

NEWS

Criminal justice fairness? Rochester data group hopes information will increase diversion



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Key Points

Prosecutors have enormous power to affect the lives of citizens through the criminal justice decisions they make.

Fairness remains an issue in this sector in the United States, but a local group plans to use cooperation and data to improve things in Rochester incrementally.

Community boards will be part of this process, as the effort tries to help low-level offenders.

In the aftermath of the death of Daniel Prude, Amy Bach wondered why the organization she founded, Measures for Justice, wasn't more active in the city and county it calls home.

Rochester-based Measures for Justice had already been working with states and municipalities across the country to harness data and reveal inequities and issues within the criminal justice system. Its work was receiving extensive notoriety; its staffing and budget, largely derived from grants, continued to swell.

"We really now want to make Rochester (and Monroe County) the most transparent city and county in America," Bach said. "It's where we're based. We love this place."

This week Measures for Justice announced that it is now working hand-in-hand with the Monroe County District Attorney's Office to try to significantly increase the number of low-level defendants routed into treatment diversion courts. And, the group is also mapping out a partnership with Rochester police.

Prude died in 2020 about a week after he was restrained by Rochester police. The Medical Examiner's Office decided that the restraint brought on asphyxiation; he also had the powerful hallucinogen phencyclidine, or PCP, in his system. A grand jury determined that the police were not criminally culpable for the homicide.

The city did pay \$12 million to settle wrongful death suit brought by the Prude family.

His death and subsequent protests showed a need to better pinpoint whether there are inequities in local policing, Bach told the Democrat and Chronicle in 2020. "Is Daniel Prude's death part of a larger problem?" she asked then. "Or is it an outlier?"

Making an open data portal for criminal justice in Rochester

Measures for Justice has now launched a portal with data gathered from the DA's Office. The portal, called "Commons," will continue to be updated.

"It's an online tool that delivers what we like to say is data-powered change to help communities reshape the justice system," said Bach, who witnessed the state of inequity in the criminal justice system as a lawyer and reporter and wrote a widely acclaimed book about the imbalances.

The data is only one part of the initiative:

A significant goal while working with the DA's office was to find and focus on a **determined policy plan**.

The result was a decision to try to increase the number of defendants who could utilize **drug treatment courts** or other so-called "diversion courts."

The specialized courts **tackle an underlying addiction** or other issues, such as post-traumatic stress in a veterans-specific court, that may well be a factor in criminal conduct.

"Allowing non-violent, low-level defendants to earn their way to a more favorable outcome is called 'diversion,'" Doorley said in a statement. "By enhancing accountability, while directing participation in treatment, counseling, and other proven strategies, we believe we can further reduce crime in our County."

If successful the increase in diversion numbers "opens space potentially for (DA Sandra Doorley) and her staff to focus on things that are truly egregious — the violence, the robberies, and other things that affect all of us in the community," said

Rashid Muhammad, an Air Force veteran and adjunct St. John Fisher University professor.

Muhammad is part of a community board that collaborated with the DA's Office.

The diversion goal of freeing focus for most serious crimes

At the outset, the DA's Office was able to provide information about referrals to a number of local diversion courts, but not all, according to MFJ Director of Research and Data Processing Robert Hutchison.

Sufficient data can be an issue for these types of programs.

According to the available data, about 1.7 percent of defendants are referred to diversion courts from the DA's office. The office and MFJ hope to increase that participation to 10 percent by the end of 2024.

Defendants accused of violent crimes are often considered ineligible for diversion courts. And the current 1.7 percent figure will likely increase once data from all of the courts is accessible to MFJ.

The immediately available data "is preliminary and represents only a fraction of the programs we use to divert people," Doorley said in her statement. "We will be adding more as we continue to better track our internal data."

While data may seem dry in its presentation, it is a pathway toward identifying shortcomings in the criminal justice system and to then map out solutions, according to those who have helped build the "Commons" portal.

The online portal includes information tracking progress on the diversion court goal, as well as other regularly updated data from the DA's Office and demographic information, drawn from the Census, about Monroe County.

"We are putting it out there in a way that I think is consumable," said Muhammed, who has been active in social justice initiatives and is the son of the late Rochester City Court Judge Roy King. "I believe this is another part of the journey for our community. It's another part of the journey for me."

The data can have multiple purposes, Bach said. It could demonstrate whether the system is or is not being administered fairly. It could also be used to create measures

to increase public safety for local residents.

"We are a nonpartisan nonprofit," she said. "Our goal is to make the data accessible and transparent. We're a neutral third party."

Both the state Division of Criminal Justice Services and the Rochester police provide online data about court proceedings, crimes and arrests. However, MFJ's program **also uses the community advisory board** to ensure collaboration with local agencies while gathering case-by-case data from the DA's office.

The board includes **people familiar with criminology data and programs**, such as participants from the Rochester Institute of Technology criminal justice program.

"What's unique about that group is there is a lot of expert criminologists on the (Monroe County) CAB, which isn't what we see elsewhere," said Precious Freeman, MFJ's director of national engagement. But it's also important, she said, that the board **be reflective of a community** as the partnership with the DA's Office continues.

One community board was utilized to initiate the program with the DA's Office, which is largely funded by grants; another will soon be formed.

When working with communities, Freeman helps shepherd MFJ programs from "pre-contract to post-launch." She said it's to be expected that community members on the board and agency leaders will have different priorities. MFJ works to "make sure folks stay at the table" so a path toward improvement can be charted, she said.

Increasing diversion court participants "hits those low-level offenders," she said. "That could help them perhaps never see a court again."

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