



# Oregon

Kate Brown, Governor

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March 28, 2019

Chairman Floyd Prozanski  
Senate Committee on Judiciary  
900 Court St. NE  
Salem Oregon 97301

Chair Prozanski and Members of the Senate Judiciary Committee:

For the record, I am Joe O'Leary and I have the honor of serving as director of the Oregon Youth Authority. I'm also an adjunct professor of law at Lewis and Clark Law School. I previously practiced law in juvenile court and served as public safety advisor and general counsel to former Governor Ted Kulongoski.

On behalf of OYA Leadership Team and Governor Brown, who specifically asked Colette and I to be here today, I speak in support of the juvenile sentencing reform bills before the committee: SB 966, SB 967, SB 968, SB 969, and SB 1008.

I want to acknowledge the efforts of the interim workgroup led by Chair Prozanski that developed these concepts after much study and discussion. OYA was happy to be at the table as an informational resource to that group. We enthusiastically support the work product represented in these bills, which we view as good policy that will bring Oregon sentencing law incrementally closer to what research tells us works for public safety and positive outcomes for youth.

There are three reasons we support these bills:

- 1) **Developmental Approach:** OYA has been implementing the developmental approach to juvenile justice, and foundational to that is that:
  - a. Kids are different than adults. Advances in adolescent brain science prove this.
  - b. Kids are works-in-progress with tremendous capacity for growth and change. How we steward that growth is important.
  - c. Interventions we take with kids should be different than what we do with adults. Less correctional/punitive and more skill development, emotional regulation, attaching/belonging/learning and doing.
- 2) **Data:** With the help of the Legislature, OYA has invested in research and data-informed decision-making that tells us:
  - a. Many youth sent to youth correctional facilities are more likely to recidivate than if they were placed in residential or community settings; and
  - b. On average, youth who transfer from youth correctional facilities to adult corrections are predicted to increase their risk to recidivate by 20%, making it that much more likely that new victims will be created.

- 3) **Racial and Ethnic Disparities:** It's not a matter of opinion that racial disparities exist in Oregon's juvenile justice and criminal justice systems. The deeper you get in the system, the more impact those disparities have:
- a. African American youth: 4% of the population in Oregon, 16% of the population in Department of Corrections custody in a youth correctional facility (a 300% increase)
  - b. Latino youth: 21% of the population in Oregon, 36% of the population in Department of Corrections custody in a youth correctional facility (a 70% increase)
  - c. Native American youth: 2% of the population in Oregon, 4% of the population in Department of Corrections custody in a youth correctional facility (a 50% increase)

One of the most incredible things I've seen up close in my last six years as OYA deputy and now the last year as its director, is the capacity of kids to grow and change if they are in the right circumstances where their basic needs are met and they have meaningful opportunities to participate in their own development. It's nothing less than inspiring. Here are three examples of kids who's trajectories might be different if these bills were law at the time of their entry to the system:

- A young woman who was automatically waived to adult court and sentenced to a mandatory minimum term for an offense that caused serious harm but represented her only contact with the system. The underlying conduct was widely viewed as triggered by a combination of trauma and untreated mental health issues. Today, she lives at Oak Creek Youth Correctional Facility and is a mentor for younger girls. She has earned several certifications and is taking college classes. She even works on special projects with OYA's research team. She may complete her sentence with OYA and not have to go to DOC, but upon release she won't have the same access to OYA's statewide network of residential step-down and transition services as a youth that wasn't waived as an adult and was committed by the juvenile court. Because she was handled in adult court, the collateral consequences of her adult conviction will follow her for life.
- A young man who committed a serious offense in his late teens and was sentenced to a mandatory term that extended after his 25th birthday. At OYA, he reengaged and excelled in his education. He became a certified barber and was one of our mentors that visited with youth (as well as with their families) at Multnomah County Juvenile Detention who were pending Measure 11 charges, in order to reduce the anxiety of their pending commitment to state care for a determinate period. He transferred to DOC at 25 to take up a prison bed for only a few remaining months of his mandatory sentence. This wasted a prison bed resource and put our substantial investment in him at risk.
- A young man who is serving a functional life sentence for causing the death of another human being. Even though he has virtually no incentive, he's taken advantage of every treatment, academic, vocational and enrichment program OYA has offered. Because of his good behavior, he earned the opportunity to live in a low-drama dorm for older youth with the highest privilege levels. But, instead, he volunteered to be a live-in mentor on one of our cottages that houses some of our most challenging and trauma-affected younger kids.

These are representatives of our DOC youth at OYA. We are proud of them. They are all our kids. And we cannot judge them prospectively by what they did at their worst moment. To be clear, these bills are not retroactive, so they are not going to apply to anyone that has already been sentenced. That is a principled policy decision consistent with truth in sentencing. But the youth that will have contact with the system in the future will be similar in circumstances. And none of the Second Look or Life Without Parole concepts guarantees release from custody, only the opportunity to make their case to a judge where all parties will have their say and the court decides whether to conditionally release.

These bills represent thoughtful sentencing policy that is consistent with the developmental approach to juvenile justice. They are consistent with what research says is more likely to prevent future victimization and create positive outcomes. And they are consistent with the goal of reducing racial and ethnic disparities.

For these reasons, we ask you to support these measures.

Sincerely,

A handwritten signature in black ink, appearing to read 'JO' followed by a stylized flourish.

**Joseph O'Leary**

Director

Oregon Youth Authority

