
**Analysis of
Thurston County Superior Court
Pretrial Risk Assessment**

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**Brian Backus
Washington State Center for Court Research**

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OVERVIEW

In 2007, the Thurston County Superior Court began to use a static¹ risk assessment tool² to evaluate the public safety risk from in-custody criminal defendants in preliminary hearings where judges make decisions on conditions of release. The tool evaluates risk based on factors that include the defendant's age, gender, adult and juvenile criminal history, and sentence and supervision violations. These factors are weighted to provide a score that assigns the defendant to one of the following five risk levels:

- High violent
- High property
- High drug
- Moderate
- Low

The tool focuses on felony offenses, but is not designed to measure risk in cases involving sex crimes or misdemeanors.

Although the risk assessment provides a significant piece of information, it is only one of several types of information and factors a judge uses when determining release, bail, and other conditions of release. Other information provided to the court includes a pretrial report, prepared by the court's Pretrial Services Unit, which covers the defendant's criminal history, pending cases, warrant status, and probation status, and information provided by collateral contacts in the community.³ A final pretrial report submitted to the court for the bail hearing includes the risk assessment, the criminal history and activity within the courts, and a narrative based upon an interview with the defendant. The report also provides recommendations on release, including whether bail should be required, and other conditions of release.

In March 2010, the court asked the Washington State Center for Court Research (WSCCR) to undertake a research study to evaluate the impact of the tool and determine whether its use changed the judges' decision-making process. Following the WSCCR Advisory Board's endorsement, WSCCR worked with the court to identify a sample of cases from both the "before period" (2006) and the "after period" (2008 and 2009), obtain the necessary data, and do the study.

¹ Risk factors that cannot decrease, such as criminal history, are static.

² The tool was designed by the Washington State Institute for Public Policy (WSIPP) for the Washington State Department of Corrections.

³ The Unit checks references and confirms information, such as place of residence, provided by the defendant.

The study found that the judges' decision making did change. Overall there was a 7% decrease in orders to release on personal recognizance and a corresponding 7% increase in orders to release on bail/bond. In particular, no defendants assessed as high violent or high drug risk in the after period and substantially fewer defendants assessed at moderate risk were granted personal recognizance. As more defendants were ordered released on bail/bond, average bail amounts set grew. The largest increase was for defendants assessed at the high violent level; average bails for defendants with high drug and high property levels declined. The result is that release decisions better serve public safety goals in the after period. Also, although other efforts likely had an impact and the influence of conditions of release decisions cannot be isolated, the study found that average time in jail declined, as did the numbers of failures to appear and bench warrants.

QUESTIONS FOR THE STUDY

Does the use of a screening tool designed to estimate an offender's risk for reoffense improve decisions on release pending trial? When the tool is used, are defendants less likely to reoffend prior to trial, violate conditions of release, or fail to appear for trial?

This document covers the first part of the study, which addresses these questions: Has use of the tool changed the judges' decisions on pretrial release? If so, how?

CODING, SCORING, AND INTERPRETING THE PRETRIAL RISK ASSESSMENT

Preparing the Study Data

1. Identified "before period" (2006) and "after period" (2008 and 2009) criminal cases where Judges Strophy and Tabor signed Orders Establishing Conditions of Release (Superior Court Information System [SCOMIS] docket code: ORECRP).
2. Constructed a database for the identified cases: Obtained simulated static risk assessments for all cases in the two groups and actual static risk assessments for the 2008 and 2009 cases; merged the assessment data with other data on each case.
3. Created a random sample: Using Caseload Case Type, categorized cases based on the first charge as either a) non-charge, b) crimes against persons, or c) other; divided cases into groups based on categories and randomized the cases in each group; and selected the first 50 randomized cases in each group.

4. Collected additional data on the cases:
 - Obtained from Thurston County Superior Court a copy of the order for each case selected.
 - Used SCOMIS dockets to identify bench warrants and failure to appear (FTA) instances for each defendant during the progress of the cases.
 - Obtained jail booking sheets for each defendant and identified booking and release dates.
 - Merged bench warrant and FTA counts, the conditions of release set forth in each order, and booking and release dates with other data on each case.
5. Collected additional data on the defendants; obtained a data warehouse query showing cases and charges for each defendant for offenses committed after the filing of each case in the sample; and merged this data with the other data on each case.
6. Used Microsoft Excel to analyze. The simulated assessments were used for the 2006 cases and the actual assessments (using tool) for the 2008 and 2009 cases.⁴

The analysis is based on a sample of 294 cases, 50 in each category in each period (except for non-charge cases in the after period where the universe of cases was 44 and all were included in the sample).

RESULTS OF DATA ANALYSIS

Result: Overall Changes in Decision Making

Before and after period case counts for each of the three case categories and for each of the five possible assessments (High Risk Violent, High Risk Property, High Risk Drug, Moderate and Low) were compared based on the orders' direction to hold-in-custody, release on bail/bond, or release on personal recognizance. Judges' bail and release decisions at pretrial hearings are made in the context of a set of factors, only one of which is the risk assessment. A result of this circumstance is that cases where the order was hold-in-custody⁵ were interpreted as cases where the results of risk assessment exert little or no influence on judges' decisions; such cases

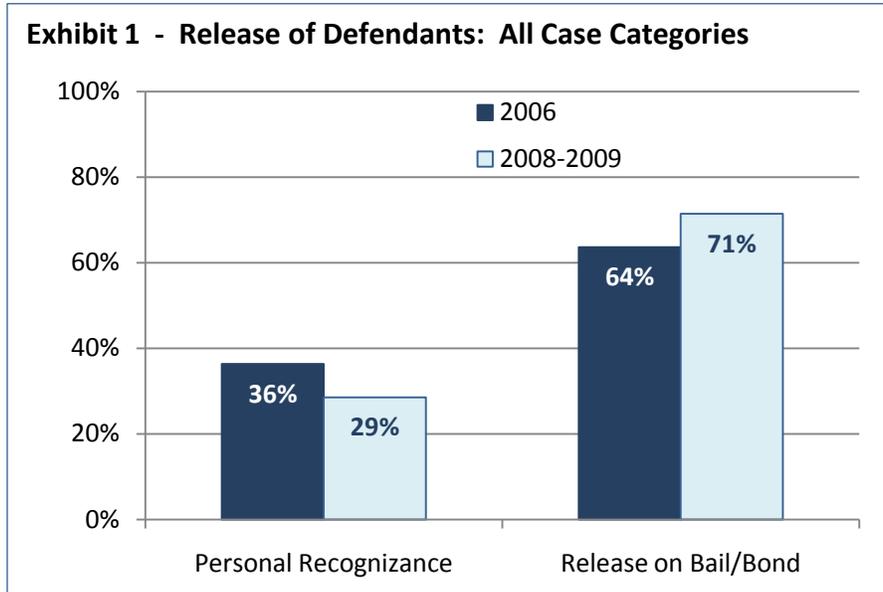
⁴ The results of the actual assessment (using the tool) for the 2008 and 2009 cases were compared with the simulated assessment run for the same cases. Both the simulation and the actual assessments arrived at the same risk level for 97 of 144 cases (67%). The simulation produced a higher result in 23 cases; the actual assessment was higher in 24 cases.

