

Mandatory Harm:

How a Massachusetts Statute Forces Unreasonable Sentence

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Presentation Overview

1. Introduction:
 - What is the Armed Career Criminal Act - ACCA?
 - Critiques of the ACCA
 - Methodology
2. Findings
3. Recommendations

What is the ACCA?

1998 - Massachusetts adopted a mandatory minimum sentencing law aligning with 1994 Crime Bill (referred to as the Armed Career Criminal Act or ACCA).

Massachusetts General Laws Chapter 269 § 10G, requires extra minimum sentences for people convicted of gun possession with certain previous offenses.

Other Mandatory Minimums not covered today:

- M.G.L. 269 § 10(a) – 18-month gun possession
- ‘Habitual Criminal’ statute M.G.L. 279 § 25
 - requires maximum sentence after 2 prior adult convictions

Number of violent or drug related offenses before current unlawful gun possession conviction	Relevant Statute	Mandatory-minimum sentence
0	M.G.L. c. 269, § 10(a)	1.5-2.5 years
1	M.G.L. c. 269, § 10G(a)	3 years
2	M.G.L. c. 269, § 10G(b)	10 years
3 or more	M.G.L. c. 269, § 10G(c)	15 years

Critiques of the Massachusetts ACCA

1. The Massachusetts ACCA compounds racial disparities
2. White defendants may be charged at a lower rate than Black and Latine individuals
3. Juvenile predicate offenses can trigger a mandatory minimum sentence in Massachusetts
4. ACCA and mandatory minimum charges can be used as a prosecutorial cudgel
5. The ACCA has an overbroad definition of violence

Report Methodology

Data source: Trial Court data from 2019-22. NOT DAMION data.

Data Limitations:

- Dataset is charges, not convictions.
- Don't know plea or sentencing
- Don't know who could have been charged with ACCA but wasn't

Finding 1: Almost half of Massachusetts ACCA charges are filed under 10G(c), which mandates a minimum imprisonment of 15 years

A plurality (41%) of Massachusetts ACCA cases are filed under 10G(c) against defendants with three prior drug crimes or violent crimes.

Under 10G(c), defendants must receive sentences of **15 to 20 years in prison** if they have a record with three prior drug or violent crimes.

Charge Action Description	
FIREARM VIOL WITH 1 PRIOR VIOLENT/DRUG CRIME c269 §10G(a)	26%
FIREARM VIOL WITH 2 PRIOR VIOLENT/DRUG CRIMES c269 §10G(b)	33%
FIREARM VIOL WITH 3 PRIOR VIOLENT/DRUG CRIMES c269 §10G(c)	41%

Finding 2a: Black and Latine defendants comprise over 75% of Massachusetts ACCA cases, far out of proportion to their population estimates.

Black and Latine residents are severely overrepresented in ACCA charges.

Although Black individuals make up just **7%** of the Massachusetts population, they account for **51%** of filed Massachusetts ACCA cases.

Latine individuals make up **12%** of the Massachusetts population, but they account for **25%** of the state's 10G cases.

Despite making up **71%** of the population, White people only account for **19%** of ACCA cases.

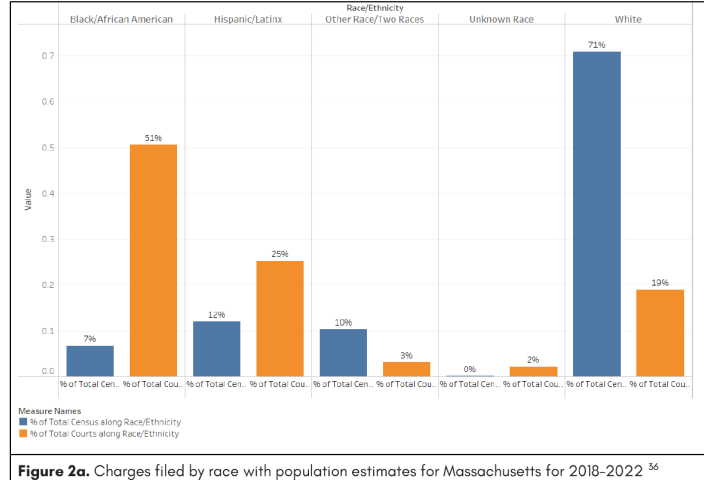


Figure 2a. Charges filed by race with population estimates for Massachusetts for 2018-2022 ³⁶

Finding 2b: Racial disparities in ACCA charge filings continue year to year.

Black and Latine residents overrepresented in ACCA case filings every year between 2018 and 2022.

The Black overrepresentation was at its worst in 2019, when such defendants comprised **69%** of ACCA filings.

