



Oregon District Attorneys Association Uses Misleading Report to Stop Criminal Justice Reform

by [Blair Stenvick](#) • Apr 23, 2019 at 3:39 pm

The Oregon District Attorneys Association (ODAA) is circulating a report that criminal justice experts say is laden with misleading assertions and ethical problems, in an effort to dissuade state lawmakers from voting in favor of youth criminal justice reform.

“This report is not intended to be a measured assessment,” says Mark Leymon, a criminology and criminal justice professor at Portland State University. “I don’t feel like it’s at all close to an accurate representation of what’s going on with youth in the system.”

ODAA is using the report to argue against [Senate Bill 1008](#), an omnibus bill that would reverse parts of Measure 11, a ballot initiative passed by Oregon voters in 1994. The measure [imposed strict mandatory minimum sentences](#), or obligatory sentence lengths, for certain violent crimes—and required that 15, 16, and 17-year-olds charged with a Measure 11 crime automatically be referred to the adult court system, rather than juvenile court.

SB 1008 would remove that requirement, and give people convicted of crimes when they were under 18 more chances for early release. Because it would change policy approved by voters, SB 1008 needs to pass both houses with at least two thirds of the vote—a hurdle it narrowly cleared in the Oregon Senate on April 16.

It now goes to the house for a vote, but first the House Judiciary Committee will hold a public hearing on Wednesday and a work session on Thursday. Lawmakers considering the bill’s merits can review written testimony submitted through the legislature’s website—including an ODAA report titled “An Examination of Juvenile Measure 11 in Oregon Today.”

“The purpose of this report and data is to assist policy makers and the general public in understanding what type of crimes juveniles who are being sentenced under Measure 11 have committed,” reads the report in part, “and help inform the debate on the efficacy or application of Measure 11 as it is applied to juvenile offenders between the ages of 15 and 17.”

But according to criminal justice experts, the report does more to obscure the real effects of Measure 11 than to inform.

Leymon worked with the Oregon Council on Civil Rights and the Oregon Justice Resource Center (OJRC) to create a detailed report on [the impact of Measure 11 on Oregon’s youth](#), released last year. He told the *Mercury* that the ODAA report’s findings are based on flawed reasoning.

M *the Portland* **MERCURY**

For example, the ODAA report argues that Measure 11 doesn't affect very many young people—at the time the report was authored in 2017, just 359 people were imprisoned on Measure 11 charges they'd incurred as minors.

But that fails to take into account the thousands of juveniles who were automatically sent to adult court on Measure 11 charges, but then plead down to lesser charges not covered by Measure 11. Those juvenile defenders were swept into the adult court system because of Measure 11, regardless of the resulting conviction.

“This is an example of some really carefully, cherry-picked numbers to justify an argument,” Leymon says. “Since the law went into effect, there's almost 4,000 youth who have been referred to adult court under Measure 11.”

The ODAA uses similarly flawed reasoning, Leymon says, to argue that Measure 11 has been effective in curbing violent crime in the state, and that the majority of people convicted under Measure 11 are guilty of sex crimes. Under the heading “Measure 11 is working,” the ODAA's report claims that “Violent crime has dropped more than 50% since Measure 11.”

While that's technically true, the report implies that Measure 11 is the cause of that crime drop—though in reality, national violent crime rates [began a downward decline in the early 1990s](#), before Measure 11 went into effect. And Leymon's research found that only about one in five Portland Public Schools students knew what Measure 11 is, meaning its harsh punishments for juveniles probably isn't doing much to deter crime.

Leymon's research also found that about half of Measure 11 youth charges fall under three categories: second-degree assault, and second- and third-degree robbery. While serious crimes, these are on the lighter end of charges covered by Measure 11—so the ODAA uses misleading wording and data to suggest that sex crimes are among the most frequent youth Measure 11 charges.

“The majority of juvenile offenders in Oregon Youth Authority (OYA) are incarcerated for sex crimes and robbery offenses,” reads the report.

“People think sex crimes, yeah, we need to be punishing these people,” Leymon says. “So they lump sex crimes and robbery together.”

For Leymon, the tactics used in ODAA's report are reminiscent of the “tough on crime” sentiment that swept the country in the 1990s, when Measure 11 passed.

“We used exceptionally bad cases—[the Willie Horton cases](#)—to scare people into passing this law,” he said. “The ODAA [is] still doing that.”

The end of ODAA's report includes dozens of pages of data—all of it the personal information of juvenile defenders sentenced under Measure 11. Often, that information includes identifying details of the crime victims as well.

M *the Portland* **MERCURY**

In Oregon, juvenile court records are typically sealed. But because Measure 11 refers youth to adult court, their court records are public. Leymon takes issue with that information being included—he says that if he made a similar move in his academic work, he'd be fired for ethical reasons—as does Bobbin Singh, the director of the OJRC.

“When youth make mistakes, we should protect their identities to the extent possible,” Singh says. “If anyone google searches their name and tries to look them up, this report will have that. An employer, an education institution will be able to find it. I find it incredibly upsetting and also, frankly, disgusting.”

Singh and Leymon sent a letter to Tim Colahan, the executive director of ODAA, last week. In it, they outline their concerns and ask that the ODAA withdraw its report from written testimony and stop circulating it. They have not heard back from ODAA.

The ODAA has so far not replied to the *Mercury's* request for comment. We will update this post if it does respond later.