⁵ The sample contained seven 2006 and four 2008 and 2009 hold-in-custody cases.

were deemed not relevant to the analysis and were excluded from the analysis. These include holds for extradition, safe to be at large (STBAL) evaluations, and mental health (or Western State Hospital) evaluations.

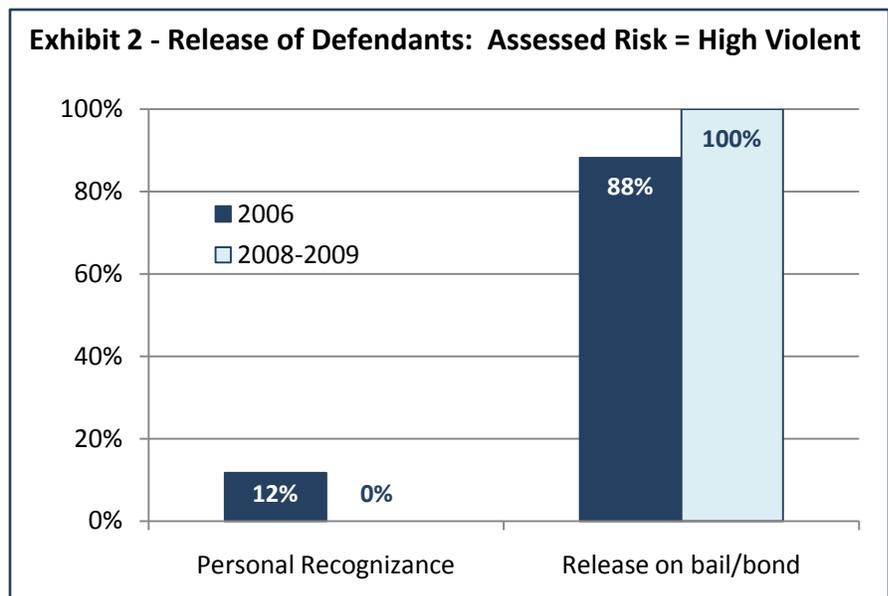
This analysis shows a shift from orders for release on personal recognizance to orders for release on bail/bond for most defendants at almost all assessment levels within each case category. For example, Exhibit 1 shows that in 2006, 36% of all pretrial decisions resulted in release on personal recognizance; the percentage had declined

to 29% in the 2008 to 2009 period. In other words, more restrictive conditions for release were imposed in more cases in the after period. Decisions in the after period were, therefore, better aligned with public policy goals of ensuring defendant appearance for trial and other hearings and deterring reoffense.



Release Decisions by Level of Assessed Risk

The improved alignment with public safety goals can be seen in the breakdown of conditions of release by level of assessed risk for defendants in the High Violent and High Drug categories. In the after period, none in either category were released on personal recognizance. All were ordered released on bail/bond⁶ (Exhibits 2 and 3).



⁶ Note that hold-in-custody cases were excluded from the analysis.

Most defendants with High Property assessments were ordered released on bail/bond in both periods. None were released on personal recognizance in the before period. In one case a defendant was released on personal recognizance in the after period (Exhibit 4).

Exhibit 3 - Release of Defendants: Assessed Risk = High Drug

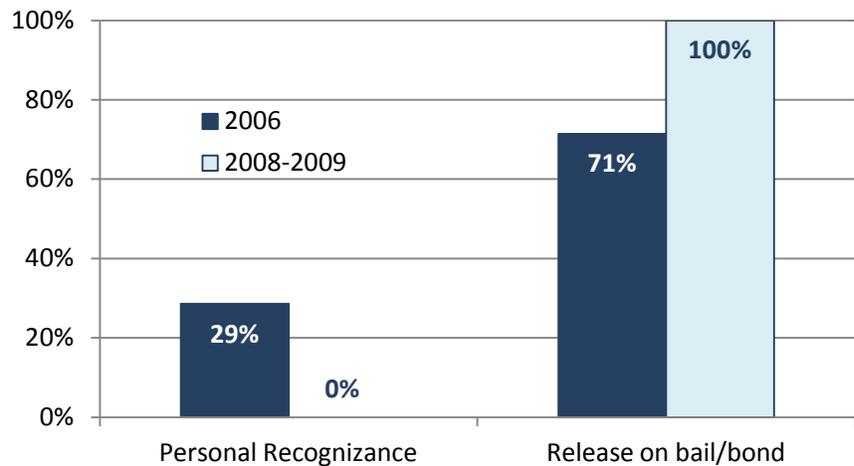
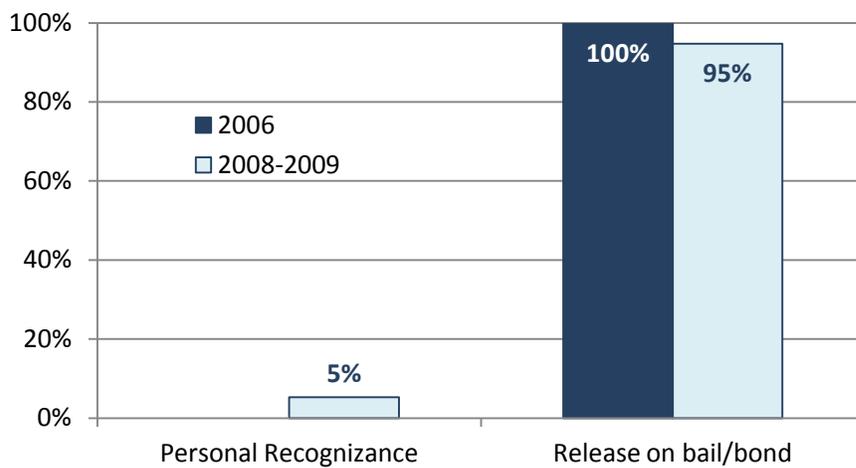
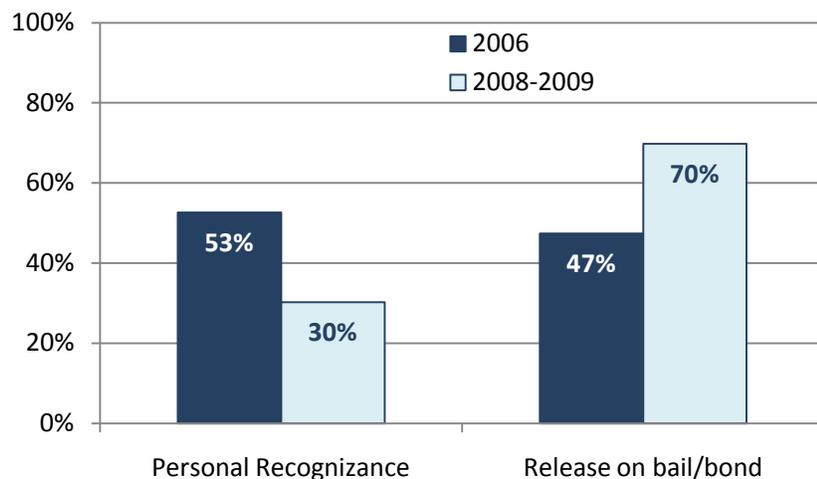


