

2022 Analysis of Prosecutor Data: Report Pursuant to Public Act 19-59

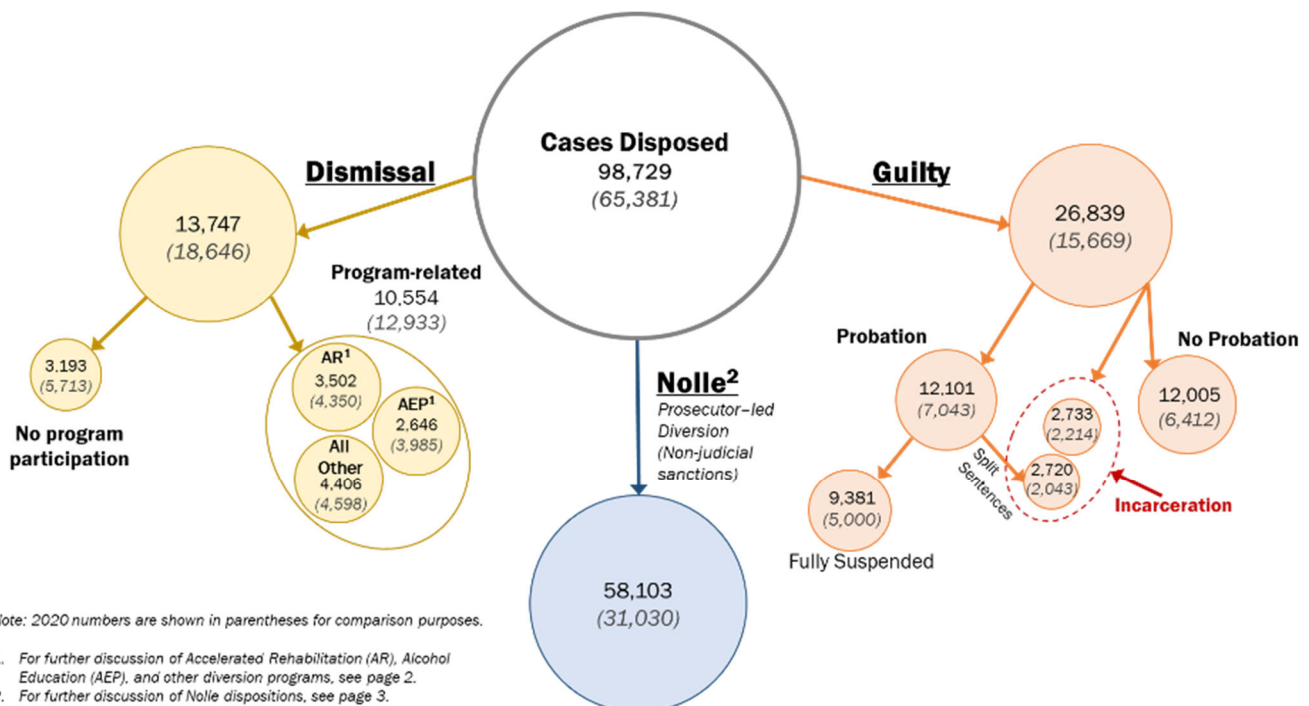
Introduction

In July 2019, *AN ACT INCREASING FAIRNESS AND TRANSPARENCY IN THE CRIMINAL JUSTICE SYSTEM (PA 19-59)* was enacted. Section 4-68ff of the Connecticut General Statutes, created by the public act, requires the Office of Policy & Management (OPM) to submit a report to the Criminal Justice Commission (CJC) annually in July, beginning in 2020. This report marks the third year of OPM's Criminal Justice Policy & Planning Division (OPM CJPPD) examining the charges and cases disposed within a calendar year across the state and reporting upon system metrics capturing a portion of prosecutorial involvement over the duration of these cases. With the Connecticut Judicial Branch providing charge and case data for three years, OPM prepared this year's report, analyzing nearly 230,000 records in 2021, to provide a foundation for considering case flows over time and furthering understanding of the contributions of prosecutors to justice activities and outcomes throughout Connecticut.

