

# Cost-Benefit Analysis of Pretrial Release in Oregon

October 2020

---



## Oregon Criminal Justice Commission

Ken Sanchagrin, JD PhD  
Interim Executive Director

---

The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

**Table of Contents**

Authors and Contributors..... ii

1. Introduction..... 1

2. Data Description ..... 1

3. Methodology/Assumptions ..... 2

4. Results..... 5

5. Discussion..... 7

**Tables**

Table 1. Crime Costs (2019\$) ..... 3

Table 2. Jail Categories by Operational Capacity..... 5

Table 3. Cost-Benefit Results, Annual (2019\$)..... 6

Table 4. Predicted Releases and Recidivating Crime ..... 7

## **Authors and Contributors**

Thanks to Tristan Nighswander, PhD, Assistant Professor of Economics at Reed College for reviewing the methodology employed in this analysis and providing invaluable feedback and insights.

Authors:

Michael Weinerman, PhD, Senior Research Analyst, Criminal Justice Commission

Siobhan McAlister, Senior Research Analyst, Criminal Justice Commission

Katherine Tallan, Research Analyst, Criminal Justice Commission

## **1. Introduction**

Pretrial release decisions are facing increased scrutiny, both in Oregon and nationwide. One inherent challenge in making these decisions is how to identify which arrested individuals to release prior to trial and which individuals to hold until trial. Historically, judges have decided which release options to offer each individual. Risk tools that evaluate an individual's likelihood of recidivating or missing a court date may also be part of this decision process and, arguably, may increase the level of objectivity in release decisions. Some criminal justice system professionals and researchers criticize these risk tools, however, because of systemic biases intrinsic to the underlying data the tools rely upon. Regardless of the exact method of evaluation, underlying each release decision is a judgment of the likelihood that the individual will fail to appear for their court date and the likelihood that the individual will commit a crime while released during the pretrial period, each posing direct costs to society. This decision calculus also considers the personal and family costs stemming from a pretrial jail stay for the presumed innocent individual. Pretrial release decision-makers cannot accurately and objectively account for every factor at each decision hearing, but instead do their best with the information available, the policy guidance provided, and the existing resource constraints. Policymakers should consider these factors in addition to the costs of jail and pretrial supervision programs, respectively. This cost-benefit analysis provides an additional, system-level context for these release decisions and for the policy that is the foundation of these release decisions.

This cost-benefit analysis uses the best, currently available criminal justice system administrative data for Oregon to estimate the net benefits to society of an expansion of pretrial release programs in the state. In particular, we analyze the effect of increasing the number of individuals on pretrial release and also implementing an earlier release from pretrial detention for those who are currently held for a lengthy pretrial period. Of about 59,000 cases filed in 2018, the policy evaluated here would release about 9,000 individuals who were not otherwise released and reduce the time detained during the pretrial period for about 22,000 additional individuals. Additional releases pose a change in aggregate costs and benefits to society. Increased costs to society come in the form of additional crimes committed and missed court dates by some individuals that otherwise would have been held during their pretrial period, as well as expenditures for pretrial release evaluation and supervision programs. These additional costs are balanced against avoided costs or "benefits" of income and housing losses that stem from being jailed during the pretrial period and the cost savings of reducing jail populations. All of these costs and benefits are assigned monetary values in this analysis and then aggregated into a single measure of net benefits. The statewide, uniform policy of limiting pretrial detention to 3 days for lower-level offenders results in an estimated annual net benefit to society of \$68 million, including \$51 million savings in the criminal justice system and \$17 million in net intangible costs. This statewide net benefit represents net benefits to some sectors of society and net costs to other sectors.

The following Section 2 summarizes the data used in this analysis. Section 3 details the methods and assumptions underlying the cost-benefit analysis. Section 4 described the results of the analysis in more detail. Section 5 discusses these results and describes several important caveats that should be considered when using these findings in policy settings.

## **2. Data Description**

The Oregon Judicial Department (OJD) keeps hearing-level information on criminal cases. Since 2017, the pretrial period for each case has been identifiable in these data. Hearings during the years 2017-2019 were used to develop recidivism and Failure to Appear (FTA) rate estimates and to create cost-benefit

estimates for a single year, 2018.<sup>1</sup> Law Enforcement Data Systems (LEDS) data were linked to the OJD data to identify arrest dates, where possible. Either the case filed date or the arrest date was used as the start of the pretrial period, whichever occurred earlier. The end of the pretrial period is the disposition date. There are several challenges and shortcomings of these data. We discuss these challenges in more detail in the Methodology/Assumptions section.

