

University of Pittsburgh  
Institute of Politics

# CRIMINAL JUSTICE PROGRESS PANEL

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report

## CRIMINAL JUSTICE IN THE 21<sup>ST</sup> CENTURY

Improving Incarceration Policies and Practices in Allegheny County



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# INTRODUCTION

In September 2015, the University of Pittsburgh Institute of Politics (IOP or the Institute) devoted much of its annual Elected Officials Retreat to the topic of mass incarceration. That program included an overview of national developments. However, the speakers and panelists were all local, with many holding key positions within the criminal justice system in Allegheny County.

Shortly after that session, Allegheny County Executive Rich Fitzgerald requested that the Institute examine ways to improve the county's criminal justice system so that it would be "fairer and less costly, without compromising public safety." In response to this request, and in partnership with the county executive, the Institute convened its Criminal Justice Task Force. That distinguished group of 40 included criminal justice professionals holding positions of leadership within the county's criminal justice system, highly respected academics with expertise in directly related fields, and community leaders with a strong interest in the criminal justice system but most often with no direct links to it. The task force was cochaired by Mark Nordenberg, who chairs the Institute and is the chancellor emeritus of the University of Pittsburgh and former dean of its School of Law, and Frederick Thieman, who holds the Henry Buhl, Jr. Chair for Civic Leadership of the Buhl Foundation and is the former president of the foundation and a former U.S. attorney.

The task force met each month for the better part of a year and benefited from both the best-practice ideas shared by national experts and the perspectives of leaders from within the county's criminal justice system. Its work also was informed by information developed by the talented data professionals working for the county and the Fifth Judicial District of Pennsylvania. In November 2016, the task force released its report, *Criminal Justice in the 21st Century: Improving Incarceration Policies and Practices in Allegheny County*. The report, which was structured to build on the substantial improvements already achieved by criminal justice professionals in Allegheny County, was framed by six guiding principles:<sup>1</sup>

- The preservation of public safety through effective law enforcement that is protective of individual rights is a fundamental responsibility of good government.
- Depriving a person of his or her freedom through the criminal justice system, especially prior to an adjudication of guilt, is a serious and intrusive action to be used wisely by governments created to respect and preserve individual liberty.



- Incarceration and other forms of correctional control should be used judiciously, with careful balancing of the goals of punishment and deterrence, preserving public safety, respecting victims' rights, maximizing opportunities for rehabilitation, and conserving scarce government resources.
- The processes of the criminal justice system should be fair; socially and financially equitable; and structured to avoid even the appearance of bias, particularly racial or ethnic bias.
- The criminal justice system and all expenditures made in support of it must be cost-effective and subject to appropriate oversight and budgetary review, as is true of all operations of government.
- In a society characterized by dramatic advances in information systems, modern methods should be employed to obtain the most timely and pertinent data that would be useful in supporting fact-based decision making and transparency within the criminal justice system.

The report culminated with a series of recommendations for the improvement of policing, pretrial services, prosecution and defense, incarceration, and courts and probation in Allegheny County. The first three of those recommendations were directed to County Executive Fitzgerald. Consistent with the committed leadership he has shown throughout this process, he accepted and implemented all three.

The first of those recommendations stated: "Given the strong and growing public interest in the fair and effective functioning of the criminal justice system, the Allegheny County Executive should appoint a panel to review progress in implementing

these recommendations and advancing the guiding principles, providing a new measure of accountability and a new source of information.”<sup>2</sup> County Executive Fitzgerald appointed and charged the progress panel, requesting that it act under the auspices of Pitt’s Institute of Politics, as the task force had done. Eight of the nine progress panel members were drawn from the membership of the task force, and the cochairs of the task force, Mark Nordenberg and Frederick Thieman, also agreed to cochair the progress panel. The remaining seven members are as follows:

- **Alfred Blumstein**, PhD, J. Erik Jonsson University Professor of Urban Systems and Operations Research, emeritus, at Carnegie Mellon University; former chair of the Pennsylvania Commission on Crime and Delinquency; and recipient of the Stockholm Prize in Criminology
- **Kenya Boswell**, president, BNY Mellon Foundation of Southwestern Pennsylvania
- **Quintin Bullock**, DDS, president, Community College of Allegheny County
- **Susan Everingham**, RAND director of innovation architecture and senior policy researcher and professor, Pardee RAND Graduate School
- **Jeffrey Finkelstein**, president and CEO, Jewish Federation of Greater Pittsburgh
- **Glenn Grayson**, pastor, Wesley Center A.M.E. Zion Church
- **Matt Smith**, president, Greater Pittsburgh Chamber of Commerce, and former state senator