Overview of 2021 Case Flows

As in prior analyses, OPM CJPPD analyzed cases disposed during the most recent calendar year. In 2021, prosecutors were involved in disposing **98,729 cases** with **229,900 total associated charges**. **Chart 1** below depicts the outcomes of the cases disposed in 2021.

Chart 1: Key case outcomes, 2021



Note: 2020 numbers are shown in parentheses for comparison purposes.

1. For further discussion of Accelerated Rehabilitation (AR), Alcohol Education (AEP), and other diversion programs, see page 2.
2. For further discussion of Nolle dispositions, see page 3.

2021 Outcomes

Total Cases Disposed:
 98,729

Cases with conviction:
 26,839

Diversion-linked cases:
 14,360

Total associated charges:
 229,900

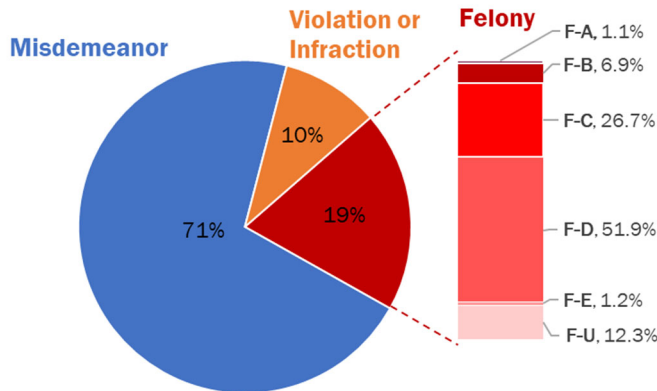
Charges resulting in conviction:
 32,726

Number of individuals with disposed case:
 67,297

Number with at least 1 conviction:
 20,088



Chart 2: Disposed cases most serious charge by type and class, 2021

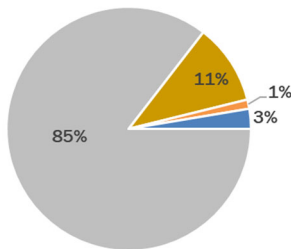


As in prior years, misdemeanors accounted for the most significant charge on the majority of cases disposed by courts in 2021 (see **Chart 2**). **71 percent** of cases disposed had a misdemeanor as the most serious charge, while felonies comprised just **19 percent** of cases, with Class D felonies being the most prevalent among them. Class A and B felonies accounted for only **8 percent** of felonies and **under 2 percent** of the total cases closed by prosecutors in 2021.

As in previous years, Geographical Area (GA) courts handled over **95 percent** of the disposed case volume in 2021. **3 percent** of cases were heard in Community Court, while nearly **2 percent** of cases were handled through Judicial District courts, which typically handle more serious cases (see **Chart 3**). These cases, however, took a median of **18 months** to close. This is considerably longer than the median of **9 months** for cases in GA courts.

Chart 4: State diversion program referrals

■ No Program Referral ■ Dismissal ■ Guilty ■ Nolle



15 percent of cases disposed in 2021 included a referral to a state diversion program. The vast majority (**73%**) of these referrals, or **11 percent of all disposed cases**, were associated with cases ultimately dismissed in 2021, indicating compliance with

program and other divisionary conditions. Only **1 percent** of referred cases ended with a guilty finding, suggesting only a small proportion of cases referred were not successfully diverted in the near term.

Chart 5 to the right displays the most common program referrals in 2021. As in previous years, six programs accounted for most diversionary referrals. Accelerated Rehabilitation led with **34 percent** of program referrals, while Alcohol Education and Family Violence Education together comprised the next **49 percent** of referrals among cases disposed that year.

