

Memorandum

April 19, 2021

To Prof. Ernst Linder, Amanda Tellier
From Lisa Wolford, Marta Hurgin
Cc Stephanie Hausman, Portsmouth Police Chief Mark Newport,
Portsmouth Police Chief Mark Newport, Lt. David Keaveny
Re *Portsmouth Prosecution Data Analysis*

On October 6, 2020, in collaboration with Stephanie Hausman, and with the endorsement of more than one hundred other Portsmouth residents, we submitted a letter to the Portsmouth Police Commission which outlined multiple requests for transparency and accountability measures at the Portsmouth Police Department. Request #7 asked the Commission to request that prosecuting agencies provide case-outcome information, including information regarding court rulings about the legality of police conduct, case disposition, and sentence. Request #8 asked the Commission to analyze case-outcome data in consideration of constitutional norms; anti-racist, anti-discriminatory policies; and community policy goals; and to make this data publicly available.

We later explained that prosecution data would contribute necessary information to the following inquiries: 1, Equity question: Does law enforcement have a disproportionate impact on historically marginalized groups – for example, people of color, people with mental health issues, and poor people? 2, Policy question: Are actions taken by public safety officials consistent with community policy goals? 3, Fiscal question: How are public safety resources are being allocated?

As an interim response to these requests, on March 9, 2021, the Portsmouth Police prosecutor provided us with copies (attached) of the types of documents typically kept in prosecutors' files. Many types of data relevant to Requests #7 and 8 reside in those documents. Below, we've identified the types documents and the types of data available—and not available—in the documents. We are providing this information to you because we believe that it will be helpful for you to see what data we're interested in and where it might be harvested from.

It bears emphasizing that we are a resident-advocacy group. Although we have been working consistently and collaboratively with members of the Portsmouth Police Commission and Police Department on transparency and accountability measures for more than six months, we do not work for or represent these agencies. As we discussed when we spoke on April 9, we need to ensure the Commission and Department are on board with a plan for the collection and analysis of this data. It would be helpful to have your insight into the scope of such a project.

Thanks so much for your time.

Available Portsmouth prosecution statistics

The Portsmouth Police Department Strategic Plan for 2021-2025, p. 16, reports the following statistics on fiscal year 2019 prosecutions by Portsmouth City prosecutors: Cases/Charges resolved = 805; Guilty = 486; Not Guilty = 15; placed on file = 97; Nol Pros = 207; trial subpoenas issued = 284.

This limited data is of questionable utility, particularly since its primary identifier, “Cases/charges,” is not defined. A prosecution “case” might presumably involve several “charges”; if the number of cases and charges has been aggregated, it is not clear how that total provides useful information. It is also unclear how the 805 resolved cases/charges relates to the 1,857 arrests made and 424 traffic citations issued by the Portsmouth Police Department in 2019. See *Strategic Plan for 2021-2025*, p. 7; *CALEA PPD May 29, 2020 Report on 2019 Stats*, p. 3.

Types of documents provided by the Portsmouth City Prosecutor

IMC Sheet	Disposition & Sentencing Form – unprocessed
Complaint – unprocessed	Gerstein Affidavit
Complaint – processed	Motion to Dismiss
Police Report	Objection to Motion to Dismiss
Disposition & Sentencing Form – unprocessed	Court Order on Motion to Dismiss

Types of information available in documents provided by the Portsmouth City Prosecutor

- Defendant name (IMC Sheet)
- Defendant race (Complaint)
- Defendant gender (Complaint)
- Defendant age (IMC Sheet)
- Defendant address and zip code (IMC Sheet; Complaint)
- Date of arrest (Complaint)
- Date of arraignment (IMC Sheet)
- Date of resolution (IMC Sheet; Disposition & Sentencing Form – processed)
- Arresting officer name (IMC Sheet)
- Prosecutor name (IMC Sheet)
- Number of charges (IMC Sheet; Complaint)
- Names of charges (IMC Sheet; Complaint)
- Charge level (Complaint)
- Prosecutor’s recommended disposition (Disposition & Sentencing Form – unprocessed)
- Disposition (IMC Sheet; Disposition & Sentencing Form – processed)
 - Resolution by plea or court finding?
 - Dismissals: types of charges
 - Dismissals: by court or prosecutor
 - Convictions: number of charges
 - Convictions: types of charges
 - Sentence/disposition per conviction/charge

- Placed on file
- Diversion
- Conditional nol pros
- Mandatory fine
- Discretionary fine
- Mandatory jail sentence
- Discretionary jail sentence
- Term of probation
- Community service
- Court-ordered programs
 - Mental health treatment
 - Substance misuse treatment
 - Domestic violence treatment
 - Shop-lifting program
 - Other
- Other sentencing term

Types of information not available in documents provided by the Portsmouth City

Prosecutor

- Bail – amount
- Bail – terms other than amount
- Officer time in court
- Prosecutor time in court
- Officer time out of court
- Prosecutor time out of court
- Victim input
- Policy: Sentencing rationale
 - Individual Deterrence
 - Punishment
 - Rehabilitation
- Defendant disability
- Methodological basis for programming, if recommended/ordered:
 - Mental health treatment
 - Substance misuse treatment
 - Domestic violence treatment
 - Shop-lifting program
 - Other
- Cost of programming, if recommended/ordered:
 - Mental health treatment
 - Substance misuse treatment
 - Domestic violence treatment
 - Shop-lifting program
 - Other
- Policy efficiency: Outcome success
 - Individual Deterrence (e.g., look at recidivism)
 - Rehabilitation (e.g., look at recidivism; cure)