as soon as possible in order to determine the bond status and acquire indigency information. A defendant automatically qualifies for indigent representation if they receive any government assistance, such as food stamps, Medicaid, Temporary Assistance for Needy Families (TANF), social security assistance, or public housing. Otherwise, they are deemed indigent if their financial situation reveals so compared to federal poverty guidelines (when considering their income, expenditures, number of dependents in the household, etc. ...). For example, a defendant is considered indigent if their net household income does not exceed 125 percent of the Poverty Guidelines provided by the United States Department of Health and Human Services, and the value of their assets does not exceed $2,500, according to the standards and procedures for the appointment of counsel in Texas. A defendant is also presumed to be indigent if they are currently serving a sentence in a correctional facility or a mental health institution.

Once indigency is determined, the defendant is asked whether they are interested in indigent defense counsel. If yes, their application is forwarded to the appointing authority, which reviews their case and appoints counsel. In Travis County, a managed assigned counsel program was established in 2015 to ensure that appointments are impartially allocated among eligible counsel.[8]

Appointments are made using a rotation system (the wheel system) following an alphabetical listing of the names of eligible attorneys. The eligibility of an attorney is determined based on their caseload when a case is filed, crime type, special needs, and language. For

[7] An attorney who wants to be listed on the wheel for the indigent defense should file an application, which will be examined by the review committee. The court-appointed counsel must meet specific criteria, including possessing a valid license to practice law, being a resident of Travis County or adjoining counties, and demonstrating substantial experience in the field of criminal law. The requirements for experience may vary based on the type of panel involved.

[8] Before 2015, judges were responsible for assigning counsel using the wheel system.

example, certain attorneys only qualify to represent misdemeanor cases. Attorneys can also sign up to represent defendants with special needs including (1) mental health-related cases and (2) cases where the defendant is non-English speaking. Thus, conditional on the filing date, crime type, and whether it is a mental health-related case or a Spanish-speaking defendant, attorney assignment is as-good-as-random.

Importantly, there are only two characteristics of cases that are used to assign attorneys to cases which we do not directly observe. The first is whether the individual only speaks Spanish. To address that potential issue, we include only White and Black defendants in the sample. This excludes the sample of Hispanic defendants who might be nonrandomly assigned to attorneys. The second is whether it is a mental health-related case. To address this, we condition on the court as a proxy for whether it is a mental health-related case. While cases are randomly assigned to courtrooms in Travis County, only a handful of courts specialize in mental health as well. Hence, by controlling for month-by-year-by-court fixed effects, attorney assignments should be as-good-as-random.[9]

3 Data

We use administrative data from the county clerk's office in Travis County, Texas, which is the fifth most populous county in Texas that includes Austin, the capital of Texas. Our data consist of all misdemeanor charges that were filed between 2013 and 2022. In addition, we obtained attorney assignment data (i.e. the wheel data) from the Travis County Criminal Court Administrator's Office that allow us to observe attorney assignment per case.

Between 2013 and 2022, 132,337 misdemeanor charges (129,679 unique cases) were filed in Travis County, out of which 40 percent were assigned a court-appointed attorney, according to the wheel data. The court records allow us to observe the charge description (for example, theft, assault, etc. ...), defendant information, including race as recorded by law enforcement,

[9]For example, county court #9 supervises the Mental Health Docket, and county court #8 supervises the Special Reduction Docket. See: `https://www.traviscountytx.gov/courts/criminal/county`

filing date, the court that handled the case, disposition (whether the charge was dismissed or not), and sentencing information.

The wheel data allow us to observe case assignments, in addition to the state bar ID and full name of each attorney. However, neither the county nor the State Bar of Texas records the race of the attorneys. Thus, we manually searched for the 400 attorneys in our sample online, through the State Bar website or other platforms (such as law firm websites, LinkedIn, etc. ...) and used their images and their last names (for Hispanic attorneys) to identify their race. Using this methodology, we created a dataset that shows the name and state bar ID of each attorney, in addition to their race as shown online. We were able to identify the race of 88 percent (352) of the attorneys in our sample. Importantly, conditional on observing attorney race, 8 percent of the attorneys in our sample are Black.[10]

In Table A2, we compare the characteristics of the cases for which we observe the attorney's race to the cases where the attorney's race is missing. The most significant differences between these two samples are the attorneys' characteristics. Attorneys with observed race have less years of experience and have graduated from lower-ranking schools. For instance, on average, the "in sample" attorneys (column 1) have 19 years of experience, while those with missing race (column 2) have 30 years of experience. This is because younger, less experienced attorneys are more likely to have an online presence (personal websites, company website, etc. ...).

For the majority of the charges, we observe one assigned attorney from the filing date until the case disposition date (91 percent). In some instances, however, we observe more than one attorney (8 percent have two assigned attorneys, and 1 percent have more than two). Based on conversations with the county, attorneys can be replaced, though very rarely, in cases such as an attorney-client conflict or an attorney leaving the practice. In our main analysis, we consider the first attorney who should be quasi-randomly assigned by the wheel. For robustness, we show that the results are not sensitive to dropping cases where we observe

[10]For reference, only 5% of attorneys are Black nationwide, according to a survey run by the American Bar Association.

multiple attorneys. Moreover, prior to 2015, judges had the authority to overturn the wheel decision and non-randomly assign an attorney of their choice to cases. The wheel data allow us to observe whether an attorney on a given case was assigned by the wheel or the judge. To avoid selection bias, we drop the cases where the attorney is assigned by the judge, which consist of 11 percent of our sample.

While the court data show the defendant race, they do not distinguish between non-Hispanic and Hispanic White defendants.[11] Thus, in addition to the court-reported defendant race, we use the R-package *predictrace* in order to identify Hispanic defendants using their last names. [12] We identify and drop Hispanic defendants (40 percent) and defendants of other races (1 percent). In our main results, we use the most likely race predicted by the package, which is based on the race with the highest probability of being true. For robustness, we report the results using different thresholds to identify a defendant as Hispanic. To do this, we rely on the probability that a given surname is Hispanic as predicted by the algorithm, and we identify a defendant as Hispanic if the likelihood that their surname is Hispanic is greater than or equal to "X", where X $\in$ [0.5,0.9].

In order to test for a different-race effect, we need to observe both, the race of the attorney and the race of the defendant for each charge. Hence, we drop the charges for which the attorney race is missing, and we also drop Hispanic attorneys since we are interested in Black and White attorney-defendant matches. This leaves us with 17,451 misdemeanor charges for the difference-in-differences analysis. The summary statistics for this sample are reported in Table 1. A more detailed discussion of the sample size is presented in section 10.

We report the summary statistics for our main sample in Table 1. As shown in Column (1), the most common type of misdemeanor charge is driving while intoxicated (20 percent of the sample). The remaining are drug-related (13 percent), invalid license (9 percent),

[11] According to conversations with the county, the observed race is recorded by law enforcement at the time of arrest who do not ask the arrestee to report their own race.

[12] This package predicts the race of a last name or a first name using U.S. Census data and the Social Security Administration data. It assigns race to a name based on the race that has the highest likelihood of being true.

domestic violence (9 percent), property (8 percent), assault (3 percent), weapon (2 percent), or other misdemeanor charges (37 percent). Other misdemeanor charges include less common types of crimes, such as criminal trespass, evading arrest/detention, obstruction of highway, and violating protective orders. Only 24 percent of the defendants are female, 32 percent are Black, and the average age of a defendant is 34. An average defendant has 1 previous charge, which indicates that many defendants in our sample are repeat offenders.

As outcome variables, we focus on case dismissal [13] as a measure of case disposition, in addition to sentencing outcomes. As shown in Column (1), the average rate of dismissal for the entire sample is 49 percent. The dismissal rate is higher for Black defendants relative to White defendants (53 percent vs 46 percent). Next, we consider whether the defendant was sentenced to jail, probation, or received a fine only. Twenty-nine percent of the defendants are sentenced to jail, while 14 percent receive a probation sentence, and less than 1 percent receive a fine only.[14]

The most notable difference between Black and White defendants is the charge type. As can be seen from columns (2) and (3), White defendants are more likely to be charged with DWIs relative to Black defendants (25 percent versus 9 percent). On average, Black defendants are slightly more likely to be charged with drug offenses (15 percent versus 12 percent), and they have slightly more prior charges (1.4 versus 1.1). Finally, although Black defendants are more likely to have their cases dismissed (53 percent versus 46 percent), they are more likely to be sentenced to jail (33 percent versus 28 percent) and less likely to receive a probation sentence (9 percent versus 17 percent).