Exhibit 4 - Release of Defendants: Assessed Risk = High Property

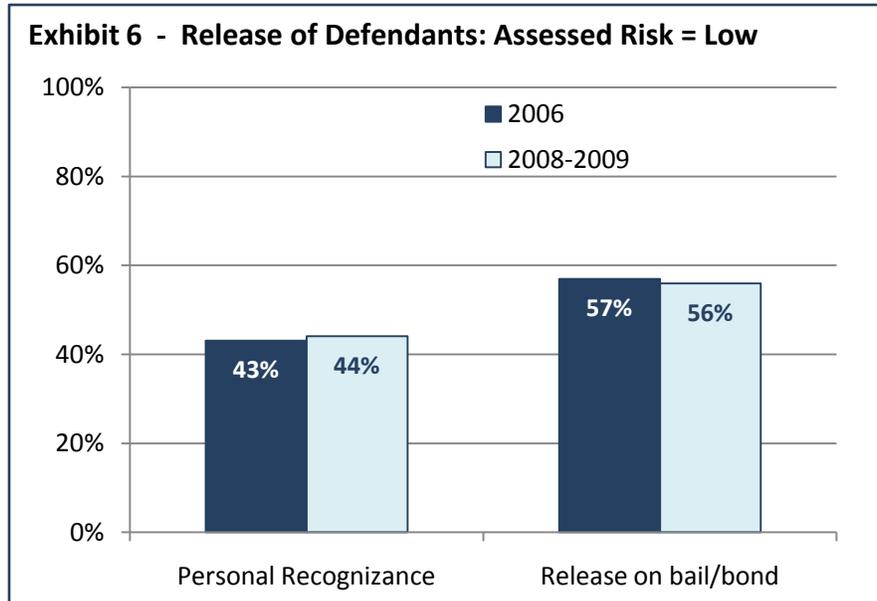


For defendants assessed with Moderate risk, there was a strong shift from release on personal recognizance to release on bail/bond. In about one-quarter (23%) of the cases, the decision shifted, bringing the number in the category released on bail/bond to 70% (Exhibit 5).

Exhibit 5 - Release of Defendants: Assessed Risk = Moderate

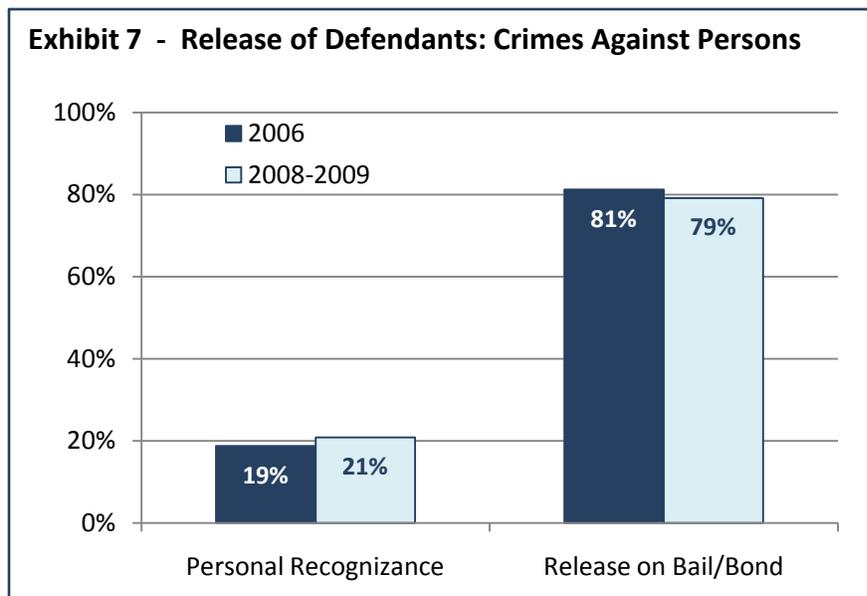


Low risk defendants were ordered released on personal recognizance or on bail/bond at approximately the same rates in both periods. The sample size is not large enough to indicate whether the differences are significant (Exhibit 6).