Chart 3: Cases disposed by court type & location

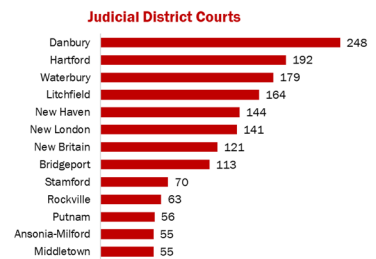
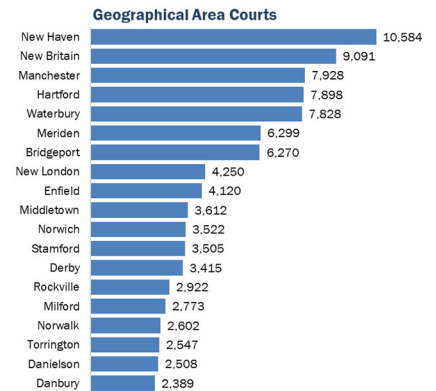
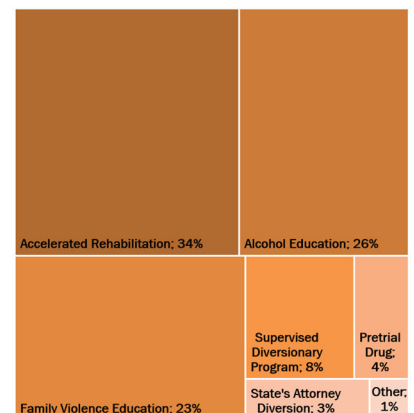


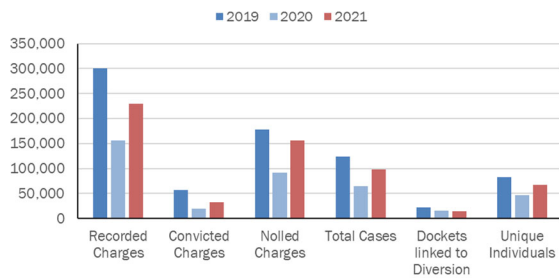
Chart 5: Most frequent diversion program referrals, 2021



Changes in Case Flows over time

Case volumes and related activity increased in 2021 following pandemic-related lows in the prior year. **Chart 6** compares key data metrics over time, highlighting how 2021 case activity compares to the previous two years. Comparing across the three years, most 2021 case metrics increased over 2020 lows yet remained below 2019’s pre-pandemic levels.

Chart 6: Key data changes, 2019 to 2021



The changes observed across case disposition types in 2021 and 2022 demonstrate COVID-19’s varied impact on caseflows. In 2021, the proportion of cases receiving a “nolle” (i.e.,

the prosecutor has decided not to prosecute charges or the case) jumped **12 percentage points** over prior years (see **Chart 7**). **59 percent** of cases were nolle, compared to 47 and 46 percent the previous two years. Cases receiving a nolle took a median of **8 months** to close in 2021. Nolles are a powerful discretionary tool prosecutors may use to resolve cases. Prosecutors interviewed by OPM CJPPD describe typically utilizing nolles after spending time working with defendants, such as monitoring a defendant’s program or treatment participation, participation in victim/defendant mediation or payment of restitution, and compliance with driver’s licensing, motor vehicle registration, or auto insurance.¹ Between 2020 and 2021, dismissals **dropped 15 points**, coming more in line with 2019 volumes (18%). In 2021, guilty findings comprised **27 percent** of cases, up 3 percentage points from the prior year but still 10 points below 2019 volumes.

Individual-level metrics in 2021

OPM CJPPD estimates that there were **67,297** unique individuals associated with the 98,729 cases disposed last year. Consistent with previous years, the majority (**75%**) of individuals had only a single case close in 2021 (see **Chart 8**). Still, **nearly 23 percent** of individuals had between 2 to 5 cases disposed last year. Approximately **2 percent** of individuals (**1,122**) in the data had greater than five cases disposed within the year, a small but important population.

Chart 9 (see right) displays the outcomes of individuals’ cases, with **12 percent** receiving multiple verdicts. As in other years, nolles remain individuals’ most common case outcome, but nearly **30 percent** of individuals in 2021 had at least 1 guilty disposition across cases.

