



January 25, 2024

**VIA Electronic Mail**

Records Access Officer  
NYS Division of Criminal Justice Services  
C/o [REDACTED]  
Alfred E. Smith Building  
80 South Swan Street  
Albany, New York 12210

*Re: Request under the Freedom of Information Law, Criminal Cases Case-level Data*

Dear Records Access Officer:

Scrutinize, through its undersigned counsel, submits this request for records pursuant to the New York Freedom of Information Law, N.Y. Pub. Off. Law § 85, et seq. for access to and electronic copies of records collected or maintained by the New York State Division of Criminal Justice Services (“DCJS”) as described below:

- 1) Any databases<sup>1</sup> created or maintained by DCJS pursuant to the agency’s statutory obligations under N.Y. Judiciary Law § 216(5)/N.Y. Exec. Law § 837-U.
- 2) The dataset<sup>2</sup> provided by DCJS to researchers in connection with the research paper titled [“Equal Protection Under Algorithms: A New Statistical and Legal Framework”](#)
- 3) Any databases or datasets created, maintained, or otherwise possessed by DCJS that contain case-level data from criminal cases arraigned or disposed in criminal courts<sup>3</sup> across New York State anytime between January 1, 2008, and January 25, 2024, and that include at least all of the following variables/fields:
  - a. The name of the judge who presided over the arraignment or the unique identification value for that judge;
  - b. The defendant’s non-identifying demographic information;
  - c. The top criminal charge on which the defendant was arraigned;
  - d. The defendant’s criminal history or lack thereof;

---

<sup>1</sup> For purposes of clarification, a “database” refers to any tabulated, electronic records.

<sup>2</sup> A “dataset” refers to a collection of tabulated, electronic records in DCJS’ possession or control. The terms “database” and “data set” are used interchangeably in this request.

<sup>3</sup> For purposes of clarification, “criminal courts” refer to any trial-level courts that handle criminal cases, as described in OCA’s Criminal Courts flow chart, available at <https://www.nycourts.gov/courthelp/pdfs/NYSCriminalCourts.pdf>.

- e. The outcome of arraignment, including but not limited to whether the defendant was released and, if so, the conditions of release, and the amount of any bail set.
- 4) For any database responsive to requests (1) and (2) that only maintains a unique identification code for the presiding judge rather than the judge's name, please separately provide the name of the judge that corresponds with the unique identification code in the database.
- 5) Any lookup tables, codebooks, data extract information, data dictionaries, database schemas, or other explanation files that accompany databases responsive to requests (1), (2), and (3).

The variables in each responsive database or dataset should be produced in the same way they are maintained as part of the related file. For example, if a criminal case's docket number is maintained in a pseudonymized, hashed, or otherwise "scrambled" format in a responsive database, then it should be produced in the same manner. For clarity, this request does not seek confidential information from any applicable database or dataset. Confidential information that is used as a primary key or otherwise uniquely identifies a database entry should be pseudonymized through a one-way hash or similar cryptographic function.<sup>4</sup>

To the extent that the electronic records are available in electronic spreadsheet or comma-separated format (Excel or CSV), we request that they be provided in that format.

The requested documents will be made available to the public, and this request is not being made for commercial purposes. If all or part of this request is denied, please cite each specific applicable FOIL exemption. To the extent that you determine that certain portions of a record cannot be disclosed, please redact only that information that you consider to be protected, identify the applicable exemption, state the justification for each redaction, and provide us with the remaining information. As you are aware, pursuant to Public Officers Law 84-90(9), "when records maintained electronically include items of information that would be available under this article, as well as items of information that may be withheld, an agency in designing its information retrieval methods, whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to provide maximum public access."

If any records are unavailable within five business days of receipt of the request, and responsive records exist, we seek a description of such records and a timeline of when access to the records will be provided. If you determine that certain parts of this request may be more easily produced than others, we are happy to discuss a production schedule for records that will require additional time for review/redaction/production. We request to be notified of any fees over \$100.00.

---

<sup>4</sup> See *Am. C.L. Union Immigrants' Rts. Project v. United States Immigr. & Customs Enft.*, 58 F.4th 643 (2d Cir. 2023) (responding agency was required to replace exempt identifying numbers for non-U.S. citizens with anonymized unique identifiers in its response to FOIA request).

Please send all responsive records by email to:

- Veronica Salama
- Mason Kortz

Or by mail to:

New York Civil Liberties Union  
Attn: Veronica Salama  
125 Broad Street, 19th Fl  
New York, NY 10004

If you have any questions about this request, please do not hesitate to contact us at:

- Veronica Salama
- Mason Kortz

Thank you for your prompt attention to this matter.

Sincerely,

/s/ Oded Oren  
Oded Oren  
Scrutinize

*By their Counsel*

/s/ Veronica R. Salama  
Veronica R. Salama  
New York Civil Liberties Union Foundation

/s/ Mason Kortz  
Mason Kortz  
Harvard Law School Cyberlaw Clinic