Is It Worth the Costs? Using Cost-Benefit Analysis to Minimize the Collateral Consequences of Convictions

The collateral consequences of criminal convictions are costly for convicted individuals, victims, taxpayers, and society as a whole. Many of these costs are above and beyond the initial sentence imposed on the individual, and they have far-reaching consequences. People with criminal records often struggle to find jobs, attend college, receive public benefits, and vote. Many reoffend, which places a high-priced burden on the victims, the surrounding community, and the taxpayers who fund the justice system. Fortunately, programs and policies can address these effects. But debates surrounding these programs and policies are often dominated by one of two perspectives: either a focus on the anticipated benefits or a primary concern with costs. At times, statements regarding the benefits are rooted in anecdotes rather than research, and the taxpayer burden of such programs and policies is overstated.

President Obama’s executive order titled Improving Regulation and Regulatory Review, released January 18, 2011, identifies cost-benefit analysis as a way to move beyond the politicized debate that so often clouds policymaking. Stressing the importance of measuring benefits, he directed federal agencies to “propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs.”1 Recognizing that some benefits are difficult to quantify, the executive order allows agencies to “consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.”2

The president’s order is a reminder that good policymaking is based on measuring both the benefits and the costs. After all, taxpayers want to see a return on the investment from public dollars. To generate that investment, policymakers need to know both the cost and the benefit of proposed policies and programs, and use that information to inform taxpayer dollars into initiatives whose benefits outweigh the costs.

This type of measurement—commonly known as cost-benefit analysis—is being used with more frequency in criminal justice policymaking. The Vera Institute of Justice’s work in North Carolina illustrates this approach. In 2009, the North Carolina General Assembly created the Youth Accountability Planning Task Force to examine whether the state should raise the age of juvenile jurisdiction to include 16- and 17-year-olds (currently, 16- and 17-year-olds are tried in the adult system). Among other things, the task force was charged with reporting on the cost of implementing the proposed policy change. However, the task force went further and asked Vera’s Cost-Benefit Analysis Unit (CBAU) to assess both the costs and the benefits of raising the age.

CBAU’s analysis focused on the task force’s proposal of transferring 16- and 17-year-olds who commit misdemeanor and low-level, nonviolent felony offenses to the juvenile system but keeping 16- and 17-year-olds who commit serious violent felonies in the adult criminal justice system.3 The analysis concluded that raising the age would generate $52.3 million in net benefits each year. Although the change would cost about $71 million each year, it would return about $123 million in annual benefits, including $42 million to taxpayers, $3 million to victims, and $98 million to the youth who would be tried in the juvenile rather than the adult criminal justice system.

Most of the benefits would accrue to court-involved youth who would no longer bear the consequences of a criminal record. Placing a dollar value on this outcome was challenging because quantitative research on the cost of having a criminal record is limited. The one area that could be measured most accurately was the impact of a criminal record on a person’s future earnings. Research shows that involvement in the criminal justice system reduces a person’s future earnings by 10 percent to 40 percent.4 One study found that the impact of receiving a criminal conviction when young decreased future earnings by 15 percent after nine years.5

CBAU’s analysis showed that the policy change would prevent about 1,500 youth from having a felony criminal record. CBAU used the study on the impact of a conviction on future earnings, combined with national earnings data, to estimate that these 1,500 youth would earn a total of $98 million more over their lifetimes. Although the change in policy would produce other benefits to youth, such as greater access to treatment programs available within the juvenile system, these benefits could not be accurately quantified because of the lack of available research and data.

Valerie Levshin
Policy Analyst, Vera Institute of Justice

References
1. President Obama’s Executive Order 13563, January 18, 2011.
2. CBAU’s analysis focused on the task force’s proposal of transferring 16- and 17-year-olds who commit misdemeanor and low-level, nonviolent felony offenses to the juvenile system but keeping 16- and 17-year-olds who commit serious violent felonies in the adult criminal justice system. The analysis concluded that raising the age would generate $52.3 million in net benefits each year. Although the change would cost about $71 million each year, it would return about $123 million in annual benefits, including $42 million to taxpayers, $3 million to victims, and $98 million to the youth who would be tried in the juvenile rather than the adult criminal justice system.