In addition, we supplement the data described above with information from the State Bar of Texas. Using their website, we obtain each attorney's graduation date, licensing date, and the name of the law school they graduated from. In addition, we link these data with law school rankings from the US news website. On average, a given attorney has 17 years of experience, and they graduated from a school that ranks in the 70s (Table A1).

[13] Case dismissal includes both charges that are dropped and those resulting in acquittal.

[14] Probation includes deferred adjudication and community supervision.

4 Empirical Strategy

The main challenge in testing whether defense attorneys secure better case outcomes for same-race defendants is the non-random selection of cases across attorneys. However, the wheel system in Travis County allows us to isolate an as-good-as-random variation in case assignment. As discussed in section 2, conditional on month-by-year-by-court fixed effects, attorney assignment to cases is quasi-random. In order to estimate a different-race effect, we use a difference-in-differences approach, where we compare case outcomes for Black and White defendants across Black and White attorneys.

Intuitively, we begin by comparing case outcomes (e.g., dismissal rate) across Black and White defendants for White attorneys. If Black defendants are observed with lower dismissal rates compared to White defendants, that difference could represent the impact of race among the defense lawyers. However, it could also represent the difference in underlying levels of "dismissibility" across defendants. To distinguish between these two potential interpretations, we compare that difference to the difference in dismissal rates across Black and White defendants for Black attorneys. In the absence of a "different-race effect", the expected difference in dismissal rates across Black and White defendants should be similar across Black and White attorneys.

Formally, we estimate the following equation:

$$\begin{aligned} Y_c =& \alpha_0 + \alpha_1 \cdot WhiteAttorney_c + \alpha_2 \cdot BlackDefendant_c + \\ & \alpha_3 \cdot WhiteAttorney \cdot BlackDefendant_c + MonthYearCourt_c + X_c + u_c, \end{aligned} \tag{1}$$

where Y_c is the outcome of interest, $WhiteAttorney_c$ is an indicator variable that takes the value 1 if the attorney is White, $BlackDefendant_c$ is an indicator variable equals 1 if the defendant is Black, and $WhiteAttorney * BlackDefendant_c$ is an indicator variable that takes the value 1 if the attorney is White and the defendant is Black, and zero otherwise.

In order to achieve quasi-random assignment, our baseline specification includes month-by-year-by-court fixed effects ($MonthYearCourt_c$). The main coefficient of interest is α_3, which represents the effect of having a different-race attorney on the probability of a case dismissal and on sentencing outcomes. Finally, X_c is a vector of charge level characteristics, including dummy variables for crime type, day of the week, zip code fixed effects, defendant age, sex, and the number of previous charges.

In all regressions, standard errors are two-way clustered at the attorney and defendant level, to account for correlations within cases that are handled by the same attorney and correlations within cases for the same defendant, respectively. Note that the analysis data are at the charge level. Since a single case can include multiple charges that are handled by the same attorney, we assign a probability weight for each observation, which is equal to the inverse of the number of charges per case. Nonetheless, in our sample, 98 percent of the cases have one charge only.

The identifying assumption behind this approach is that in the absence of a different-race effect, differences in dismissal rates and sentencing outcomes for Black and White defendants should be the same for Black attorneys and White attorneys. This assumption relies on the quasi-random assignment of court-appointed attorneys to cases. We begin by showing that the attorney's race is not correlated with case characteristics as supporting evidence of quasi-random assignment using three approaches. First, we estimate the F-statistic to examine whether case characteristics jointly predict attorney race. Specifically, we regress a dummy for attorney race on dummy variables for crime types, defendant age, race, sex, day of the week, and a measure of criminal history. We do that unconditionally, controlling for month-by-year fixed effects, and controlling for month-by-year-by-court fixed effects.

Second, we use case characteristics to predict the outcome variables, then we test whether attorney race is correlated with the predicted values. The intuition behind this approach is that if cases are indeed quasi-randomly assigned, then the underlying dismissal rate of a given case, as predicted by case characteristics, should not be correlated with the

race of the attorney. First, we predict the outcome variables (in this case, probability of dismissal, probability of being sentenced to jail, and probability of being on probation) for each case using case characteristics, such as crime type (drug, assault, domestic violence, property, driving while intoxicated, invalid license, weapon), defendant race, sex, age, day of the week, and number of previous arrests. Next, we compare the predicted outcomes for cases assigned to White attorneys to the predicted outcomes for cases assigned to Black attorneys. If cases are indeed quasi-randomly assigned, then the predicted dismissal rate and predicted sentencing outcomes should not be statistically different across attorneys of different races.

Finally, we estimate the correlation between attorney race and case characteristics by regressing the dependent variables on attorney race, each in a separate regression. We do that unconditionally, controlling for month-by-year fixed effects, and then using our baseline specification, which is controlling for month-by-year-by-court fixed effects. The results from these three tests suggest that attorneys are assigned to cases in a quasi-random manner. Additionally, we show that our main estimates are robust to controlling for case characteristics, which is consistent with the quasi-random assignment of attorneys to cases.

5 Results

5.1 Quasi-random assignment of attorneys to cases

First, we provide empirical evidence of quasi-random assignment of cases to attorneys. We show that attorney race is not correlated with case characteristics in three ways.

We begin by showing that attorney race is not correlated with the predicted outcomes. In order to estimate the predicted values, we regress the outcome variables (probability of a case being dismissed, probability of receiving a jail sentence, and probability of receiving a probation sentence) on all case characteristics. Case characteristics include dummy variables for the charge type, day-of-the-week fixed effects, defendant's sex, age, and the number of

previous charges, in addition to month-by-year-by-court fixed effects. Then, we use the estimated coefficients to predict the outcome variables. Next, we estimate the effect of attorney race on the predicted outcomes. We report the results in Table 2, where we show that having a White attorney is negatively correlated with predicted probation, once we condition on the minimum set of controls for quasi-random assignment, predicted outcomes are not correlated with attorney race (Panel C). This is true even when we only condition on month-by-year fixed effects (Panel B). Again, the results show that attorney race is not correlated with any of the predicted outcomes.

We use two other methods to provide more supportive evidence that attorney assignment is quasi-random. In addition to using predicted outcomes, we show the results of the F-test in Table B1, where we regress attorney race on case characteristics to test whether the latter jointly predict the attorney's race. We begin by showing the results without controlling for any fixed effects and the results when we control for month-by-year fixed effects. Columns (1) and (2) show that some case characteristics are marginally statistically significant. However, the F-tests, with a p-value of 0.48 and 0.67, respectively, show that these characteristics do not jointly predict the race of the attorney. Finally, we report the results using our preferred specification, which includes month-by-year-by-court fixed effects. Column (3) shows that none of the coefficients are statistically significant, and the p-value of the F-statistic is 0.89.

Finally, we show that attorney race is not correlated with case characteristics, by regressing each characteristic, separately, on attorney race. The results are reported in Table B2. Each column represents a separate regression equation. Panel (A) shows the results unconditional on any time or court fixed effects, Panel (B) shows the results using month-by-year fixed effects, and Panel (C) shows the results using our baseline specification, which is using month-by-year-by-court fixed effects. The results are in line with the results outlined above, and they provide more supportive evidence that conditional on month-by-year-by-court fixed effects, attorney assignment to cases is quasi-random.

Now, we turn to showing the effect of being assigned a different-race attorney on case

outcomes using the difference-in-differences approach.

5.2 Different-race effect

5.2.1 Case outcomes

We begin by showing the dismissal rates for White and Black attorneys by defendant race (Table 3). As can be seen from the table, White attorneys have a higher likelihood of earning a dismissal, regardless of the race of the defendant. For White defendants, White attorneys have a dismissal rate of 47 percent, while Black attorneys have a dismissal rate of 45 percent. While this difference could be due to a race-effect, it could also be a function of other non-race characteristics. For instance, White attorneys might be better-skilled relative to Black attorneys, so they are more successful at securing dismissals for their defendants relative to Black attorneys, irrespective of defendant race. For the latter to be the only explanation for this difference in dismissal rates across White and Black attorneys for White defendants, we should observe the same difference across White and Black attorneys for Black defendants.

We then consider the difference in dismissal rates across attorneys but for Black defendants, which will be our second difference. In the absence of a "different-race" effect, the difference in dismissal rates for Black defendants across White and Black attorneys should be equivalent to the difference in dismissal rates for White defendants across attorney races. However, the difference in dismissal rates across White and Black attorneys for Black defendants is 0.095 percentage points, which is larger than the difference in dismissal rates across White and Black attorneys for White defendants. Since we know that cases are quasi-randomly assigned to attorneys, this difference is evidence of a different-race effect.

