



# Oregon District Attorneys Association, Inc.

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The ODAA has received inquiries about our report “ODAA: An Examination of Juvenile Measure 11 in Oregon Today.” We would like to take the opportunity to answer questions posed and to further explain our position relating to Juvenile Measure 11.

The fundamental principles that ODAA stands for include seeking truth and justice, promoting safety, protecting victim rights, and ensuring truth in sentencing. This strongly aligns us to the principles undergirding Measure 11.

We believe that Oregonians’ desire for justice, safety and truth in sentencing are what led to Measure 11 twice being passed by Oregon voters – the most recent passage with 73% of the votes. Our offices have access to much of the factual and statistical data that shows the effectiveness of Measure 11 in achieving safety and justice. We are eager to share that information with the people we serve, including legislators and other elected officials.

### **Is the ODAA claiming that the reason crime dropped in Oregon was a result of Measure 11?**

Yes. Crime in Oregon dropped for a number of reasons, including the impact of Measure 11. Since the implementation of Measure 11 in 1994, violent crime in Oregon dropped more than 50%. And although crime dropped nationwide during the same period, Oregon’s crime rate dropped at a rate significantly greater than other states.

Additionally, the impact of Measure 11 is apparent in Oregon’s juvenile crime rates. After 1994, juvenile crime rates dropped below the national average for Measure 11 Violent crimes, but not for non-Measure 11 drug and property crimes

Put simply, Measure 11 is a significant reason for the decrease of violent crimes committed by adults and juveniles in Oregon.

### **How did we determine there was a causal connection between Measure 11 and reduced crime? How do mandatory sentences reduce criminal activity? How does imprisoning juveniles impact future crime rates?**

There are several factors that demonstrate the connection between Measure 11 and reduced crime.

First, Measure 11 applies to the most violent crimes in Oregon. This includes crimes such as murder, forcible rape, sodomy, kidnapping, and violent robberies and assaults. It is common

sense that incarceration of those most dangerous offenders who commit these crimes protects our community.

Second, multiple studies support this common sense conclusion that incarceration of the most dangerous offenders promotes community safety. A report authored by the Oregon Criminal Justice Commission in 2007 confirms that point. *Criminal Justice Commission Report to the Legislature*, January 2007.

In that report, the writers from the Oregon Criminal Justice Commission wrote: “Recent research indicates that **incarceration significantly effects crime rates**. National studies, as well as a state study in Washington by the Washington Institute of Public Policy have found that **a 10 percent increase in a state’s incarceration rate leads to a two to four percent decline in the crime rate.**” *Id.* at 9 (emphasis added).

They continued, “A higher incarceration rate can work to lower crime in two ways. The first is an incapacitation effect. People cannot commit crimes in our communities while they are behind bars. The second is a deterrent effect. Potential offenders may choose not to commit crimes because of tougher penalties. The studies do not indicate whether it is deterrence or incapacitation effecting crime.” *Id.* at 10.

In 1994, incarcerating an additional offender led to 29 avoided crimes. By 2005 each incarcerated offender led to a decrease of less than 11 crimes. *Id.* We believe that is because as the full effects of Measure 11 took effect over a number of years, violent crime dropped dramatically which affected these numbers.

The 2007 report also acknowledged that incarcerating violent offenders would certainly reduce victimization costs. *Id.* at 11. Victimization costs include costs for lost property, lost productivity, required counseling or mental health services, social services, medical care or third party benefits of avoided crime or social benefits of justice being served with a proportional sentence. When it comes to violent crime, these costs are significant. Unfortunately, these costs are rarely included in the discussion or debates in Salem. Measure 11’s effect at reducing costs to victims has been significant.

**What individuals were involved in drafting the report: ODAA: An Examination of Juvenile Measure 11 in Oregon Today. What is the source of the data presented in the report?**

The Oregon District Attorneys Association has compiled three reports on juvenile Measure 11 defendants since 2013. Each report was prepared in anticipation of a public debate on the merits of Measure 11 as applied to juvenile offenders. The effort to repeal Measure 11 for juveniles

was not fully initiated until this year. So, each time the report was updated the data was updated to reflect the current list of offenders.

The current list of offenders was provided by the Oregon Department of Corrections at our request. However, it was each individual District Attorney’s Office that provided the factual

summary for the cases listed from their counties. This information was obtained from publicly available information and resources.