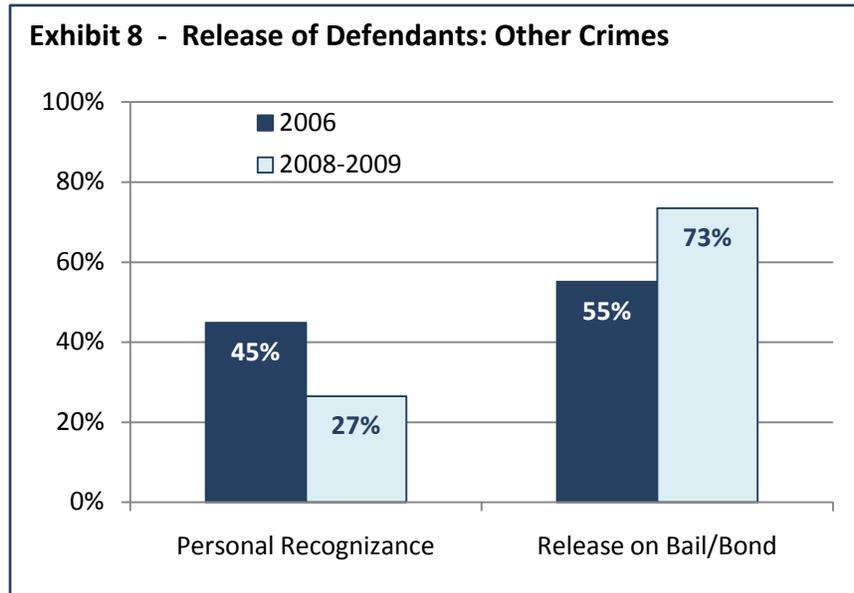


Release Decisions by Category of Crimes Charged

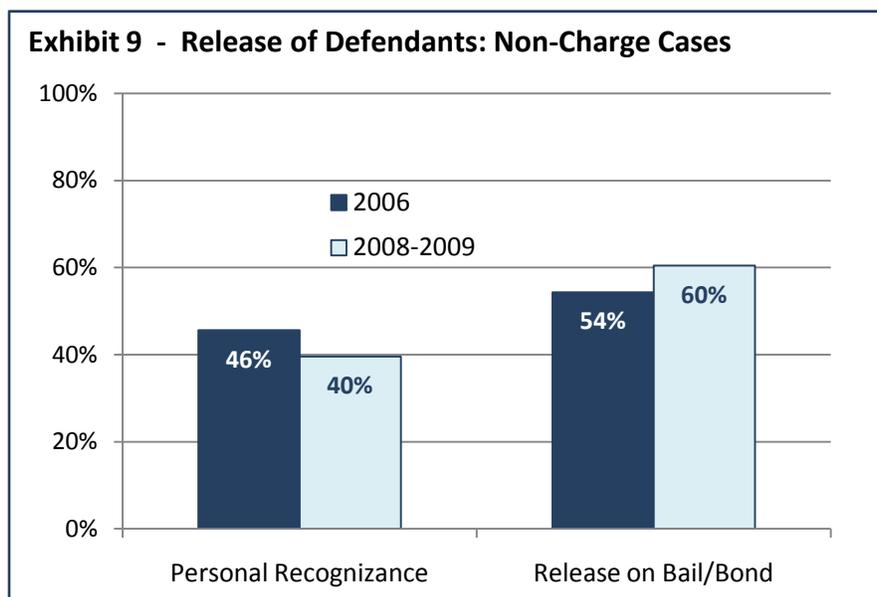
In the after period (where the assessment tool was used), defendants in cases involving crimes against persons were only slightly more likely than in the before period to be released on personal recognizance rather than to have bail set. It should be noted that cases involving crimes against persons were the *least likely* to result in release on personal recognizance in either the before or after period (Exhibit 7).



In the after period (where the assessment tool was used), defendants in cases involving crimes other than crimes against persons were noticeably more likely than in the before period to have bail set and not be released on personal recognizance. In 18% of the cases, the decision shifted bringing the number released on bail/bond to nearly three-quarters (Exhibit 8).

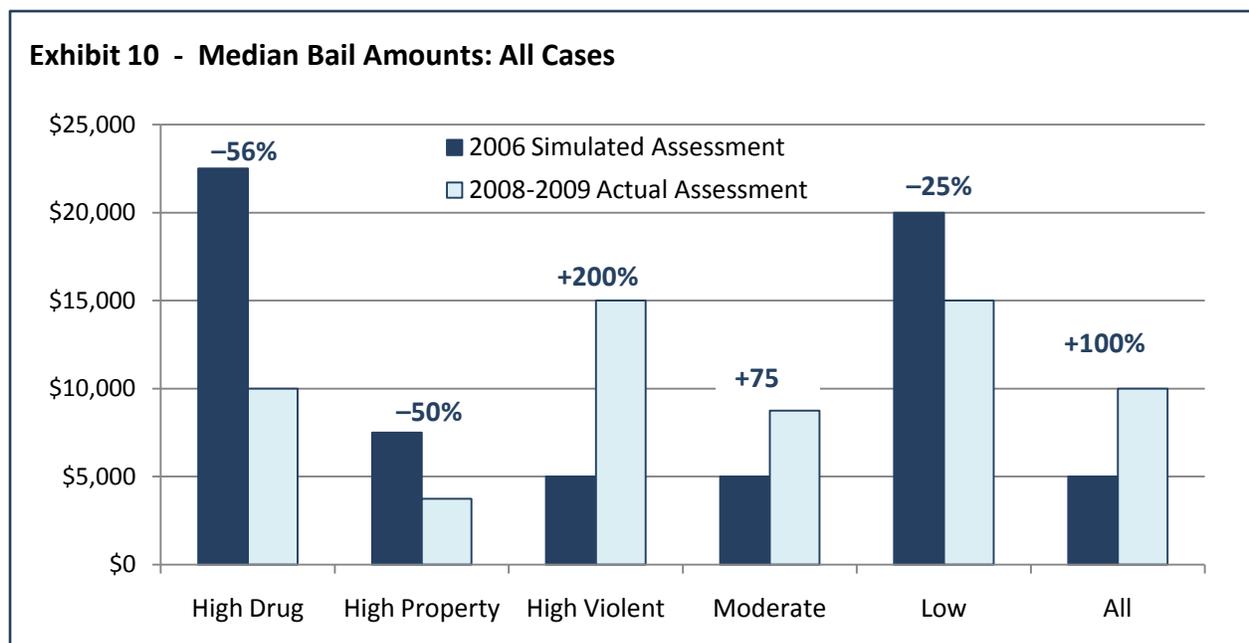


In the after period (where the assessment tool was used), defendants in cases not involving crimes against persons or where no charge was filed were somewhat more likely (a 6% shift) than in the before period to have bail set and not be released on personal recognizance (Exhibit 9).



Result: Impact on Bail Decisions

Bail amounts in cases where the defendant was charged (crimes against persons and other crimes) were analyzed.⁷ Bail amounts in non-charge cases were excluded from the analysis because of clear differences in decision making on them versus cases where the defendant was charged.⁸ Overall, the median average bail amount doubled, going from \$5,000 to \$10,000, from the before to the after period. The median average⁹ bail tripled for defendants with High Violent assessments. It also increased significantly for those with Moderate risk assessments, but decreased significantly for defendants assessed at the other risk levels including High Drug and High Property (Exhibit 10).



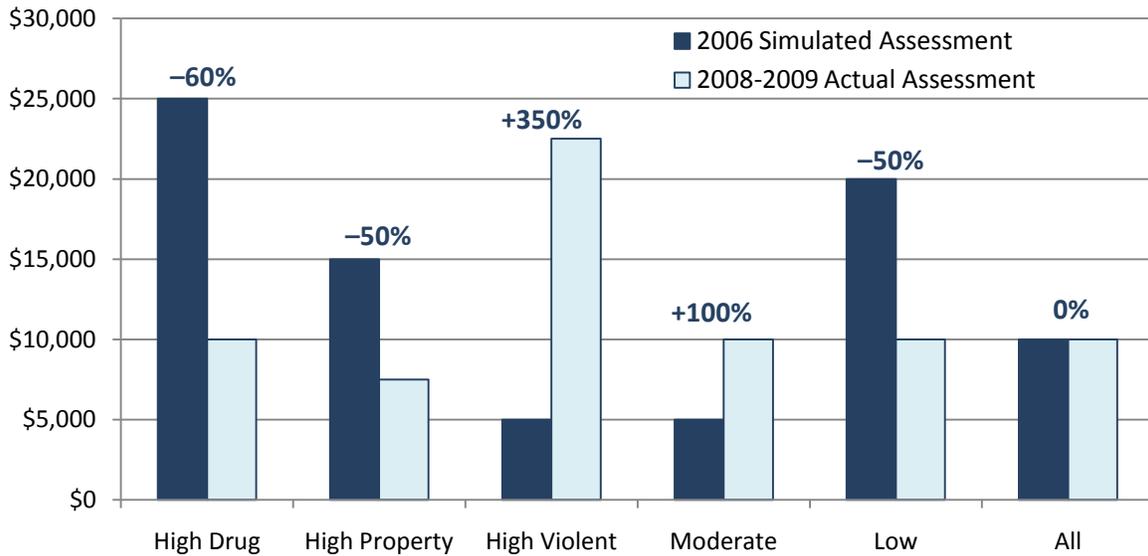
The largest changes were for defendants charged with crimes against persons. Here, the largest difference was for those who had High Violent assessments where the median average bail amount increased by 350% (Exhibit 11).