The panel has been meeting on a quarterly basis and issued the first of its periodic reports in 2018. That report can be read in its entirety online.<sup>3</sup> After noting that available information “clearly suggests that there are areas in which there is enormous potential for improvement” and that “there is an urgent need to pursue existing opportunities for improvement, both to achieve higher levels of fairness and to reduce dramatically escalating costs,” the report concluded with the following observations:<sup>4</sup>

The task force’s plan provides a road map for pursuing those companion goals of fairness, cost-effectiveness, and safety, and the progress panel is pleased to report that committed efforts to fuel further progress are underway. It seems appropriate that the county executive, who launched this initiative, also has taken the lead with respect to implementing its recommendations. However, equally determined efforts by other leaders will be essential to achieving even higher levels of progress.

It is those efforts that the progress panel will monitor and assess in the months and years ahead and that will be the subject of an ongoing series of progress reports. Among obvious areas of focus will be the extent to which data are being used effectively; the speed with which improvements to the system are implemented; whether or not minority groups, particularly Blacks, continue to be impacted disproportionately; and the extent to which any particular parts of a coordinated system are holding back the progress of the system as a whole. It is our hope that future reports can cite the types of reforms and progress noted in this first report.<sup>5</sup>



# NEW RESOURCES, OPPORTUNITIES, AND COMMITMENTS

Since the progress panel issued its initial report, a number of encouraging developments relating to criminal justice reform have occurred locally, including the county's receipt of a \$2 million grant from the John D. and Catherine T. MacArthur Foundation to advance reform efforts, the Heinz Endowments' announcement of a \$10 million investment in criminal justice reform, and the community policing successes produced by the Buhl Foundation's One Northside initiative. These developments not only are consistent with the spirit of the task force's guiding principles but also provide new and welcomed support for the advancement of its recommendations.

## THE MACARTHUR FOUNDATION'S SAFETY AND JUSTICE CHALLENGE: A NATIONAL INITIATIVE WITH LOCAL IMPACT

In October 2018, the John D. and Catherine T. MacArthur Foundation awarded Allegheny County a \$2 million grant to continue to build upon its local criminal justice reform efforts by reducing both the population of the Allegheny County Jail and the racial disparities that seem to be so prevalent throughout the criminal justice system.<sup>6</sup> The grant is part of the MacArthur Foundation's Safety and Justice Challenge, a national initiative to "reduce over-incarceration by changing the way America thinks about and uses jails."<sup>7</sup>

The Safety and Justice Challenge Network, composed of 52 cities and counties in 32 states, supports local leaders in their efforts to address overincarceration through the misuse and overuse of jails. The challenge empowers local leaders to:

- identify causes of overincarceration locally;
- engage with community stakeholders to identify local solutions to address overincarceration, racial disparities in incarceration, and system improvements; and
- build infrastructure to track data and measure performance over time.<sup>8</sup>

Allegheny County was selected as a MacArthur Foundation challenge site because of its existing record of accomplishment in criminal justice reform and its continued efforts to work collaboratively toward a more safe, efficient, and equitable system. The MacArthur Foundation pointed to the county's success in developing evidence-based reentry programming,

implementing a validated pretrial assessment tool, and building and using dashboards that provide real-time data to decision makers within the criminal justice system. Also key to its selection was the county's demonstrated willingness to engage with the community through efforts like those embodied in the work of the task force and progress panel. One early and concrete benefit of this dialogue can be seen in the impact of the decision to have public defenders appear on behalf of indigent defendants at a far greater number of preliminary arraignments, as had been recommended by the task force.

Consistent with priorities articulated in the 2016 task force report and the 2018 progress panel report, Allegheny County has committed to achieving two main goals through its participation in the MacArthur challenge: (1) to reduce the county jail population by 20 percent by September 2020 and (2) to reduce racial and ethnic disparities throughout the system. The organizations and officials identified in its MacArthur Foundation application as "partners" in the Allegheny County Safety and Justice Challenge are:

- Allegheny County government officials, including the county executive, county manager, jail warden, director of the department of human services, public defender, and superintendent of police;
- the Fifth Judicial District of Pennsylvania, including the president judge, administrative judge and judges of its Criminal Division, magisterial district judges, director of adult probation and parole, and director of pretrial services (including the Behavioral Assessment Unit);
- the district attorney;
- the sheriff;
- the Allegheny County Chiefs of Police Association;
- the City of Pittsburgh Bureau of Police; and
- the progress panel.