We formally estimate the effect of a different-race attorney on case disposition using Equation 1, and we report the results in Table 4. Column (1) represents the difference-in-differences estimates using our baseline specification, which only controls for month-by-year-by-court fixed effects. The results show that there is a different-race effect of 6.7 percentage points, and it is statistically significant at the 1 percent level. That is, relative to the

outcome mean of 0.48, an attorney is 14 percent more likely to earn a dismissal when they are representing a different-race defendant. We have previously shown that an attorney's race is not correlated with case characteristics, which means that controlling for case characteristics should not affect our estimates besides improving precision. Indeed, when we control for case characteristics, including crime type, day of the week, defendant sex, age, and criminal history, our estimate is unchanged (column 2).

These difference-in-differences estimates suggest that a defendant faces more favorable outcomes when represented by an attorney of a different race since that increases the likelihood that their case gets dismissed. There are several possible explanations for these different-race effects, which we will discuss extensively in section 6. However, the different-race effect could be driven by other factors that are correlated with defendant race but are not race itself. For instance, perhaps White attorneys are better at representing drug-related crimes, which are more likely to be committed by Black defendants. To address this concern, we control for interaction terms of attorney race with all case characteristics, including crime type, day of the week, defendant sex, age, and criminal history. If this is true, then interacting case characteristics with attorney race and controlling for them should cause the cross-race effect, or α_3, to go to zero. When we control for the interaction terms, our coefficient of interest does not change. Specifically, we estimate a different-race effect of 7.7 percentage points (16 percent), as shown in Column (3) of Table 4. Additionally, the results are robust to controlling for interaction terms of attorney characteristics (years of experience and law school ranking) with defendant race (column 4). To the extent that case characteristics are good proxies for case type and attorney characteristics are good proxies of attorney quality, these results provide supportive evidence that the effects are not driven by non-race attorney or defendant characteristics.

Next, we examine whether having a different-race attorney affects sentencing outcomes. The data allow us to observe whether a defendant was sentenced to jail or probation. We report the results in Table 5, where Panels (A) and (B) show the effect on the likelihood of

receiving a jail sentence and a probation sentence, respectively.

Using our baseline specification, Column (1) of Panel (A) shows that having a different-race attorney causes a 7 percentage points decrease in the likelihood of being sentenced to jail, which is statistically significant at the 10 percent level. This estimate is robust to controlling for case characteristics and interaction terms of case characteristics and attorney race. For instance, Column (3) in Panel (A) shows that having a different-race attorney causes a 4.5 percentage point decrease in the likelihood of receiving a jail sentence, which is a 15 percent decrease relative to the control mean. In contrast, having a different-race attorney does not impact the likelihood of receiving a probation sentence, as shown in Panels (B).

As mentioned earlier, the voucher data show that 9 percent of the charges are assigned to more than one attorney. Based on conversations with the county, this can be due to reasons such as an attorney-client conflict or an attorney leaving the practice of defense. Thus far, we have focused on the first attorney assigned to a given charge, as identified by the assignment date. As a robustness check, we drop the sample of charges that had more than one attorney and estimate the difference-in-differences model using the cases that had one court-appointed attorney from the filing date until the disposition date.

We report the results in Table B6. Column (1) shows the different-race effect for dismissal rates. As can be seen, the results are similar to what we show in Table 4. Specifically, we estimate a different-race effect of 5 percentage points on the probability of earning a dismissal, which is statistically significant at the 5 percent level. Compared to the outcome mean, assigning a different-race attorney increases the likelihood of dismissing a case by 10 percent. This suggests that our main estimates are not driven by a subset of charges where the main attorney, for which quasi-random assignment holds, was replaced.

Column (2) shows that a different-race attorney decreases the likelihood of receiving a jail sentence by 5.6 percentage points (19 percent). However, the estimate is not statistically significant at conventional levels. That being said, this is possibly due to a loss in

precision when restricting the sample to cases with only one attorney. Compared to the outcome mean, the lower confidence interval is 43 percent, which means that we cannot reject meaningful decreases in the likelihood of receiving a jail sentence. As for receiving a probation sentence, the results remain unchanged in column (3). Finally, as mentioned in the section 3, we identify Hispanic defendants using the R package "predictrace" and exclude them from the analysis. In Figure B2 and Table B3, we show that our results are robust to using different thresholds for identifying Hispanic defendants and to using alternative race prediction packages, respectively.

Our results contradict findings from other research. Contrary to agents such as police officers (e.g., Hoekstra and Sloan (2022)) or juries (e.g., Anwar et al. (2012)), we find that different-race attorneys secure better outcomes for their defendants. In section section 6, we present an extensive discussion of the possible mechanisms behind these effects.

5.2.2 Individual attorney effects

So far, we have shown that on average, attorneys are more likely to earn favorable outcomes for different-race defendants. What is not clear though is whether these effects are driven by the entire sample of attorneys or just a handful of attorneys in the tails. In order to address this question, we estimate attorney (shrunken) random effects and plot the distributions for both Black and White attorneys. We estimate the random effects separately by defendant race to account for differences across racial groups.

First, we regress the probability of case dismissal on month-by-year-by-court fixed effects and case characteristics. Second, we save the residuals and use the Stata command mixed to estimate a random effects model and compute individual attorney random effects. Finally, we graph the residuals using a kernel density plot for Black and White attorneys by defendant race (Figure 2).

Comparing the distributions by defendant race, panel (a) in Figure 2 shows that conditional on the defendant being White, an average Black attorney is similar to an average

White attorney, but there are more White attorneys in both tails than there are Black. However, when we compare the distributions conditional on the defendant being Black (panel (b)), the figure results show that the distribution of White attorneys is shifted to the right relative to that of Black attorneys. This indicates that when handling Black defendant cases, White attorneys are generally better, i.e., they are more likely to earn a dismissal for a Black defendant relative to Black attorneys. These results suggest that the different-race effects are driven by White attorneys being more effective at representing Black defendants relative to Black attorneys. Since the entire distribution of White attorney random effects shifts to the right, it indicates that our difference-in-differences results in Table 4 are driven by the entire distribution of White attorneys, rather than just a handful of them.

For robustness, we estimate attorney fixed effects and we plot them in Figure B1. The figures show that attorney fixed effects are pretty similar to the estimated shrunken random effects estimated previously.

5.2.3 Heterogeneous effects

First, we estimate the different-race effect by crime type. Previous research argues that the evidence for some crime types, such as assault, is more scarce, leaving more room for discretion (e.g., Spohn and Holleran (2001)). Thus, one might expect that the results are driven by the types of crimes for which this is true.

We use the charge description to classify crimes into five main categories: drug-related, violent, property, traffic-related, and other crimes.[15] For each crime category, we estimate the difference-in-differences model separately using Equation 1, and we report the results in Table B4. In all regressions, we control for month-by-year-by-court fixed effects and case

[15]Drug-related includes charges such as possession of marijuana or possession of a controlled substance. Violent charges include assaults, domestic violence, and weapon-related offenses. Property crimes include thefts of any kind (property, service, organized retail theft, etc. ...), attempted thefts, and burglaries. Traffic-related include driving without a valid license, driving while intoxicated, and speeding. Finally, other crimes include less common offenses such as failure to appear in court, criminal mischief, criminal trespass, evading arrest/detention, obstructing highway passageway, resisting arrest or search, violating bond or protective order, etc. ...

characteristics, and we two-way cluster the standard errors at the attorney and defendant level.

As the table shows, we estimate a statistically nonsignificant effect of a different-race attorney on our outcomes of interest across all crime types, except for the category of other misdemeanor charges in column (5). That being said, dividing the sample by crime type leads to a substantial decrease in the sample size and statistical power, which leads our estimates to be highly imprecise. For example, looking at property-related crimes in Column (3), the estimate in Panel (A) shows that there is a 14 percentage points increase in the likelihood of earning a dismissal as a result of a different-race attorney, but the estimate is highly imprecise. In particular, relative to the control mean, we cannot reject increases that are less than 80 percent.[16] This provides evidence that the results are likely driven by other misdemeanor charges.

Second, we estimate the different-race effect by year. In our paper, we find that different-race attorneys earn more dismissals and fewer jail sentences for their defendants, which means that having a different-race attorney leads to *more favorable* outcomes for the defendants. In order to better understand the drivers of these results, we estimate the effect of a different-race attorney over time to examine whether they coincide with any related temporal factors. We estimate Equation 1 separately for each year, and we report the coefficient from each estimation, in addition to the 95 percent confidence intervals in Figure 1.