⁷ For the 2008 and 2009 cases where release on bail/bond was ordered, there is no way to differentiate the cases that would have had release on personal recognizance orders if they been filed in the before period. It is assumed that the changes in decision making affected all cases and that the before period defendants who had release on bail/bond orders would have had higher bails, if a risk assessment been done and the defendant been assessed as high violent, and lower in most other cases.

⁸ That these cases were treated differently is clear in both periods.

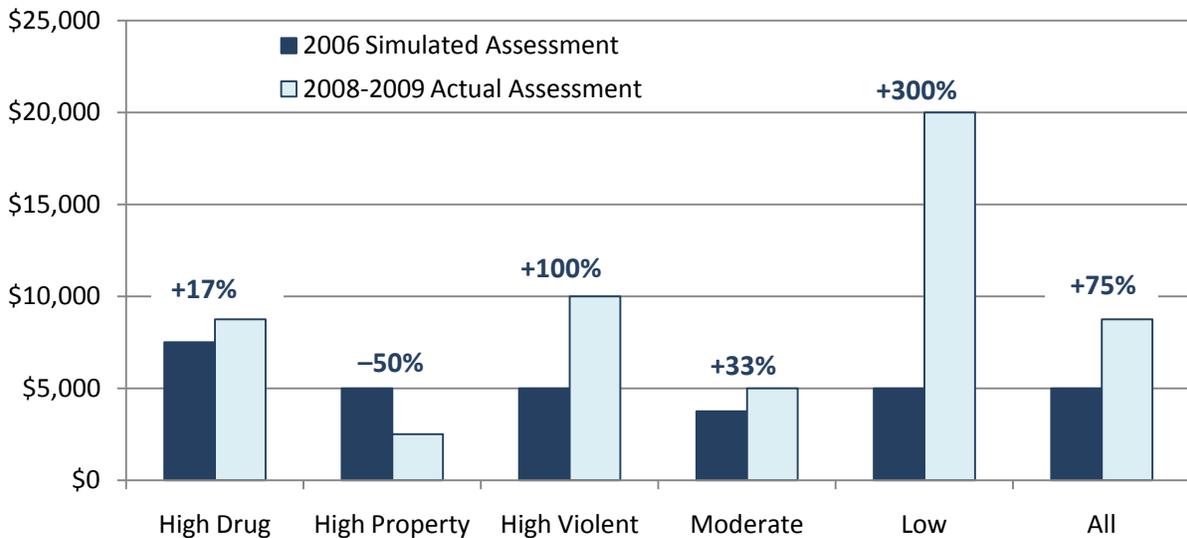
⁹ Because of the possibility of a few large bail amounts skewing the results, median (rather than mean) averages were computed.

Exhibit 11 - Median Bail Amounts: Crimes Against Persons Cases (With % Changes)

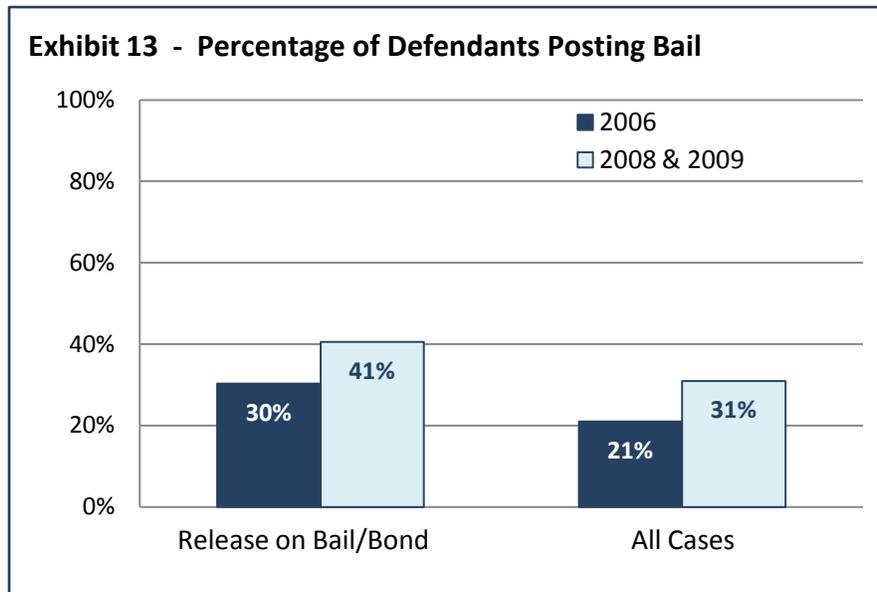


Median average bail amounts increased for those charged with other crimes and assessed at four of the risk levels. The high bails in 2008 and 2009 for those assessed at low risk appear to be a result of the high proportion of domestic violence cases in this part of the sample. Five of the seven cases were domestic violence related. The median bail for all cases in the category is \$8,750, but \$20,000 for domestic violence cases (Exhibit 12).

Exhibit 12 - Median Bail Amounts: Other Crimes Cases (With % Changes)



As would be expected with the increase in the proportion of orders for release on bail/bond, more defendants posted bail (Exhibit 13).



Result: Events and Behavior Post Order Establishing Conditions of Release

Before and after period data were compared to determine increases or decreases in:

- The number of defendants released based on the initial Order Establishing Conditions of Release;
- The time defendants spent in custody;
- The number of defendants who failed to appear for a hearing;
- The number of bench warrants issued for the arrest of defendants in the sample cases; and
- The incidence of offenses committed by defendants during the period between their release and the resolution of the sample cases.

As with the analysis of decision making, cases with hold-in-custody orders were excluded from the analysis. In addition, the analysis excludes two 2006 cases where data on the original jail booking are not available.