As a general matter, leaders from within the county's criminal justice system have been willing, if not eager, to join forces in a broad-based and coordinated effort to improve the system. However, there have been outliers. It is hoped that one product of the county's participation in the MacArthur challenge will be to nurture ever-higher levels of cooperation within the criminal justice system. This move toward higher levels of teamwork also was advanced by the earlier appointment of Edward Mulvey, a distinguished psychiatry professor with experience in the criminal justice system, as the county's criminal justice coordinator. This is another of the task force recommendations that had been implemented by the county executive, with assistance from the county manager, to whom the coordinator reports.

The agencies and officials partnering in the challenge have identified the following strategies to reduce the jail population, some of which were directly recommended by the Criminal Justice Task Force (noted in parentheses), while others build on those recommendations:

- Expand representation by the Public Defender’s Office at preliminary arraignments through the hiring of three new public defenders (task force recommendation 4e)
- Expand the use of pretrial risk assessments to the 16 magisterial district justices whose offices are outside the City of Pittsburgh and who do not currently use an assessment tool through the hiring of two new pretrial staff members (task force recommendation 4b)
- Further expedite court processing by ensuring the adoption of court time standards and by hiring two senior assistant district attorneys to increase productivity in case screening (task force recommendation 4c)
- Simultaneously resolve new charges and probation violations by scheduling both hearings on one day (Currently, individuals are detained, on average, an additional 65 days in jail following disposition of a new charge while awaiting the hearing on their probation violation). A new probation manager will oversee this work. (task force recommendations 6b, 6c, and 6d)\*
- Expedite jail transfers for individuals being transferred to other counties, state prisons, and federal institutions
- Expedite access to diversion and treatment for people with behavioral issues by developing transitional housing for people with mental health issues who could be released but are awaiting placement and by reviewing current housing policies of behavioral health providers (task force recommendation 4a)
- Implement a program to restore competency locally, rather than having individuals wait in the jail to go to Torrance State Hospital for competency restoration<sup>9</sup>

The county also will work with technical assistance providers to develop a strategy to reduce racial and ethnic disparities within the county criminal justice system and engage both experts and community stakeholders to consider repurposing some portions of the county jail. As this work progresses, the county will measure the impact of reforms that have been implemented and expand approaches that have helped to reduce either the jail population or racial disparities.

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\* The task force’s 2016 report identified significant issues arising from the overuse of probation in Allegheny County. The county’s new initiative resolving new charges and probation violations during hearings on a single day is in keeping with the spirit and goals of task force recommendations 6b, 6c, and 6d.

The county has already begun assessing some of its reform efforts, such as the representation of indigent defendants by public defenders in an increasing number of preliminary arraignments.

The county’s efforts will be enhanced by the focused, goal-oriented efforts of additional members of the professional staff whose hiring has been made possible by MacArthur Foundation funding. Those new staff members are as follows:

- three new public defenders who will expand representation at preliminary arraignments, particularly on evenings and weekends when there had been no coverage;
- one pretrial supervision officer and one pretrial investigator to increase the number of people assessed for pretrial risk;
- two senior screener assistant district attorneys for the pretrial screening unit to improve the rate at which cases are ready to proceed at formal arraignment;
- one probation manager to coordinate early probation terminations and detainer resolutions and to serve as a liaison to 14 Court of Common Pleas judges; and
- one project director.

As this staff expansion overview makes clear, the principal investments of MacArthur Foundation funds are being made in the courts and the offices of the public defender and the district attorney. It would be reasonable to expect, then, that major contributions to reductions in both jail population and racial disparities would come from these three key participants in the system.

## THE HEINZ ENDOWMENTS: AN EXTRAORDINARY PITTSBURGH COMMITMENT TO CRIMINAL JUSTICE REFORM

In November 2018, the Heinz Endowments announced that it would invest nearly \$10 million over the next three years in programs designed to further criminal justice reform.

Key components of the Heinz Endowments’ goals include: decreasing the populations of the Allegheny County Jail and Shuman Juvenile Detention Center, expanding mental health and substance abuse treatment, reducing the number of youths removed from classrooms, and providing greater opportunities for formerly incarcerated people to return as contributing members of their communities. Most directly relevant to the work being monitored by the progress panel is a \$350,000 grant from the Heinz Endowments to the Institute of Politics to support the county’s ongoing efforts to reduce both the population of the jail and the racial disparities that exist throughout the criminal justice system.

