

Alternative Report and Recommendations in the Governor's 2012 Commission on Public Safety



Submitted by Clackamas County
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Commission Member

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Introduction:

This alternative report is offered in an effort to complete the factual record of the work of the Governor's 2012 Public Safety Commission. In addition, we want to offer proposals that will address the very issues the Governor has identified when he established his first Public Safety Commission last year.

While this report is written in the capacity of a Commission member, the author is also writing as the representative of the Oregon District Attorneys Association. During the past six months, the author has endeavored to keep all of Oregon's 36 elected District Attorneys fully informed of all the information that has been provided by the Commission, as well all the information I have provided to the Commission. Many of the DA's have personally attended Commission meetings. Finally, throughout this process, Oregon's elected District Attorneys have expressed overwhelming support for the work the author has performed on their behalf and that overwhelming support extends to the content of this report.

While we are offering a different point of view of the challenges and opportunities that we face, we also share the concerns of both the Governor as he has expressed publicly and the majority of the commission members to continuously work to improve Oregon's criminal justice system. We will begin with a brief description of what we believe to be a more accurate description of the challenges we face. Then, we will identify the Commission proposals with which we concur and discuss our own proposals (some of which the Commission report has adopted) which we believe will accomplish the very things the Governor has identified while preserving the enormous success that Oregon's criminal justice system has accomplished in the past 25 years. Finally, we will briefly discuss our concerns about the remaining proposals that have been offered during the commission process.

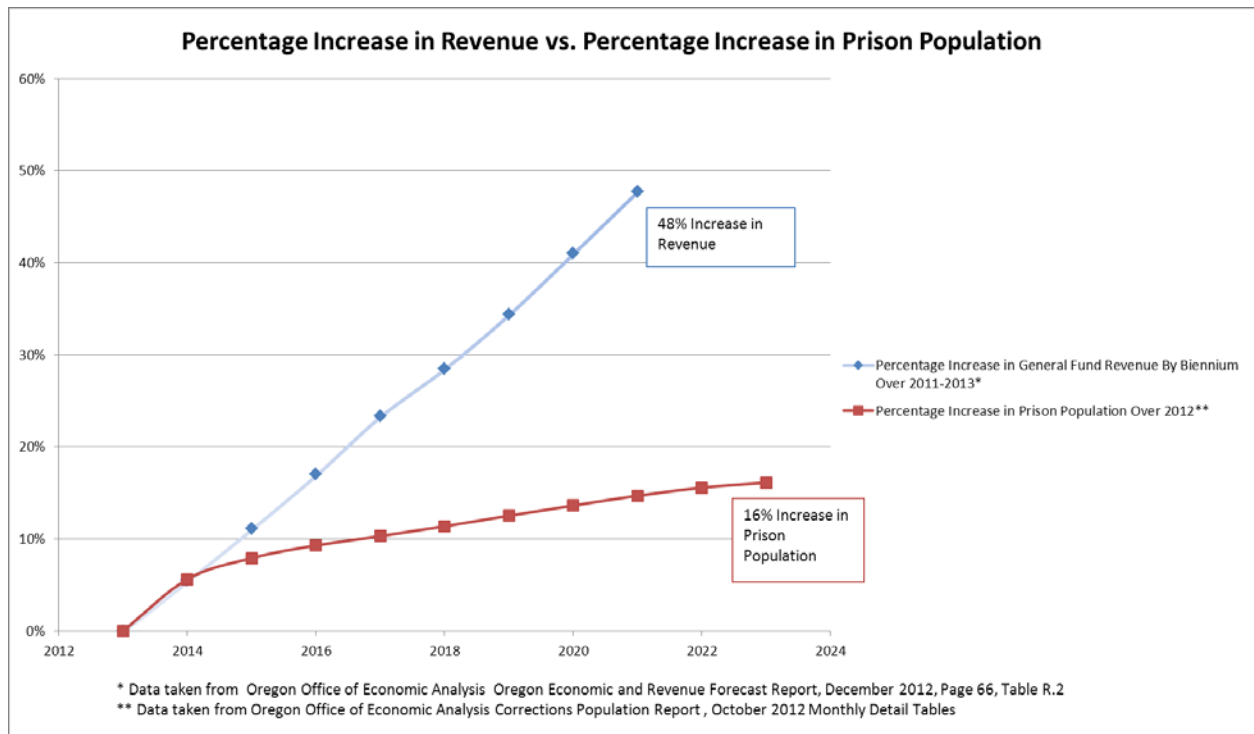
THE "PROBLEM" OF PRISON GROWTH IS OVERSTATED.

Although this Commission was formed to address a perceived problem of "unsustainable" prison growth, at the most fundamental level we are not convinced that such a problem exists. We believe that projected Oregon prison growth is modest and reasonable, and should be affordable under any objective and rational analysis of the issue. We suggest that a closer look at the matter should be persuasive on that score.

1. THERE IS MORE THAN ADEQUATE STATE REVENUE AVAILABLE TO FUND THE MODEST PROJECTED PRISON GROWTH OVER THE NEXT TEN YEARS.

Oregon has been "smart-on-crime" for more than two decades. The pragmatism of the voters and the effective actions of state and local law enforcement officials has resulted in an extraordinary outcome: the growth of Oregon's prison population is expected to be outpaced by revenue growth by a threefold factor. The Oregon Office of Economic Analysis is directed by statute to make detailed projections in a number of areas. Their forecasts on state revenue, demographics, and corrections are critical to an

understanding of the purported problem in prison growth. The graph below plots the state economist's projections on prison growth against their projections of growth in state general fund revenue over the same period of time. Far from being the catastrophic prison expansion that is often described, the Oregon Office of Economic Analysis has termed the ten-year projected prison growth as “very modest by historical standards.”¹



As is readily apparent from this graph, there should be more than adequate state revenue to fund the moderate projected growth in prison capacity over the next ten years. By 2021, the outside limit of the revenue forecast, state general fund revenues will have risen by 48% while the prison inmate population will have increased by only 15%. Funding for this growth should; therefore, be relatively straightforward and uncontroversial. This holds true even if a robust annual inflation rate of 3% is factored into the equation.

Citizens and taxpayers should reasonably expect that the expense of a given government service will not rise faster than projected increases in revenue. Unfortunately, this has not been the case in our state. One of the very best examples is the disproportional increase in the costs of health care, particularly inmate health care. We understand the Governor is attempting to address some of these issues. Rather than addressing the structural reasons for the disproportional increases in costs, however, the historical response of our government has been to cut essential government services instead of attacking increasing costs.

¹ Oregon Prison Forecast Accuracy 2000-2012, Oregon Office of Economic Analysis, p. 5

Oregon has low incarceration rate², but a high cost per day/per inmate. Yet, the Commission seems intent upon reducing Oregon's modest incarceration rate as its first priority. Respectfully, we cannot agree. This is why our primary proposal, in this Commission and before the previous Commission on Public Safety, has been to attack the expanding daily costs of incarcerating inmates rather than simply by releasing those inmates into the community.

Adjusting sentencing policies downward to compensate for ballooning government spending by cutting prison beds will be a process that will be revisited each biennium unless an equilibrium is achieved that prevents our government spending from growing faster than revenue.

2. PROJECTED PRISON GROWTH IN OREGON IS LARGELY THE RESULT OF PROJECTED POPULATION GROWTH. The state Office of Economic Analysis produces a corrections population forecast twice each year. The latest forecast from October has made a point of breaking down the projected growth into components. While the office predicts a need for an additional 2300 prison beds in ten years it has determined that 62% of that growth will simply be the result of "baseline" growth, the increase in state population during that period.³

This finding is important, but we believe has been largely ignored. Repeated presentations to this Commission and to the first Commission have asserted that the primary "driver" of prison growth is sentencing policy, and specifically mandatory sentencing policy. That assertion is false. The primary "driver" of prison growth is the fact that our state's population will be larger in ten years than it is today, which will require more government services, including prison capacity. Only 38% of projected prison growth, or about 800 beds, is attributable to sentencing policies. Ballot Measure 11 mandatory sentences account for absolutely none of the growth, since the Measure 11 inmate populations have been stable for some time.

It is important to distinguish the need for additional services due to population growth from the need for more services due to policy decisions because growth in services due to population growth is self-funding. A growing population will produce a growing tax base to support government services. (62% of projected prison growth will be funded by a revenue structure that has expanded with the population.)

² Oregon has the 33d highest incarceration rate in the nation; as of 2010, Oregon ranked just 33rd among states in incarceration rate. Source: Bureau of Justice Statistics "Prisoners in 2010". See <http://www.bjs.gov/content/pub/pdf/p10.pdf>, Table 9, page 22.

³ See baseline tables attached to October 2012 Corrections Population Forecast, Oregon Office of Economic Analysis.

As a consequence, the effective (that is, truly unfunded beyond tax produced by population growth) growth in prison population over the next ten years will be only about 800 beds, or 5% of inmate population, over the next ten years.⁴ It is this predicted growth of 800 beds that should legitimately be the subject of this policy debate. Although it seems apparent from the figures cited above that there should be adequate funding to address this small growth in inmate population, we understand the reason to prevent that increase, if it can be done safely. We support that effort and have presented to the Commission what we believe are cogent and well-thought-out proposals that would effectively halt most prison growth (and certainly will halt prison growth in excess of that which is produced by population growth).

Finally, presentations made to the Commission attempt to demonstrate that Oregon's incarceration rate has increased faster than the national average in the past 12 years. Texas is often used as an example of a state which has reduced its incarceration rate in a manner that Oregon would do well to emulate. The first Commission on Public Safety even called experts from that state to testify about their progress. We believe this paints an irrationally distorted picture of the Oregon corrections and justice systems.