The summary report was prepared strictly from the list of cases in the report, with a couple of exceptions. The exceptions were the graphs on juvenile, drug, property and violent crime rates which was prepared from data provided U.S. Bureau of Justice Statistics. References to source materials were cited.

**Does this report represent a consensus, majority, minority, or small number of ODAA members?**

This report represents the official position of ODAA. ODAA is a 67 year-old organization that represents Oregon's 36 elected district attorneys. Our organization is comprised of 36 independently elected officials who collectively represent all of Oregon. District Attorneys are non-partisan officials and our members include Democrats and Republicans. Our fundamental principles include seeking truth and justice, promoting safety, protecting victim rights, and ensuring truth in sentencing.

The ODAA speaks through its executive board and through those specifically delegated with the authority to operate on its behalf, such as its president and executive director. No one else speaks on behalf of the ODAA. The positions ODAA takes do not always mirror the positions of each of its individual members. This report is an effort by ODAA to provide accurate facts and studies to inform the legislators and the public.

**How did you determine that 80% of victims of sex crimes by juveniles were under the age of 12?**

The answer to this question is provided in our report and in the graph provided on page 5 of our report. The reality is that the majority of the victims in juvenile cases are other juveniles. Juvenile offenders tend to commit crimes against others in their families or peer groups, including in and around schools. Modifying Measure 11 through SB 1008 does not just present problems for community safety, it is also a threat to child safety.

**How is Measure 11 uniquely flexible?**

As stated in our report, Oregon's unique system allows any juvenile offender sentenced under Measure 11 to remain in the Oregon Youth Authority until the age of 25. The Oregon Youth Authority and the Oregon Department of Corrections also retain the authority to move an older juvenile offender out of OYA if they determine their sentence is best served with adults, not juveniles. This authority is unique and flexible.

Additionally, the sentencing laws involving and surrounding measure 11 are flexible in the following ways. First, for many Measure 11 listed sentences, ORS 137.712 allows what is commonly known as an "opt-out." Judges are statutorily allowed to impose less than the Measure 11 sentence. Second, in 2009 the Oregon Supreme Court established that any time the court determines that a Measure 11 sentence is unconstitutionally disproportionate, the court has

the authority to depart from the sentence mandated by Measure 11. And third, if the governor believes that a juvenile sentenced under Measure 11 received a sentence that is too onerous or unjust, the governor has the authority to grant clemency to any of the sentences. These safeguards are currently in place and function to ensure proportionality, fairness, and community safety.

### **What evidential support do you offer to substantiate the claim that Measure 11 sentences are proportional to the crimes?**

Measure 11 is only geared toward the most violent of juvenile offenders, which in the juvenile system represents a small minority of offenders. At the time the 2017 report there were only 134 juvenile offenders in custody in the Oregon Youth Authority for Measure 11 offenses. This represents less than .7% of all of Oregon's juvenile justice population. The vast majority of juvenile offenders are dealt with in juvenile court, both through formal and informal adjudications. Measure 11 juvenile offenders represent those who have committed the most heinous crimes.

Oregon voters have twice supported Measure 11 sentences, initially in 1994 and then again in 2000 when voters overwhelmingly endorsed it by 73% of the vote. We in ODAA believe the people of Oregon provide the best guidance and barometer for the community standard of what is proportionate. And what the people have said is reasonable. For examples, the measure 11 sentence for a forcible rape is 8 years and 4 months; the sentence for violent assault with a weapon causing serious physical injury is 7 years and 6 months; the sentence for creating child pornography by filming the rape of a child is 5 years and 10 months.

Additionally, under Oregon's criminal justice system the judge in every criminal case since 2009 has had the ultimate ability to modify Measure 11 sentences to ensure they are proportionate to the circumstances of each case. The judge acts as the safety valve to ensure fairness and proportionality in every case.

In a system without Measure 11 for violent crime, the consequences for juvenile offenders are virtually non-existent. We know this from our experiences in Oregon's juvenile system before passage of Measure 11. Many offenders who committed murder, rape or other equally heinous crimes spent almost no time in custody. This was simply wrenching for crime victims and communities and led to the movement to create Measure 11.

### **Conclusion**

This letter and the 2017 report titled, "ODAA: An Examination of Juvenile Measure 11 in Oregon Today" represents our genuine attempt to provide important information about how Measure 11 works in our juvenile criminal justice system.

Our strong and consistent position regarding Measure 11 is that it is a direct reflection of the will of the people and has made Oregon a safer community over the past 25 years.