After cleaning and correcting for missing and incorrect information in the hearing level data and collapsing to the case level, the base 2017-2019 data set has 169,667 observations. For recidivism and FTA rate calculations, we trim these data to 118,646 observations, the subset of individuals actually released during their pretrial period. FTA and recidivism rates are calculated for subgroups by jail size, Public Safety Checklist (PSC) risk score category, and most serious originating crime. For the cost-benefit analysis, we trim the original dataset to cases with file dates in 2018 (59,427 obs.), remove any cases for which there was a forced release (1,532 obs.)<sup>2</sup>, remove any additional cases that included a domestic violence case modifier (4,725 obs.)<sup>3</sup>, and finally remove all additional cases for which the most serious charged offense was a Misdemeanor Class C or Violation charge (6,240.)<sup>4</sup>, resulting in a final dataset for the cost-benefit calculations of 46,930 observations.

### 3. Methodology/Assumptions

Cost-benefit analysis requires several assumptions regarding both the costs and the benefits that would be incurred with a policy change and compares these to the costs and benefits under the status quo. This section summarizes the sources used to estimate these costs and benefits in this analysis. All dollar figures are updated from their sources to 2019 dollars.

The policy change considered in this analysis would increase the rate of pretrial release from all Oregon jails. Specifically, individuals who are detained for the full pretrial period under the status quo would instead be released after 3 days of detention if their most serious charge was a non-person misdemeanor charge, drug charge, failure to appear charge, and/or was a crime that is the focus of Justice Reinvestment<sup>5</sup>. Pretrial program administrators report that a 3-day limit for pretrial detention is the best practice and that a 3-day limit is an attainable goal of many established pretrial programs, when given adequate resources. In the cost-benefit analysis, individuals with this set of most-serious charges who are already released have their pretrial detention period reduced to 3 days if their detention period is longer

---

<sup>1</sup> Based on a case filed date of 2018. A single, annual estimate was selected for the analysis as it facilitates extrapolation and since including a buffer year before and after the year of the analysis allows for the inclusion of arrest dates prior to 2018 and case events that occur in 2019 for cases that were initiated in 2018. A set of cases including those initiated in 2019 would have incomplete information for a greater proportion of cases that had not yet concluded at the end of 2019 and thus those cases would have been omitted from the analysis.

<sup>2</sup> Individuals that are force released are selected for force release through an evaluation process by jail staff and do not incur jail stay costs after release. These are also individuals who are lowest risk and thus may be the most likely to be pretrial released under the policy change. Forced releases are thus omitted from the analysis as it is unclear how their costs will differ under the policy change, but the net benefits will be different than the population who were not force released.

<sup>3</sup> District Attorney's offices include a "constitutes domestic violence" identifier on each such charge in the OJD data.

<sup>4</sup> A shortcoming of the hearing-level data is that jail stay information is missing. Where an individual was booked and had a release event, analysts can discern that they were in jail, but without a release event the individual may have never been booked in jail. Instead, they may have been cite-and-released or book-and-released. In these data, these individuals appear identical to those that are never pretrial released. Therefore, to minimize both over-counting and under-counting, the analyst must make an assumption regarding which cases were likely to have never entered jail. Identifying Class C Misdemeanors and Violations likely errs on the side of undercounting the population likely to be impacted by the policy change, and thereby lowers net benefits, since some of these individuals are assuredly held in jail on these minor offenses.

<sup>5</sup> These include Burglaries (except Burglary I), Computer crimes, Extortion, Failure to Appear, Forgery, Motor Vehicle Theft, Robbery III, Drug, and Theft charges. For more information see <https://www.oregon.gov/cjc/jri/Pages/default.aspx>

than 3 days.<sup>6</sup> Importantly, cases for which at least one charge included a domestic violence modifier were omitted from this policy change. Each individual that is released or released earlier under the new policy represents a change in costs to the criminal justice system, to the individual, to their family, and to society.

Increased and earlier pretrial releases result in reduced jail detention costs and increased pretrial supervision costs. Criminal justice system costs are derived from several sources. Jail costs are derived from Vera’s survey of jails, where the median average cost to house an inmate for one day is \$116.57.<sup>7</sup> Pretrial Supervision costs are based on the Washington State Institute for Public Policy’s (WSIPP) calculations of probation and parole supervision costs and are \$3,557 per case.<sup>8</sup> In addition to these costs, increased pretrial release leads to increased potential to miss court dates. Each FTA is estimated to cost \$95.35.<sup>9</sup> The CJC checked with several stakeholders and criminal justice system partners to ensure that these cost estimates are close to actuals in Oregon. Ideally, these figures would instead be based on actual data from Oregon’s system, but the requisite data to develop these figures was not available for the current analysis.