A broader view allows some perspective. Between 2008 and today Texas reduced its incarceration sufficiently only to change its ranking from the highest incarceration rate in the nation to the fourth highest incarceration rate in the nation. During the same period, Oregon dropped from the 30th highest incarceration rate to the 33rd highest. The incarceration rate in Texas today remains almost twice as high as ours. In short, Oregon started with an extremely low incarceration rate and remains that way. It is deceptive to suggest that because other states started out with outrageously high incarceration rates and reduced those rates slightly, Oregon should follow suit. Actually we believe it should be the other way around. Other states should follow our lead and reduce their incarceration rates to the rates we have always had.

COMMISSION PROPOSALS

Of the 18 Commission proposals, there are 11 with which we concur, and of those 11, there are 6 that were actually suggested by Oregon's District Attorneys. Below is a list of the commission proposals with which we concur, as well as a discussion of some of our own proposals.

⁴ We have noted that corrections forecasting in Oregon has been extremely unreliable in only one direction. All 10-year forecasts since 1995 have proven to be high, some by as much as 47%. Therefore, based upon the history of 10 year forecasts, it appears highly likely that future 10 year forecasts will continue to be high. (Please see attached chart showing the record of all prior 10 year prison forecasts in Appendix A.) Nonetheless, we believe that the current staff of the Oregon Office of Economic Analysis has done an admirable job in addressing the policy purposes of the forecast and, while we believe that the current forecast may over-predict prison growth somewhat, it serves as a sound document for this policy discussion.

Proposals with which we concur:

1. Increasing threshold amounts of marijuana for presumptive prison sentences to federal court levels. It has been estimated this will save as many as 120 prison beds in the 10 year forecast.*
2. Eliminating presumptive prison sentences for felony driving while suspended. This has been estimated to save as many as 60 beds in the 10 year forecast.*
3. Community Corrections Earned Discharge.
4. Supervision Conditions
5. Definition of Recidivism.*
6. Specialty Court Standards.
7. Correctional Forecasts.*
8. Program Evaluations.*
9. Fiscal Impact Notes.
10. DOC Costs per day.*
11. Oversight Entity.

District Attorney Proposals*

DISTRICT ATTORNEY PROPOSALS EXPLAINED

The following is a further explanation of some of the the proposals that we have advanced on this Commission. The utility of these proposals is that they will effectively freeze the cost of our prison system without changing sentencing policy, much of which has been enacted by the people themselves.

1. CONTROLLING PRISON COSTS PER DAY/PER INMATE.

As discussed previously, if the goal of this Commission is to flatten the expense curve of our prison system, that goal can be reached in a number of ways without changing sentencing policy. The fundamental budget problem we face in this state today is unrelated to the growth of public services like prisons. The real culprit, as noted earlier, is poorly controlled state spending policies. These policies have allowed the cost of government services, such as the incarceration of criminal offenders, to expand much faster than the economy expands.

Oregon daily inmate costs are well above the national average, despite the fact that the per capita GDP in this state is below the national average according to the American Corrections Association (ACA). Our state led the nation in increased daily inmate costs in the last biennium, at a time when many other states were actually reducing their costs (Appendix D).

I have repeatedly made the point that the only decisive manner to address long-term prison spending is to control daily prison bed costs. On November 21 of last year I appeared at the first Commission on Public Safety meeting to make this point, and on

December 31, 2011, I co-authored a letter with Multnomah County District Attorney Mike Schruck and Washington County District Attorney Bob Hermann to the Commission re-emphasizing that point. I have repeatedly made it a key recommendation to this Commission.

Reducing the daily costs of incarcerating inmates just slightly, to something closer to national averages, will solve the funding of prison growth over the next ten years, and it will do so without releasing dangerous inmates into our communities. A direction by the legislature to the Department of Corrections to reduce inmate costs, accompanied by a disciplined budget, would accomplish this purpose. We recommend that the Oregon Department of Corrections be directed during the next biennium to reduce its costs per day/per inmate as currently measured by at least 5% and again in the following biennium by another 5%. We believe this could easily be the only recommendation of the Commission, and it would effectively accomplish our goals.

2. ESTABLISH AN EFFECTIVE RE-ENTRY PROGRAM FOR INMATES RELEASED FROM PRISON AND HOPE PROBATION FOR DEFENDANTS ON SUPERVISION IN THE COMMUNITY.

Over 4500 inmates are released from our prison system each year. 26% of those inmates will be convicted of a new felony within three years of their release from prison. The figure is even higher for those who are released from state local control sentences in county jails. Many, if not most, of those convictions will result in a return to prison, either immediately or upon a revocation of supervision.

The arithmetic of this situation makes it clear that the growth in Oregon's prison inmate population can be halted by targeting the recidivism rate of just these 4500 inmates. Each month, the Department of Corrections releases approximately 380 inmates. According to the current prison forecast during the next three years if the number of defendants sent to prison is reduced by only 31 per month statewide the prison population will remain stable. And over the next 10 years the target for prison admissions drops to only 18 per month statewide.

Effective inmate re-entry programs exist to achieve this goal. One of these programs was piloted in four Oregon counties in 2009 under grants from the Criminal Justice Commission. At a cost of only \$3400 per inmate, felony recidivism was reduced by 33%. The calculated savings in tax dollars and victim costs was determined to be seven dollars saved for each dollar invested. Mike Wilson of the Criminal Justice Commission, in fact, testified about the effectiveness of this program before the first Commission on Public Safety⁵. It is unfortunate that this program did not receive as much attention in the second Commission as it did in the first.

Applied to all 4500 inmates released from Oregon prisons each year, the same re-entry program would cost \$15.3 million annually, but would save \$60 million in prison expenses each year by halting prison growth, and possibly even *reducing* prison

⁵ See testimony of Michael Wilson before the Commission on Public Safety , October 21, 2011 in Appendix B.

population. This would again be another policy that would achieve the purpose of this Commission without altering sentencing policy.

In addition, HOPE probation has been rigorously evaluated in Hawaii using randomized controlled trials over a 2-year period. It has proven to be extremely effective in pushing criminals on supervision away from substance abuse. Their success rate is truly remarkable.⁶ Furthermore, HOPE program in Hawaii was created with virtually no additional funding and can be operated very cost effectively, particularly when compared to the general cost of probation and local control which HOPE probation replaces.

Finally, according to PEW, each year more than 2200 offenders are revoked off of supervision and sent to prison. This should be our target population for both of these kinds of programs. If these programs can produce the kinds of results that the “evidence” suggests, we should be immediately successful in dramatically reducing the number of revocations to prison each year, thereby relieving pressure on prison growth for the foreseeable future. This is a much better approach because it protects the public with existing voter approved sentencing.

3. ALTER PRISON ELIGIBILITY FOR TWO OFFENSES.

Upon viewing the list of "low-risk" inmates it appeared that, while virtually all of those on the list merited prison sentences, there were two categories of offenders, many of whom we believe could be better managed outside of prisons--those convicted of marijuana delivery offenses and those convicted of felony driving while suspended. Changing the sentencing guideline grid-block on felony driving while suspended and aligning marijuana delivery amounts to conform with federal amounts would save a number of prison beds, initially estimated at approximately 180 by PEW, although we believe that the number might be somewhat larger.

4. ALTER THE DEFINITION OF RECIDIVISM.

Oregon currently has one of the weakest definitions of recidivism in the nation. We suggest this be changed so we can more readily compare our performance to that in other states. I believe there is a consensus among the Commission on this point, so I will refrain from elaborating further.

5. RAISE THE STANDARD BY WHICH WE EVALUATE PROGRAMS.

Oregon has led the country in our efforts to enact “evidence based” programs. That is good public policy and has helped Oregon lower its recidivism rate. However, too many of Oregon’s programs for offenders are inadequately evaluated. Oregon must raise the bar when it comes to the “evidence” that shows a program works. In these tight economic times, we should only fund programs that have been rigorously and

⁶ See, Evaluation of the Hawaii Opportunity Probation with Enforcement (HOPE) Community Supervision Strategy, 2007-2009 (ICPSR 27921)

independently tested. We should insist upon more use of “randomly controlled trials” as the gold standard for evaluations. These will result in fewer kinds of programs, but the programs that we do fund will gain the confidence and trust of the entire public safety community. And we will continue to build on Oregon’s more recent success in reducing recidivism and victimization. In addition, this effort should include a complete and ongoing inventory of every program in the state by type, number and location and be accompanied by the “evidence” that supports each program’s effectiveness. And the standard for whether or not a program is effective should be, “does it change behavior that would not change otherwise.” Just because graduates of a program are successful in and of itself does not prove the program is the cause of the success. It might be that the program is filled with participants who would succeed without the program. Only independent and highly rigorous testing will provide the “evidence” that the program is changing criminal behavior that would not change otherwise.

Fundamental disagreement with the some proposals advanced by this Commission.

Having presented our proposals, in many instances in agreement with the proposals of the remainder of the Commission, we additionally feel it is incumbent upon us to explain why we oppose certain of the major changes sought by the majority of this Commission. This is not to say we oppose the entire package. We feel the need to clarify our position on these matters.

BALLOT MEASURE 11

We oppose changes in Ballot Measure 11, and particularly any changes that are designed simply to save money. As a ballot initiative, Measure 11 constitutes as close a representation of the will and intent of the people as can be achieved in a democracy. It should be trifled with only upon a clear showing that it constitutes errant policy, and never for the sake of finances. Easily over 95% of our state's laws were never specifically approved by voters, and if changes to laws are necessary to readjust finances it should be from among those laws that these changes come. Failing to do so constitutes a fundamental lack of respect for the clearly expressed will of the people, as expressed on the rare occasions they find it necessary to do so directly.