Given decreasing crime rates over the course of recent decades, it should be possible to reduce the jail's population without compromising public safety.<sup>10</sup> Reductions in the jail population will decrease the amount of space within the jail required for incarceration. That, in turn, will provide an opportunity for the county to repurpose that freed-up space in ways that more effectively advance the long-term goals of the criminal justice system—including, in particular, providing expanded opportunities for appropriate diversion to services in lieu of jail entry, with the goal of reducing the rates of recidivism.

Consistent with the task force recommendation that, as the jail's population is reduced, there should be an expansion of "programs that have a proven record of reducing recidivism, including reentry programs,"<sup>11</sup> repurposed areas within the jail could be used for mental health and addiction assessment and treatment, education, and human services. The current absence of adequate numbers of readily accessible opportunities for diversion into such programs limits the options available to police and magisterial district judges and, therefore, is contributing to the overcrowding of the jail. Making services more readily available would make it easier for law enforcement officers and judges to do their work more effectively and would provide long-term benefits to the community.

In exploring jail repurposing, Allegheny County would join a growing number of jurisdictions promoting goals beyond secure incarceration. For example, in 2008, Bexar County, Texas, opened its crisis treatment center to provide a diversion option for people with mental illness. Since its opening, the center has diverted more than 20,000 individuals.<sup>12</sup> As another example, New York, N.Y., is engaged in an effort to close the infamous Rikers Island Jail and open neighborhood jails in its Bronx, Brooklyn, Manhattan, and Queens boroughs to provide better access to courts, visitors, and service providers.<sup>13</sup> Each of the new jails will provide dedicated space for physical and mental health care services, substance use disorder treatment, workforce and education programming, normalized environments, and community space.<sup>14</sup>

To further local exploration of this national shift in thinking, the Institute of Politics, with support from the Heinz Endowments, will host a December 2019 forum structured to stimulate and inform discussions regarding both jail repurposing generally and the potential repurposing of the Allegheny County Jail specifically. National experts will address the purpose and demographics of jails, practices for addressing racial disparities, and modern design trends in jail architecture. The forum also will include presentations on best practices and lessons learned in repurposing jail space.

As the Bexar County example so clearly illustrates, one critical step in reducing the population of our county jail is providing sufficient numbers of diversionary services that not only are effective but that can be conveniently used by law enforcement and the courts. Diversion as an alternative to prosecution can be one source of relief to overburdened courts and overcrowded jails, and diversion programs have been associated with reduced recidivism<sup>15</sup> and, in some cases, reduced criminal justice costs.<sup>16</sup>

As part of its ongoing efforts, the Institute of Politics will work with community partners to identify and showcase effective local, regional, and national diversion strategies; assess the feasibility of replicating effective programs in Allegheny County; and determine whether policy change is necessary to support the creation or expansion of such programs. The results of this work could include both recommendations for repurposing space within the Allegheny County Jail and other county-based custodial facilities and the identification of non-jail-based strategies to divert more people from the county's criminal justice system.

Among national and local criminal justice reform efforts, a widely shared concern is that the Black community continues to be disproportionately impacted by the criminal justice system.<sup>17</sup> As the county continues to work toward a criminal justice system that is "fair, socially and financially equitable, and structured to avoid even the appearance of bias, particularly racial or ethnic bias," incarceration disparities must be addressed.<sup>18</sup>

In moving forward with its system improvement efforts, one major commitment made by the county is to examine more closely the issue of racial disparities within its criminal justice system. This effort will seek to identify the underlying causes of racial disparities, learn more from national and local best practices, and hear about perceived shortcomings in the system from people who have moved through it as well as from members of their families.

To enable the progress panel to discharge its assessment responsibilities effectively, the county will need to continue its collection and sharing of data on racial disparities within the system. Crucial to this analysis will be obtaining data from the entire criminal justice system, from arrest through post disposition supervision, to be able to pinpoint areas where disparities begin and to develop interventions to address them.