Additional time on pretrial release also increases the potential for those released to commit crimes, which incur both criminal justice system costs and other intangible costs to society. Crime cost figures for each of several major categories of crimes are presented in Table 1 and have been converted from the original sources to 2019 dollars.

**Table 1. Crime Costs (2019\$)**

| <b>Crime Category</b>     | <b>Criminal Justice System Costs</b> | <b>Victim and Other Intangible Costs</b> |
|---------------------------|--------------------------------------|--|
| Aggravated Assault        | \$10,286                             | \$117,103                                |
| Assault IV <sup>1</sup>   | \$10,286                             | \$19,987                                 |
| Burglary                  | \$4,912                              | \$2,779                                  |
| Drug Non-Possession       | \$23,109                             | \$4,616                                  |
| Drug Possession           | \$29                                 | \$5                                      |
| Motor Vehicle Theft       | \$4,603                              | \$8,219                                  |
| Murder                    | \$467,027                            | \$10,225,558                             |
| Other Crimes <sup>2</sup> | \$5,321                              | \$4,616                                  |
| Property                  | \$5,786                              | \$1,063                                  |
| Rape/Sexual Assault       | \$31,519                             | \$255,083                                |
| Robbery                   | \$16,459                             | \$33,904                                 |

<sup>1</sup>Based on estimates for Aggravated Assault, less the adjusted risk of homicide as summarized in McCollister et al 2010.

<sup>2</sup>Average costs of Arson, Vandalism, Forgery and Counterfeiting, Embezzlement, and Fraud.

<sup>3</sup>Average of Larceny/Theft and Stolen Property.

<sup>6</sup> Detention times in this analysis are estimated based on arrest and court data. At time of writing, statewide jail data are inconsistent and do not yield the requisite information to reliably complete this analysis and, further, was determined to be less reliable than estimates based on court data.

<sup>7</sup> The low cost among these jails was \$51.52, the high was \$617.52, and the mean was \$139.36, all updated to 2019 dollars. See Christian Henrichson, Joshua Rinaldi, and Ruth Delaney, “The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration” (Vera Institute of Justice, May 2015).

Analysts also explored Oregon administrative information and the OSJCC survey of jails for 2019 as alternative measures of the cost of jailing one person one day. Analysts calculated the total number of bed days available per year and divided the budget by this figure, averaging for each group of jails. These figures by jail group varied from a low of \$109.88 to a high of \$243.42, but included a smaller set of costs than the figures presented by Vera and so were not used in the primary analysis.

<sup>8</sup> “Benefit-Cost Technical Documentation.” Washington State Institute for Public Policy, December 2019.

<sup>9</sup> Based on estimates from Alan Tomkins et al., “An Experiment in the Law: Studying a Technique to Reduce Failure to Appear in Court,” *Court Review: The Journal of the American Judges Association* 395 (2012): 12. This represents that highest estimate calculated by those researchers, where the low estimate was \$58.81. Ideally, this value would be calculated using a method close to that employed by Tomkins, but based instead on Oregon administrative data. This detailed administrative data was not available at time of writing.

In Table 1, for all crime categories excluding drug possession and drug non-possession, criminal justice system costs include “...police protection costs, legal and adjudication costs, and corrections costs” at the local, state, and federal levels. Victim and other intangible costs consist of a variety of other costs outside the criminal justice system. Victim costs specifically include “...medical expenses, cash losses, property theft or damage, and lost earnings” as well as the cost of post-victimization counseling, and a risk-of-homicide cost. Other non-criminal justice system costs include crime career costs (i.e., productivity losses due to engaging in criminal activity instead of working), and pain-and-suffering costs to victims, including for injuries such as “...gunshot wounds, broken bones, knife wounds, being knocked unconscious, bruises and/or cuts, rape-related injuries.”<sup>10</sup> The costs for drug possession and drug non-possession are similarly calculated, with possession defined as “drug law violation” costs<sup>11</sup> and non-possession defined as “felony drug” costs<sup>12</sup>.

