

## A Cost-Benefit Model for Pretrial Justice

Pretrial justice in the United States is a multi-billion dollar investment. Despite all of the money flowing through the system, however, there is very little information about the cost effectiveness of pretrial justice strategies. To shed light on this issue, the Public Welfare Foundation partnered with the Crime and Justice Institute at Community Resources for Justice to develop a pretrial cost-benefit model. The model examines the cost implications for taxpayers and victims when pretrial defendants are detained or released, and allows local jurisdictions to explore the impact of policy change on these costs.

### The Cost-Benefit Model

The pretrial cost-benefit model monetizes the two key outcomes of pretrial justice: new crime and failures to appear in court. The model also considers system costs (e.g., jail bed days), and costs beyond the pretrial period, such as post-conviction incarceration. Monetary impact for these outcomes is calculated based on budget data from a local county, and is supplemented when needed by state and national data.

For example, if a county wishes to know the impact of releasing high-risk defendants from jail prior to trial, it can calculate the cost savings to the jail while also accounting for the risk that the defendant will commit a new crime. The results of the analysis will demonstrate whether the cost of additional crime would outweigh the benefit of decreased incarceration.

### Cost-Benefit Analysis

A cost-benefit analysis estimates the cost of the program or policy and monetizes the impact of that program or policy. Cost-benefit analyses can be used to compare the monetary impact of different outcomes and allows policy makers to assess programs or policies based on the estimated return on investment.

To populate the model, a jurisdiction must be able to provide current local data on:

- Pretrial screening and supervision
- Length of time on pretrial release, failures to appear, and pretrial misconduct, stratified by risk
- Court processing costs, including costs for prosecution, defense, and warrant administration
- Jail incarceration costs
- Dispositions by type
- Costs and lengths of stay for probation, prison, and parole

Jail cost estimates must account for costs that fluctuate with small changes in the population (e.g., food, clothing, and healthcare), as well as costs that change with moderate or large population changes, which could lead to staffing

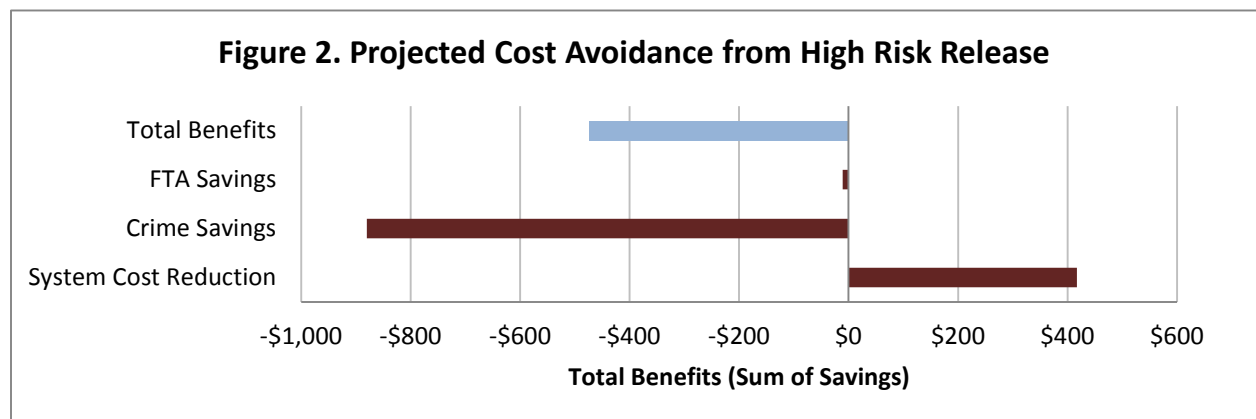
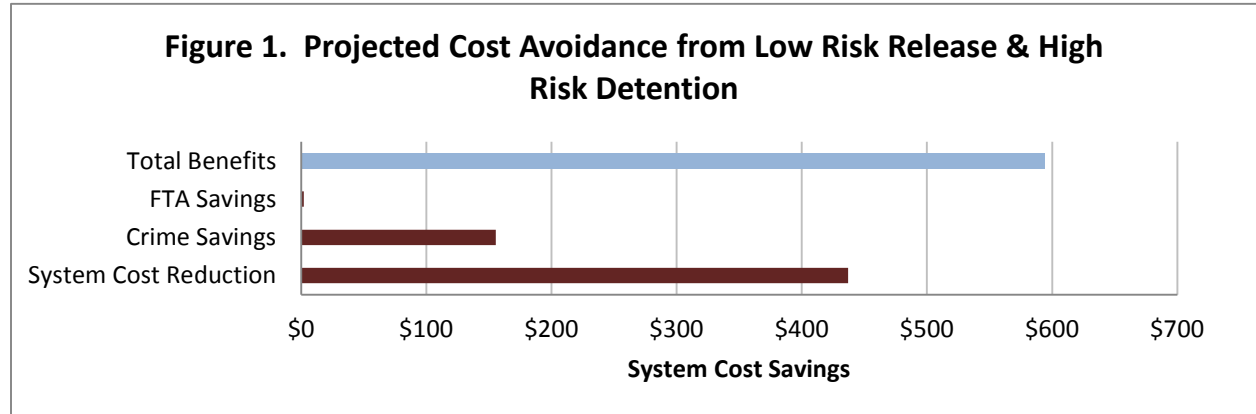
reductions or fewer facilities. To fill gaps in local cost data, the model uses data from national sources on the costs of crime to victims, as well as the cost of arrest if it cannot be calculated locally.

The model requires a risk profile for the local pretrial population. Because the likelihood of failure to appear and pretrial misconduct varies by risk level, and because that risk can be actuarially assessed, the model is able to produce more precise results when stratifying by risk.