In summary, the analysis shows that, compared with the before period, in the after period:

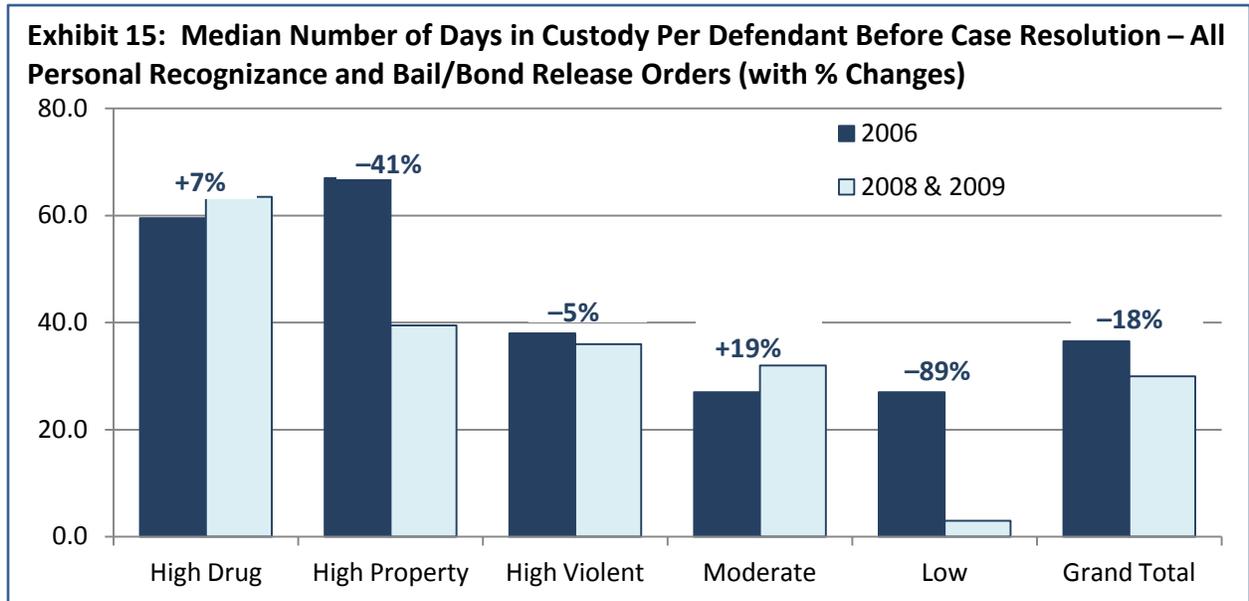
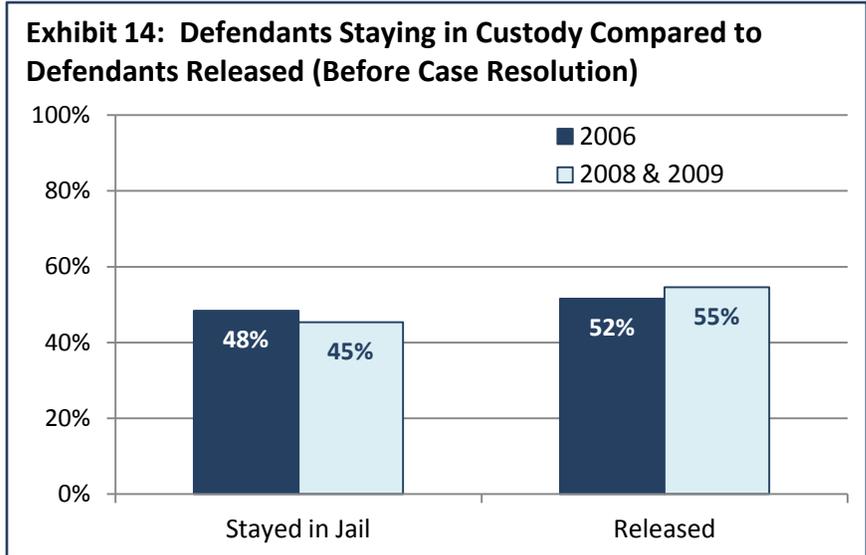
- More defendants were released prior to case resolution.
- The average time spent in jail declined.
- The number of warrants issued prior to case resolution declined.
- The number of FTAs for hearings declined.
- Defendants committed fewer crimes between release and case resolution.

Release of Defendants

In spite of the decrease in orders for personal recognizance and corresponding increase in the portion with orders to release on bail/bond, more defendants were released prior to case resolution and the average amount of time spent in custody decreased for the cases in the study sample.

The study shows a 3% increase in the portion of defendants

released and a corresponding decrease in the portion staying in custody (Exhibit 14). This is consistent with the increased portion posting bail (see Exhibit 13) which is 3% above the 7% increase in the portion where bail was imposed as a condition of release (see Exhibit 1).



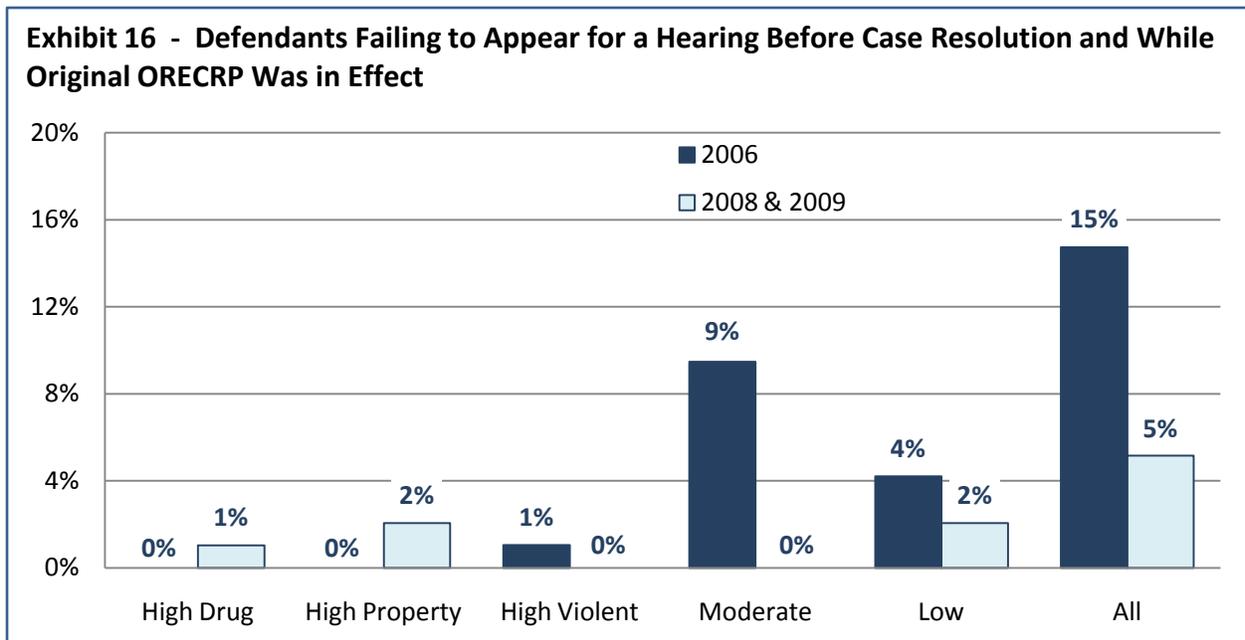
Along with the increase in the percentage released from custody, the average time spent in custody decreased (Exhibit 15). For cases in the study sample, the median¹⁰ number of days spent in custody prior to case resolution declined from 36.5 to 30. The change is most pronounced for those with High Property and Low risk assessments.