Crime rates for additional pretrial releases are based on recidivism rates for prior pretrial releases and only measured during their pretrial release period. We measure both arrest and conviction recidivism rates for those released during the pretrial period from 2017-2019. We measure these rates for each subgroup by jail group (mega, large, medium, or small), PSC risk level (low, medium, high, none)<sup>13</sup>, and the most serious originating crime category<sup>14</sup> for a total of 128 groups. Total recidivism rates are then estimated by the most-serious, subsequent outcome crime that occurs during the pretrial release period. These recidivating, outcome crime categories conform to those used in the crime valuation literature (Table 1).<sup>15</sup>

Arrest recidivism rates are used to estimate the expected value of criminal justice system costs for each individual. Regardless of whether a conviction results from these arrests, we assume that the criminal justice system costs for that type of crime are realized for that arrest. This may, thus, overestimate these costs since not all of these arrests will incur the full range of criminal justice system costs used in these calculations. Conviction rates are used to estimate the victim and other intangible costs. In contrast to the overestimation that is likely with the arrest recidivism, here convictions do not fully account for all crimes committed, since not all crimes committed are prosecuted or convicted. Thus these figures may be an underestimate of the victim and intangible costs. These estimates, however, represent the best available information.

FTA rates are calculated using the same groupings as those used for recidivism rates—jail group, PSC risk level, and most serious originating crime and are calculated based on hearing-level data from OJD. Here FTA rates are calculated by which cases had at least one FTA event<sup>16</sup>. When an individual FTAs, however, the hearing data shows that they are likely to FTA more than once on a case (2.28 times on average). Thus we generate rates based on an FTA/no-FTA binary measure, but assume that those who FTA do so 2.28 times. Both the FTA rate and number of FTAs are based on actual data for those released during the pretrial period in Oregon, and thus may misestimate the theoretical FTA rate of those who are not currently released pretrial.<sup>17</sup>

---

<sup>10</sup> Kathryn E. McCollister, Michael T. French, and Hai Fang, “The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation,” *Drug and Alcohol Dependence* 108, no. 1–2 (April 2010): 98–109.

<sup>11</sup> See Andrew S. Rajkumar and Michael T. French, “Drug Abuse, Crime Costs, and the Economic Benefits of Treatment,” *Journal of Quantitative Criminology* 13, no. 3 (September 1997): 291–323.

<sup>12</sup> See “Benefit-Cost Technical Documentation.” Washington State Institute for Public Policy, December 2019.

<sup>13</sup> For more details regarding the Public Safety Checklist risk calculations see <https://risktool.ocjc.state.or.us/psc/>

<sup>14</sup> Based on the Uniform Crime Categories used by the FBI: Person, Felony-Weapon, DUI/DWI/ Felony-Drug, Property, Motor Vehicle, Misdemeanor-Drug, and Other.

<sup>15</sup> For more information regarding how recidivism is measured in Oregon see the CJC’s recidivism dashboards <https://www.oregon.gov/CJC/SAC/Pages/Recidivism-dashboard.aspx>

<sup>16</sup> Including both charged and non-charged FTAs.

<sup>17</sup> Stakeholders have reported that, due to errors in processing, some individuals may FTA while in jail in Oregon. It remains unclear the frequency of these events. These occurrences and their related costs are omitted from the cost-benefit analysis.

When an individual is jailed this poses several risks to their, and potentially their family’s, economic and physical well-being. An individual that is jailed for an extended time may lose their employment or face additional difficulties in finding employment after release. Adjusted to a per-person value, researchers have found that those released pretrial have \$1,042 higher expected formal sector earnings than those detained during the pretrial period.<sup>18</sup> Families may also face eviction after a lengthy jail stay,<sup>19</sup> where the average cost of an intra-state move is \$1,264. Landlords also incur significant costs in lost rent and the hours spent finding replacement tenants, making the cost of completing an eviction \$1,767.<sup>20</sup> There are several other categories of intangible costs related to pretrial detention that have been identified in the prior literature<sup>21</sup>, including the loss of healthcare, the value of housing security, the impact that a parent’s jail time has on children, and the possibility that time in jail *increases* future criminal justice system involvement, all other things equal. These factors are beyond the scope of the current analysis, but are considerations in policy discussions.

#### 4. Results

The cost-benefit models are estimated by jail group and also summarized for the state as a whole. The American Jail Association categorizes jail size by bed capacity, where mega jails have 1000+ bed capacity, large 250-999, medium 50-249, and small 1-49. Following these guidelines, Oregon’s county level jails are categorized based on the 2019 operational capacity of each jail<sup>22</sup> and are described in Table 2.