## THE BUHL FOUNDATION'S ONE NORTHSIDE INITIATIVE: BUILDING A NEIGHBORHOOD PARTNERSHIP INVOLVING THE CITY OF PITTSBURGH POLICE AND HOUSING AUTHORITY AND THE NORTHSIDE COMMUNITY

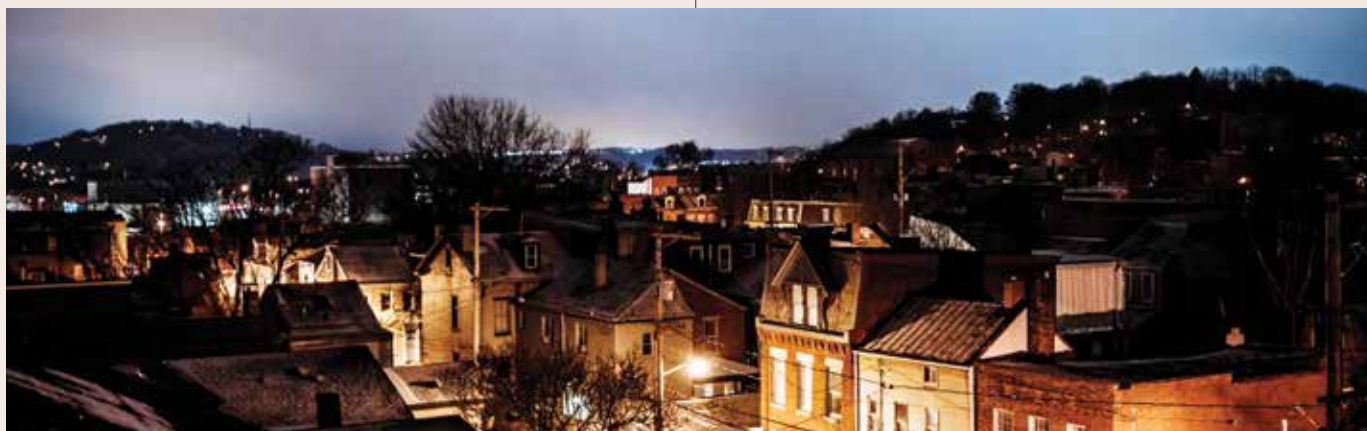
In 2014, the Buhl Foundation launched One Northside, an initiative that “catalyzes and supports long-term sustainable change for Pittsburgh’s 18 Northside neighborhoods.”<sup>19</sup> This resident-led initiative assists residents and businesses in accessing resources that will help the Northside community to succeed. One Northside has five pillars by which the initiative seeks to improve the quality of life in the Northside community: education, employment, health, place, and safety. Each of the pillars provides an avenue for Northside residents, businesses, and community organizations to become involved in improving the quality of life within their community.

Of particular relevance to the recommendations made in the task force report and to ongoing efforts to improve the county’s criminal justice system is the community policing model that One Northside has developed in partnership with the City of Pittsburgh Bureau of Police. That model includes three complementary strategies for resolving conflict and reducing crime in Pittsburgh’s Northside neighborhoods. Each of these strategies works to foster trust and improve relationships between community residents and City of Pittsburgh police officers. These strategies are as follows:<sup>20</sup>

- **Relationship-based policing** will foster trust and improve relationships between officers and community members. One Northside is implementing programming that supports:
  - neighborhood-based deployment of officers,

- specialized training for officers, and
- changes to the Bureau of Police’s Human Resource performance evaluation practices and incentives.
- **Public safety partnerships** will promote cooperation among residents, community organizations, and police officers and give residents the tools to resolve conflict before resorting to police intervention. Partnership efforts include:
  - diversion of young adults involved in nonviolent crimes from the criminal justice system into proven prevention programs,
  - specialized training for residents, and
  - the expansion of a public safety council and block watch network throughout the Northside.
- **Neighborhood safety centers** will replace traditional police stations with neighborhood hubs that are a place for residents to gather, learn, and collaborate. Current initiatives toward this goal include:
  - support for and evaluation of the Public Safety Center partnership with the Housing Authority in Northview Heights and
  - development of resident-centered, officer-driven training as well as other services and wraparound supports.

The Northview Heights Public Safety Center, which officially opened its doors in early December 2018 and which resulted from a partnership among the City of Pittsburgh Bureau of Police and Housing Authority, the Buhl Foundation, and residents of the Northview Heights and Allegheny Dwellings communities, is an especially visible product of this Buhl Foundation-funded initiative. As part of the effort to build trust through community policing, the center offers space for community programming and is staffed by a sergeant and six police officers. The center is in a converted two-story apartment in the Northview Heights complex.





# TAKING STOCK AND MOVING FORWARD

On May 31, 2019, key members of the county's criminal justice team offered a public presentation on the current state, near-term plans, and key goals of the Safety and Justice Challenge project. That group included T. Matthew Dugan, interim chief public defender; Ashlee Lynn, probation safety and justice implementation manager; Molly Morrill, safety and justice challenge project director; Angharad Stock, deputy administrator-special courts; and Rebecca Spangler, first assistant district attorney. What they reported, then, is very current. Their presentation also provides a clear and very helpful sense not only of where the county is but also of where it seeks to go and how it intends to get there.