¹⁰ Median averages were used in order to mitigate the impact of two homicide cases (one in each period) where high bails were set, a significant time period elapsed before trial, and the defendants did not post bail.

No conclusions should be drawn about any causal relationship between use of the risk assessment and jail populations. While more defendants were released prior to case resolution in the “after” period sample than in the “before,” Thurston County made other changes that likely had an impact on time spent in jail. During the “after” period the court started to use a periodic report of in-custody defendants awaiting trial in order to identify cases to fast track in the trial process. In addition, the use of more on-site public defenders (i.e., defenders dedicated to Thurston County Superior Court cases) has allowed defenders to give more attention to defendants and their cases.

Defendant Behavior

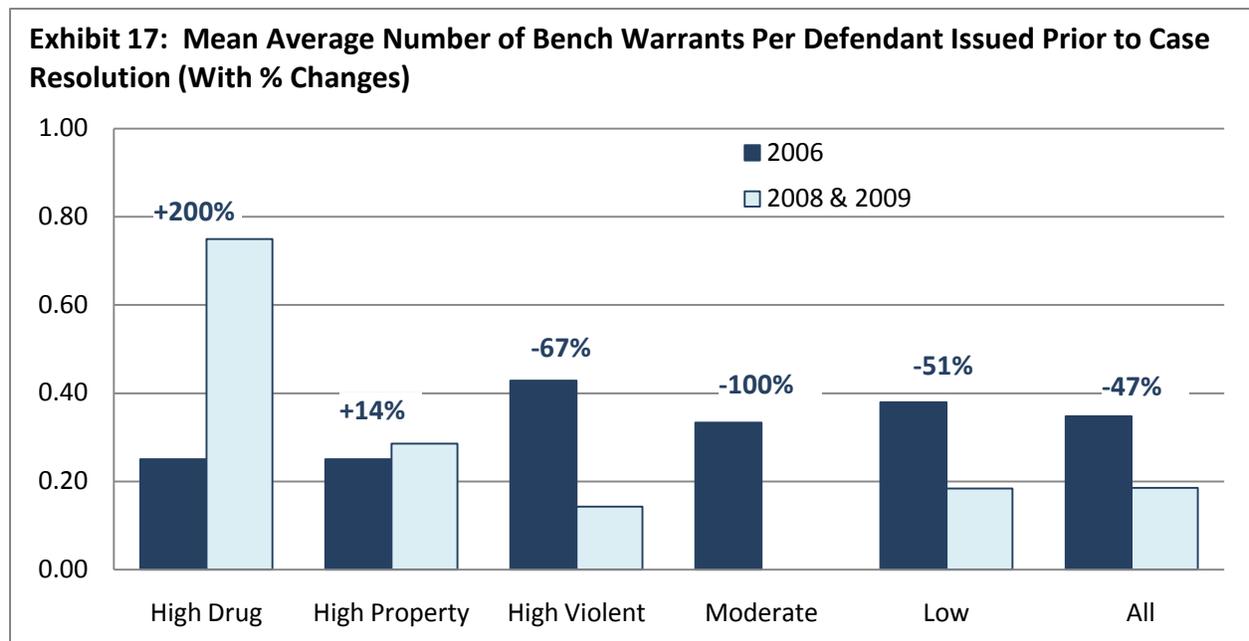
It should be noted that, for a variety of reasons, in many cases more than one Order Establishing Conditions of Release was issued prior to case resolution (i.e., prior to a verdict or diversion). This occurred in 36 cases in 2006 and 27 cases in 2008-2009. This analysis includes 1) failures to appear *while the original order was in effect* and 2) bench warrants *issued prior to case resolution* (i.e., including cases where more than one order was issued during the period). Instances where the SCOMIS docket indicated that Pretrial Services had initiated action because a defendant violated conditions of release set in the original order were also counted. The number of these was small: two in 2006 and four in 2008-2009.



Overall, the failure to appear rate during the time the original Order Establishing Conditions of Release was in effect dropped substantially (Exhibit 16). Only 5% of defendants in 2008 and 2009 failed to appear for a hearing while the original order was in effect versus 15% in 2006.

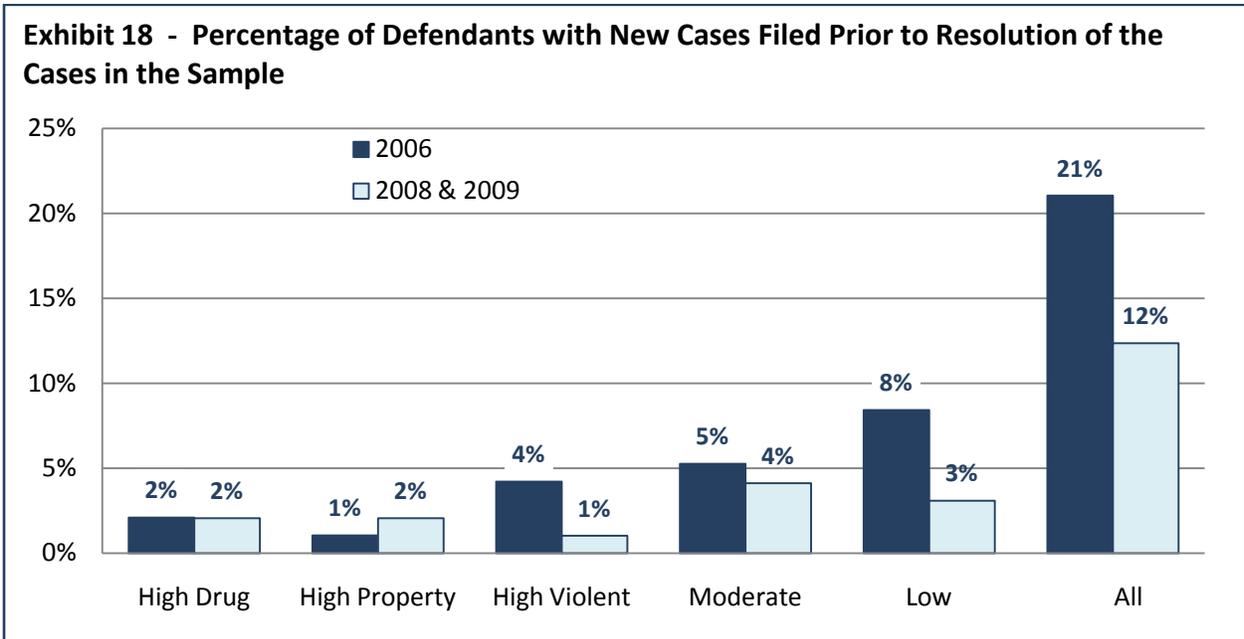
The small increases in the High Drug and High Property assessment categories can be considered insignificant because of the small sample size. The decrease in the failure to appear rate can be related to the increase in use of bail as a condition of release. Defendants who post bail risk financial loss themselves and, when bail is posted by others, are subject to pressure to appear from bail/bond companies, family members and friends.