**Table 2. Jail Categories by Operational Capacity**

| Jail Category        | Jails  |
|----------------------|--|
| Mega – 1000+ beds    | Multnomah <sup>1</sup>   |
| Large – 250-999 beds | Clackamas, Columbia, Deschutes, Douglas, Jackson, Lane, Marion, Washington, Yamhill                            |
| Medium – 50-249 beds | Clatsop, Coos, Crook, Jefferson, Josephine, Klamath, Lincoln, Linn, Malheur, NORCOR, Polk, Tillamook, Umatilla |
| Small – 10-49 beds   | Baker, Benton, Curry, Grant, Harney <sup>2</sup> , Lake, Union   |

<sup>1</sup>Multnomah County has two detention centers; both are included in these data.

<sup>2</sup>Harney County did not submit a response to the OSJCC Survey.

<sup>18</sup> A 16.1% increase in average formal sector earnings compared to those detained. In addition, the probability of having any income is 23.2% higher for the released group. The researchers also found additional, longer-term impacts that are not included here. See Will Dobbie, Jacob Goldin, and Crystal S. Yang, “The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges,” *American Economic Review* 108, no. 2 (February 2018): 201–40.

<sup>19</sup> This may occur due to economic constraints following the lost wages during incarceration, housing situations that preclude arrest and/or incarceration events, or other factors.

<sup>20</sup> Michael McLaughlin et al., “The Economic Burden of Incarceration in the U.S.” (St. Louis: Concordance Institute for Advancing Social Justice, July 2016). Prior research shows that about 10% report that their families face eviction because of their incarceration, see Saneta deVuono-powell et al., “Who Pays? The True Cost of Incarceration on Families” (Oakland, CA: Ella Baker Center, Forward Together, Research Action Design, 2015).

<sup>21</sup> See, for example, McLaughlin et al., “The Economic Burden of Incarceration in the U.S.”

<sup>22</sup> Oregon Sheriffs’ Jail Command Council. 2019 Jail Statistics by County. We do not include a municipal jail category in this analysis, since the court data does not include jail information, but rather court and county information.



Table 3 presents the results of the cost-benefit analysis in 2019 dollars for a single year. A shift away from jail and towards release and pretrial supervision, as described in the Methodology/Assumptions section, represents a net benefit to society of about \$68 million dollars, including \$51 million dollars in reduced criminal justice system costs. Additional pretrial supervision, FTA, and crime processing results in an increase in costs of about \$210 million, but these are more than balanced out by a reduction of jail costs of \$261 million. Importantly, these figures represent annualized estimates of total spending related to jails, rather than direct budgetary savings and thus cannot be directly compared to annual/biennial jail budgets. For example, jail capital improvements are expensive, but only occur intermittently and an annual jail budget does not necessarily reflect these costs. These estimates account for these large but intermittent capital improvement costs and other costs related to jail administration that are not necessarily included in annual jail budgets.

Similarly, the intangible benefits related to increased retention of housing and increased likelihood to obtain and/or retain employment (Intangible Total – Total Benefits, ~\$53 million) are larger than the monetized victim and other intangible crime costs (Intangible Total – Total Costs, ~\$35 million). Notably, however, these intangible crime costs are an area that saw significant differences across the jail groups. The recidivism rates for the Medium and Small jails were higher than those for the Mega and Large jails, resulting in higher predicted crime costs relative to the other cost categories. For small jails these high intangible crime costs led to negative net benefits for that group.

Table 4 presents several figures underlying the cost-benefit calculations. The table summarizes the number of individuals that would be released who otherwise would not have been released at all (9,101), the number of individuals with shortened pretrial detention periods (22,173), as well as the predicted increase in crime counts as a result of the increased releases during the pretrial period. Importantly, the crime counts presented here overestimate the increase in crime that would result from additional releases and should be considered upper bound estimates. The recidivism figures are applied to both new releases as well as those with shortened pretrial detention periods. At time of writing it remains unclear what effect an increase in time on pretrial release has on recidivism rates for those that are already released. This, further, suggests that the crime costs presented in Table 3 are overestimates and should be considered an upper bound. This caveat similarly applies to the intangible housing and employment benefits and the pretrial program costs. Prior research, however, shows that increasing the length of the pretrial detention period increases the likelihood of more severe criminal justice outcomes<sup>23</sup> and economic outcomes,<sup>24</sup> whereas comparable research regarding the effect of pretrial release length on crime rates was not found.