Additionally, and just as importantly, Measure 11 has proven to be one of the most successful policy initiatives in the recent history of our state. Violent crime was literally cut in half in this state after this measure was passed, the second largest reduction in violent crime in the nation. Oregon now has one of the lowest violent crime rates in the nation. The national violent crime rate is 56% greater than Oregon's, and only three states with major metropolitan areas, Wisconsin, Minnesota, and Kentucky, have lower violent crime rates. It turns out in fact that the people can on occasion make better decisions than the experts.

Nor does Measure 11 reflect draconian sentencing policy, as some contend; its sentences remain well below average for sentences for the same crimes across the

nation. Even the same experts who were once in opposition to such laws now grudgingly accept the uncontroverted evidence that sentencing policies such as Measure 11 have been a key ingredient in the dramatic decline in crime in this nation.

Ballot Measure 11 has in fact been the lead player in a progressive Oregon justice system that is second to none in this country. In this state we have the lowest percentage of non-violent prison inmates in the nation. Prison is reserved only for violent felons and serious repeat offenders. The rest are given multiple opportunities to reform. Oregon was the first state to demand by law the use of evidence-based supervision practices. Only a quarter of convicted felons in this state are sentenced to prison, as opposed to a national average of 40%. And we have achieved our dramatic improvement in violent crime with a very low incarceration rate, the 33rd highest incarceration rate in the nation. Throughout the country our criminal justice system is presented as a model for others, and Measure 11 has been the key reason for our success.

We believe that Ballot Measure 11, along with other voter-approved justice policies like truth in sentencing statutes and victims' rights measures, have restored accountability for offenders and integrity to a justice system that was, charitably, dysfunctional in the 1980s. These measures were overwhelmingly supported by the electorate, and in the case of Ballot Measure 11, twice. We cannot believe the public feels differently now.

BALLOT MEASURE 57.

For the same reasons as those expressed above for Ballot Measure 11, we also oppose changes to Ballot Measure 57, an initiative that was passed by 61% of voters in 2008.

There seems to be a common misperception that Measure 57 contains mandatory prison sentences. In fact, Measure 57 was proposed and supported by Oregon's District Attorneys as an alternative to Measure 61 because 61 had mandatory prison sentences and 57 does not. Oregon's District Attorneys designed most of Measure 57, in collaboration with the legislature and governor, without mandatory minimum sentences and as an extension of the existing Repeat Property Offender statutes the legislature passed in 1995. It was written with the specific intent of preserving judicial discretion as contained in sentencing guidelines and the RPO statutes. Measure 57 represents a thoughtful and targeted approach to career property criminals who do so much damage in Oregon's communities.

In stark contrast to our violent crime rate, Oregon's property crime rate is higher than the national average, and the public certainly has noticed. Even more troubling is the fact that, led by Oregon metropolitan areas, Oregon's property crime rate is actually *increasing* at a time when national rates are declining. Between 2010 and 2012 FBI statistics show that national property crime rates dropped 1.3% while Oregon's rate increased 2.5%. And unfortunately these FBI crime statistics do not record the type of property crime that is most prevalent today, cyber crime and credit card fraud, which

has increased dramatically over the last decade. The real increase in property crime, therefore, is significantly understated by that 2.5% figure.⁷

Oregon imprisons the lowest percentage of non-violent offenders in the nation, and it is reasonable to believe that this is a key reason we have had far less success in controlling property crime in this state than we have had in controlling violent crime. The public was well warranted in approving a measure that has moderately increased penalties for repeat offenders. We see no policy reasons to change Ballot Measure 57, and as in the case of Ballot Measure 11, do not believe that tampering with a voter initiative is appropriate for financial reasons.

EXTENSIONS OF EARNED TIME, WORK TIME, AND TRANSITIONAL LEAVE.

One of the principal accomplishments of sentencing policy over the last 25 years has been the movement to establish truth in sentencing. Prior to the advent of sentencing guidelines there was little correlation in our state practice between sentences pronounced in court by judges and the time actually served by inmates. Parole and terminal leave became simply an inmate population control device, and inmates who had been sentenced to twenty years or more were often released by parole boards in two or three years, many to return to the community to commit significant crimes upon their early release. Victims were seldom notified. Corrections officials and parole boards, far removed from the original sentencing decision in the courtroom with all parties present and distant from the devastating impacts that crime has on victims and the community, became the real judges of criminal conduct and punishment. Their decisions were motivated by the necessity to manage the inmate population of a chronically underfunded prison system. This practice was one of the major factors that led to the alarming erosion of public trust in our justice system. Voter initiatives are the inevitable result of such policies.

The recommendations by this Commission, we believe, signal a return to that prior state of affairs. The chart below demonstrates the result of these proposed policies, placing sentence reductions of up to 50% in the hands of corrections officials. By law and regulation, these decisions on earned time, work time, and transitional leave are sheltered from input from the state or victims. In short, in many cases, the key arbiter of prison sentences will become the Department of Corrections which is properly and almost exclusively focused on offenders and is not in the best position to determine a just and proportional sentence in each case. As in the 1980's the key consideration once again will be controlling the number of prison beds and will once again result in the erosion of public trust and confidence in our entire system.

⁷ The FBI index crime statistics include only burglary, larceny, and auto theft in their statistical analyses. Excluded from the FBI definitions of property crime are credit card fraud, cyber crime, and fraud in general, all of which are increasing dramatically according to BJS studies. Ironically, for instance, possibly the largest property crime in history, the \$50 billion Ponzi scheme fraud of Bernard Madoff, does not appear as a crime in FBI index crime statistics.

Impact of Increased Earned Time and Transitional Leave on Current Non-Measure 11 Sentences

Sentencing Ordered by Court	Increased Earned Time Reduction (30%)	Increased Transitional Leave (3 Months)	Actual Sentences Served (not counting any time served before sentence)	Percentages of Sentence Actually Served
18 months	-5.4 months	-3 months	9.6 months	(53%)
24 months	-7.2 months	-3 months	13.8 months	(57.5%)
30 months	-9 months	-3 months	18 months	(60%)
40 months	-12 months	-3 months	25 months	(62.5%)
50 months	-15 months	-3 months	32 months	(64%)
60 months	-18 months	-3 months	39 months	(65%)
70 months	-21 months	-3 months	46 months	(65.7%)
80 months	-24 months	-3 months	53 months	(66.25%)
90 months	-27 months	-3 months	60 months	(66.7%)
100 months	-30 months	-3 months	67 months	(67%)

PERFORMANCE ENHANCED FUNDING.

We are compelled to oppose the Commission proposal for Performance Incentive Funding (founded on incentives to not send serious criminals to prison when they would otherwise be subject to prison sentences under sentencing guidelines). When sentences are determined in open court, the primary focus is proportionality and justice for victims, defendants and the community. Although Oregon only incarcerates a small percentage of convicted criminals, there are times when a defendant's criminal conviction and criminal history require a prison sentence in order to achieve justice. This must remain the primary focus at every criminal sentence.

It would be truly paradoxical for the state to enact, as it has done, a system of sentencing guidelines designed to promote uniformity in sentencing across the state, and then offer financial incentives for various counties to ignore that system.

Furthermore, our entire criminal justice system and particularly every local courthouse and local public safety office must be fiscally responsible with resources. While individual cases are focused on justice, the backdrop for these cases is what results are affordable within the system. The sentencing guidelines were established in 1989 to require uniformity and to ensure affordability by establishing sentences that matched the available prison and supervision resources. To achieve this, there is constant communication between all local public safety and criminal justice partners to balance what we want to accomplish with the resources that are available. There is no need to provide some outside incentive to make fiscal responsibility a priority at the local level. It will only drive a wedge between the pursuit of justice and outside incentives to achieve state funding.

FINAL OBSERVATIONS OF PEW'S SELECTIVE USE OF DATA

When PEW claims that Oregon's prison incarceration rate "hovers below the national average" they fail to add that the national average, at 497 per 100,000 population, is actually "hovering" 37% higher than Oregon's, at 361 per 100,000.

When PEW asserts that "admissions have grown to include increasing percentages of non-violent offenders," they make a subtle, and deceptive distinction. It may be true that the number of admissions for non-violent offenders, including short terms for supervision revocations, have increased, but the actual percentage of inmates taking up a bed in Oregon prisons today for non-violent offenses has actually decreased in the last seven years, from 31.6% of total inmate population to 30.9%, according to Department of Corrections statistics. The truth is that Oregon is actually imprisoning a lesser percentage of non-violent offenders than seven years ago. So when the PEW group chose to highlight the admissions, and ignored DOC inmate profile statistics that were more relevant, skepticism is warranted.

Additionally, while it was emphasized that property offenders are serving longer sentences than a decade ago, the average increase in these prison sentences is only

one month, which was not emphasized. And never mentioned was the fact that these types of moderate increases in sentences were actually recommended by our legislature and approved by the voters in 2008 in a legislative referendum.

When Pew claims that "nearly half of the projected prison growth in the next decade will be a result of M57," the actual figure is 35% (824 beds out of 2300), according to the latest prison forecast. The continued assertion that sentencing policy is the main driver of prison growth is wrong; it is simply state population growth that will "drive" the majority of our state's moderate prison growth.

When it was asserted that 26% of Oregon prison admissions were "low-risk" offenders, no attempt was made to clarify who those supposed "low-risk" offenders were, and that their status as low risk offenders was determined by a software tool that failed to include out-of-state and juvenile convictions, and which included many convicted murderers on the list.