Chart 7: Key case disposition types by Year, 2019 to 2021

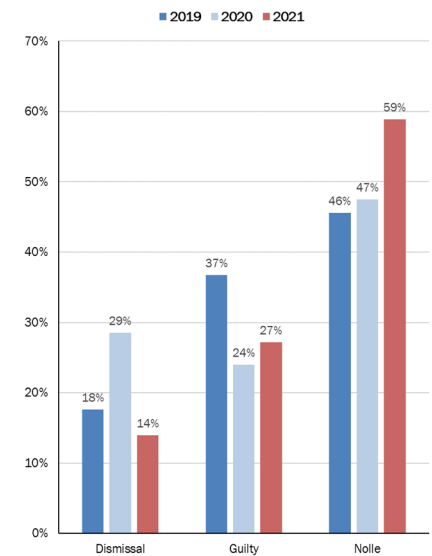


Chart 8: Number of cases per person, 2019 to 2021

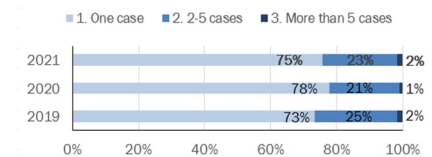
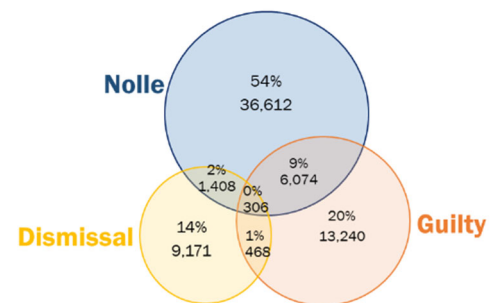


Chart 9: Individuals’ case findings, 2021



Note: Will not sum to 67,297. 18 individuals were disposed in other ways.

¹ OPM CJPPD, *Second Analysis of Prosecutor Data*, <https://portal.ct.gov/-/media/OPM/CJPPD/CjResearch/Prosecutor-Data-Analysis/Second-Analysis-of-Prosecutor-Data-PA-1959-2021-Report.pdf>



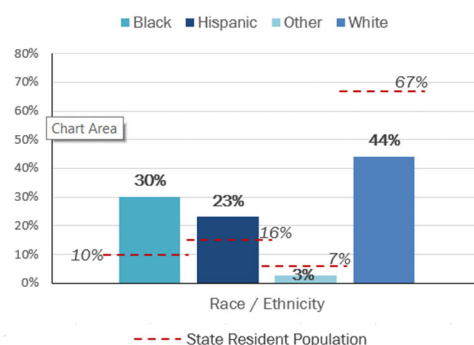
Key issue: Demographics & Analytic Limitations

For this report and prior analyses, OPM CJPPD performed descriptive statistical analysis of, as noted in the introduction, cases disposed by Connecticut courts in the most recent calendar year. While vast, this dataset does not enable analysis with the necessary detail and precision regarding prosecutors' impact on case outcomes. The electronic case management system ("eProsecutor") the Division of Criminal Justice (DCJ) is implementing will generate data over time that is expected to enable such analysis. It will, for example, add depth and understanding to the use of the nolle, such as how non-judicial sanctions are applied while working with defendants who ultimately receive this finding.²

Unquestionably, there is interest in such research questions as "What is the impact of prosecutors on well-documented disparities in the criminal justice system?" This report cannot answer this question with the current data or methods available. The descriptive statistics used in this report enable comparisons of the proportionality, or disproportionality, of demographic compositions within the dataset. As presented in prior analyses, Black or Hispanic defendants are over-represented in court system case dispositions relative to their composition within the state resident population. As this disproportionality exists in the criminal justice system both prior and subsequent to the disposition of criminal cases, underlying causes cannot be sufficiently determined within this report using descriptive methods or the case data currently available. Meanwhile, white defendants, along with those comprising the other non-white category, are under-represented in case dispositions relative to their state resident population composition (see **Chart 10**).³

Nor can this report assign a correlative or causal link to prosecutors' impact on case outcomes. For example, a question of interest to many is "Do prosecuted cases differ based on the defendants' demographics?" This report also cannot answer this question with the current data or methods available. Descriptive statistics indicate that in 2021, nolle, dismissals, and guilty findings differed somewhat across the demographic categories in the dataset (see **Chart 11** below). Specifically, the nolle accounts for a larger proportion of case dispositions among Black or Hispanic defendants than white or other defendants. The opposite is true for dismissals, which account for a larger proportion of case dispositions among white or other defendants than Black or Hispanic defendants.