It should also be noted that the failure-to-appear rate is influenced by other significant factors including Pretrial Services’ investigation, report, and supervision. Pretrial Services supervises defendants when supervision is a condition of release. In these cases the unit reminds defendants of court dates and monitors defendants to see that conditions are followed.



Concurrent with the decline in failures to appear, the number of bench warrants per defendant issued prior to case resolution decreased (Exhibit 17). This decrease likely reflects release decisions in the original order and in later orders in those cases where multiple orders were issued. While the number of bench warrants for defendants assessed in three of the five categories dropped, the study found increases in two including a substantial difference in the High Drug category. It is possible that the small sample size is a factor in this difference.

In general, the use of the pre-trial risk assessment and the concurrent alignment of risk level with the level of bail amounts was not associated with reductions in public safety; defendants committed fewer crimes during the 2008-2009 period (Exhibit 18).



APPENDIX

Reference Tables

Table 1—Release of Defendants: All Case Categories

	Personal Recognizance	Release on Bail/Bond
2006	36%	64%
2008-2009	29%	71%

Table 2—Release of Defendants: Assessed Risk = High Violent

	Personal Recognizance	Release on Bail/Bond
2006	12%	88%
2008-2009	0%	100%

Table 3—Release of Defendants: Assessed Risk = High Drug

	Personal Recognizance	Release on Bail/Bond
2006	29%	71%
2008-2009	0%	100%

Table 4—Release of Defendants: Assessed Risk = High Property

	Personal Recognizance	Release on Bail/Bond
2006	0%	100%
2008-2009	5%	95%

Table 5—Release of Defendants: Assessed Risk = Moderate

	Personal Recognizance	Release on Bail/Bond
2006	53%	47%
2008-2009	30%	70%

Table 6—Release of Defendants: Assessed Risk = Low

	Personal Recognizance	Release on Bail/Bond
2006	43%	57%
2008-2009	44%	56%

Table 7—Release of Defendants: Crimes Against Persons

	Personal Recognizance	Release on Bail/Bond
2006	19%	81%
2008-2009	21%	79%

Table 8—Release of Defendants: Other Crimes

	Personal Recognizance	Release on Bail/Bond
2006	45%	55%
2008-2009	27%	73%

Table 9—Release of Defendants: Non-Charge Cases

	Personal Recognizance	Release on Bail/Bond
2006	46%	54%
2008-2009	40%	60%

Table 10—Median Bail Amounts: All Cases (with Percentage Changes)

	High Drug	High Property	High Violent	Moderate	Low	All
2006 Simulated Assessment	\$22,500	\$7,500	\$5,000	\$5,000	\$20,000	\$5,000
2008-2009 Actual Assessment	\$10,000	\$3,750	\$15,000	\$8,750	\$15,000	\$10,000
Percentage Change	-56%	-50%	200%	75%	-25%	100%

Table 11—Median Bail Amounts: Crimes Against Persons Cases

	High Drug	High Property	High Violent	Moderate	Low	All
2006 Simulated Assessment	\$25,000	\$15,000	\$5,000	\$5,000	\$20,000	\$10,000
2008-2009 Actual Assessment	\$10,000	\$7,500	\$22,500	\$10,000	\$10,000	\$10,000
Percentage Change	-60%	-50%	350%	100%	-50%	0%

Table 12—Median Bail Amounts: Other Crimes Cases (with Percentage Changes)

	High Drug	High Property	High Violent	Moderate	Low	All
2006 Simulated Assessment	\$7,500	\$5,000	\$5,000	\$3,750	\$5,000	\$5,000
2008-2009 Actual Assessment	\$8,750	\$2,500	\$10,000	\$5,000	\$20,000	\$8,750
Percentage Change	17%	-50%	100%	33%	300%	75%

Table 13—Percentage of Defendants Posting Bail

	2006	2008 & 2009
Cases With Release On Bail/Bond Orders	30%	41%
All Cases	21%	31%

Table 14—Defendants Staying in Custody Compared to Defendants Released (Before Case Resolution)

	2006	2008 & 2009
Stayed in Jail	48%	45%
Released	52%	55%

Table 15—Median Average Days in Custody Per Defendant Before Case Resolution: All Personal Recognizance and Bail/Bond Release Orders

	2006	2008 & 2009	Percentage Change
High Drug	59.5	63.5	7%
High Property	67.0	39.5	-41%
High Violent	38.0	36.0	-5%
Moderate	27.0	32.0	19%
Low	27.0	3.0	-89%
All	36.5	30.0	-18%

Table 16—Defendants Failing to Appear for a Hearing Before Case Resolution and While Original ORECRP was in Effect

	2006	2008 & 2009
High Drug	0%	1%
High Property	0%	2%
High Violent	1%	0%
Moderate	9%	0%
Low	4%	2%
All	15%	5%

Table 17—Mean Average Number of Bench Warrants Per Defendant Issued Prior to Case Resolution

	2006	2008 & 2009	Percentage Change
High Drug	0.25	0.75	200%
High Property	0.25	0.29	14%
High Violent	0.43	0.14	-67%
Moderate	0.33	0.00	-100%
Low	0.38	0.18	-51%
All	0.35	0.19	-47%

Table 18—Percentage of Defendants with New Cases Filed Prior to Case Resolution

	2006	2008 & 2009
High Drug	2%	2%
High Property	1%	2%
High Violent	4%	1%
Moderate	5%	4%
Low	8%	3%
All	21%	12%



WASHINGTON
COURTS

WASHINGTON STATE CENTER FOR COURT RESEARCH

PO Box 41170

Olympia, WA 98504-1170

Phone: 360.753.3365 Fax: 360.956.5700

Email: wsccl@courts.wa.gov

www.courts.wa.gov/wsccl