CONCLUSION:

Oregon's criminal justice system has been enormously successful over the past 25 years. Crime is at 40 year lows. We have prioritized our prisons for violent criminals.⁸ As a consequence, violent crime in Oregon has dropped more than 50% in the 17 years since Measure 11 was passed by the voters. We have used less expensive community resources to deal with most property and drug offenders. In fact, we are a "low incarceration" state, ranking in the bottom third of the 50 states. Only 25% of convicted felons in Oregon actually go to prison. And we have led the nation in the use of "evidence based" programs to change criminal behavior.

It is worth noting that the report, perhaps at the behest of PEW which has operated in many of these states, seems to try and make the argument that other states have done things Oregon has not. The argument seems to be that we can learn from these other states like, perhaps, Texas. However, what PEW fails to mention is that each of those states has taken a different path than Oregon which has been a leader in progressive sentencing policy. For instance, New York previously provided for draconian sentencing laws for possession and distribution of controlled substances, something Oregon abandoned decades ago.

Texas seems also to be a state that PEW likes to use as a comparison. Again, they fail to put Texas' performance in perspective. Recently the noted conservative Grover Norquist sent an editorial to the Bend Bulletin newspaper in which he made many of these same arguments. He used Texas as a great example of what Oregon should be doing. In response, this author also provided an editorial in response. Please see attached Appendix F which is a copy of that editorial. We believe it fairly puts the performance of Texas in recent years in perspective. Simply put, Texas has a lot to learn from Oregon, not the other way around.

⁸ See Appendix C.

As Jake Horowitz, one of the leaders on public safety from PEW, reported to the Oregon Senate Judiciary Committee on February 1, 5th 2010,

“A lot of good things going on in Oregon: Large decreases in crime and a comparatively low violent crime rate. Legislative endorsement of evidence-based practices, mandate for administrative sanctioning and community supervision, including probation and parole, solid data and research on which to ground debates on these policies and overall a modest incarceration rate. And it is national viewed that Oregon has made good use of probation and parole and has largely prioritized its prison space for violent offenders as opposed to low-level drug and property offenders.”

We believe, therefore, that our solutions must first focus on the area in which we are performing the worst. We must require that our Department of Corrections lower their daily inmate costs in the next biennium. Whatever savings are realized from those cost reductions should be directed towards the other area in which we need improvement: the large number of offenders on supervision in the community who are failing and returned to prison. We should invest in the best programs in a targeted way to lower that number. If we are successful we will immediately begin to control the projected growth in prison beds for the foreseeable future. And with these reasonable and cost-effective measures, we will also preserve the wonderful success story that is Oregon’s criminal justice system.

Appendix A



Oregon District Attorneys Association

Eric Nisley, President
 Timothy Colahan, 1st Vice President
 Robert Hermann, 2nd Vice President
 Paul Frasier, Secretary, Treasurer

Daina Vitolins, Director
 Alex Gardner, Director
 Richard Wesenberg, Director
 Walt Beglau, Past President

OREGON 10 YEAR PRISON POPULATION FORECAST CONSISTENTLY HIGH

Damon Bell, Senior Analyst, for the Oregon Office of Economic Analysis provided **recently revised prison population forecast numbers** showing the 10 year prison population forecasts from 1995 to 2002 as compared to the actual number of inmates in prison. All forecasts were **still high**. In fact, the 8 year average went from 14.4% high to 14.7% high and the 6 year average went from 7.1% high to 7.3% high. The revised edits and numbers are shown in red.

Forecast	Future Date	Forecast	Actual	Difference	% High
October 1995	July 2005	18168	12875	5293	+41.1%
April 1996	July 2005	19246	12875	6371	+49.5%
October 1996	July 2006	17752	13229	4523	+34.2%
April 1997	January 2007	15168	13292	1876	+14.1%
October 1997	July 2007	14346	13498	848	+6.3%
April 1998	January 2008	14158	13405	753	+5.6%
October 1998	July 2008	14275	13547	728	+5.4%
April 1999	January 2009	14557	13631	926	+6.8%
October 1999	July 2009	14676	13926	750	+5.4%
April 2000	January 2010	14952	13820	1132	+8.2%
October 2000	July 2010	14956	14016	940	+6.7%
April 2001	January 2011	14949	13924	1025	+7.4%
October 2001	July 2011	15100	14073	1027	+7.3%
April 2002	January 2012	14973	13921	1052	+7.6%

- **8 year average**-1995 to 2002--the forecast is 14.7% high which means an over forecast of approximately **2051 inmates** in 2020. (Forecast 2020 is $16,000/114.7\% = 13,949$. $16,000 - 13,949 = 2051$)
- **6 year average**-1997 to 2002--the forecast is 7.3% high which means an over forecast of approximately **1089 inmates** in 2020.(Forecast 2020 is $16,000/107.3\% = 14,911$. $16,000 - 14,911 = 1089$)
- Oregon's general population increase is predicted to be 10.68% from 2011 to 2020. A 10.68% increase in 14,000 inmates is 1497 additional inmates.

Commission on Public Safety

Michael Wilson, Economist
Oregon Criminal Justice Commission
October 21, 2011

1

What is cost-benefit analysis?

- An approach to policymaking
 - A systematic tool for evaluating public policy
 - A method to weigh options
 - A way for finding out what will achieve the greatest results at the lowest cost
-

Why use cost-benefit analysis?

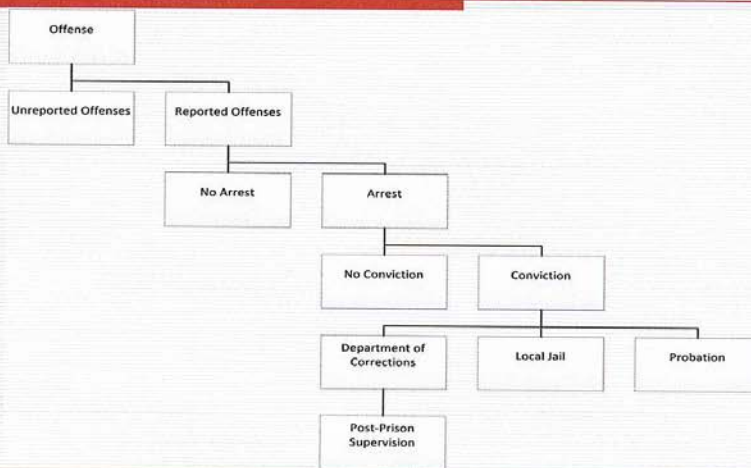
Strengths:

- ❑ Inform policy
- ❑ Efficient use of resources
- ❑ Common measurement

Weaknesses:

- ❑ Accuracy
- ❑ Dependent on assumptions

Figure 1: Probability of Arrest, Conviction and Incarceration



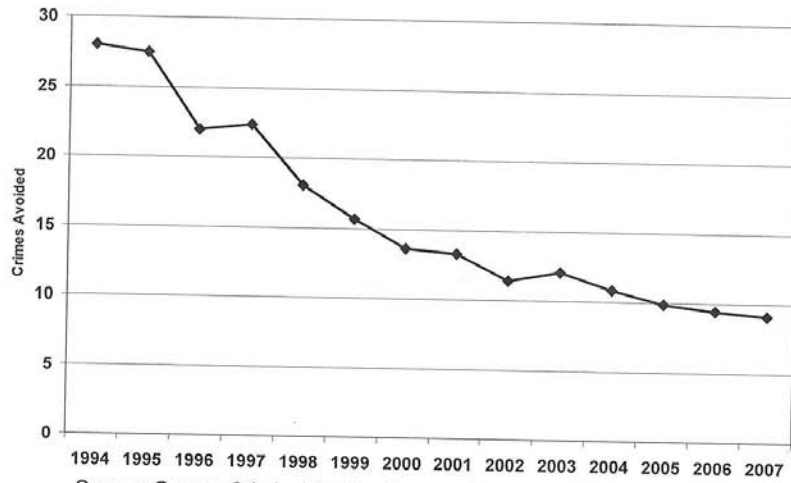
Applications of Cost Benefit: Three Examples

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Example 1: Prison Economics

- What is the impact of incarceration on crime?
 - The Oregon Criminal Justice Commission found that a 10% increase in the incarceration rate leads to a 2.6% reduction in crime.
 - Others, including the Washington State Institute of Public Policy (WSIPP), have found similar results.
 - How many crimes are avoided by incarceration?
 - What is the cost-benefit ratio of incarceration?
-

Crimes Avoided by Incarcerating an Additional Offender



Cost-Benefit Analysis of Incarceration

Year	Oregon	Washington		
	All	Violent	Property	Drug
1994	\$2.78	\$9.57	\$2.36	\$0.37
1995	\$2.42	\$8.20	\$2.40	\$0.37
1996	\$1.98	\$7.06	\$2.23	\$0.34
1997	\$1.81	\$6.58	\$2.22	\$0.36
1998	\$1.60	\$5.85	\$1.94	\$0.36
1999	\$1.31	\$5.37	\$1.74	\$0.32
2000	\$1.10	\$5.24	\$1.61	\$0.31
2001	\$1.11	\$4.87	\$1.46	\$0.28
2002	\$0.95	\$4.46	\$1.20	\$0.26
2003	\$1.01	\$4.82	\$1.26	\$0.29
2004	\$1.01	\$4.33	\$1.18	\$0.32
2005	\$0.93	\$4.35	\$1.10	\$0.35
2006	\$0.96	N/A	N/A	N/A
2007	\$0.91	N/A	N/A	N/A

Source: Oregon Criminal Justice Commission and WSIPP

Example 2. Cost-Benefit and Programs

- Statewide Re-Entry Program
 - Reduces recidivism by 27%
 - For every 10 participants we estimated that more than three and half felony convictions will be avoided over a 10 year period
 - Costs of Oregon's Re-Entry program are \$3,400 per participant
 - Benefits are \$8,600 to taxpayers and \$14,000 in avoided victimizations
 - Benefit-cost ratio of \$6.73
-