Even as the rate of filings against Black people decreased, **the rate of filings against Latine people increased dramatically.**

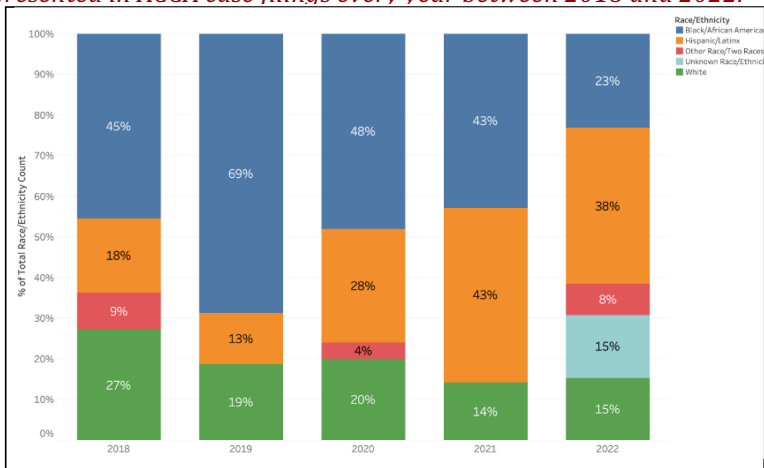


Figure 2b. Case filings by race FY18-22

Finding 3a: All defendants facing mandatory minimums under the ACCA have weapons charges against them

Most defendants facing ACCA mandatory minimums have multiple charges, typically weapons charges and drug charges.

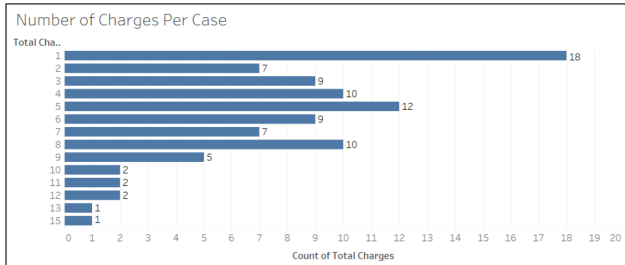


Figure 3b: Frequency of charges per case

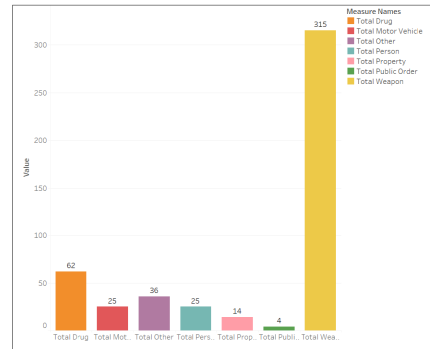


Figure 3a: Total charges filed by offense type (note that one person may have multiple charges)

Finding 3b: Defendants aged 25 to 44 are most likely to receive Massachusetts ACCA case filings

Nearly half of the defendants who received Massachusetts ACCA charges were between ages 25 and 34.

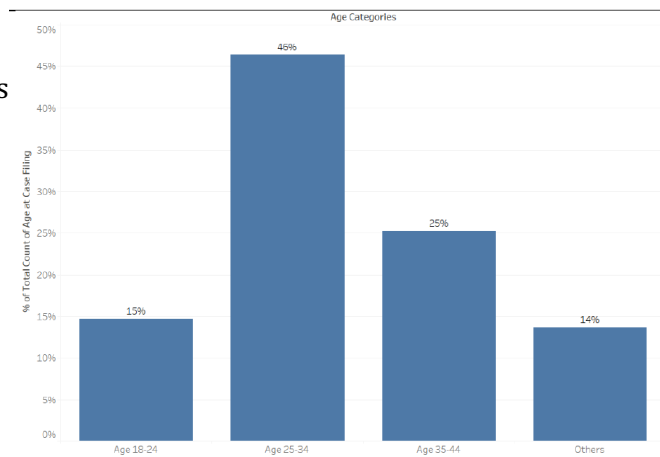


Figure 3b: Total cases filed for different age groups

Finding 4a: Boston Police Department and State Police arrests led to almost half of Massachusetts ACCA cases charged.

Racial disparity in arrests → ACCA charges within police departments: **Boston and Worcester Police action led to ACCA charges against Black and Latine individuals in all but one case, and 86% of charges pursued by the State Police were against Black, Latine, or multi-racial individuals.**

Of the 20 individual ACCA charges initiated by other police departments, **45% were against Black and Latine individuals**, despite Black and Latine individuals combined making up less than 25% of the MA population.

