

Yakima County pretrial program will free low-risk defendants awaiting trial

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Jan 18, 2016

When suspects can't make bail, they may lose a lot more than freedom.

Being locked away while awaiting trial might mean losing a job and then being forced to surrender a car or housing because of missed payments.

The cascading series of events practically assures future problems, including the prospect of more crimes that will send someone right back to jail or prison.

On Feb. 1, the Yakima County criminal justice system will launch a new effort to free certain defendants awaiting trial. The project has been more than two years in the making.

The idea behind the pretrial release program is to maintain public safety while allowing lower-risk suspects to remain productive as they await resolution of their criminal cases.

The program grew out of a 2012 report on the county's criminal justice system, which among other points found that defendants were spending too long in jail before trial.

Supporters say the pretrial program takes a more complex approach to deciding who should be released than simply slapping a bail amount on each case.

"It keeps the right people in jail and moves the right people out of jail — based on their risk to the community, not on money," said Harold Delia, a Yakima County court consultant who has served on the pretrial release policy committee that helped develop the program.

It should most benefit the poorest defendants, who can spend months in jail prior to trial simply because they can't afford to post bail.

While cash bail remains an option, the program's focus will be on identifying defendants who can be released and monitored. Monitoring options range from being released without conditions, which already happens occasionally; being required to report to a pretrial officer; or wearing an ankle bracelet.

The decision-making process uses a matrix that rates each suspect based on their current charge, criminal history and whether they've ever skipped court appearances.

Suspects considered dangerous will not be recommended for release.

The risk assessment tool was designed by the Texas-based Arnold Foundation and has been tested on 50,000 defendants, which has shown an 87 percent success rate in predicting who will comply with release conditions.

County Prosecuting Attorney Joe Brusica said he believes the program will lead to better decisions about which suspects should be released.

“My key goal is community safety,” Brusica said.

“If I didn’t think this program was going to make the community safer, I wouldn’t support it, but I believe that it will.”

Presiding Superior Court Judge Richard Bartheld, who has served on the pretrial policy committee, said he believes the new process will allow him to make better decisions about which defendants to release.

Under the current approach, Bartheld said, defendants can be jailed up to three weeks before attorneys schedule a bail hearing.

Some defendants who can’t afford bail end up serving more time than their eventual sentences because of how long it takes to resolve their cases.

“Sure, it is politically safer to lock everybody up, but is that the right thing to do? Is that the safe thing to do?” Bartheld asked. “I don’t think it is.”

Paul Kelley, director of the county’s public defenders, said a criminal case disrupts a defendant’s life. Losing a job, a car or a relationship makes it more difficult to stay out of further trouble once someone has served their time. Giving them a chance to prepare for serving time should improve their chances of success, he said.

“If this prevention of such an upheaval in their life assists that, there’s a significant chance our community will be a bit safer, so why not try it?” Kelley said.

The program could potentially help Yakima County avoid future lawsuits. California is facing a class-action lawsuit that alleges its bail system treats poor defendants unfairly.

The county has budgeted \$315,000 a year for the program, mostly for pretrial staff, a deputy prosecutor and a public defender. The attorneys will review each new case to help make decisions on which defendants to release.

The program is expected to handle about 200 defendants at a time.

The federal Department of Justice gave Yakima County a \$300,000 planning grant to serve as a pilot site, along with the county and city of Denver and the state of Delaware, for pretrial models that can be implemented across the country.

Releasing any defendant carries a certain risk.

In 2013, Yakima police Chief Dominic Rizzi complained to county judges about a defendant who was furloughed to attend the funeral of a close relative. The man, who was awaiting sentencing for leading police on a high-speed chase, did not return when he was supposed to, and fled again when officers tried to arrest him.

Jim Hagarty, the former county prosecuting attorney, and court officials said they did not believe the furlough would have been granted had a pretrial program been in place. Defendants who escape on furlough are relatively rare, officials said.

Yakima police Capt. Gary Jones, who represented the department on the pretrial policy committee, said he and other law enforcement representatives emphasized that their goal was to keep the riskiest defendants behind bars.

He said he hopes that will happen under the program.

“It does add another layer of complexity to the process, but we are also realists that we can’t lock everybody up prior to trial,” Jones said.