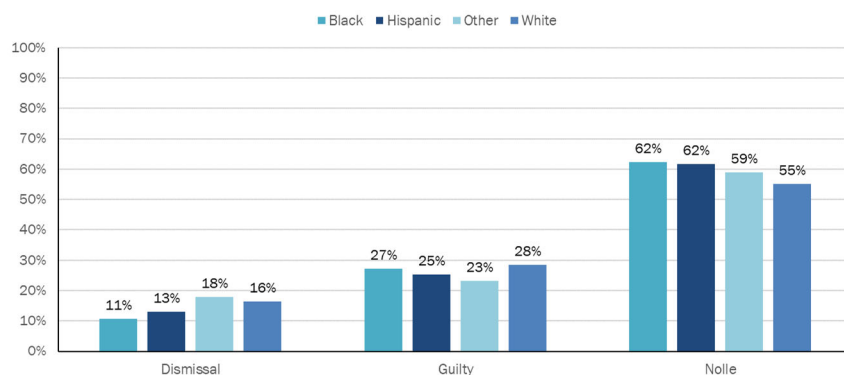
Chart 10: Defendant race & ethnicity among cases disposed in the Connecticut Courts, 2021



Source: 2015 – 2019 American Community Survey. U.S. Census. Accessed via Connecticut Data Collaborative.

² Prosecutors may present non-judicial sanctions to defendants as diversionary options prior to offering a nolle. Examples include restitution, return of stolen property, a charitable donation, community service, victim-defendant mediation, and a good-faith agreement to desist from crime. Data on such sanctions are not currently available for analysis but are expected to be collected in eProsecutor.

³ Note: The *other* category comprises *Asian*, *Native American*, and *Not Identified* individuals as reflected in Judicial Branch case data utilized for analysis.

Chart 11: Proportions of key case findings by Race/Ethnicity, 2021

The extent to which these observed differences in case outcomes are due to race and ethnicity specifically cannot be sufficiently answered without further data and additional methods beyond the scope of this year's report. To begin with, more detailed data on the case, the defendant characteristics, and most importantly, on prosecutor actions in handling the case would enable quantifying several factors that also contribute to disposition outcomes. A quasi-experimental or other research design, along with multivariate analysis, pursuing this question could then control for a number of these factors and provide more precise answers regarding the specific role of race and ethnicity, if any, in case outcomes. A disparity study regarding pretrial and sentencing outcomes the Connecticut Sentencing Commission is developing is worth following.⁴

At present, this report represents Connecticut's first intensive analysis of prosecutor operations and caseflows over three years. The aim is to contribute to state-level understanding in the near-term and to provide more extensive analysis over time as data anticipated from eProsecutor and other sources become available. As feasible, these additional data can be incorporated into analyses to provide a more detailed picture of the work of prosecutors and other criminal justice professionals toward key system outcomes across Connecticut.

This report was produced by the Criminal Justice Policy & Planning Division Research Unit at

The Connecticut Office of Policy and Management.
450 Capitol Avenue
Hartford CT, 06106

The findings will be presented to the CT Criminal Justice Commission in November 2022.

This report is available on-line at <https://portal.ct.gov/OPM/CJ-About/CJ-SAC/SAC-Sites/SAC-Homepage>.

⁴ CT Sentencing Commission, *A Study on the Disparities in Pretrial and Sentencing Outcomes of Criminal Defendants*, January 30, 2020.

<http://ctsencingcommission.org/wp-content/uploads/2020/02/Interim-Report-in-Disparities-in-Pretrial-Justice-and-Sentencing-Outcomes-in-Connecticut.pdf>