As shown in the figure, the main estimates are driven by more recent years. For example, the difference-in-differences estimate was about +0.25 percentage points in the year 2019, which is highly statistically significant. The estimate remains positive after that, even though it becomes imprecise. One possible explanation for why the results are driven by later years is the heightened concerns over racial discrimination in the US, especially within the criminal justice system. Recent events, such as Michael Brown's killing by the police in 2014, have increased national concerns of racial injustice, which could have led agents, in this case White

[16]The upper 95 percent confidence interval is an increase of nearly 80 percent relative to the control mean of 0.466.

attorneys, to behave differently towards their Black defendants.

Another explanation may be an underlying decompositional change in the sample of indigent-defense attorneys over time. This may drive the results if for instance, new White (or Black) attorneys who are different in underlying characteristics relative to pre-2019 attorneys, signed up for indigent defense on or after 2019. To test for a decompositional change, we estimate the results over time, this time by focusing on attorneys that were active pre-2019 only. This excludes 12 attorneys who appeared as indigent defense attorneys after 2019 (only one of them was a Black attorney). However, the results in Figure B4 are almost identical to Figure 1, suggesting that the new attorneys that joined after 2019 cannot be driving the positive different-race effects during that period.

Hence, we have shown that our main results are driven by less common crime types, such as criminal trespassing and evading an arrest, and possibly by property-related crimes. In addition, they are driven by more recent years, possibly due to nationwide political changes.

6 Mechanisms

In the previous section, we show that contrary to other agents in the criminal justice system, attorneys achieve better outcomes for their different-race defendants. This is primarily driven by White attorneys being more effective in terms of securing dismissals for their Black defendants. In this section, we provide an extensive discussion of the possible mechanisms behind these estimates. A case outcome depends on several factors, such as the amount of evidence presented, procedural errors, rights violations, witnesses, and testimonies, all of which can be influenced by both, prosecutors and defense attorneys. For instance, an attorney can challenge the reliability of the prosecution's testimonial evidence as a defense strategy. On the other hand, prosecutors and law enforcement control the evidence presented in a given case.

Let's begin by considering the attorneys' behavior in response to the race of their defen-

dant. One possible explanation for the different-race effect is that White attorneys are more skilled at defending the types of crimes that are more likely to be committed by Black defendants relative to Black attorneys. However, we show in Column (3) of Table 4 that the results are robust to controlling for interaction terms of attorney race and case characteristics. We also show that the results are robust to controlling for interaction terms of defendant race and attorney characteristics, including years of experience and law school ranking (Column (4) of Table 4). To the extent that case characteristics are good proxies for case type, and to the extent that attorney characteristics are good proxies for attorney quality, these results suggest that the differences in cases across Black and White defendants and the difference in skills across Black and White attorneys cannot explain the different-race effect.

Another possible explanation is racial discrimination in legal representation by attorneys *against* members of the same group. Conversely, this also implies favoritism towards defendants of a different race. While empirical evidence shows that more often than not, individuals exhibit racial discrimination against individuals of a different group, the opposite can sometimes be true, such as in the context of juvenile judges (Depew et al. (2017)). This can be due to treating in-group individuals more harshly when they violate social norms.

While we cannot directly test for racial discrimination, it may be evident in the level of attorney effort on a given case. If an attorney is discriminatory against one race over the other, they might differentially allocate their time and effort depending on the defendant's race. We use three measures as proxies for attorney effort: case length, motion submission, and compensation amount. The payment structure incentivizes attorneys to dispose of cases swiftly to get assigned more cases and earn more (e.g., Anderson and Heaton (2012)). Thus, an increase in the number of days until disposition may signal an increase in attorney efforts (Agan et al. (2021b)). Another indicator of attorney effort is whether attorneys submit motions on behalf of their clients. These motions filed to courts from the defense can include but are not limited to, motions for a new trial, motions to have the defendant examined by a psychiatrist, or motions to quash. Finally, the level of effort invested could also be

reflected in the amount of money an attorney receives for each case. While attorneys receive a flat fee per case, they receive additional payments for other additional actions they take (for instance, appealing, trial, jail visit, etc..). While we do not observe the specific actions taken by each attorney, we do observe the total payment amount they receive for each case, which we use as a second proxy for attorney effort.

We estimate the different-race effect on attorney effort using the three measures; days until disposition, motion submission, and attorney compensation per case using Equation 1, and we report the results in Table B5. We find that having a different-race attorney does not have a significant impact on any of these effort measures. Specifically, Column (1) shows that a different-race attorney has economically small and statistically insignificant effects on case duration. Similarly, we estimate the effect of having a different-race attorney on the likelihood of motion submission and the compensation amount the attorney receives per case in columns (2) and (3). Again, the estimated coefficients are small compared to the outcome means, and statistically insignificant using our most preferred specification. Thus, to the extent that these measures are good proxies for attorney effort, the results in Table B5 suggest that the different-race effect cannot be explained by attorneys exerting more effort when the defendant is of a different race.

However, we cannot entirely rule out that the results are driven by White attorneys "favoring" Black defendants for two reasons. First, anecdotally, some White attorneys adjust their behavior to counteract potential biases that exist elsewhere in the system. According to conversations with a public defender from a different county, attorneys sometimes use "racial bias" as a defense strategy to dismiss charges pressed against Black defendants. It's also believed that claims of racial bias might be seen as more credible when presented by a White lawyer compared to a Black one. If this is true, it can lead to a higher dismissal rate for Black defendants represented by White attorneys. Second, our difference-in-differences effects over time show that the results are positive and significant in more recent years, which loosely coincide with national political movements against racial injustice. Although

descriptive, this can be suggestive evidence that the recent racial justice movement may have impacted how White attorneys behave towards Black defendants.

Finally, a different-race attorney may improve case outcomes by affecting how others behave towards the defendant. A mismatch between an attorney and a defendant's race could affect how prosecutors and/or judges perceive a case. For example, judges may be more sympathetic towards Black defendants who are represented by White attorneys and thus, are more lenient towards them. We argue that judges' behavior is less of a concern in our setting since most of these charges get resolved without a trial (only 6% of the cases in our sample go to trial).

However, it is still possible for prosecutors to contribute to the different-race effect in two ways: prosecutors can be more sympathetic towards Black defendants who are represented by White attorneys, so they prosecute a Black defendant's case less harshly when they are represented by a White attorney. On the contrary, if prosecutors exhibit racial bias against Black individuals in general, they might dedicate more effort to prosecute a case that is brought up against a Black defendant who is also represented by a Black attorney. We find the first possibility to be more plausible than the second one. If prosecutors are racially biased against Black individuals, they should affect case outcomes of Black defendants equally, regardless of the race of their attorney. Second, the fact that the results are driven by more recent years suggests that prosecutors may act in the same manner as defense attorneys, in the sense that they behave in favor of Black defendants in response to social or political pressure as a result of the racial justice movement.

In sum, we argue that the effect of a different-race attorney on case outcomes cannot be driven by other (defendant or attorney) characteristics that matter for the defendant-attorney race pairing. Specifically, they are not driven by White attorneys being better at representing crimes that are more likely to be committed by Black defendants. While we do not find evidence of a change in attorney effort, we argue that the results are driven by a *positive* change in White attorneys' behavior, prosecutors' behavior, or both, towards Black

defendants. While it is possible that Black attorneys might exhibit racial bias against Black defendants, the results over time suggest that that might not be the case. The different-race effects are more pronounced in more recent years, which could be explained by the national movement against racial injustice that could impact the way agents behave towards Black individuals in the criminal justice system.

7 Long-run effect

Although recidivism is not the primary factor considered when determining a case's outcome, and thus cannot be used to determine the optimal rate of dismissal for each racial group, it remains an important policy question whether being represented by a different-race attorney affects the likelihood of recidivism.

The primary channel through which having a different-race attorney can affect the likelihood of recidivism is through the increase in the likelihood of case dismissal and the decrease in the likelihood of incarceration, but the sign of the effect is ambiguous. If the prospect of punishment deters crime, then we should expect that having a different-race attorney would increase the likelihood of recidivism. However, evidence regarding the deterrence effect of sanctions is mixed (e.g., Hansen (2015); Evans and Owens (2007); Chalfin and McCrary (2017); Mueller-Smith and T. Schnepel (2021)). Even though the deterrence/incapacitation effect is the primary channel, having a different-race attorney could impact recidivism through other channels as well. For instance, same-race attorneys could serve as role models to defendants, such as in the case of teachers (e.g., Gershenson et al. (2022)). Irvine (1989)) argues that Black teachers are more likely to understand Black students, and they are also more likely to use cultural references and teaching styles that are more suitable and more familiar to Black students, hence improving their performance.