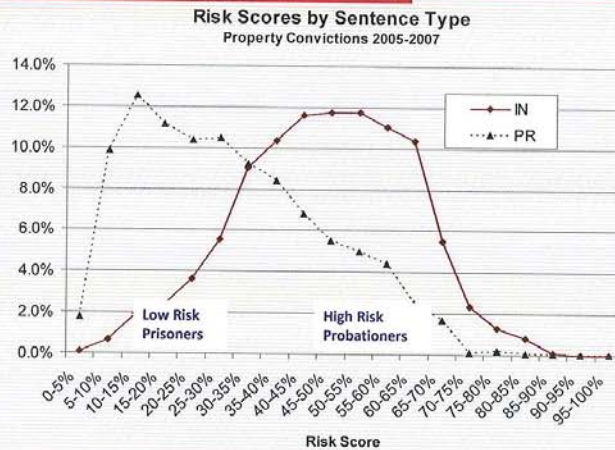
9

Example 3. Cost-Benefit and Risk Assessment

- Examine property offenders from 2005-2007
 - Examined their risk of being reconvicted of a felony
 - Overlap where some high risk property offenders were sentenced to prison and some low risk property offenders were sentenced to probation
 - By using risk at sentencing it is possible to save prison beds while keeping crime constant or to reduce crime while keeping beds constant
-

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Distribution of Risk Scores by Sentence Type for Property Offenders



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Swap high risk probationers with low risk prisoners

□ Method 1 – Prison Bed Neutral

- Move 650 high risk probationer to prison
 - Expect to avoid 350 felony arrests
- Move 650 low risk prisoners to probation
 - Expect to have 240 felony arrests
- Savings of 110 felony arrests
- Using the cost-benefit model we avoid an estimated \$3.9 million in costs to tax payers and crime victims

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Swap high risk probationers with low risk prisoners

□ Method 2 – Crime Neutral

- Move 780 low risk prisoners to probationer
 - Expect to have 900 felony arrests
 - Move 550 high risk probationers to prison
 - Expect to avoid 940 felony arrests
 - Savings of 230 prison beds and avoids 40 felony arrests
 - Using the cost-benefit model based on Oregon's cost of incarceration we save \$3.4 million to tax payers
-

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Justice Reinvestment

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Justice Reinvestment

- Can we save taxpayer money and still improve public safety?
 - Are there programs that can reduce crime at a lower cost than incarceration?
-

WA State Cost-Benefit Model

- Many states are beginning to look at criminal justice spending through cost-benefit analysis
 - Oregon is a national leader behind Washington and is the first state to have this tool operational
-

Criminal Justice Programs "Consumer Reports"

Topic Area/Program	Monetary Benefits			Costs	Summary Statistics			
	Total Dollars	Taxpayer	Non-Taxpayer		Benefits to Inmate Cases (net present value)	Benefits to Civil Cases (net present value)	Rate of Return on Investment	Measure of Risk (odds of a positive net present value)
Juvenile Justice								
Aggression Replacement Training (Inst.)	\$88,654	\$15,688	\$55,265	(\$1,477)	\$55,491	\$45.00	n/a	95%
Functional Family Therapy (Inst.)	\$62,539	\$13,719	\$48,820	(\$3,188)	\$57,241	\$15.00	n/a	99%
Aggression Replacement Training (Probation)	\$36,043	\$6,144	\$27,899	(\$1,476)	\$34,569	\$24.44	n/a	95%
Functional Family Therapy (Probation)	\$37,739	\$6,556	\$29,203	(\$3,190)	\$34,549	\$11.66	641%	99%
Multidimensional Treatment Foster Care	\$40,707	\$9,343	\$32,443	(\$7,739)	\$33,947	\$5.28	142%	85%
Multisystemic Therapy (MST)	\$29,362	\$6,521	\$22,762	(\$7,205)	\$28,994	\$4.07	28%	91%
Family Integrated Transitions (Inst.)	\$27,020	\$5,448	\$21,572	(\$10,968)	\$16,652	\$2.47	17%	86%
Drug Court	\$12,737	\$2,659	\$9,878	(\$3,024)	\$9,713	\$4.22	30%	90%
Coordination of Services	\$5,270	\$1,340	\$3,930	(\$398)	\$4,884	\$13.03	444%	78%
Victim Offender Mediation	\$3,822	\$977	\$2,846	(\$568)	\$3,357	\$6.94	89%	90%
Scared Straight	(\$6,031)	(\$1,991)	(\$4,440)	(\$63)	(\$6,093)	n/a	n/a	1%
Adult Criminal Justice								
Openness/Maturity in Offenders	\$103,595	\$24,291	\$79,205	(\$31,628)	\$71,969	\$3.28	19%	100%
Drug Offender Sentencing alternative drug offenders	\$29,013	\$6,600	\$22,353	(\$1,511)	\$26,932	\$18.57	n/a	99%
Correctional Education in Prison	\$19,923	\$4,785	\$15,138	(\$1,102)	\$18,821	\$18.11	n/a	100%
Electronic Monitoring	\$17,059	\$4,008	\$13,020	\$1,044	\$18,112	n/a	n/a	100%
Vocational Education in Prison	\$19,683	\$4,634	\$14,449	(\$1,537)	\$17,847	\$12.43	n/a	100%
Drug Treatment in the Community	\$15,419	\$3,671	\$11,748	(\$2,102)	\$13,317	\$7.35	n/a	100%
Drug Offender Sentencing Alternative prop. offenders	\$14,524	\$3,410	\$10,914	(\$4,313)	\$12,811	\$9.47	n/a	76%
Mental Health Court	\$14,230	\$3,424	\$10,806	(\$2,878)	\$11,352	\$4.65	44%	100%
CBT (in prison)	\$10,741	\$2,608	\$8,133	(\$217)	\$10,524	\$49.55	n/a	99%
Drug Treatment in Prison	\$14,581	\$3,407	\$10,953	(\$3,864)	\$10,456	\$3.69	25%	100%
Intensive Supervision with treatment	\$17,521	\$4,210	\$13,305	(\$7,712)	\$9,899	\$2.28	1%	96%
Drug Court	\$11,760	\$2,644	\$9,106	(\$4,099)	\$7,651	\$2.87	18%	100%
CBT (in the community)	\$7,739	\$1,848	\$5,891	(\$217)	\$7,322	\$38.70	n/a	99%
Work Release	\$6,466	\$1,502	\$4,914	(\$649)	\$5,817	\$9.07	n/a	97%
Correctional Industries in Prison	\$6,368	\$1,548	\$4,851	(\$1,387)	\$6,011	\$4.63	36%	100%
Community Employment Training/Job Assistance	\$4,641	\$1,104	\$3,537	(\$132)	\$4,509	\$35.13	n/a	100%
Intensive Supervision: surveillance only	(\$556)	(\$132)	(\$424)	(\$4,050)	(\$4,606)	(\$0.14)	n/a	10%
Domestic Violence Perpetrator Treatment Programs	(\$3,724)	(\$566)	(\$2,835)	(\$1,335)	(\$4,669)	(\$2.91)	n/a	20%

Justice Reinvestment

- Example of reducing the prison forecast by 100 beds and re-investing 50% in evidence based programs

Program	Program Cost	Taxpayer Benefits			Victim Benefits	Percent of Portfolio	Number of Slots Funded
		Mean	StdEr	State Pct.			
Vocational Education in Prison	\$1,536	\$4,906	\$703	0%	\$12,569	20%	139
Correctional Education in Prison (basic or post)	\$1,102	\$4,722	\$1,238	0%	\$13,267		0
Cognitive Behavioral Programs in Prison	\$217	\$2,711	\$1,012	0%	\$7,308	5%	246
Correctional Industries in Prison	\$1,387	\$1,545	\$550	0%	\$4,192		0
Drug Treatment in Prison	\$3,893	\$3,459	\$701	0%	\$9,460		0
Drug Treatment in Community	\$2,102	\$3,671	\$919	0%	\$9,966		0
Drug Courts (adults)	\$4,095	\$2,511	\$275	0%	\$8,022	25%	65
Employment Training/Job Assistance in Com	\$132	\$970	\$367	0%	\$2,988		0
Multidimensional Treatment Foster Care	\$7,730	\$7,747	\$5,929	0%	\$23,902		0
Family Integrated Transitions (JRA)	\$10,993	\$5,681	\$2,066	0%	\$17,553		0
Coordination of Services	\$386	\$796	\$1,216	0%	\$2,247		0
FFT (competent) probation	\$3,191	\$6,305	\$2,621	0%	\$22,219	25%	84