---

<sup>23</sup> See, for example, Christopher M. Campbell et al., “Gauging Detention Dosage: Assessing the Impact of Pretrial Detention on Sentencing Outcomes Using Propensity Score Modeling,” *Journal of Criminal Justice* 70 (September 2020): 101719; Christopher T Lowenkamp, Marie VanNostrand, and Alexander Holsinger, “Investigating the Impact of Pretrial Detention on Sentencing Outcomes,” November 2013, 21.

<sup>24</sup> See, for example, Dobbie, Goldin, and Yang, “The Effects of Pretrial Detention on Conviction, Future Crime, and Employment.”

**Table 3. Cost-Benefit Results, Annual (2019\$)**

| Category                                       |                                  | Mega                | Large               | Medium              | Small                | All                 |
|--|----------------------------------|---------------------|---------------------|---------------------|----------------------|---------------------|
| <b>System Benefits</b>                         | Avoided Jail Costs               | \$38,077,007        | \$134,964,279       | \$78,495,673        | \$9,394,726          | \$260,931,686       |
| <b>Intangible Benefits</b>                     | Housing Benefits                 | \$1,635,818         | \$6,255,222         | \$3,530,880         | \$492,413            | \$11,914,333        |
|  | Employment Benefits              | \$5,622,183         | \$21,498,729        | \$12,135,371        | \$1,692,387          | \$40,948,670        |
| <b>System Costs</b>                            | Pretrial Supervision             | (\$19,188,558)      | (\$73,375,339)      | (\$41,418,121)      | (\$5,776,129)        | (\$139,758,148)     |
|  | Failure to Appear                | (\$405,353)         | (\$1,216,248)       | (\$748,462)         | (\$79,475)           | (\$2,449,538)       |
| <b>Criminal Justice System Crime Costs</b>     | Murder                           | (\$66,718)          | (\$2,141,593)       | (\$1,991,894)       | (\$36,732)           | (\$4,236,938)       |
|  | Assault (Agg, I, II, III)        | (\$274,738)         | (\$1,061,463)       | (\$680,564)         | (\$87,024)           | (\$2,103,789)       |
|  | Assault IV                       | (\$546,338)         | (\$2,269,310)       | (\$1,319,054)       | (\$179,729)          | (\$4,314,430)       |
|  | Robbery                          | (\$695,937)         | (\$1,394,675)       | (\$451,914)         | (\$88,978)           | (\$2,631,504)       |
|  | Sexual Assault/Rape              | (\$150,031)         | (\$781,607)         | (\$321,051)         | (\$57,190)           | (\$1,309,878)       |
|  | Property                         | (\$1,361,383)       | (\$6,612,544)       | (\$3,589,358)       | (\$453,809)          | (\$12,017,094)      |
|  | Drug Possession                  | (\$4,054)           | (\$20,465)          | (\$13,664)          | (\$1,221)            | (\$39,404)          |
|  | Drug Non-Possession              | (\$3,320,347)       | (\$5,999,163)       | (\$3,932,817)       | (\$357,800)          | (\$13,610,127)      |
|  | Motor Vehicle Theft              | (\$531,917)         | (\$1,014,378)       | (\$438,329)         | (\$37,498)           | (\$2,022,121)       |
|  | Burglary I                       | (\$189,893)         | (\$744,031)         | (\$378,976)         | (\$52,578)           | (\$1,365,478)       |
|  | Other                            | (\$2,084,440)       | (\$13,996,108)      | (\$7,403,448)       | (\$746,613)          | (\$24,230,609)      |
| <b>Victim and Other Intangible Crime Costs</b> | Murder                           | \$0                 | (\$4,172,797)       | (\$6,543,788)       | (\$7,134,297)        | (\$17,850,882)      |
|  | Assault (Agg, I, II, III)        | (\$423,682)         | (\$1,917,377)       | (\$1,298,623)       | (\$283,904)          | (\$3,923,586)       |
|  | Assault IV                       | (\$240,525)         | (\$683,784)         | (\$447,654)         | (\$50,006)           | (\$1,421,969)       |
|  | Robbery                          | (\$317,522)         | (\$631,980)         | (\$292,214)         | (\$41,211)           | (\$1,282,928)       |
|  | Sexual Assault/Rape              | (\$166,726)         | (\$2,158,351)       | (\$1,010,287)       | (\$166,208)          | (\$3,501,572)       |
|  | Property                         | (\$138,200)         | (\$378,059)         | (\$215,746)         | (\$30,351)           | (\$762,357)         |
|  | Drug Possession                  | (\$160)             | (\$433)             | (\$276)             | (\$37)               | (\$906)             |
|  | Drug Non-Possession              | (\$36,840)          | (\$160,979)         | (\$108,134)         | (\$15,366)           | (\$321,318)         |
|  | Motor Vehicle Theft              | (\$220,961)         | (\$640,448)         | (\$333,723)         | (\$60,870)           | (\$1,256,002)       |
|  | Burglary I                       | (\$17,886)          | (\$62,268)          | (\$49,885)          | (\$10,131)           | (\$140,169)         |
|  | Other                            | (\$699,331)         | (\$2,474,132)       | (\$1,616,746)       | (\$217,221)          | (\$5,007,429)       |
| <b>Criminal Justice System Total</b>           | Total Costs                      | (\$28,819,708)      | (\$110,626,925)     | (\$62,687,651)      | (\$7,954,776)        | (\$210,089,061)     |
|  | Total Benefits                   | \$38,077,007        | \$134,964,279       | \$78,495,673        | \$9,394,726          | \$260,931,686       |
|  | <b>Net Benefits - CJ</b>         | <b>\$9,257,299</b>  | <b>\$24,337,354</b> | <b>\$15,808,022</b> | <b>\$1,439,949</b>   | <b>\$50,842,624</b> |
| <b>Intangible Total</b>                        | Total Costs                      | (\$2,261,833)       | (\$13,280,607)      | (\$11,917,077)      | (\$8,009,602)        | (\$35,469,119)      |
|  | Total Benefits                   | \$7,258,001         | \$27,753,950        | \$15,666,251        | \$2,184,800          | \$52,863,002        |
|  | <b>Net Benefits - Intangible</b> | <b>\$4,996,169</b>  | <b>\$14,473,343</b> | <b>\$3,749,174</b>  | <b>(\$5,824,802)</b> | <b>\$17,393,883</b> |
| <b>Total</b>                                   | <b>Net Benefits - All</b>        | <b>\$14,253,468</b> | <b>\$38,810,697</b> | <b>\$19,557,196</b> | <b>(\$4,384,853)</b> | <b>\$68,236,508</b> |