The presentation began by repeating the two critical goals of this initiative: to safely reduce the population of the Allegheny County Jail by 20 percent and to reduce racial and ethnic disparities in the criminal justice system.<sup>21</sup> It also described the context that makes these goals achievable: "The Allegheny County Jail opened in 1995, during the height of crime. In the past 21 years, crime has dropped significantly (property crime by 46% and violent crime by 32%) but the jail population has risen by 62%."<sup>22</sup> In describing the composition of this expanded jail population, the presentation noted that only 19 percent of the people in the Allegheny County Jail are being held for violent offenses and that 53 percent of those being held in the jail had a misdemeanor as their highest charge, either pending or convicted.<sup>23</sup>

The presentation offered four key reasons for seeking to reduce the population of the county jail and elaborated on each:

- **Enhancing Public Safety:** "Holding low-risk defendants in jail while awaiting trial (even for just 2–3 days) has been found to *increase* the likelihood that they will commit new crimes in the future."
- **Reducing Taxpayer Costs:** "The county spends 42% of its general funds on criminal justice, including \$80 million annually on the jail."
- **Avoiding Family, Workplace, and Community Disruption:** "The effects of incarceration extend beyond the person who is in jail to families, employers, and communities."
- **Eliminating Disparate Impacts:** "Despite making up only 13% of the local population, African Americans make up 49% of the jail population. Roughly 75% of the jail population has a mental health or substance abuse issue."

Particularly striking is the section of the presentation that demonstrated how well aligned efforts to reduce the jail population are with prevailing public opinions. More specifically, the presenters noted that:

- eight in 10 Americans believe that police should cite rather than arrest people accused of nonviolent crimes;
- two in three Americans say crimes driven by addiction or mental illness should be met with treatment, not jail;
- large majorities favor releasing defendants accused of misdemeanor and nonviolent crimes before trial; and
- most Americans support speedy trials within one week to 30 days except under special circumstances.<sup>25</sup>

The presentation went on to identify five strategies that are key to plans to significantly reduce the population of the Allegheny County Jail:

- Expanding representation by public defenders at preliminary arraignments and expanding pretrial assessments to all outlying magisterial district judges
- Expediting court processing
- Resolving new charges and probation violations with one hearing and increasing early probation terminations
- Expediting transfers of individuals moving to other correctional facilities
- Expediting access to treatment and diversion for individuals with behavioral health issues<sup>26</sup>

The sense of connection—in tone, overarching themes, and recommended actions—between this very recent county presentation and the 2016 task force report is very strong. That linkage creates a hopeful sense that the leaders of the criminal justice system not only are moving forward together but are moving in directions that are supported by both careful analysis of data and by public concern.

Progress that already has been achieved also provides reason for hope. This is particularly true of the demonstrated impact of having public defenders present at preliminary arraignments. During a "pilot period," which involved the participation of public defenders at approximately 250 preliminary arraignments per month,<sup>27</sup> there was, according to the recently released report, a 17 percent decrease in the use of money bail, a 19 percent increase in the frequency of agreement between magisterial district judges' decisions and pretrial recommendations, an 8 percent decrease in jail bookings at the time of the preliminary arraignment, and a narrowing of racial gaps in jail bookings.<sup>28</sup> Given that level of success and with the support of MacArthur Foundation funding, lawyers from the Public Defender's Office now are appearing at more than 800 preliminary arraignments per month.<sup>29</sup>

It is important to note that the county's plan expects nearly 65 percent of its jail population reduction goal to come from expedited court processing.<sup>30</sup> This ties back to the Criminal Justice Task Force report, which had recommended that the Court of Common Pleas take steps to enhance both fairness and cost-effectiveness by disposing of cases within time frames that are equal to or better than national standards; reducing the length of probation terms to be consistent with national standards; eliminating the use of consecutive probation terms; using graduated sanctions that are fair, swift, and certain for probation violations; and assessing court fines and fees on a sliding scale that reflects a person's ability to pay.<sup>31</sup>

Ongoing monitoring of probation terms should be straightforward and holds real promise for being helpful. In its report, the task force had noted:

Probation terms in Allegheny County are especially long when compared to the rest of the country. Nationally, the average probation term is 22 months. Within Allegheny County, the average probation term is 30 months for misdemeanors and 60 months for felonies. These unusually long terms of probation are among the precipitating factors in the large number of individuals being held in the county jail on probation violation retainers.<sup>32</sup>

It is difficult not to wonder, in fact, if the county's criminal justice system would not be both fairer and more cost-effective if judges simply began imposing shorter probation terms at the time of sentencing rather than maintaining a system that places heavy reliance on other professional staff members to seek early probation terminations.