We generate two variables that take the value one if at least one misdemeanor charge is filed against a defendant within one- or two-years since the filing date of a given case, and we

use our main equation (Equation 1) to estimate the reduced-form effect of having a different-race attorney on recidivism. The results are reported in Table 6. Panels (A) and (B) show the effect of having a different-race attorney on the likelihood of recidivating within one- and two-years, respectively. Our baseline specification includes the month-by-year-by-court fixed effects (column 1). For robustness, we control for case characteristics and the interaction terms of case characteristics with attorney race in columns (2) and (3), respectively.

We show that having a different-race attorney does not increase the likelihood of recidivism, even two years after a given case. For example, column (1) of Panel (A) shows that having a different-race attorney causes a 5 percentage point increase in the likelihood of having another case filed within a year, but the effect is statistically insignificant at conventional levels. Similarly, column (1) of Panel (B) shows that a different-race attorney has an insignificant effect on the likelihood of re-offending within two years. Controlling for case characteristics and interaction terms in columns (2) and (3) does not change the results.

The results in this section show that Black defendants represented by White attorneys are not more likely to recidivate, relative to those who are represented by Black attorneys. Importantly, the primary channel through which this could be happening is through the decrease in the likelihood of incarceration, even though other channels are also possible. These results have important policy implications, especially in light of current political efforts to decriminalize certain low-level offenses (Agan et al. (2021a)) and the mixed evidence regarding the deterrence effect of sanctions in the literature.

8 Conclusion

In this paper, we use the quasi-random assignment of court-appointed attorneys to misdemeanor cases to test whether defense attorneys secure better deals for same-race defendants. Using more than 17,000 misdemeanor cases from Travis County, our difference-in-differences estimates show that attorneys achieve better outcomes for different-race defendants, in con-

trast with what others have found in different contexts, such as policing (Hoekstra and Sloan (2022)). Specifically, we show that a different-race attorney causes a 14-16 percent increase in the likelihood of a case dismissal and a 15-23 percent decrease in the likelihood of incarceration. Estimating attorney random effects, we show that these results are due to White attorneys being more effective at securing dismissals for Black defendants relative to Black attorneys. In addition, the random effects suggest that this is driven by the entire sample of White attorneys, rather than a handful of them. Estimating the effect on recidivism, we show that a Black defendant who is assigned to a White attorney is not more likely to re-offend within one or two years of a given case.

To understand the drivers of these different-race effects, we perform a battery of tests. First, we rule out the possibility that other observed characteristics that are correlated with race, but not race itself, drive these results. We do so by controlling for the interaction terms of case characteristics (crime type, date, defendant sex, age, and criminal history) with attorney race and by controlling for interaction terms of attorney characteristics (law school ranking and years of experience) with defendant race. We show that controlling for these interaction terms does not affect our coefficient estimates. Second, we show that the results are not driven by a change in attorney effort, as proxied by case length, the likelihood of filing motions, and attorney's compensation per case. Third, we show that the results are more pronounced in more recent years, which corroborates anecdotal evidence that White attorneys or prosecutors adjust their behavior to counteract potential biases elsewhere in the system, are simply motivated by the avoidance of accusations of racial bias, or are responding to social/political pressure as a result of the racial justice movement.

In light of the existing racial disparities in the criminal justice system, our results have important policy implications. In terms of designing defendant-attorney matching mechanisms, assigning an attorney of the same race does not necessarily translate into better outcomes. More broadly, our results suggest that putting significant weight on extralegal factors, such as race, may be less effective than other considerations with respect to improving

outcomes.

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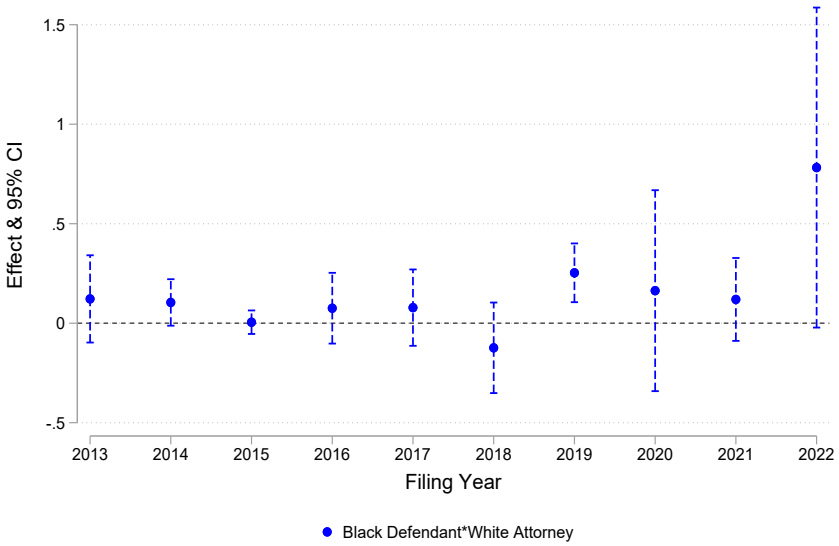
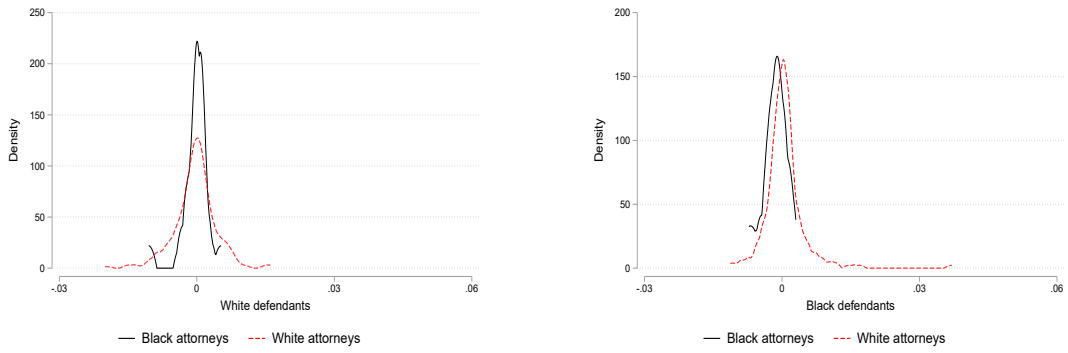
9 Tables and figures

Figure 1: The effect of a different-race attorney over time



Notes: This figure shows the difference-in-differences estimates by year. We estimate Equation 1 for each year separately, and we report the coefficients with their 95% confidence intervals. The standard errors are two-way clustered at the attorney and defendant level. Year 2022 includes 34 charges that were filed in 2023.

Figure 2: Attorney effects by defendant race



(a) White defendants

(b) Black defendants

Notes: These figures show the distribution of individual attorney random effects by attorney race and by defendant race. Panel (a) shows the random effects for attorneys conditional on a White defendant, while Panel (b) shows the random effects for attorneys conditional on a Black defendant. The random effects are calculated by regressing our main outcome variable (dismissal) on a set of case characteristics and fixed effects (charge type, day of the week, defendant sex, age, zipcode, previous arrests, and month-by-year-by-court fixed effects). We then save the residualized case dismissal and calculate constant random effects using the Stata command *mixed*. Each panel shows results from a separate regression.

Table 1: Summary statistics

	(1) All defendants	(2) Black defendants	(3) White defendants
Outcomes			
Dismissed	0.485	0.529	0.464
Probation	0.141	0.0863	0.167
Jail	0.292	0.328	0.275
Fine only	0.000458	0.000537	0.000421
Defendant characteristics			
Black	0.320	1	0
Female	0.243	0.212	0.258
Age(years)	34.35	34.53	34.27
Previous charges	1.164	1.359	1.072
Case characteristics			
White attorney	0.951	0.949	0.952
Drug	0.128	0.154	0.116
Property	0.0822	0.0802	0.0831
DWI	0.197	0.0881	0.249
Invalid license	0.0905	0.108	0.0825
Domestic Violence	0.0887	0.0752	0.0951
Assault	0.0287	0.0353	0.0255
Weapon	0.0173	0.0213	0.0154
Other misd.	0.367	0.439	0.333
Observations	17451	5587	11864

Standard deviations in parentheses

Notes: This table shows the means for our outcome variables, defendant characteristics, as well as case characteristics. The data are at the charge level. Around 1,000 charges have "other" dispositions, such as pretrial diversion or case reduction.

