PROJECT TITLE: **BENCHMARKS: A Citizen’s Scorecard on Judicial Accountability in Massachusetts**

**PROJECT OVERVIEW**: A groundbreaking, new Boston University digital news team, comprised of journalism, law, statistics, web design and computer science students and faculty will use cutting-edge data science tools to help launch the first-ever multimedia analysis of civil and criminal case reversals in Massachusetts over the past decade.

Using sound, established judicial and case evaluation criteria developed for previous studies on federal court reversals, and in consultation with the Massachusetts Bar Association and local legal scholars, the **Benchmarks** team will produce an in-depth, digitally-driven package of local news stories and a citizens’ scorecard rating the judicial and court system actions leading to the reversal of thousands of criminal cases statewide.

If our experiment is successful, it will be proof-of-concept for building a national platform of case reversals across all 50 state court systems.

**PROJECT OBJECTIVES**:

The BU **Benchmarks** experiment will:

* Uncover never before-seen patterns of judicial behavior and decision-making in criminal cases
* Recast and spur more aggressive local news coverage of the state court system
* create a valuable judicial accountability tool for citizens and voters

**HOW IS THIS PROJECT UNIQUE AND INNOVATIVE?**

Despite its reputation as a digital leader among the states, Massachusetts is woefully behind the times in the application of technology to publicly share information on its court system with the public. It is one of a small number of states that still does not have its court filings online and accessible to the public and its operational records are not subject to the public records law.

**Benchmarks** will apply, in a powerful way, the open source digital tools available to crack open the secrecy surrounding one aspect of the court system: the reversal of case decisions. According to officials interviewed at the National Center for State Courts, this has never before been done in Massachusetts. It has also rarely been done in other states given the complexity in how each state codes its caseload data, though federal court studies, where there is uniform coding of cases, have been produced.

The project has garnered enthusiasm from the state Bar Association. In 2015, Massachusetts Bar Association Chief Legal Counsel and Chief Operating Officer Martin W. Healy, a quantitative review of civil and criminal court reversals would be valued information:

“It could have many, many facets. There are certain judges that are reversed a lot, certain prosecutors,” Healy said. “But particularly since we are one of three states that appoints judges for life without any type of review, if there is a particular judge that isn’t performing well, knowing how the court is handling that is important information for the public.”

Besides the innovation of our interdisciplinary reporting team, we are embarking, with **Benchmarks**, on a new and ambitious reporting relationship with the Boston Globe. While BU students and faculty have for years had their own individual stories or research published in the Globe, or served as experts for Globe-reported articles, the **Benchmarks** projects mark the first time a group of diverse BU faculty and students drawn from key digital disciplines have developed a data-driven research approach to an important, under-reported local news story.

Another new aspect to **Benchmarks** is our plan to share publicly our under-the-hood methodology, data and course-corrections once the project gets underway so that community stakeholders, including the courts, and our students benefit from the transparent nature of their learning. We see **Benchmarks** as a true public service news experiment; we want the community to get behind the project from the outset to help us constantly recalibrate the ability of our team to do the highest quality government accountability newsgathering.

Another new aspect to the project is its potential to uncover patterns of error, flawed jury instructions or poor courtroom management skills by judges. Our experiment would be the first of its kind quantification of those issues with judges presiding over criminal cases. The public is not entitled to performance evaluation information from the courts on individual judges or even entire levels of courts; the evaluations and their results are, by statute, confidential.

There are roughly 400 judges on the bench any given year, with the governor appointing between 25 to 30 judges annually to fill vacancies. Massachusetts is one of the rare states in which judges are appointed to the bench for life, with a mandatory retirement age of 70 that is not strictly enforced. One judge, recalled to the bench to assist with appellate cases currently, is 81.

**DATA AND DOCUMENTS AVAILABLE FOR RESEARCH:**

Case decisions from Massachusetts appellate court website (the decisions are only available as PDFs. If there is a way to extract them into a database, that would be extremely helpful to know

Massachusetts court annual reports: Here is a link to the 2017 annual report - http://www.mass.gov/courts/docs/fy17-annual-report.pdf

Materials from previous scraping efforts by CS students in 2016 and 2017 (in Teamwork)

**PROPOSED METHODOLOGY**:

We will first create a dataset of reversed criminal court cases, going back 10 years. Computer science students, using key search terms, will scrape data from the Massachusetts [appellate court website](file:///C:\Users\mmulv\Desktop\(MASSAPPELLATECASES) to obtain a reliable dataset of cases reversed in full. Our time period will be Jan. 1, 2008 to Jan. 1, 2018. We’ve been advised to review the larger category of published as opposed to unpublished opinions.