Bills currently pending in the Pennsylvania legislature and, in some cases, enjoying bipartisan support would bar consecutive probation terms, place caps on probation terms for both misdemeanors and felonies, and provide for the early termination of probation.<sup>33, 34</sup> Allegheny County's application to the MacArthur Foundation Safety and Justice Challenge committed to informing elected officials of the costs and consequences of existing probation practices and supporting legislative change.

Such issues underscore how directly the continuing progress of the county depends upon the availability of good data. Allegheny County has long had enviable data collection and analysis capabilities, and those capabilities recently have been enhanced, as was recommended by the task force. There must be an ongoing flow of relevant information so that those participating in this criminal justice improvement project can discharge their responsibilities effectively.

Plans to achieve the second key goal—reducing racial and ethnic disparities—clearly are less well developed. The May 31 county presentation identified four strategies for reducing racial disparities: analyzing local disparities, seeking outside assistance for implicit bias training, creating a working group to engage in problem solving, and monitoring jail population reduction strategies for impact by race.<sup>35</sup> Being a participant in the MacArthur Foundation Safety and Justice Challenge should be an advantage in developing impactful plans for advancing this critical goal. Already, the foundation has distributed a paper titled, "Reducing Racial and Ethnic Disparities in Safety and Justice Challenge Implementation Sites," and presumably there will be ongoing exchanges of information and ideas that are developed as the participating sites work to advance this goal.

The scope of this problem and the fact that disparities can be traced to so many parts of the system are captured in the Statement on Criminal Justice Reform recently released by the American College of Trial Lawyers.

The United States approach to sentencing and incarceration, particularly on non-violent drug offenders—which have a disproportionate impact on racial and ethnic minorities, women and juveniles—deserves thoughtful re-assessment. Racial and ethnic minorities are disproportionately impacted by onerous bail requirements, often in misdemeanor cases, that can result in unnecessary jail time, often with devastating consequences. Moreover, sentencing policies often fail to address or reduce drug dependence and mental illness, thus resulting in a higher likelihood of re-offense. Many current criminal justice policies also adversely impact a defendant's employability, thereby contributing to greater rates of unemployment and poverty among the formerly incarcerated, while increasing costs on taxpayers.<sup>37</sup>

The section of the county's MacArthur Foundation application dealing with racial disparities was similarly sobering, with its preliminary review finding evidence of disparities "at every stage of the system." More specifically, that preliminary review found, after controlling for charge and risk level, that:

- White defendants are 33 percent less likely to have an on-view arrest on their charges than Black defendants;
- Judges are 22 percent less likely to concur with Pretrial's ROR [release on recognizance] recommendation and 10 percent less likely to concur with Pretrial's non-monetary [bail] recommendation for Black defendants than for White defendants;
- White defendants are 41 percent less likely to be sentenced to a jail sentence (on the same charges) than Black defendants; and
- Overall, Black defendants spend an average 21 more days in the jail than White defendants.<sup>38</sup>

The MacArthur Foundation document on reducing racial disparities advises that, among the communities that were earlier participants in its Safety and Justice Challenge, developing plans to reduce racial and ethnic disparities had proven to be more difficult than developing plans to reduce jail populations:

All implementation sites set numerical benchmarks for jail population reductions and were able to identify strategies with clearly designated target populations that could help them reach those benchmarks. However, no such structure was created for reducing racial and ethnic disparities. As the Foundation and its partners have revisited this goal and tried to define what success would look like, it was evident that in addition to implementing key process metrics, using quantitative and qualitative data to set and achieve measurable goals must be critical components of sites' efforts to address [racial and ethnic disparities].<sup>39</sup>

Sometimes seeing where others have fallen short and analyzing why that happened can be useful in developing plans that will succeed. Whatever form those plans might take, meaningful progress in meeting this challenge must be made if our criminal justice system is going to reflect the values that should characterize our home county.



## CONCLUSION

To be clear, Allegheny County's efforts to improve its criminal justice system have not yet reached a point at which broad-based progress can be measured fairly. However, that time is fast approaching. To give the clearest example, as a participant in the MacArthur Foundation's Safety and Justice Challenge and in accepting MacArthur Foundation funding, the county has committed to the goal of reducing the population of the Allegheny County Jail by 20 percent by 2020, which is not very far away.