The initial data calculations in the model present the cost-benefit of “business as usual” in the jurisdiction—demonstrating the fiscal impact of current decision making regarding pretrial release and detention. Subsequently, the model can be used to demonstrate the impact of policy changes. What if more high risk defendants were

held, and more low risk defendants released? What if lengths of stay in jail were reduced for low risk defendants? Pulling these policy “levers” in the model allows jurisdictions to explore policy options using their own data.

Figures 1 and 2 below highlight these projections for a fictional jurisdiction considering different options for high risk defendants. In Figure 1, projections show that releasing low risk individuals more quickly while also detaining high risk defendants would result in overall system cost savings as well as lower costs related to new crime. In Figure 2, projections show that if release rates are increased for high risk individuals, the costs of new crimes and failures to appear outweigh the decreased jail expenses. Projections like these can guide policymakers in considering the balance between jail utilization and public safety.



The model has been piloted in two jurisdictions: Johnson County, Kansas and Boulder County, Colorado. The pretrial systems in both counties have undergone significant change in recent years, including implementing pretrial risk assessment instruments.

Pilot Jurisdictions	
<b>Johnson County, Kansas</b>	
County Population:	<b>566,933</b>
Current Jail Capacity:	<b>1,081 beds</b>
Pretrial assessments in 2014:	<b>2,118</b>
<b>Boulder County, Colorado</b>	
County Population:	<b>310,048</b>
Current Jail Capacity:	<b>536 beds</b>
Pretrial assessments in 2014:	<b>3,692</b>

Piloting the cost-benefit model has provided insight into the cost implications of this new way of doing business, and both sites are planning to use the model for policy planning. Boulder County found evidence that their recent adoption of risk assessment and new supervision strategies are proving beneficial, and Johnson County plans to evaluate the costs and benefits of pretrial system change within the context of broader justice reinvestment efforts.

### Limitations of the Model

The complexity of the pretrial justice system is difficult to capture comprehensively in a cost-benefit model which relies on quantifiable outcomes associated with policy options. As a result, the model has some limitations.

Though the model is able to account for impacts to taxpayers and victims, it does not account for collateral costs to defendants, such as lost wages or loss of child custody. More research is needed to quantify these costs so that they can be incorporated into this and other decision making and projection models.

The model accounts for the cost of pretrial supervision, but it does not monetize the impact of pretrial supervision generally or at different dosage levels. Research on the benefit of pretrial supervision is incomplete, and there are not enough data on specific amounts and types of supervision and their outcomes to include them in the model. As the research evolves in this area, so can this model.

### Local Implementation: Questions to Ask

Jurisdictions considering a pretrial cost-benefit analysis stand to gain a unique and beneficial perspective on their system, but they must also commit to gathering specific and detailed data. To ensure that local stakeholders are able to make best use of the model, consider the questions below.

#### *How will this information be used?*

Very few criminal justice systems have participated in a cost-benefit analysis, and virtually no pretrial systems have experienced this process. Though most of the cost data that are being requested are a matter of public record, stakeholders may hesitate to put a price tag on their work out of concern for how the information is used. For example, if they estimate a per-case cost to prosecute a felony, will that mean budget cuts if felony rates decrease?

Before developing a data collection plan for a cost-benefit analysis, local stakeholders should discuss what the analysis is trying to achieve, the questions that it can and cannot answer, and any concerns about the process.

#### *What are our marginal costs?*

Cost-benefit analysis considers marginal costs, which are costs that vary with a change in

utilization. For example, one fewer jail inmate may result in reduced costs for health care and food, but would not change costs for staffing or utilities. These fixed costs only change if facilities are closed or units are shut down.

Often, counties talk about the average cost of the jail, which is calculated from the total operating cost divided by the number of bed-days used (e.g., a jail with a budget of \$36M that is filled to its 1,000 bed capacity costs about \$99 per inmate per day to run). If the county is able to reduce its population by 10 inmates per day, it does not save \$360,000 per year in operating costs; the true savings are only a fraction of that. However, the \$360,000 number often makes the headlines as an opportunity for reinvestment or budget reductions.

To successfully complete a cost-benefit analysis, officials must examine marginal costs—if the population is reduced by a small number, what do they save in jail costs? If the released population commits new crimes in the community, what will the price tag be for victims and the court? Answering these marginal cost questions requires a more careful examination of agency budgets, but offers a more accurate result.

### *What does “risk-based decision making” mean for us?*

The cost-benefit model assumes that jurisdictions are taking a risk-based approach to pretrial decision making for two reasons: the model attempts to align with the most recent research in the pretrial field, and the defendant’s risk for pretrial misconduct or failure to appear has significant cost implications.

As mentioned above, sites can populate the model based on the risk profile of their

population, but this doesn’t require a transition to risk-based decision making. The model is designed to show the contrast between “business as usual” and future practice changes, so it can be very useful to jurisdictions that are about to transition to a risk-based pretrial system. However, for jurisdictions that plan to continue using a charge-based approach, the model will not be as useful at predicting costs and benefits. Before deciding to use the model, stakeholders should discuss if and how they would like to use risk in decision-making, and how they will use the model to guide risk-based policy development.

### *What would happen if we changed our pretrial policies?*

The most powerful element of the pretrial cost-benefit model is the ability to model changes in policy and practice and see their cost implications prior to implementation. Once the model has been populated, jurisdictions should take advantage of the opportunity to explore improvements to their system. What would happen if average lengths of stay were reduced? If the released population were lower risk, what would that look like for public safety costs?

Of course, dollars and cents aren’t the only consideration when making decisions about pretrial justice policy and practice. Among multiple competing interests, however, cost-benefit information provides an objective anchor to discussions of short- and long-term implications for defendants, the court system, victims, and taxpayers.

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