Most of the benefits would accrue to court-involved youth who would no longer bear the consequences of a criminal record. Placing a dollar value on this outcome was challenging because quantitative research on the cost of having a criminal record is limited. The one area that could be measured most accurately was the impact of a criminal record on a person’s future earnings. Research shows that involvement in the criminal justice system reduces a person’s future earnings by 10 percent to 40 percent. One study found that the impact of receiving a criminal conviction when young decreased future earnings by 15 percent after nine years.

CBAU’s analysis showed that the policy change would prevent about 1,500 youth from having a felony criminal record. CBAU used the study on the impact of a conviction on future earnings, combined with national earnings data, to estimate that these 1,500 youth would earn a total of $98 million more over their lifetimes. Although the change in policy would produce other benefits to youth, such as greater access to treatment programs available within the juvenile system, these benefits could not be accurately quantified because of the lack of available research and data.
Vera’s report to the task force discussed both the quantifiable benefits and those less tangible benefits. This approach—relying on the best available evidence to quantify some benefits and qualitatively discussing benefits that are difficult to monetize—allowed CBAU to provide a concrete estimate of the tangible benefits while acknowledging the additional value provided by intangible benefits. The analysis revealed that the proposed policy would generate a net benefit to society, even when only the most tangible benefits were included, and showed that minimizing the negative unintended consequences of a criminal conviction is a worthy investment.

Although cost-benefit analysis is often used to determine whether a policy change would result in a net cost or benefit to society, it also can be—and frequently is—used to decide whether to continue or start investing in a particular program, especially in tight fiscal times when resources are scarce. In 2003, the federal government contracted MDRC, a social policy research organization, to evaluate the Center for Employment Opportunities (CEO), a Vera spin-off designed to address the employment barriers facing the formerly incarcerated. MDRC’s evaluation showed that the CEO reduced recidivism rates, but it did not provide any information about how the CEO program stacked up against similar programs.

Vera was therefore asked to conduct a cost-benefit analysis of the CEO program by monetizing its impact and comparing those benefits with the cost of the program. To monetize the CEO’s impact on recidivism rates, Vera measured how fewer crimes reduced criminal justice expenditures and victimization costs. As fewer people commit crimes, government agencies spend less on arrests, court cases, jail stays, prison incarceration, and reentry programs; a reduction in crime also results in fewer victims and, therefore, lower victimization costs. To monetize the CEO’s impact on employment rates, Vera measured the taxpayer value of the services that CEO program participants render to city agencies, such as cleaning and painting public buildings, and calculated the additional earnings participants receive from their work. The analysis revealed that the benefits generated by the program exceeded the costs at a ratio of about three to one (i.e., every dollar spent produced three dollars’ worth of benefits). Overall, Vera’s analysis showed policymakers that programs such as the CEO can generate substantial benefits to both government agencies and society.

These analyses demonstrate how cost-benefit analysis can be used to assess initiatives designed to mitigate the collateral consequences of criminal charges. In addition to assessing programs and policies focusing on reentry and juvenile jurisdiction, cost-benefit analysis can be used to evaluate initiatives designed to address other, collateral consequences of criminal charges, such as excessive fees and fines and immigration penalties. Cost-benefit analysis can also help policymakers compare incarceration with alternative programs by measuring the collateral consequences of incarceration.

Cost-benefit analysis can be an enormously helpful tool for policymakers when assessing the merits of a program and determining whether to invest scarce resources in criminal justice programs and policies. Ultimately, cost-benefit analysis can play a major role in developing a justice system that is balanced, fair, and cost-effective.

Notes
2 Id.
3 Christian Henrichson & Valerie Levinson, Cost-Benefit Analysis of Raising the Age of Juvenile Jurisdiction in North Carolina (Vera Institute of Justice, 2010).
5 Sam Allgood, David B. Mustard, & Ronald S. Warren Jr., The Impact of Youth Criminal Behavior on Adult Earnings (University of Georgia, August 2003).
6 Cindy Redisoss, Megan Mullenky, & Valerie Levinson, Implementation, Three-Year Impacts, and Benefit-Cost Analysis of the Center for Employment Opportunities (CEO) Prisoner Reentry Program (MDRC, forthcoming 2011).