Our due diligence on appellate court reversals, which include studying state court reversal statistics, case review and interviews with former judges, legal scholars and working lawyers, has established some key criteria. We’ve been advised to look at criminal cases only, given the higher stake of a deprivation of liberty involved and we’ve been cautioned to parse out cases that were reversed in part and affirmed in part as part of our analysis.

We’ve been warned that a reversal does not necessarily mean an error on the part of a lower court judge, but rather that a change in state law by the time a case is appealed leaves the higher court with no option but to reverse, even if the trial court judge correctly applied the law below. We’ve been encouraged to look for patterns in witness identification problems, incorrect jury instructions, allowance or denial of evidence and much more to jumpstart our research.

**TASKS:**

**Week of March 12-16, 2018**

Read the materials in the BENCHMARKS project in Teamwork in this order:

1. Mulvihill 2018 project explainer – MULVIHILL 2018 PROJECT EXPLAINER
2. Read Massachusetts court system annual reports to determine how many criminal cases they reverse annually; here is a link to the 2017 report: http://www.mass.gov/courts/docs/fy17-annual-report.pdf
3. Obtain from the court annual reports for the years we do not have to check on the number of reversed criminal cases each year
4. Upload those reports, clearly marked, to Teamwork
5. Create a statistical list of number of criminal cases appealed each year in MA for the past ten years and the number reversed in full for the same years; upload this list to Teamwork
6. Ask Lawrence Luo what the data he and his partner in SPARK scraped in 2017 represents
7. Get copy of Lawrence’s report to his teacher and to Ziba at SPARK explaining what he did last year
8. Read three – five criminal cases that have been reversed – I have provided links to cases below. This will give you an understanding of what a case that has been reversed looks like
9. [Commonwealth v. Denehy, 466 Mass. 723, 2 N.E.3d 161, 2014 Mass. LEXIS 3, 466 Mass. 723, 2 N.E.3d 161, 2014 Mass. LEXIS 3](https://advance.lexis.com/api/document/collection/cases/id/5B7K-6BS1-F04G-P122-00008-00?cite=Commonwealth%20v.%20Denehy%2C%20466%20Mass.%20723%2C%202%20N.E.3d%20161%2C%202014%20Mass.%20LEXIS%203&context=1000516)
10. [Commonwealth v. Packer, 88 Mass. App. Ct. 585, 39 N.E.3d 753, 2015 Mass. App. LEXIS 173, 88 Mass. App. Ct. 585, 39 N.E.3d 753, 2015 Mass. App. LEXIS 173](https://advance.lexis.com/api/document/collection/cases/id/5H7G-NNP1-F04G-P027-00008-00?cite=Commonwealth%20v.%20Packer%2C%2088%20Mass.%20App.%20Ct.%20585%2C%2039%20N.E.3d%20753%2C%202015%20Mass.%20App.%20LEXIS%20173&context=1000516)
11. [Commonwealth v. Niemic, 472 Mass. 665, 37 N.E.3d 577, 2015 Mass. LEXIS 630, 472 Mass. 665, 37 N.E.3d 577, 2015 Mass. LEXIS 630](https://advance.lexis.com/api/document/collection/cases/id/5GXY-VFF1-F04G-P02Y-00008-00?cite=Commonwealth%20v.%20Niemic%2C%20472%20Mass.%20665%2C%2037%20N.E.3d%20577%2C%202015%20Mass.%20LEXIS%20630&context=1000516)
12. Read Navraj Navrula 2016 Final Report on the project; she was a CS student who created a database of some reversed criminal cases. She also designed a SQL database which is explained in her final report.
13. Review EXCEL spreadsheet of criminal cases that were reversed and entered by hand by former CS student Navrula. Do this to get an understanding of the terms we are going to need to search for. This is called CS STUDENT PLEASE READ: KEY TERMS FOR DATABASE..csv.
14. Think about how you would scrape the PDF decisions from the appellate court website
15. Create a list of questions for Professor Mulvihill for next meeting