Table 2: The correlation between attorney race and predicted outcomes

	(1) Predicted dismissal	(2) Predicted jail	(3) Predicted probation
Panel A: Unconditional			
White attorney	0.0177	-0.0223	-0.0127***
	(0.0129)	(0.0195)	(0.00486)
Observations	17451	17451	17451
Panel B: Month-year FE			
White attorney	0.00440	0.000615	-0.00170
	(0.00489)	(0.00648)	(0.00350)
Observations	17451	17451	17451
Panel C: Month-year-court FE			
White attorney	0.00271	-0.000819	-0.000257
	(0.00438)	(0.00613)	(0.00351)
Observations	17451	17451	17451
Outcome Mean	0.485	0.292	0.141

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the correlation between predicted outcomes and attorney race. For each outcome, we use case characteristics, including crime type, day of the week, month and year, defendant's race, sex, and age to predict the likelihood of case dismissal, prison, and probation. We then estimate the effect of attorney race on each predicted outcome. Each column represents an outcome, and we report the unconditional results in Panel (A), while we include month-by-year fixed effects and month-by-year-by-court fixed effects in Panels (B) and (C), respectively. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table 3: Average dismissal rates by attorney race and defendant race

	(1) White attorneys	(2) Black attorneys
White defendant	0.465	0.448
Black defendant	0.534	0.439

Notes: This table shows a simple 2x2 representation of the difference-in-differences approach. Each cell represents the average dismissal rate for a specific group. For example, column (1) and row (1) show the rate of dismissal for White attorneys conditional on the defendants being White.

Table 4: The effect of a different-race attorney on case dismissal

	(1)	(2)	(3)	(4)
Outcome: Dismissed				
Black defendant × White attorney	0.0667***	0.0660***	0.0766***	0.0774***
	(0.0182)	(0.0210)	(0.0212)	(0.0233)
Observations	17451	17451	17451	16790
Outcome Mean	0.484	0.484	0.484	0.485
Defendant race indicator	Y	Y	Y	Y
Month-year-court FE	Y	Y	Y	Y
Attorney FE	Y	Y	Y	Y
Case Characteristics	N	Y	Y	Y
Attorney race*Case characteristics	N	N	Y	Y
Defendant race*Attorney characteristics	N	N	N	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on dismissal using our Equation 1. In all three columns, we include month-by-year-by-court fixed effects, in addition to an indicator for defendant race and attorney fixed effects. Column (1) shows the results using our baseline specification. In column (2), we control for case characteristics, including dummy variables for charge type, day of the week, defendant characteristics including age, sex, and number of previous charges. In column (3), we control for case and defendant characteristics, in addition to interaction terms for attorney race with case characteristics. In column (4), we additionally control for interaction terms for defendant race with attorney characteristics. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table 5: The effect of a different-race attorney on sentencing outcomes

	(1)	(2)	(3)
Panel A: Jail			
Black defendant × White attorney	-0.0681*	-0.0611*	-0.0447*
	(0.0362)	(0.0338)	(0.0257)
Observations	17451	17451	17451
Outcome Mean	0.293	0.293	0.293
Panel B: Probation			
Black defendant × White attorney	0.00205	-0.00426	-0.0111
	(0.0200)	(0.0198)	(0.0228)
Observations	17451	17451	17451
Outcome Mean	0.141	0.141	0.141
Defendant race indicator	Y	Y	Y
Month-year-court FE	Y	Y	Y
Attorney FE	Y	Y	Y
Case Characteristics	N	Y	Y
Interactions	N	N	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on sentencing outcomes using Equation 1. Each panel represents the effect on a separate outcome; panel (A) shows the effect on being sentenced to jail, panel (B) shows the effect on receiving a probation sentence, and panel (C) shows the effect on receiving a fine only. Each column is a separate regression. In all three columns, we include month-by-year-by-court fixed effects, in addition to an indicator for defendant race and attorney fixed effects. Column (1) shows the results using our baseline specification. In column (2), we control for case characteristics, including dummy variables for charge type, day of the week, and defendant characteristics including age, sex, and number of previous charges. In column (3), we control for case and defendant characteristics, in addition to interaction terms for attorney race with case characteristics. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table 6: The effect of a different-race attorney on recidivism

	(1)	(2)	(3)
Panel A: 1-year recidivism			
Black defendant × White attorney	0.0505	0.0535	0.0470
	(0.0410)	(0.0385)	(0.0382)
Observations	16722	16722	16722
Outcome Mean	0.241	0.241	0.241
Panel B: 2-year recidivism			
Black defendant × White attorney	0.00127	0.00581	-0.00547
	(0.0647)	(0.0619)	(0.0584)
Observations	16722	16722	16722
Outcome Mean	0.327	0.327	0.327
Defendant race indicator	Y	Y	Y
Month-year-court FE	Y	Y	Y
Attorney FE	Y	Y	Y
Case Characteristics	N	Y	Y
Interactions	N	N	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the effect of a different-race attorney on future recidivism using Equation 1. Panels (A) and (B) show the effect on the 1-year and 2-year recidivism, respectively. The 1-year and 2-year recidivism variables are dummy variables equal 1 if the defendant has a new charge filed against them within 1 year and 2 years since the filing date of a given charge, respectively. Each column is a separate regression. We restrict our sample to charges filed during or before 2021 and during or before 2020 to estimate the effect on the 1-year and 2-year recidivism rate, respectively, in order to be able to observe the outcomes of interest. In all three columns, we include month-by-year-by-court fixed effects, in addition to an indicator for defendant race and attorney fixed effects. Column (1) shows the results using our baseline specification. In column (2), we control for case characteristics, including dummy variables for charge type, day of the week, defendant characteristics including age, sex, and number of previous charges. In column (3), we control for case and defendant characteristics, in addition to interaction terms for attorney race with case characteristics. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

10 Online Appendix

Appendix A: Data

We use misdemeanor cases that were filed in Travis County, Texas for the years 2013-2022, a total of 131,166 charges (129,679 unique cases). Here, we show how the data restrictions that we perform as explained in section 3 affect the sample size. Note that the numbers here reflect the number of individual charges rather than individual cases since the data are at the charge-level.

- To obtain charges that were represented by court-appointed attorneys, we match the misdemeanor records to the wheel data (that shows the court-appointed attorney). Total number of indigent charges from 2013-2022: 52,685 charges (51,979 unique cases).
- Dropping cases where the attorney was non-randomly assigned by a judge (11%): 46,682 charges.
- Dropping Hispanic defendants or defendants of other races (Asian, Middle Eastern, etc. ...) (40%): 28,092 charges.
- Dropping cases with missing defendant race or age (<1%): 27,920 charges
- Dropping observations where attorney race is missing or attorney is not Black nor White (37%): 17,451 charges

Table A1: Attorney characteristics

White attorney	0.921
Black attorney	0.0788
Law school ranking	75.07
Experience (years)	17.18
Observations	241

Table A2: Summary Statistics – Cases with observed vs unobserved attorney race

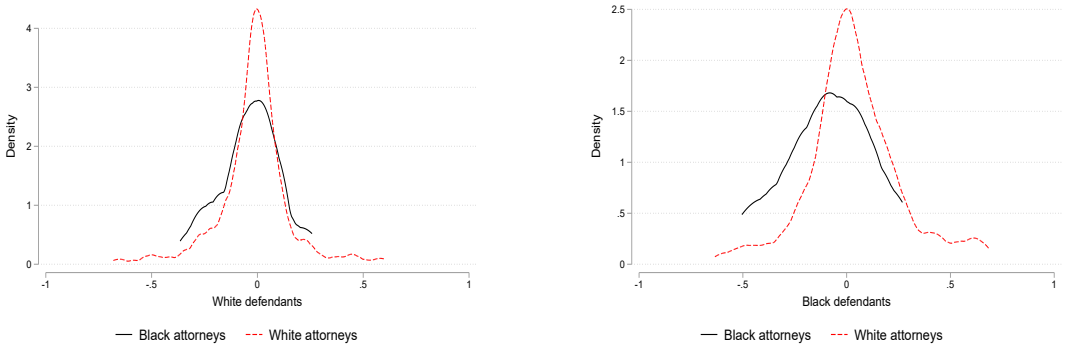
	(1) In sample	(2) Missing attorney race
Outcomes		
Dismissed	0.484	0.470
	(0.500)	(0.499)
Probation/Deferred adj	0.151	0.158
	(0.358)	(0.364)
Jail	0.278	0.304
	(0.448)	(0.460)
Fine only	0.000502	0.00102
	(0.0224)	(0.0319)
Defendant characteristics		
Black	0.187	0.210
	(0.390)	(0.407)
Female	0.242	0.238
	(0.429)	(0.426)
Age(years)	32.96	33.02
	(11.42)	(11.52)
Case characteristics		
Experience (years)	18.80	29.70
	(10.73)	(11.12)
Law school ranking	78.30	48.06
	(60.42)	(52.83)
Drug	0.128	0.140
	(0.334)	(0.348)
Property	0.0799	0.0836
	(0.271)	(0.277)
DWI	0.212	0.198
	(0.409)	(0.398)
Invalid license	0.0890	0.0977
	(0.285)	(0.297)
Domestic Violence	0.0933	0.0934
	(0.291)	(0.291)
Assault	0.0276	0.0269
	(0.164)	(0.162)
Weapon	0.0172	0.0152
	(0.130)	(0.122)
Other misd.	0.353	0.345
	(0.478)	(0.475)
Observations	37842	8840

Standard deviations in parentheses

Notes: This table shows the summary statistics for case characteristics, including case outcomes, defendant characteristics, and attorney characteristics for the cases with observed versus unobserved attorney race.

