

Group seeks reevaluation of criminal justice laws

Rochester leaders press lawmakers for review

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A consortium of some local police, businesspeople, elected officials, faith leaders and residents are pushing state lawmakers to revisit changes in criminal justice laws.

The initiative from what is called the Consortium for Safe Communities continues the pushback since state lawmakers changed New York's bail laws in 2019 with new statutes that continue to fuel heated debate over both their efficacy and impact. The changes eliminated cash bail for many lower-level offenses and non-violent felonies.

Monroe County Sheriff Todd Baxter has been leading the charge to encourage changes in the laws. He said he has had little luck getting the ear of state

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lawmakers.

"I was getting frustrated from the standpoint that we weren't being heard," Baxter said. "The idea was let's see if there are other stakeholders in the community that want to be heard."

Get tougher on repeat criminal offenders, group says

While crime rates are declining, the violent crime rate in Rochester continues to outstrip that of many past years.

And recent rash of car thefts and carjackings, with teenagers sometimes suspected to be multiple repeat offenders, are often cited as proof that there needs to be reconsideration of the bail laws.

Too often, consortium members say, suspected offenders face few consequences and are emboldened to commit new crimes.

"This is not an indictment against bail reform," said Pastor Benjamin Cox, of the Faith Leaders Roundtable of Rochester and a consortium member. "We're talking about repeat offenders. ... It appears that those who commit these crimes, the repeat offenders, get a pass to do what they want to do."

What does Rochester's Consortium for Safe Communities want to do?

In particular, the Consortium is asking lawmakers to:

- Make changes that would allow judges more discretion in setting bail for individuals accused of criminal charges multiple times.

- Allow judges to consider whether an individual may be "dangerous" when setting bail. New York is now the only state that does not do this.

- Oppose a proposed "elder parole" law that would let the parole board consider a supervised release of incarcerated people 55 years old and over who have served at least 15 years of a sentence.

"We know we're not being effective with law enforcement," Baxter said. "We're not doing our number one mission: Keep the vulnerable safe."

Debate continues over New York bail laws

When bail laws were changed by state lawmakers, the legislation tried to address a long-standing disparity: People with means had no trouble posting bail while those without would sit in jail for weeks or months unable to pay even small amounts.

A 2018 study from the New York Civil Liberties Union showed that Monroe County was holding significantly more people in jail on small bail amounts than seven other New York counties that were part of the study.

Among the findings: Over a five-year span, 4,700 men and women remained jailed in Monroe County for a week or more because they could not amass a bail of \$500 or less for many types of offenses, including both non-criminal violations and criminal charges.

Critics of the laws say the increase in shootings and homicides in recent years is largely due to the bail changes. Supporters say the criticism is typically anecdotal and not analytical, and the data does not show a clear link.

Baxter said he and other police chiefs and sheriffs don't want to toss out the foundation of the bail laws.

Instead, he said, they want the ability to hold, at least for a short time, individuals accused of multiple crimes. That time could be used to see whether there are underlying issues to the criminal conduct that can be addressed, he said.

What about bias in charging, sentencing?

Local law enforcement sometimes resorts to charging teens with lesser crimes to sidestep the bail laws and allow them to be held for a short period in a juvenile detention center. Some teens have been accused of car thefts multiple times. After a huge spike in car thefts locally, the numbers are now dropping.

"At the hospital side, we're seeing the human suffering because of this, whether it's families of someone that was in stolen car that crashed into something, or whether it was a pedestrian, an innocent bystander, who got run over," said Dr. Mark Gestring, chief of Strong Memorial Hospital's acute care surgery division and a consortium member.

"At the very base level the people we elect to represent us should be able to provide some level of safety to the peo-

ple in the areas that they represent."

Some supporters of the changes in the bail laws worry that a retrenchment will hurt the poor and no one else. Monroe County Public Defender Julie Cianca said her office sees indigent defendants who are able to maintain steady lives after released under the new statutes.

In the past, indigent defendants who would later be acquitted at trial or have their charges dismissed would fester in jail for weeks beforehand, she said.

"You're not just presumed innocent," she said. "You might be innocent."

She likened the debate to arguments over the Second Amendment after mass shootings or other gun crimes. Supporters of guns ownership rights afterward often don't push for stricter gun control measures, maintaining that the incident was atypical, Cianca said.

"People are perfectly able to understand that you don't tar everybody with the same brush when it's in their interest," she said.

Cianca said she also worried about use of a "dangerousness" factor for judicial bail decisions. Judges, like many, are susceptible to "implicit bias," she said, and might not recognize that they could judge people of color more harshly than others.

"Implicit bias" has been acknowledged in many professional fields, to the point where the local judicial district last year created a program to alert judges of possible instances of unconscious bias in their decisions.

Getting the attention

Rochester resident Cheryl Robinson has witnessed what she suspects are stolen car after stolen car dash by her home on Pershing Street and through the neighborhood. A neighborhood friend, after calling the police on a group of teens who'd stolen a car, paid the price, she said.

The teenagers circled back in the stolen vehicle, rammed into the rear end of the woman's car, then drove away. Robinson said the same teens are suspected of multiple thefts and some are often armed.

"They have no shame in what they do," she said. She is one of the Rochester residents ready to sign onto the consortium's legislative wish list.

Pastor Cox said he knows many residents throughout the city who feel the same. "It seems like the perpetrators, they have put more fear in the commu-

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nity," he said, "They don't have any fear because there's no consequences."

Local clergy "see it firsthand and we feel it firsthand because we have to go to a mother or to a family or a parent at the loss of a child who has been gunned down through violence," Cox said.

Baxter said some lawmakers have suggested he push for federal charges for individuals accused multiple times of illegal gun possession. There is an irony here, he acknowledged, because federal criminal statutes often have more severe penalties.

Why, he asked, should New York lawmakers shy away from criminal statutes that encourage punishment in federal courts? "That's counter-intuitive," he said.

One thing for sure is that the debate won't end soon and will again be part of the legislative chatter in the coming session.

There have been tweaks to the laws since 2019. The consortium, for instance, supported Gov. Kathy Hochul's push earlier this year to remove language requiring judges to consider the "least restrictive" measures to ensure defendants return to court. This was the third change in the laws since enactment. A letter from the consortium to state lawmakers now has more than 120 signatures, including a number of clergy representing many city churches.

"One of the things that really interested me about it was that it was made up of people from different sides of the aisle," Pastor Cox said. "We can come to the common ground of agreements that the level of gun violence in the city, it's just really overwhelming."