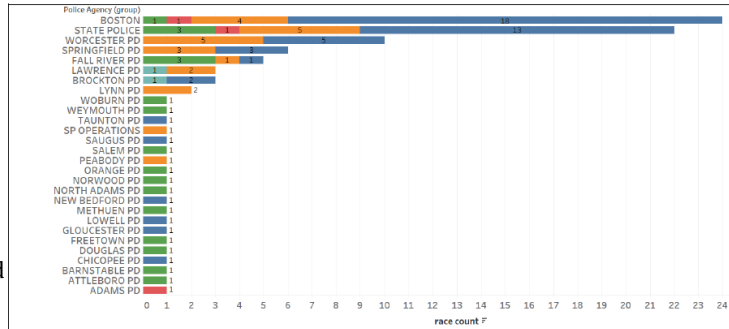


Figure 4a: Percentage of race group for each initiating police agency

There are also stark racial disparities in ACCA filings at the county level

Suffolk, Essex are outliers in higher levels of ACCA charges.

Among the 13 counties in Massachusetts, most **filed all or most ACCA cases against Black and Latine individuals.**

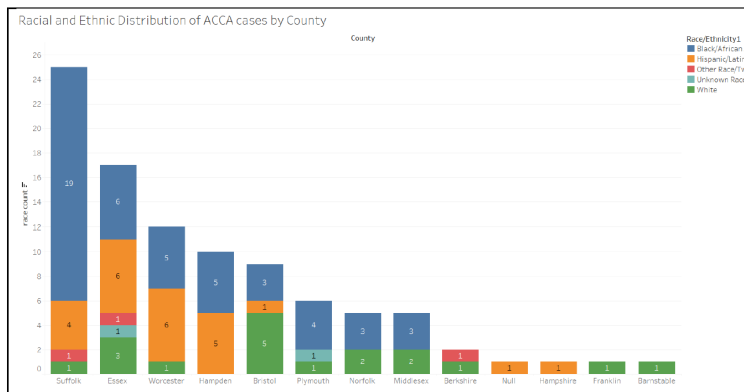


Figure 4b: Percentage of race group for each county

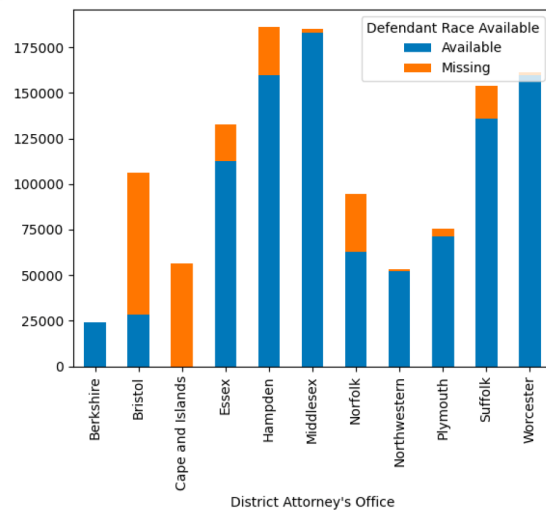
Finding 5: Some people charged under Section 10G receive enhanced sentences based on predicate offenses committed when the defendant was a child

Boston Bar Association’s analysis of 2001-2020 data found that **42 individuals had their sentence or indictment enhanced based on a predicate juvenile offense**. In another 67 cases, it was unclear whether sentence enhancement was based on a predicated juvenile offense.

Finding 6: Data from the District Attorney Management Information Office Network (DAMION) is plagued with inconsistent entries and unstandardized classifications of charges and sanctions

DA DATA Problems:

- **Duplicate entries in the dataset** as well as ambiguity and variation in the classification of charges and sanctions county-by-county.
- **Missing race values**. e.g.: Nearly all of Bristol’s entries were missing data on the defendant’s race.



Recommendations for the Legislature

Recommendation 1:

The Massachusetts ACCA statute should be eliminated to encourage need-based evaluation of those who have contact with the criminal legal system multiple times.

Recommendation 2:

Alternatively, the Legislature should modify Section 10G to include only the 10G(c) violation, remove the condition of a prior serious drug offense from the statute, and remove weapons possessory crimes from predicate offenses.

Recommendation 3:

The Legislature should pass legislation to prevent the imposition of mandatory minimums based on juvenile adjudications.

Recommendations for District Attorneys Offices

Recommendation 4:

District Attorneys should reduce the use of charging defendants under the Massachusetts ACCA and fully refrain from charging under these statutes based on drug offenses.

District Attorney offices across the Commonwealth need to develop higher data quality standards, including a standardized method of data entry and classification across counties.

Recommendations for Courts, DAOs, and Research Partners

Recommendation 6:

The Massachusetts Trial Court and District Attorney Offices should research and address racial disparities in ACCA charging and disposition, possibly with academic partners.



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Citizens for Juvenile Justice (CfJJ) es la única organización estatal independiente sin fines de lucro que trabaja exclusivamente para reformar y reimaginar la justicia juvenil y otros sistemas de servicios para jóvenes en Massachusetts. Nuestra misión es abogar por una reforma sistémica en todo el estado para lograr una justicia juvenil equitativa. • • • • •



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