Limitations of CBA in criminal justice

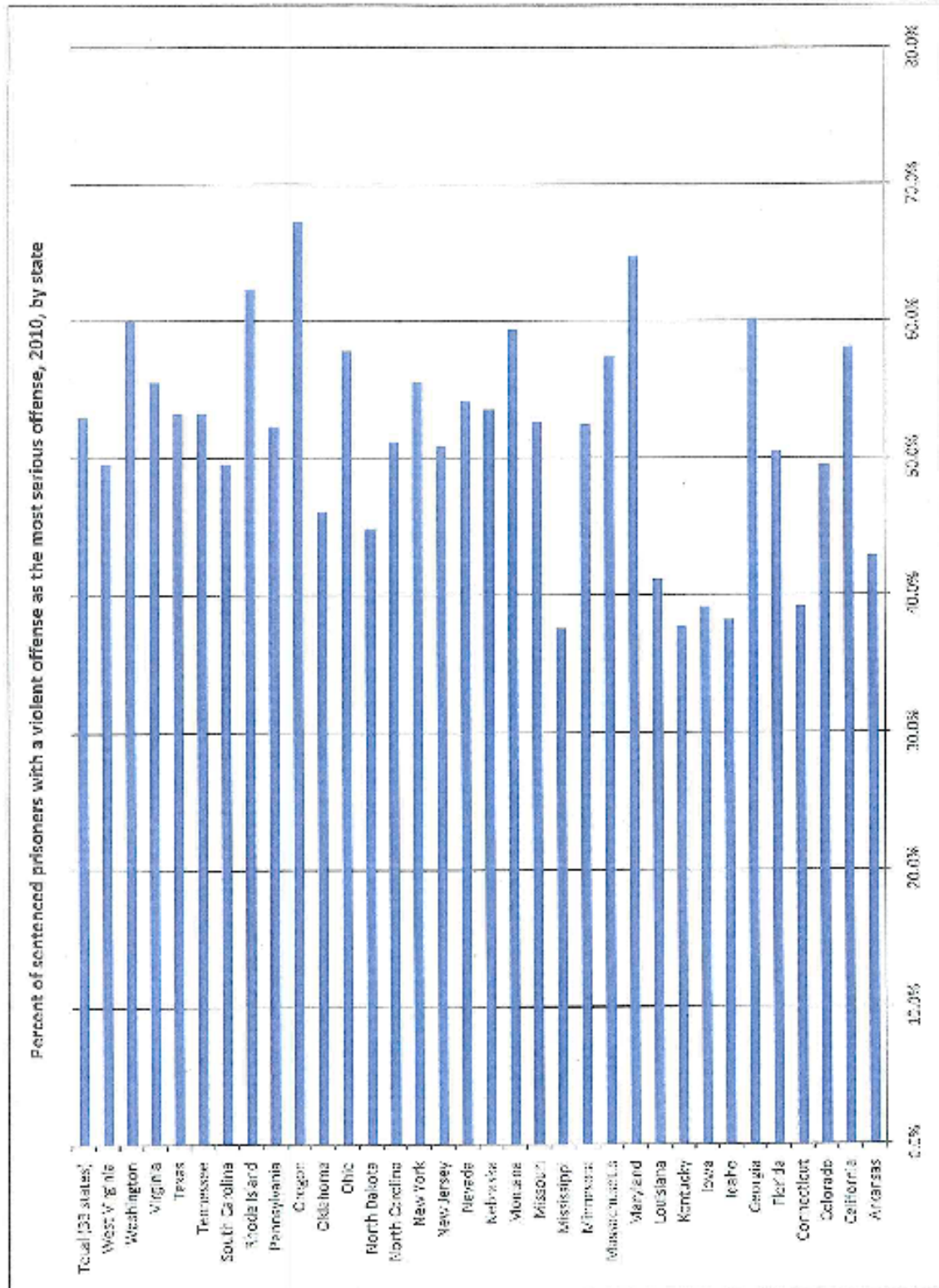
- Requires investment of dollars
 - Requires time for benefit to accrue
 - Requires data on costs and programs
 - Risk adverse investors on 2 year cycle
 - "Past performance does not guarantee future results"
-

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For More Information Contact...

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-

Appendix C



Appendix D

Adult Correctional Budgets
Year 2010

State	Total Budget	Percent Change	Operating Budget	Capital Budget	Average Daily Cost per Offender	Month Fiscal Year Begins
AL	451,644,890	5.70	443,324,927	8,420,371	42.15	October
AK	NR	NR	NR	NR	NR	NR
AZ	1,052,430,400	0.80	992,346,990	0	64.06	July
AR	288,693,112	3.60		27,083,071	60.03	June
CA	9,006,619,000	3.06	8,983,851,000	23,202,000	123.30	July
CO	744,116,966	-1.10	741,705,796	48,724,710	88.60	July
CT	732,437,187	-0.06	687,391,597	45,045,600	60.63	July
DE	248,619,600	-2.10	248,619,600	12,511,800	94.28	July
FL	2,393,174,873	-1.70	2,360,788,696	72,594,048	63.34	July
GA	1,130,117,620	-8.00	1,120,610,328	37,549,641	40.35	July
HI	207,183,139	DK	212,693,938	0	137.00	July
ID	171,716,603	-1.60	166,098,626	2,791,000	53.17	July
IL	1,194,878,600	-3.00	1,204,092,500		60.80	July
IN	630,414,720	2.40	614,786,729	16,628,000	62.60	July
IA	671,939,967	-1.03	671,939,967		66.72	July
KS	290,637,594	4.00	278,624,118	12,013,476	68.46	July
KY	297,569,000	1.00	469,148,000	26,120,000	59.49	July
LA	638,072,821	0.90	725,670,432	6,785,000	39.00	July
ME	79,205,602	-7.17	79,205,602	7,000	119.60	July
MD	766,159,469	-0.67	2,042,912,331	18,058,000	107.90	July
MA	626,731,870	0.53	619,600,487	6,731,373	124.28	July
MI	2,007,483,000		2,007,483,000		81.68	October
MM *	454,201,414	-4.60	454,201,414		63.69	July
MS	337,090,600	-2.90	335,816,311	1,893,189	41.27	July
MO	889,031,212	-0.08	607,713,295	761,328	43.68	July
MT	187,098,617	-0.20	64,189,459		77.42	July
NE	173,289,360	4.60	161,514,671	1,264,602	76.63	July
NV	298,050,856	1.00	298,050,856		58.80	July
NH	100,711,100	1.70	100,711,100	0	69.62	July
NJ	1,012,068,000	-3.40	1,012,068,000	0	103.67	July
NM	237,438,800	-3.90	287,138,800	3,785,000	113.03	July
NY	3,600,751,833	4.26	3,490,751,833	320,000,000	165.26	April
NC	1,518,223,093	-1.00	1,388,729,055	338,422,618	74.34	July
ND	106,038,000	0.00	71,735,000	34,303,000	90.28	July
OH	1,699,803,511	-5.62	1,627,803,511	72,000,000	68.01	July
OK	607,793,304	-8.70	607,793,304	0	60.71	July
OR	810,327,656	16.00	657,423,074	162,903,782	84.46	July
PA	1,694,319,000	6.30	1,694,319,000		90.37	July
RI	187,181,519	7.80	24,390,600	6,970,124	146.56	July
SC	307,834,000	-2.00	397,834,000	NA	40.01	July
SD	63,146,171	0.90	100,982,478		46.41	July
TN	699,107,200	1.98	699,107,200	21,050,000	63.48	July
TX	8,119,197,031	1.98	3,056,756,249	62,438,782	47.60	September
UT	240,397,413	-13.65	213,489,077		78.09	July
VT	NR	NR	NR	NR	NR	NR
VA	1,007,678,182	-2.60	1,007,078,018	4,298,000	65.82	July
WA	698,407,953	0.00	698,407,953	100,881,743	91.69	July
WV	154,836,364	-1.60	154,836,364	DK	69.87	July
WI	1,008,694,700	0.68	1,056,994,700	51,000,000	67.89	July
WY	148,183,166	0.97	148,320,166	863,000	126.00	July
Total †	44,833,297,184	0.10	45,078,242,626	1,645,885,561	79.84	
Cook	226,028,900	-7.70		681,133		December
FHII	234,139,670	-5.91	234,139,670	34,075,000	72.75	July
FOPF	6,228,192,276	11.15	6,028,161,247	503,041,029	77.49	October

DK = Do Not Know; NA = Not Applicable; NR = Not Reported.
 Cook = Cook County; MIch = Michigan; PA = Pennsylvania; FOPF = Federal Bureau of Prisons.
 †The average daily cost per offender is based on only those states reporting a total.
 *MM = data as of October 25, 2009. This includes those state DOC's adult offender budgets, which were converted to FY2009. The total budget includes federal dollars in dollars.

Length of Stay: Property, Drug Crimes Increased Since 2000



www.pewstates.org

Source: Oregon Dept of Corrections

Appendix F

Oregon is smart on crime, but needs to be smart on costs | | The Bulletin

bendbulletin.com

The Bulletin

Oregon is smart on crime, but needs to be smart on costs

By John Foote

Published: November 29, 2012 4:00AM PST

I read with interest the recent opinion piece in your newspaper, authored by Grover Norquist, one of a small handful of conservative figures who have partnered with the Washington, D.C.-based Pew Center to advocate for closing prisons across the nation. Now the Pew Center is in Oregon attempting to do the same here — advocating that we deal with crime problems by allowing more convicted criminals to remain out of custody while they are treated for their behavior, in hopes that they might not continue to commit crimes. And as they have done in other states, the Pew Center has enlisted the assistance of Norquist to advocate for their position.

Both the Pew Center and Norquist point to the state of Texas as an example of the direction that Oregon should take to "get smart on crime." Their reliance on Texas as a beacon for justice policy is oddly misplaced. For all that the state of Texas might have done to reduce its number of prison inmates, the incarceration rate in that state is still twice as high as it is in Oregon, almost half of inmates are nonviolent offenders and the state's violent crime rate is almost twice as high as ours. Prison economization there has been achieved by turning vast segments of their prison system over to private corporations, resulting in a trail of lawsuits for the mistreatment of inmates.

We doubt that Oregonians would choose to trade our lower crime rates and our lower incarceration rates for the private prisons and greater crime that exist in Texas today. If Texas is ever to achieve the success in justice policy that we already enjoy here in Oregon, it must look forward to many, many more years of additional reforms.

