



Office of the
Washington
State Auditor
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PERFORMANCE AUDIT

Report Highlights

Reforming Bail Practices in Washington

The presumption of innocence is a basic tenet of the criminal justice system. State and federal law say that every person charged with a crime should be presumed innocent until proven guilty. Yet in practice, thousands of individuals who have not been convicted are held in jail for days, months or even years, through the conclusion of their trials. The Washington Constitution and court rules presume most defendants should be released before their trials. Judges can impose bail to create a financial incentive for defendants to return to court after release. However, defendants will remain in jail if they cannot afford bail.

To address this issue, many jurisdictions are using pretrial services as an alternative to bail. Pretrial services allow jurisdictions to release defendants from jail in place of bail while offering supports, like court date reminders or periodic check-ins, to ensure defendants come to court. This audit examines the potential impact of expanding pretrial services in Washington.

In 2017, the Washington State Superior Court Judges' Association, the District and Municipal Court Judges' Association, and the Supreme Court's Minority and Justice Commission formed the Pretrial Reform Task Force to gather data and formulate recommendations concerning the expansion of pretrial services statewide. We conducted the audit independently of the task force, but worked with it to gain an understanding of bail and pretrial practices and to ensure efforts were not duplicated.

Can Washington use pretrial services, as an alternative to bail, to better serve qualified defendants while maintaining public safety and controlling costs to taxpayers?

On any given day, about 4,700 people held in Washington jails are candidates for pretrial services. Releasing these defendants and providing them pretrial services can save taxpayers between \$6 million and \$12 million a year. Analyses of two Washington counties also suggest pretrial services can be effective and comparable to bail in maintaining public safety. Pretrial detention can have negative consequences for defendants, including an increased likelihood of reoffense and worse case outcomes. However, jurisdictions should also consider the additional risks to the public that may result from releasing more defendants from jail.

State Auditor's Conclusions

Judges have used traditional money bail for years as a way of creating financial incentives for defendants to appear in court for their trials. When defendants cannot afford to pay bail, they remain in jail until the trial. Keeping them in jail is costly to the taxpayers. Perhaps more importantly, extended jail time before trial can have significant consequences for defendants, as they become more likely to be convicted, more likely to receive a longer sentence, and less likely to gain and maintain future employment.

As this audit demonstrates, pretrial services offer an effective alternative to money bail. Releasing defendants through pretrial services is less costly than holding them in jail before trial. The experience in Washington and other states suggests the likelihood that a defendant will fail to appear for their trial or that they will reoffend pending trial is comparable, if not better, when pretrial services are used instead of bail.

The purpose of this audit was to give stakeholders in the criminal justice system additional information about pretrial services and explore the potential for expanding their use. This audit provides information that can help local jurisdictions assess the risks and opportunities that come with pretrial services. Although we see tremendous opportunity, pretrial release and the conditions imposed on defendants are ultimately a judicial matter. We did not make any specific recommendations to judges regarding how they should use pretrial services. However, the Pretrial Reform Task Force established by the Washington State Superior Court Judges' Association, the District and Municipal Court Judges' Association, and the Supreme Court's Minority and Justice Commission made several recommendations in its [February 2019 report](#) reviewing pretrial services.

Recommendations

This audit did not make any recommendations.