Appendix B: Additional tables and figures

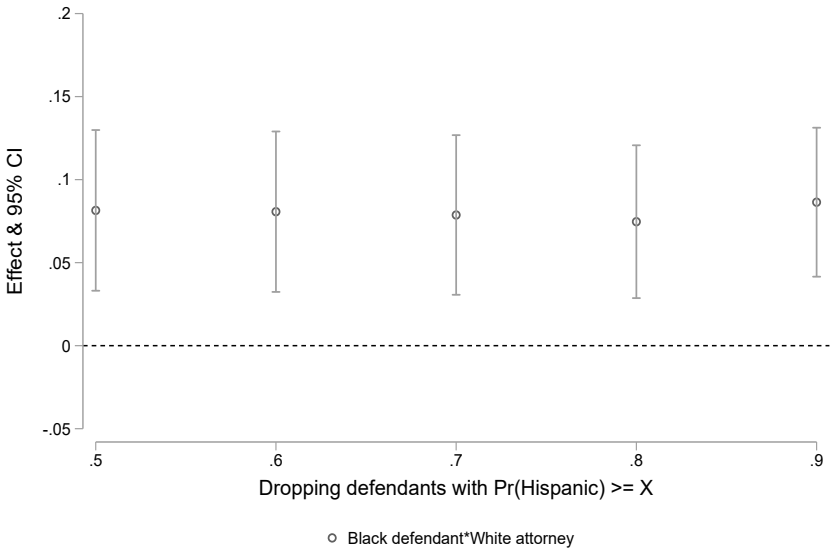
Figure B1: Attorney fixed effects



(a) White defendants (b) Black defendants

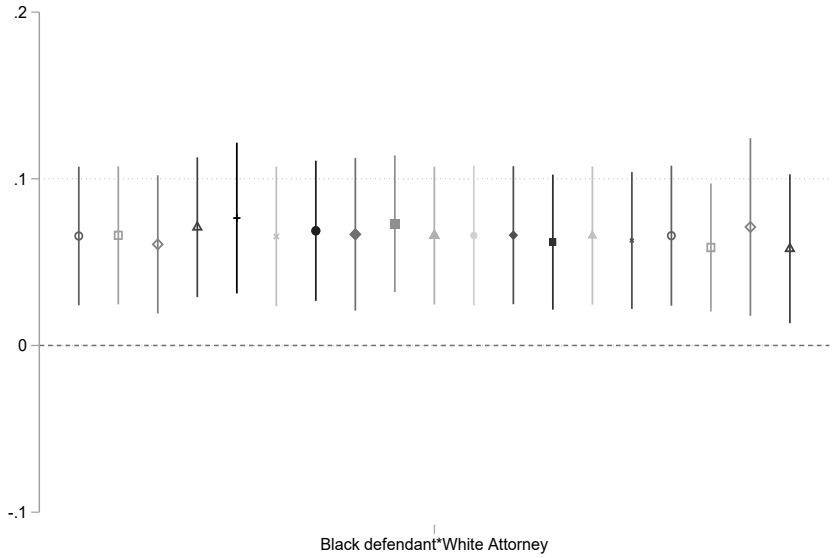
Notes: These figures show the distribution of the individual attorney fixed effects by defendant race (Panels (a) and (b)). To estimate attorney fixed effects, we regress case dismissal on a set of case characteristics (including dummy variables for charge type, day of the week, defendant sex, age, number of previous charges, and month-by-year-by-court fixed effects) and attorney fixed effects and save the attorney fixed effects (using the Stata command reghdfe). Each panel shows the estimates from a separate regression.

Figure B2: Robustness test – Using different thresholds to identify Hispanic defendants



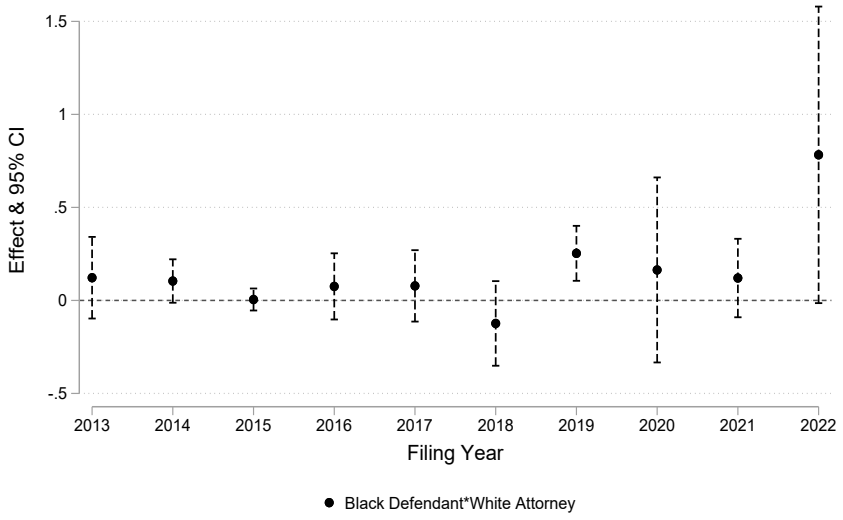
Notes: This figure shows the difference-in-differences estimate from Equation 1, using different thresholds for defining and dropping Hispanic defendants. Using the R-package "predictrace", we predict the race of each defendant using their surname. We then use the probability that they are Hispanic, as assigned by the algorithm, to drop them from the sample. We report the point estimates with the 95% confidence intervals for each threshold.

Figure B3: The effect of a different-race attorney on case outcomes – Randomly dropping Black attorneys



Notes: This figure reports the coefficient estimates for the effect of a different-race attorney on case dismissal after dropping one Black attorney from the sample. To ensure that not a single Black attorney is driving the results, we drop one of our 19 Black attorneys, each at a time, and we estimate the Equation 1 with the remaining attorneys. This exercise results in 19 regression equations, and we report the coefficient estimates for the interaction term (Black defendant $\times$ White Attorney) along with the 95% confidence intervals.

Figure B4: The effect of a different-race attorney over time – Using pre-2019 attorneys



Notes: This figure shows the difference-in-differences estimates by year, using attorneys that were active before 2019. We estimate Equation 1 for each year separately, and we report the coefficients with the 95% confidence intervals. The standard errors are two-way clustered at the attorney and defendant level. Note that after 2019, 12 new attorneys joined, and only one of them was Black.