The reality is that Oregon's correction system is recognized as a shining example for the rest of the nation, and not the other way around. We have the 33rd highest incarceration rate in the nation, but nonetheless have been second in the nation in the reduction of violent crime since 1995. (Even after its reforms, Texas still has the fourth highest incarceration rate in the country.) We have the lowest percentage of nonviolent offenders in prison of any state in the nation. In Oregon only 31 percent of prison inmates are incarcerated for nonviolent crimes, whereas in Texas almost half of inmates are nonviolent offenders, even after Norquist's trumpeted reforms. In Oregon, only a quarter of convicted felons are sentenced to prison, as opposed to a national average of 40 percent. Oregon is probably the only state in the nation that requires by statute the use of scientifically validated programs to treat offenders. In short, our state "got smart on crime" many years ago, and we did it without the help of out-of-state advocacy groups like the Pew Center, and Norquist.

Where Oregon has indeed failed to get smart is on controlling prison costs, and curiously no one in state government has shown much inclination to tackle that problem. Oregon has one of the most expensive daily inmate costs in the nation, and the American Corrections Association found that it led the nation in increased inmate costs in the last biennium. If we are spending too much money on corrections, it is not because we are locking up too many criminals; we are not. It is because our prison administrative and labor costs are much higher than in most other states. Yet the leadership of the current Commission on Public Safety has repeatedly attempted to take any discussion of prison administration and costs off the table, and has concentrated solely on saving money by sending fewer convicted felons to prison. One might have expected Norquist, who made his name as an advocate of leaner government, to have taken up this issue, rather than venturing into an area where he has no expertise and where he simply got his facts wrong.

— John Foote is Clackamas County district attorney and former deputy director and inspector general of the Oregon Department of Corrections.

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Appendix G



Public safety and sentencing reform: Why overhaul a justice system that's working?



By [Guest Columnist](#)

on December 14, 2012 at 5:00 AM, updated December 14, 2012 at 5:06 AM

By **Michael D. Schrunk and Rod Underhill**

Recently Gov. John Kitzhaber was forced to present a difficult budget proposal. Some members of the current Commission on Public Safety apparently feel this calls for a significant redesign of the criminal justice system, including "comprehensive sentencing reform." Many members of the law enforcement community, however, are puzzled about the need to redesign one of the most progressive and successful systems in the nation.

Only a quarter of convicted felons in this state go to prison, compared with a national average of 40 percent, producing one of America's lower incarceration rates. We nonetheless have been a national leader in the reduction of violent crime since the passage of mandatory sentencing for some violent crimes. Oregon was the first state whose laws require evidence-based practices for those on probation and parole. Prisons here have a lower percentage of property and drug offenders than in any other state. We have decided on a policy to reserve prison space for violent offenders while we attempt to help those who commit drug and property offenses turn their lives around. We have dramatically reduced our recidivism rate in the past five years. The list goes on.

Soon the [Commission on Public Safety](#) will report on sentencing reform, and the question remains: Why drastically overhaul one of the most successful justice systems in the country? The answer proposed by some is that current sentencing laws will produce "unsustainable" prison growth over the next 10 years -- requiring more than 2,000 new prison beds. This is a questionable proposition.

First, prison population forecasting in this state has had an uneven history at best. Every 10-year forecast since 1995 has predicted greater prison growth than actually occurred, with some fully 47 percent high. These past overpredictions are invariably used by critics to advocate for wide-ranging changes in sentencing policy, as is being done now.

Second, none of the currently predicted prison growth is a result of mandatory sentences for violent crimes. Violent crime policy in this state has been so successful that the prison population of offenders serving mandatory sentences is stable.

Third, more than 60 percent of predicted prison growth in the next decade will simply result from state population growth. Additional public services required by population growth are inherently sustainable, because population growth produces proportionally increased tax revenue. Indeed, while the state economist predicts a 16 percent increase in prison beds in the next decade, he also predicts a 48 percent increase in state government revenues in that same period. This should provide a solution in itself.

[http://blog.oregonlive.com/opinion_impact/print.html?entry=/2012/12/public_safety_and_sentencing_r.html#\[12/14/2012 3:18:20 PM\]](http://blog.oregonlive.com/opinion_impact/print.html?entry=/2012/12/public_safety_and_sentencing_r.html#[12/14/2012 3:18:20 PM])

Appendix H

Offender Reentry Programs Preliminary Evaluation July 2011



Criminal Justice Commission

Kelly Officer

Devarshi Bajpai

Michael Wilson

State of Oregon

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Summary

Offender Reentry Programs in Oregon are funded through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program to increase community-based services and resources to offenders transitioning from Oregon Department of Corrections (DOC) substance abuse and co-occurring residential treatment programs. The program was originally funded in four counties in Oregon over a two year period from April 1, 2009 to March 30, 2011. This preliminary evaluation of the Offender Reentry Programs includes program participants who were released from prison between May 2009 and September 2010. A comparable control group was composed of offenders who successfully completed substance abuse treatment while incarcerated at a DOC institution and were released to a program county before the Offender Reentry Program was implemented.

Both arrest and charge outcomes were analyzed for this preliminary evaluation. The time from release for each offender is between four and 22 months, with an average of about 14 months. The analysis shows that offenders who participated in the Offender Reentry Program had a 33% drop in recidivism as measured by re-arrest compared to offenders who did not participate in the program. Participants in the program also show a 27% drop in recidivism as measured by overall charges and a 33% drop in recidivism as measured by felony charges. This preliminary evaluation shows that the Offender Reentry Program is effective at reducing recidivism and a follow-up evaluation with a longer time to recidivate and a larger sample size is planned.

Program Description

Currently the Department of Corrections (DOC) provides drug treatment to inmates that are assessed to have a high need for these services. DOC provides residential substance abuse or co-occurring disorder treatment programs during incarceration at a DOC institution. Participants in drug treatment programs are adult offenders with a moderate or high risk to recidivate, among other requirements. The Offender Reentry Programs were funded with the intent to continue these services once offenders are released to the community. The program enhances the community-based response to barriers to successful reentry of adult offenders. Emphasis is placed on assessment of the community treatment needs of these offenders and initiation of treatment prior to institution release (reach-in), coordination of community supervision and treatment, and linkage with ancillary services that increase self-sufficiency. Ancillary services may include those related to mental health, employment counseling/career development, and employment, housing, and GED attainment. The main goals of the Offender Reentry Program are to increase public safety and to reduce recidivism.

There are four counties with Offender Reentry Programs: Multnomah, Jackson, Washington, and Josephine. The programs started in May 2009 and continue through the present. For the purposes of this evaluation, offenders that were released between May 2009 and September 2010 were included, providing a total sample size of 358. The majority are in Multnomah County with 224 participants, 55 in Jackson County, 47 in Washington County, and 32 in Josephine County. This includes offenders who completed the program, absconded, or were terminated for another reason from the program. The table below shows summary statistics of the program

Page 1

participants including gender, age and ethnicity. The majority of the participants are male and white, and the average age is 37. Most of the participants were incarcerated for a property crime, while the remaining are about evenly split for person and statutory crimes. The most common crimes committed by participants were identity theft, followed by burglary in the first degree, theft in the first degree, felony DUII, and burglary in the second degree.

	Re-entry Program Participants (n=358)
% Male	80.7%
% White	83.0%
% Black	12.6%
% Hispanic	2.5%
Average Age	37.0
Person Crime	24.8%
Property Crime	51.9%
Statutory Crime	23.4%

Data

DOC provided data for offenders who participated in drug treatment programs while incarcerated and who were released from January 2007 and September 2010. The data provided demographic and custody specific variables, as well the offenders' Automated Criminal Risk Score (ACRS score) and Texas Christian University Drug Screen (TCU) score. Another risk score available is the Public Safety Checklist (PSC) score for felony reconviction. This score shows the probability an offender will be reconvicted of a felony within three years of release from prison. There were several aspects to consider and decisions made about the data available; see the appendix for details. The Law Enforcement Data Systems (LEDS) database maintained by Oregon State Police was used for the arrest outcome. Arrests in which an offender is finger-printed are entered into LEDS by law enforcement agencies statewide. The Oregon Judicial Information Network (OJIN) database was used for the charge outcome. OJIN contains felony and misdemeanor charges for criminal cases in all counties in Oregon.

Control group

Finding a comparable control group for this population is difficult. The treatment group is comprised of all offenders released to the program counties between May 2009 and September 2010. A control group was comprised of offenders released to the program counties prior to the start of the program. These offenders were released to the program counties between January 2007 and September 2010 and received residential or day drug treatment while incarcerated. The strength with this approach is that the control group is comprised of offenders from the same county. Differences across counties in criminal justice systems and outcomes can be substantial and this approach limits these differences. The weakness with this approach is the difficulty in accounting for changes within the program counties' criminal justice systems during

the study time period that would affect recidivism. We attempted to capture the effect on outcomes of changes in the criminal justice system in a couple of ways; see the Uncontrolled Factor Differences Section in the appendix.

From here the treatment group participants were matched to participants in the control group by county, TCU score, and PSC risk score; see appendix for details. The table below shows the comparison between the treatment and control groups. The TCU score and risk scores are not significantly different, which would be expected since they were included in the matching requirements. The percentage male, percentage white, and percentage black are also not significantly different between the groups. The average age is significantly different, with the treatment group slightly older by an average of about two years.

	Control Group (n=324)	Treatment Group (n=324)	p-value
% Male	83%	80%	0.3643
% White	81%	83%	0.4747
% Black	14%	12%	0.5607
Average Age	34.8	36.9	0.0046
Average TCU	5.3	5.5	0.3146
Risk Score	30%	29%	0.9318

With the matched treatment and control groups, the arrest and charge outcomes can be analyzed. The latest end date used for outcome measurement was March 30, 2011. The length of time to recidivate was determined for each pair as the shortest amount of time between the two from release date to March 30, 2011. Each pair has the same amount of time in which to recidivate, although that window is at different times depending on when the offender is released.