**Table 4. Predicted Releases and Recidivating Crime**

|                                |                              | <b>Mega</b> | <b>Large</b> | <b>Medium</b> | <b>Small</b> | <b>All</b> |
|--------------------------------|------------------------------|-------------|--------------|---------------|--------------|------------|
| Hypothetical Bookings Released | New Releases                 | 1,564       | 4,916        | 2,315         | 306          | 9,101      |
|                                | Shortened Pretrial Detention | 1,657       | 12,309       | 7,176         | 1,031        | 22,173     |
| Predicted Increase in Crime    | Murder                       | 0.0         | 0.4          | 0.6           | 0.7          | 1.7        |
|                                | Assault (Agg I, II, III)     | 3.6         | 16.4         | 11.1          | 2.4          | 33.5       |
|                                | Assault IV                   | 12.0        | 34.2         | 22.4          | 2.5          | 71.1       |
|                                | Robbery                      | 9.4         | 18.6         | 8.6           | 1.2          | 37.8       |
|                                | Rape/Sexual Assault          | 0.7         | 8.5          | 4.0           | 0.7          | 13.7       |
|                                | Property                     | 130.0       | 355.7        | 203.0         | 28.6         | 717.2      |
|                                | Drug Possession              | 33.5        | 90.6         | 57.7          | 7.7          | 189.5      |
|                                | Drug Non-Possession          | 8.0         | 34.9         | 23.4          | 3.3          | 69.6       |
|                                | Burglary I                   | 6.4         | 22.4         | 17.9          | 3.6          | 50.4       |
|                                | Motor Vehicle Theft          | 26.9        | 77.9         | 40.6          | 7.4          | 152.8      |
| Other                          | 151.5                        | 536.0       | 350.2        | 47.1          | 1,084.8      |            |

## 5. Discussion

The \$68 million dollar net benefit associated with increased pretrial release is a large figure that requires context and several caveats. First, we reemphasize that this figure is not an estimate of the budgetary cost savings that local or state governments would realize. Several costs/benefits are included in \$68 million that are either intangible, are borne by individuals outside of government, or are annualized costs of large, intermittent expenditures. Further, the Criminal Justice System Net Benefits are not a complete representation of the expected impact on government budgets. Pretrial evaluation and supervision programs have significant startup costs and jail budgets do not adjust on a per inmate basis; the figures presented here incorporate estimates of capital, staff, and other longer-term expenses, which are costs that cannot adjust as quickly as the number of inmates may.