Table B1: The effect of case characteristics on attorney race

	(1) White attorney	(2) White attorney	(3) White attorney
Drug	-0.00801	-0.000181	-0.00174
	(0.00494)	(0.00370)	(0.00386)
Property	-0.00947	-0.00326	-0.00271
	(0.00671)	(0.00751)	(0.00818)
DWI	-0.00529	-0.00425	-0.00462
	(0.00347)	(0.00339)	(0.00330)
Invalid license	-0.0148**	-0.00513	-0.00621
	(0.00701)	(0.00679)	(0.00635)
Domestic Violence	-0.0131*	-0.0153**	-0.0128
	(0.00690)	(0.00751)	(0.00912)
Assault	-0.0158	-0.0158*	-0.0141
	(0.00985)	(0.00923)	(0.00962)
Weapon	0.0140	0.0107	0.00860
	(0.0121)	(0.0102)	(0.0114)
Female	0.00234	0.00269	0.00271
	(0.00348)	(0.00341)	(0.00375)
Age(years)	-0.000147	-0.000212	-0.000253
	(0.000330)	(0.000350)	(0.000360)
Black	-0.00335	-0.00410	-0.00387
	(0.00391)	(0.00395)	(0.00387)
Previous charges	0.00185*	0.000841	0.000729
	(0.000980)	(0.00131)	(0.00129)
N	17451	17451	17451
Outcome Mean	0.951	0.951	0.951
F-stat	0.960	0.775	0.515
P-value	0.484	0.665	0.892
Unconditional	Y	N	N
Month-year FE	N	Y	N
Month-year-court FE	N	N	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the results from F-tests that show the effect of case characteristics on attorney race. Each column is a separate regression equation, where we regress a dummy variable equals to one if the attorney is White and zero otherwise, on dummy variables for charge type, defendant age, sex, race, a measure of criminal history, and day of the week. Column (1) shows the results without controlling for any date or court fixed effects, column (2) shows the effects using month-by-year fixed effects, and column (3) shows the effects using our baseline specification, which includes month-year-court fixed effects. For each set of results, we report the joint F-statistic including the p-value. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table B2: The correlation between attorney race and case characteristics

	(1) Drug	(2) Property	(3) DWI	(4) Invalid license	(5) Domestic Violence	(6) Assault	(7) Weapon	(8) Other misd.	(9) Black	(10) White	(11) Female	(12) Age(years)	(13) Previous charges
Panel A: Unconditional													
White attorney	-0.00861	-0.00682	0.000482	-0.0198	-0.0145*	-0.00653	0.00690	0.0489***	-0.0121	0.0121	0.00496	-0.287	0.300**
	(0.00827)	(0.00970)	(0.0108)	(0.0138)	(0.00772)	(0.00473)	(0.00440)	(0.0129)	(0.0167)	(0.0167)	(0.0132)	(0.980)	(0.145)
Observations	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451
Outcome Mean	0.128	0.0819	0.198	0.0913	0.0893	0.0285	0.0172	0.366	0.318	0.682	0.244	34.39	1.167
Panel B: Month-year FE													
White attorney	0.00723	0.000661	-0.00206	-0.00512	-0.0227***	-0.00795**	0.00483	0.0251	-0.0153	0.0153	0.00815	-0.582	0.123
	(0.00801)	(0.0127)	(0.0104)	(0.0124)	(0.00851)	(0.00401)	(0.00353)	(0.0155)	(0.0162)	(0.0162)	(0.0134)	(1.053)	(0.206)
Observations	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451
Outcome Mean	0.128	0.0819	0.198	0.0913	0.0893	0.0285	0.0172	0.366	0.318	0.682	0.244	34.39	1.167
Panel C: Month-year-court FE													
White attorney	0.00178	0.000690	-0.00621	-0.00825	-0.00860	-0.00653	0.00383	0.0233	-0.0148	0.0148	0.00886	-0.720	0.0970
	(0.00857)	(0.0131)	(0.00972)	(0.0114)	(0.00706)	(0.00450)	(0.00403)	(0.0171)	(0.0157)	(0.0157)	(0.0137)	(1.077)	(0.203)
Observations	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451	17451
Outcome Mean	0.128	0.0819	0.198	0.0913	0.0893	0.0285	0.0172	0.366	0.318	0.682	0.244	34.39	1.167

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the effect of attorney race on case characteristics. Each column is a separate regression, with the case characteristic being the dependent variable. We report the results without controlling for date and court-fixed effects in Panel (A). In Panel (B), we add month-by-year fixed effects, while in Panel (C), we add month-by-year-by-court fixed effects, which is our baseline specification. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table B3: The effect of a different-race attorney on dismissal – different methods to predict Hispanic ethnicity

	(1)	(2)	(3)	(4)
Outcome: Dismissed				
Black defendant × White attorney	0.0660***	0.0615***	0.0652***	0.0621***
	(0.0210)	(0.0205)	(0.0206)	(0.0198)
Observations	17451	17637	17899	18198
Outcome Mean	0.484	0.484	0.484	0.483
Defendant race indicator	Y	Y	Y	Y
Month-year-court FE	Y	Y	Y	Y
Attorney FE	Y	Y	Y	Y
Case Characteristics	Y	Y	Y	Y
Prediction Package	*Predictrace*	*Ethnicolr*	*Ethnicolr*	*Ethnicolr*
Input	Surname	Surname	Surname	Full name
	(Census&SSA)	(Census)	(FL Voter Registry)	(FL Voter Registry)

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on dismissal, utilizing various methods to predict race/ethnicity. Each column employs a distinct approach to predict whether a defendant is Hispanic. Column (1) uses an R package, *predictrace*, which uses Census and Social Security Administration data. Columns (2), (3), and (4) use a Python package, *ethnicolr*, with column (2) based on Census data and columns (3) and (4) incorporating Florida voter registration data. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table B4: The effect of a different-race attorney by crime type

	(1) Drug	(2) Violent	(3) Property	(4) Traffic	(5) Other
Outcome: Dismissed					
Black defendant × White attorney	-0.0373	-0.136	0.142	-0.0348	0.108**
	(0.0886)	(0.116)	(0.116)	(0.0607)	(0.0543)
Observations	2241	2434	1434	5031	6311
Outcome Mean	0.792	0.460	0.466	0.394	0.460
Outcome: Jail					
Black defendant × White attorney	0.0448	-0.136	-0.0701	-0.0448	-0.0399
	(0.0672)	(0.116)	(0.124)	(0.0448)	(0.0638)
Observations	2241	2434	1434	5031	6311
Outcome Mean	0.180	0.460	0.326	0.257	0.378
Defendant race indicator	Y	Y	Y	Y	Y
Month-year-court FE	Y	Y	Y	Y	Y
Attorney FE	Y	Y	Y	Y	Y
Case Characteristics	Y	Y	Y	Y	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on case outcomes conditioning on crime type. Drug crimes include possession of marijuana or any controlled substance. Violent crimes include assaults, domestic violence, and weapon-related offenses. Property crimes include any kind of theft or attempted theft (for example, organized retail theft, theft from a person, etc. ...) and burglaries. Traffic-related crimes include driving while intoxicated and driving with an invalid license. Finally, other misdemeanors include criminal trespass, evading arrest/detention, obstruction of highway passageway, violating protective orders, failure to appear in court, and other less common crimes (e.g., illegal dumping, false statements, indecent exposure, etc... .). Note that we drop assault charges for the reason mentioned in Section 3. In all regressions, we control for month-by-year-by-court fixed effects, an indicator for a defendant's race, attorney fixed effects, and case characteristics. Case characteristics include dummy variables for charge type, day of the week, defendant's sex, age, and number of previous charges. Standard errors are two-way clustered at the attorney and defendant level.

Table B5: The effect of a different-race attorney on attorney efforts

	(1) Days until disposition	(2) Motion	(3) Compensation
Black defendant × White attorney	-0.764	0.0225	-8.600
	(19.80)	(0.0208)	(7.973)
Observations	15562	17451	17451
Outcome Mean	368.7	0.127	194.7
Defendant race indicator	Y	Y	Y
Month-year-court FE	Y	Y	Y
Attorney FE	Y	Y	Y
Case Characteristics	Y	Y	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on measures of attorney efforts using Equation 1. The three measures of attorney efforts include the number of days between the disposition date and the filing date of each charge, whether an attorney submitted any motions (e.g., a motion for a psychiatrist to examine the defendant or a motion for a new trial) and the total amount of compensation an attorney receives per case. In all three columns, we include month-by-year-by-court fixed effects and control for case characteristics, including dummy variables for charge type, day of the week, and defendant characteristics including age, sex, and number of previous charges. In all regressions, standard errors are two-way clustered at the attorney and defendant level.

Table B6: The effect of a different-race attorney on case outcomes – cases with only one attorney

	(1) Dismiss	(2) Jail	(3) Probation
Black defendant × White attorney	0.0502**	-0.0563	0.00420
	(0.0213)	(0.0363)	(0.0207)
Observations	15951	15951	15951
Outcome Mean	0.484	0.297	0.135
Defendant race indicator	Y	Y	Y
Month-year-court FE	Y	Y	Y
Attorney FE	Y	Y	Y
Case Characteristics	Y	Y	Y

Standard errors in parentheses

* $p < .1$, ** $p < .05$, *** $p < .01$

Notes: This table shows the difference-in-differences estimates for the different-race effect on case outcomes, dropping cases where we observe multiple court-appointed attorneys, which account for 9 percent of the sample. Each column represents an outcome. In all regressions, we control for month-by-year-by-court fixed effects, an indicator for a defendant's race, attorney fixed effects, and case characteristics. Case characteristics include dummy variables for charge type, day of the week, defendant's sex, age, and number of previous charges. Standard errors are two-way clustered at the attorney and defendant level.