However, as has been noted, the past year has brought promising signs. They include the receipt of generous funding from both national and local foundations to support these ongoing efforts and indications that the many county offices and officers who must be actively engaged for these efforts to succeed are better organized, are being more cooperative, and seem more committed to taking actions that will improve the system for the communities and individuals that it is designed to serve. The measurable progress already achieved through the well-targeted efforts of the Public Defender's Office should be seen as an inspiring example of what is possible. The panel is hopeful that further measurable improvements will be seen in the coming months and can be included in the public reports that will follow.

In short, there are welcome signs that, through these renewed efforts to further improve, Allegheny County can continue to be a national leader in criminal justice reform. However, none of that can be taken for granted. Certainly, an encouraging start is no guarantee of a strong finish. It is for this reason that continued monitoring by the progress panel, including the periodic release of public reports, is so important. It is a responsibility that the panel intends to discharge responsibly.

# CRIMINAL JUSTICE PROGRESS PANEL MEMBERS

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# APPENDIX: CRIMINAL JUSTICE TASK FORCE RECOMMENDATIONS

The Criminal Justice Task Force issued the following series of recommendations in its 2016 report, *Criminal Justice in the 21st Century: Improving Incarceration Policies and Practices in Allegheny County*.

1. Given the strong and growing public interest in the fair and effective functioning of the criminal justice system, the Allegheny County Executive should appoint a panel to review progress in implementing these recommendations and advancing the guiding principles, providing a new measure of accountability and a new source of information.
  2. The Allegheny County Executive should create a criminal justice system coordinator position, reporting to the county manager and focused on monitoring the criminal justice system, to better manage the criminal justice system and advance the goals of maintaining public safety, enhancing equity, and reducing costs.
  3. To improve the transparency and effectiveness of the criminal justice system, Allegheny County should build on its considerable technology assets to deliver timely data and analysis to manage the overall system and monitor key performance metrics, including racial disparities.
  4. Because even a brief period of pretrial detention can have a devastating impact on the person jailed and because the costs of incarceration are a significant burden for county taxpayers:
    - a. Police, courts, and the district attorney should develop and use proven alternatives to arrests and bookings, including establishing programs to divert individuals who otherwise might have been charged with nonviolent offenses into community-based treatment and support services, using summons in lieu of arrests, and establishing community-based restorative justice programs.
    - b. District judges should use monetary bail rarely and instead should use the county's risk assessment tool for pretrial release determinations, avoiding pretrial incarceration except when necessary to preserve public safety or to ensure the defendant's presence in subsequent proceedings.
    - c. Jail personnel and the courts should reduce the processing time between a person's admission to the jail and his or her first court appearance.
  - d. The district attorney should guard against the practice of overcharging and also consider alternatives to prosecution that do not require filing formal charges, such as precharge diversion programs.
  - e. Indigent defendants should be represented by a public defender at the preliminary arraignment, when initial incarceration decisions are made.
  - f. Police and district judges should commit to the use of the jail in a uniform and consistent manner commensurate with the seriousness and frequency of crime in their particular communities.
5. A high priority should be placed on expanding crisis intervention training for police and other law enforcement personnel and on diverting individuals who are suffering from mental illness or substance use disorders into effective treatment programs.
  6. The Court of Common Pleas should take steps to enhance both fairness and cost-effectiveness by:
    - a. Disposing of cases within time frames that are equal to or better than national standards.
    - b. Reducing the length of probation terms to be consistent with national standards.
    - c. Eliminating the use of consecutive probation terms.
    - d. Using graduated sanctions that are fair, swift, and certain for probation violations.
    - e. Assessing court fines and fees on a sliding scale that reflects a person's ability to pay.
  7. To the extent that cost savings are realized from a reduction in the population of the Allegheny County Jail, the county executive should give high priority to additional investments in the broader criminal justice system that will improve its effectiveness. These include:
    - a. Increasing the number of police on the beat—who, properly trained in a sentinel role, could be a major force in preventing crime and improving police-community relations.
    - b. Increasing the number of probation officers to better provide more effective supervision to higher-risk individuals on probation.
    - c. Expanding programs that have a proven record of reducing recidivism, including reentry programs.
    - d. Incentivizing district judges and municipal police departments to develop creative programs to reduce their use of the county jail even while maintaining public safety.

## ENDNOTES

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