

Pretrial: Specialist uses risk assessment tools to screen defendants

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of overcrowding, compared to defendants who are screened for pretrial release, often pose greater risk of committing new crimes or missing court dates.

"So it's working," Judge Paula Brownhill, the presiding judge of the Circuit Court, said.

Risk assessment

Burdened by an overcrowded jail, and concerned that too many defendants are locked up before trial, Brownhill ordered the pretrial release policy in September 2017.

The judge had formed a work group to come up with ideas in response to the county's comparatively high use of state prison for drug and property crimes. The state, in an initiative known as justice reinvestment, provides incentives to counties to supervise more defendants locally through jail and probation to help contain more expensive prison costs.

Under the policy, a pretrial release specialist uses risk assessment tools to screen defendants and does interviews to determine whether they have jobs, housing and relationships to tie them to the community. The specialist makes recommendations to the court at arraignment about whether defendants should be released or held in custody while their cases are being resolved.

When defendants are released, an alternative custody deputy monitors whether they are meeting the conditions of their freedom, which, depending on risk, can include checking in with the sheriff's office, drug and alcohol tests and electronic monitoring. The deputy also calls or texts them about upcoming court dates.

"The jail is a finite resource and the pretrial

program has allowed us to better identify and keep in custody those who pose the greatest risk to the community," Phillips said in an email.

Before the policy, the court mostly relied on a defendant's criminal history when evaluating risk.

"We're taking a lot fewer chances with the pretrial release guys, because they can verify whether the person even has a place to stay, whether the person has a job," District Attorney Ron Brown said.

By using a combination of the risk assessment score, and information learned from interviews, the court gets a more complete picture, which can be important given that many defendants are struggling with alcohol and drug abuse or mental health issues.

"So I like it. And I like the guys that are doing it — they're cops," Brown said. "We get way more information than we used to get."

Research has shown that low- to medium-risk defendants face escalating consequences — like losing a job or an apartment — the longer they stay in jail while their cases are being heard. But the risk that defendants will commit new crimes or not show up for court increases the longer they are free before their cases are resolved.

A new criminal docketing system is expected to speed up the process. The time between arraignment and the next court date will shrink to weeks, instead of

months.

"The quicker we resolve cases, the more successful defendants will be on pretrial release," Brownhill said in an email.

New jail

Josh Marquis, the former district attorney, had strong philosophical disagreements with the court and some at the sheriff's office over pretrial release. He liked getting more information about

it and also realize that when we have a more suitable jail for our needs, offenders will also have accountability if not willing to take the path of least resistance," the sheriff said in an email.

Brown, who took over from Marquis as district attorney in January, said the county had little choice but to expand pretrial release given the overcrowded jail. He said he would revisit the concept once a new jail gets built in Warrenton.

Voters in November approved a \$20 million bond measure to convert the former North Coast Youth Correctional Facility into a new jail. The jail will have 148 beds, with the potential to expand.

Overcrowding at the jail in Astoria makes it difficult for the county to experiment with justice reinvestment. More space will enable the county to supervise more defendants locally, both by ensuring inmates serve their full sentences and through short-term jail time for probation violations.

But a larger jail might take the urgency away from pretrial release.

"I would say that could be a risk if people want to default back to the old way of doing it," Phillips said.

Embracing risk

Circuit Court judges and the district attorney are elected, and ultimately accountable to voters, so they are not immune to public backlash when things go wrong.

Since judges have the

Law: 'This is a good day for some politicians'

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we are disappointed in their decision today, we continue to believe that it is very important that the decisions of the Oregon Legislature be open and transparent to the public," Foote said in a statement. "Our legal challenge made sure that happened."

"We are very concerned that the unique power of Oregon's initiative process has been badly damaged by the actions of the Oregon Legislature and the court's decision today, and we are further concerned that the strong sentences overwhelmingly passed by the voters in Ballot Measure 57 for repeat felony property offenders will continue to be reduced by the Oregon Legislature."

Josh Marquis, the former Clatsop County district attorney, who supported Foote's legal challenge, said the court ruling "has the risk of putting any future voter approved measure that doesn't sit well with the majority of the moment in the Legislature, at risk."

"This is a good day for some politicians and criminals, and a bad day for victims, the citizens of Oregon, and the rule of law."

State House Majority Leader Jennifer Williamson, D-Portland, said the decision allows the Legislature to build on its plan to move away from long prison sentences and toward rehabilitative programs.

"Today's unanimous decision by the Oregon Supreme Court upholding House Bill 3078 is a very positive step forward for our state," Williamson said.

"The failed policies of the past will not hold us back from reforming our broken criminal justice system. Thanks to this ruling, we can continue to make investments in effective treatment programs that make our communities safer and ensure that we continue to bend the cost-curve on ballooning corrections budgets."

JUSTICE REINVESTMENT

A pretrial release policy created in September 2017 guides whether criminal defendants get out of jail while their cases are heard by the court. Here are the trends after the first year:

Pretrial release

- 555 defendants, up from 385 under the previous conditional release process

Forced release because of jail overcrowding

- 324 inmates, down from 573

Defendants who committed new crimes while on pretrial release

- 4.1 percent

Failure to appear in court

- 27 percent, down from 32 percent

Pretrial jail population

- 70 percent, unchanged

*Source: Clatsop County Sheriff's Office

defendants at arraignment, but considers justice reinvestment another policy misfire from Salem.

"Accountability and truth in sentencing are critical values in my views as a mostly retired prosecutor and citizen," Marquis said in an email.

Sheriff Tom Bergin, who has also been critical of criminal justice reform, recognizes the county is going in the same policy direction as most of the state. Despite his reservations, he trusted Phillips, his jail commander, and Lt. Kristen Hanthorn, who leads the sheriff's office Parole and Probation Division, to implement pretrial release in a way that protects public safety.

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