Time to Recidivate Limitations

There are a few limitations to consider in this preliminary evaluation of the reentry program. The follow-up time of offenders to account for recidivism is relatively short, between six months and 22 months, depending on the release date from incarceration. A more typical follow-up period would be 36 months for all participants. Once released, offenders participate in the reentry program anywhere from 1-12 months, with an average of about four months, so the follow-up period includes the time period when the offender is actively participating in the program. Recidivism patterns can vary from in-program time periods to post-program time periods. A follow-up evaluation showing 36 months post-program recidivism rates is planned.

Arrest Outcome

This section looks at an arrest in LEDS as an outcome during the time period following release from prison. The treatment group includes all program participants; those that completed the program, absconded, or were terminated for another reason. The control group is comprised of pair-wise matches to the treatment group; see the control group section above. The length of time to recidivate is unique to each pair. Arrest outcomes for all arrests, person arrests, property

sound investment. The Oregon Criminal Justice Commission has developed a cost-benefit model that estimates the benefits to tax payers and crime victims of programs that reduce crime.¹ The benefits of the Offender Reentry Program can be estimated using this model and we can answer the question of whether or not this program is cost-effective.

The costs of the program are estimated from actual CJC spending. CJC funds supplemented existing resources, and do not accurately represent the total cost of services delivered. They do, however, represent the *additional* cost of this program. During the original two year grant period from April 2009 to March 2011, the programs cost \$1,610,505 and served 471 offenders. This results in an average cost of \$3,419 per offender.

Using the effect size estimated above (-26.6%) and the cost-benefit model developed by the CJC, the benefits or avoided costs of crime can be estimated. An estimated effect size of 27% means that for every 10 offenders who enter the Offender Reentry program 3.6 felony convictions are avoided over a 10 year follow up. These 3.6 avoided convictions result in many more than 3.6 avoided victims, arrests and charges. This also avoids tax payer costs for probation, jail, prison and post-prison supervision. On average the benefits of the program far outweigh the costs. The estimated benefit of one offender who enters the reentry program in terms of avoided victimization costs and avoided tax payer costs is more than \$23,000. This means that for every dollar invested in Offender Reentry Programs there are \$6.73 of benefits. This is a conservative estimate as the cost-benefit model does not include the savings from avoided misdemeanors or the savings to other non-criminal justice outcomes.

Cost-Benefit Analysis of Reentry Programs	
Benefits of Reduced Recidivism	
Criminal Justice Tax Payer Cost Avoided per Participant	\$8,631
Crime Victim Costs Avoided per Participant	\$14,388
Total Crime-Related Costs Avoided per Participant	\$23,019
Cost of the Reentry Program	\$3,419
Net Gain per Participant	\$19,600
Benefit-to-Cost Ratio	\$6.73

¹ The CJC cost-benefit methodology is available at http://www.oregon.gov/CJC/docs/Cost_Benefit_Methodology_090106.pdf.

Appendix

Data Considerations

There are several aspects of the data we received that needed consideration. The Automated Criminal Risk Score (ACRS) is used by the Department of Corrections when considering inmate programming. It provides a score for the risk to recidivate. One of the variables used for the ACRS score calculation is earned time. Starting in 2009, HB 3508 increased the maximum earned time from 20% to 30%. The Department of Corrections verified that adjustments had been made to the ACRS score calculation to account for this, however we did see differences when comparing the earned time variable.

Another risk score available is the Public Safety Checklist (PSC) score for felony reconviction. This score shows the probability an offender will be reconvicted of a felony within three years of release from prison. This score takes into account more variables than the ACRS score, doesn't require an adjustment for 30% earned time, and can be shown statistically to have better model fit than the ACRS model. For these reasons it was decided to use the PSC score in the evaluation over the ACRS score.

The Department of Corrections also provided the Texas Christian University (TCU) Drug Screen score. This is a score between zero and nine that measures drug dependency. A score of at least three is required for residential drug treatment while incarcerated. However, in the data provided there were TCU scores that were less than three. Since it was a requirement to enter residential drug treatment, we changed any TCU scores less than three to three as part of the data cleaning process.

Control group

Finding a comparable control group for this population is difficult. The treatment group is comprised of all offenders released to the program counties between May 2009 and September 2010. A control group comprised of matched offenders from the remaining counties in Oregon that were released during the same time period was considered. These offenders received resident or day drug treatment while incarcerated, but we assume did not receive additional drug treatment once released to the county. The weakness with this approach is the substantial variation between criminal justice systems in counties across Oregon. This would be very difficult to account for in the evaluation, and any effects of the criminal justice system would be different for each county. Instead, it was decided to comprise a control group from offenders released to the program counties prior to the start of the program. These offenders were released to the program counties between January 2007 and September 2010 and received residential or day drug treatment while incarcerated. The strength with this approach is that the control group is comprised of offenders from the same county. The substantial variation between criminal justice systems in counties in Oregon is controlled for with this design. The weakness with this approach is the difficulty in accounting for changes within the program counties' criminal justice systems during the study time period that would affect recidivism. We

attempted to capture the effect on outcomes of changes in the criminal justice system in a couple of ways; see the Uncontrolled Factor Differences Section.

Matching Technique

A matching algorithm was used to find pair-wise matches for each participant in the treatment group. The matching was done on the county, Texas Christian University Drug Screen (TCU), and Public Safety Checklist risk score (PSC) variables. The matching allowed for a 3 point difference in TCU score, 5% difference in PSC score, and was done within county. After matching there are 324 matched pairs, leaving 34 participants in the treatment group unmatched, and therefore not included in the evaluation.

Uncontrolled Factor Differences

We attempted to measure the effect on outcomes of the uncontrolled factors in this comparison in a couple of ways. First, we looked at prison releases to the non-program counties during this time period that received residential or day drug treatment while incarcerated. The matching technique described above was used to match offenders released between May 2007 and April 2009 to offenders released between May 2009 and April 2010. We would expect the recidivism rates between the two groups to be similar, unless some unknown factor or factors affected recidivism. The table shows arrest rates one year from the incarceration release date between the time periods.

Non-program Counties	Matched Offenders that received residential or day drug treatment while incarcerated			
	Released between May 2007 and April 2009 (n=723)	Released between May 2009 and April 2010 (n=723)	p-value	Effect Size
1 year Arrest Rate	32.1%	31.8%	0.9102	-0.9%

The recidivism rates did not substantially change between these time periods, which suggest there were not substantial changes in the criminal justice systems between these time periods that affected recidivism. This analysis shows no substantial change in the non-program counties, but what about within the program counties? We attempted to look at this by examining one year recidivism rates for prison releases from May 2007 to April 2010 for those that did not receive residential or day drug treatment while incarcerated. These offenders did not qualify for the reentry program in the county. The same matching and comparison was done as above to see if the recidivism rates change between these two time periods.

Program Counties	Matched Offenders that did NOT receive residential or day drug treatment while incarcerated			
	Released between May 2007 and April 2009 (n=671)	Released between May 2009 and April 2010 (n=671)	p-value	Effect Size
1 year Arrest Rate	32.9%	30.7%	0.3906	-6.6%

The recidivism rates in the program counties for these offenders did not significantly change between these time periods. If we assume that this relationship holds for offenders that did receive residential for day drug treatment while incarcerated, then it does not appear that uncontrolled factors are affecting recidivism during this time period.

Unadjusted Effect Sizes by County

To look at results within county, ideally we would have multivariate-adjusted arrest rates for each. Unfortunately the sample size within county is not large enough for multivariate modeling. The table below shows unadjusted arrest rates and effect sizes for each county. The arrest rates and effect sizes reported have not been adjusted for demographic and risk score factors, as was done for the overall sample. A chi-square test was used to statistically test the difference between the control group and treatment group arrest rates.

County	Any Arrest Outcome				
	Sample Size	Control Group	Treatment Group*	p-value	Effect Size
Multnomah	213	28.2%	16.0%	0.0024	-43.3%
Washington	45	33.3%	31.1%	0.8215	-6.7%
Jackson	40	20.0%	25.0%	0.5923	25.0%
Josephine	26	23.1%	19.2%	0.7342	-16.7%

*Unadjusted Arrest Rate

The sample sizes in Washington, Jackson, and Josephine Counties are small; all less than 50 and only 26 in Josephine County. The differences between the control and treatment groups in these counties are not significant, which is not surprising given the small sample sizes. The effect sizes for these small sample sizes are also difficult to interpret, due to small sample sizes. The difference between arrest rates for the control group and treatment group in Multnomah County is significant, and it drives the significance in the overall group.

Multivariate Models

Logistic regression analysis was used to calculate the model-adjusted arrest rates. The models for any, person, property and statutory arrests are shown below, as well as models for any, misdemeanor and felony charges. The race variable was not included in the person arrest or the misdemeanor charge model due to poor model fit. The regression coefficient was used to adjust the arrest rate for the treatment group. Using the arrest rate of the comparison group

Variable	Any Charge		Misdemeanor Charges		Felony Charges	
	Parameter Estimate	p-value	Parameter Estimate	p-value	Parameter Estimate	p-value
Group	0.4111	0.0349	0.6040	0.0160	0.4776	0.0303
Intercept	-4.2979	<.0001	-3.6592	<.0001	-4.2254	<.0001
Gender	-0.9890	0.0020	-0.7757	0.0632	-0.9301	0.0127
White	1.0714	0.1811	--	--	0.5175	0.5165
Black	1.9369	0.0199	--	--	1.1860	0.1548
Hispanic	1.2434	0.2137	--	--	0.7851	0.4458
TCU score	0.0434	0.2624	0.0016	0.9742	0.0839	0.0531
age	0.0086	0.4265	0.0068	0.6188	0.0062	0.6122
PSC risk score	0.0452	<.0001	0.0386	<.0001	0.0388	<.0001