Rather, these figures estimate that Oregonians would likely experience a net, societal gain with this policy change that has a monetized value of \$68 million. This \$68 million accounts for the pain and suffering of victims of additional crimes, to the extent that the economic research suggests it is possible to monetize these impacts. Nevertheless, the increase in expected crime presented in Table 4 would include an increase in victimization in Oregon, assuming no additional mitigating policies are implemented. These victims may not agree with the valuation of crime used in this analysis, in method or value. While, on net, this policy change leads to a significant net benefit to Oregon using the best possible estimates at the time of analysis, policymakers should concurrently consider how to minimize recidivism rates, minimize the risk of releasing individuals likely to commit violent crimes, and increase funding for victim services to offset these impacts. In sum, while changing pretrial detention policies resources should concurrently be dedicated to the development of reliable and equitable pretrial risk evaluation tools, training of additional pretrial evaluation and supervision staff, and standardization of evaluation and supervision processes.

In the group of small jails, victim costs are relatively larger than the expected intangible benefits related to increased releases. This is due to smaller jails releasing a higher proportion of individuals that then go on to commit relatively more severe crimes in the recidivism data used in this analysis. The reason for this difference was not identified at the time of writing, but smaller jails may, for example, have a larger population of high-risk individuals or may have fewer risk evaluation resources. Regardless of the reason for this difference, it suggests that if a statewide release program is implemented jails will require additional guidance and technical assistance in both evaluating and effectively supervising individuals on

pretrial release, and that this issue is particularly salient in small jail jurisdictions. The pretrial supervision costs used in this analysis assume a uniform cost structure to these programs across the state, but there may be lower or higher administrative costs across jurisdictions especially where pretrial evaluation programs have not existed in the past and when comparing small and large programs.

This analysis also presumes that the recidivism and FTA rates of individuals currently held during the pretrial period would be the same as for those currently released, when controlling for PSC risk score, jail group size, and original crime category. Future offenders may, all these factors equal, have a different recidivism rate than those currently released pretrial and/or more robust pretrial supervision programs may impact these recidivism rates, and thus this assumption may not hold. A large policy change such as reducing pretrial detention also incorporates a system-wide increase in pretrial supervision, which, if implemented effectively, may reduce recidivism and FTA rates for all released individuals, on average. Other policy changes not considered here may also change the level of crime committed by released individuals. For example, expediting case processing times would reduce the time on pretrial release and thus reduce the window in which crimes might be committed during the pretrial period.

This cost-benefit analysis also omits several factors that are identified in the literature as benefits of increasing pretrial release: The children of jailed individuals tend to have economic repercussions from their parent's involvement in the criminal justice system. Housing and employment security has an intrinsic value unto itself, beyond the measurable costs of moving and lost rent. Jail stays may have life of crime impacts, where additional crime and personal costs are incurred *because* an individual spends time in jail. Jailed individuals may lose health insurance coverage, which poses costs both to the individual and, potentially, to society should the individual not reacquire health insurance upon release and then have a hospital visit. These factors are beyond the scope of the current analysis and thus are not estimated here, but the estimates of intangible benefits of increased pretrial release used in this analysis should be considered underestimates due to these omissions.<sup>25</sup>

Finally, the policy analyzed here is modelled as though pretrial releases would drastically and quickly increase statewide, shifting resources demanded by the jail system towards pretrial supervision services. This is, obviously, not how policy implementation occurs, but is a necessary presumption in the current analysis and does not influence the overall conclusion that increasing pretrial releases from Oregon's current levels for low-level offenders provides a net benefit to society. Nevertheless, policymakers should remember that there are significant logistical and economic challenges involved with a policy change of this scale. For example, the societal benefits of a policy change may be significantly delayed in practice and there would be large startup costs related to pretrial program costs that would decrease and become more regular over time. Thus, the results of this analysis are best used as context for considering the societal benefits of a similar policy change, rather than in a budgetary framework.

---

<sup>25</sup> For a more complete discussion of the full range of costs and benefits see McLaughlin et al., "The Economic Burden of Incarceration in the U.S."