



*The Commonwealth of Massachusetts*

DISTRICT ATTORNEY OF SUFFOLK COUNTY  
DANIEL F. CONLEY

Appellate Unit  
One Bulfinch Place  
Boston, MA 02114-2997

Telephone: (617) 619-4070

October 20, 2017

VIA EMAIL

Ms. Carol Pryor

**Re: Public records request #170627A**

Dear Ms. Pryor:

On June 27, 2017, this Office received your public records request seeking "various incarceration rates broken down by race/ethnicity." In subsequent phone and email communications, you and I agreed that the data this Office would produce to you would include the following information for non-juvenile cases arraigned in 2013 and 2014 and now closed: the charges in each case; the race/ethnicity of the defendant; the disposition, by charge (e.g., commitment to custody, fine, probation, or dismissal); and whether the case was prosecuted in Superior or District court.

As District Attorney Conley may have informed you during your Aug. 9 meeting, the antiquated DA Management Integrated Office Network ("DAMION") case management software provided to Massachusetts' district attorneys does not capture data that would adequately answer your earlier request for "various incarceration rates broken down by race/ethnicity."

In fact, the district attorneys have found DAMION to be outdated, unwieldy, and flawed even when used for its intended purpose, and have long requested access to a more sophisticated case management system that would suit the analytical requirements of a modern prosecutor's office – and, through that office, the public. The district attorneys have further sought access to professional data entry staff to alleviate the burden on personnel who are additionally responsible for countless legal, paralegal, and administrative tasks under court-imposed time limits.

To date, funding for a more modern system and the staff to operate it has not been forthcoming. As a result, the data available to us makes it impossible to meet your request fully, and the response we are able to provide will necessarily be imperfect. As you review the enclosed data, please bear in mind the limitations of the software through which it was collected. I hope that the following information will be useful to you in providing context for your analysis.

- I. The existence of a case in the data represents one of two circumstances:
  - a. The case is docketed in a Suffolk County courtroom after police personnel or any member of the public has filed an application for a criminal complaint with a district or municipal court clerk who has found probable cause to issue a complaint against the defendant, at which point a prosecutor arraigns it, or
  - b. A Suffolk County grand jury has received sufficient evidence to vote on the case and return either a "true bill" (indicting a defendant) or a "no bill" (not indicting a defendant).

The great majority of cases are brought when a police officer makes a determination to charge a defendant and an impartial magistrate finds that this determination has a foundation in the known facts and law. Except in homicides, prosecutors do not play a charging role in these cases, and they enter the sequence of events only after a complaint has issued. A much smaller percentage of cases, generally reflecting more serious offenses, is charged in the grand jury. There, prosecutors present potential charges to a panel of 23 citizens who determine whether and which charges are appropriate. In either circumstance, charges do not issue unless a neutral party outside of law enforcement first finds that they are supported by probable cause.

- II. Entries in the "Desc Chrg" field reflect charges as initially brought through the means described above and not charges as they are ultimately adjudicated. If a defendant is arraigned for armed robbery but later pleads guilty to larceny under \$250, for example, the entry in this field remains as "ROBBERY, ARMED." Because most criminal cases in Suffolk County and indeed in the United States are resolved via guilty plea, and because most plea negotiations involve some sort of charging concession, an entry in this field will not necessarily reflect the actual charge upon which the defendant was adjudicated or accurately reflect more general dispositional trends.
- III. Entries in the "Rc" field reflect racial/ethnic information when provided by police in reports and other documents, subject to whatever standards are in place within each department (i.e., self-identification, visual observation, or some other method). DAMION does not have the capacity to select more than one option at a time for race or ethnicity, even if more than one race were to be indicated on police department materials. Prosecutors do not make any independent inquiry into a defendant's race or ethnicity.
- IV. Entries in the "Desc Rsn" field reflect, in some cases, information supplementing the "Desc Dspstn" field. These entries are selected from a limited number of available options; they do not reflect the unique facts, circumstances, and adjudicative factors of each case. An entry of "Guilty – Suspended Sentence," for example, does not provide the length of the sentence ordered by the judge, the period for which it is suspended, the judge's reasons for imposing the sentence as he or she did, or the recommendations offered by the prosecutor and defense attorney.

Perhaps more important for your purposes, however, is that DAMION does not capture any information on the defendant's prior record, which most judges view as the single most important factor in sentencing after the facts of the specific convicted offense for which the defendant is being sentenced.

Finally, while sentences of incarceration or probation may be entered along with a guilty plea notation, a quirk in the software results in the failure to indicate the nature of a sentence following a conviction at trial.

- V. Entries in the "Desc Dspstn" field reflect the outcome of a case but usually not the reason for that disposition, which is fact- and case-specific. A judge may dismiss a case, for example, for any number of reasons, from the failure of victims or witnesses to appear at trial to prosecutors' affirmative motions based on newly-available evidence, and a continuance without a finding may be required by statute for certain first offenders.
- VI. Entries in the "SC Nmbr Dckt" or "DC Nmbr Dckt" reflect the docket number of each case. Unlike the preceding fields, the docket number will provide access to the factual, legal, and prior-conviction circumstances that are unique to each case, without which an accurate comparison of one outcome to another cannot be made.

Please do not hesitate to contact me with any questions regarding this production. I am available by phone at (617) 619-4131 or by email at [claudia.arno@state.ma.us](mailto:claudia.arno@state.ma.us). In the discretion of this Office, the costs associated with this production have been waived.

Sincerely,



Claudia Arno, ADA  
Records Access Officer

Encl.