

I am a mother with a son's first-time offender, 16-year plea bargain sentence story.

I have all due respect for the victims, Judges and lawyers.

No one should ever be a victim but that is not our reality. The heinous offenders should be punished to the fullest. There are terrible people who commit terrible crimes. Our society should also be very concerned about repeat offenders who know to fly just under the Measure 11 radar. A Judge could look at their criminal past and give longer, appropriate sentences instead of their revolving door! There is a spectrum of offenders and offenses and a broad brush is not justice. In my testimony, I will address first-time offenders. My son committed a crime and deserved punishment but a 16 year, forced plea bargain for a first-time offender was excessive and not proportional to the crime. How much punishment is enough?

In 2005, my son was a 20 y/o college graduate, an NCMA with a 97% federal score was a first-time offender. The other 2 men were 26 and the planners of the crime. My son was roped in with lies and incentive to make an ex-felon, drug dealing, violent domestic violator and child endangerer pay a price for the abuse caused. Taking his money was the only way an impulsive 20 y/o mind thought. My son wanted a career in medicine, firefighting, EMT and nursing to care for people. The other 2 knew using his nature to retaliate for the victims would work. My son did not know about Measure 11. We are an Army family and lived out of state in 1994. When he saw the victim was not alone, he wanted to leave. The other 2 had unknowingly brought guns and put him between them with a gun in his back. The DA stated, "If one has a gun, they all have a gun." My son stayed with the victims, reassured them they were not going to be hurt and were not meant to be part of this and he was sorry. He made sure the man with a colostomy bag stayed on the couch. He untied them and no one was hurt. The victims did not want him charged. The DA did not honor their wishes.

My son took responsibility, was remorseful and wrote the victims apology notes. My son had many mitigating circumstances: 20 y/o, he comes from a good family, never in trouble, a college degree, eager to work in medicine, a kidney disease, he helped the victims and his recidivism rate is .02!. He wanted to go to trial and be judged by his peers. Our family had never dealt with the law and we were too trusting. We didn't have 25k for a 'good' attorney so we had to settle for who would be less competent, but we didn't know. Come to learn, the DA and this attorney were friends and they did a "you give me these guys and I'll give you something you want next." We were informed the DA said he could not get the conviction he wanted at trial so the fear tactics/coercion started. "A trial would cost you thousands, you need so much money, he may get more time than if taking a plea bargain, the other 2 are taking a plea bargain" etc. My son has a kidney disease and was kept in Max 1 in jail, with 1 hour out a day. His cup was ordered taken from him to prevent hydration to help his kidneys. We were told, "If he will just take the plea, he will be transferred soon and he will get good medical care at the next institution; it will be "night and day." The other 2 stayed in the dorm, this was another way to break him into the plea, display discrimination and is counter to the

DA's insistence of, "If one, then all." My son is also half black and the other 2 are white. The DA gave details to the news that my son was the mastermind.

The insistence for a trial led to meeting a Judge. We were told that never happens. We were sure that when a Judge hears of his first-time, no criminal history record, college degree, he will make the adjustment. Disappointedly, he told us, "This case is worth 40 years, that's what I would give. It would be better to take the 15-year plea and come out at age 35 instead of 60". A Judge said this to us, we felt that was the highest authority, we felt defeated. I convinced my son to take the plea, we would not lose him to this system and we were with him all the way.

At sentencing, the DA came in with more charges and from 180 months agreed to- to 230 months! We fought this and it was dropped to 192 months, but for this, he would have to plead guilty to 1 charge of attempted murder, which he didn't commit to get the reduction! With a Judge there, and quiet, we were devastated! My son said that was the hardest thing he ever had to do, admit to what he didn't do when he helped the people. We begged for the charges be concurrent and not consecutive. The DA chose to run the charges consecutive and 16 years!" This DA not only took half his life, his health and defamed him but its ok within Measure 11 law! This shows the DA had no integrity, no idea of rehabilitation but certainly biased and punitive. Judge Campbell, stated in Rodriguez, that sentences 'should not shock the moral senses" of the citizens. Judge McCormack stated some offenses should not be charged as Measure 11. In Wheeler, "greater crimes, greater time. Lesser crimes, lesser time." Of course, "Don't commit a crime and none of this may happen, but it did and one would hope for fairness not abuse of the law.

The Judge at sentencing stated, "This is a young man, a first-time offender with a bright future, who made one mistake and because my hands are tied due to Measure 11, I have to sentence him to 192 months in prison". Too much time for a first-time offender! He also added that he had never seen such support for a defendant as to him that day.

The court has forgotten us, but we live each day of the 16 years. Grandparents and a best friend have died, so have family dogs and the home he last slept in is gone. He had to grieve alone. His traumatized siblings have created additional victims who need counseling and have struggled for years.

To accept Measure 11, you have to assume the DA is competent, honest, has integrity, good moral character and lawful to override a career Judge and apply proportional penalty for the crime, comparison to other crimes and accept the offender's criminal history, or lack thereof, to avoid violating Art. 1, Sec 16 by inflicting cruel and unusual punishment. The people will accept they are acting without personal motivations and agendas, no personal aspirations, not partake in give and take schemes, have no personal vendettas, biases or discrimination. We hold Judges to these high standards. Eliminating Measure 11 will help curb the ability for one person to forever alter a young life, just because they can.

Measure 11 keeps viable tax payers out of the system for deliberate time. If charged concurrent, my son could have paid 9 years of taxes! Instead, his 16 years will cost the State over \$2 million! Measure 11 burdens the tax payers and creates the need for raising taxes! ...

Measure 11 allows a DA to be a healthcare director and remove competent medical care, good nutrition from people with chronic, serious illnesses and diseases. In some cases, as in my son's, his kidney disease progressed to a rare case that required 6 months chemotherapy. From that, my son has bladder cancer cells from that treatment. The kidney disease my son has is incurable and does not allow a long life. My son deserved punishment but not half of his life taken by one DA.

When a pandemic hit, Measure 11 excludes all high-risk people for Covid and death from consideration for early compassionate release, even when meeting all Gov. Brown's criteria! The Parole and Probation Board sent a letter in response to requesting his release due to Covid and being high-risk, acknowledging Measure 11 people are exempt. This is Cruel and unusual punishment. Non-Measure 11 people with high BP, obesity, smokers, many with years on their sentences, were released and the M11 sick people are held at high risk. Measure 11 is not to be a death sentence, but for some it has been. My son is still susceptible. He is to come home in 8 months. Because of Measure 11, he couldn't come home just a few months early!

Measure 11 trusts the DA understands the gravity and substantial negative impact when giving multiple year sentences and assume they understand the psychology of their sole discretion and how it will impact future considerations, "If Measure 11, it's an automatic "NO!"

My son receives 6-month compliance reports and for 15 ½ years are always checked at the "20-30% good time" but also checked, "ineligible because of Measure 11". "You could get time off but...No!"

The voters were duped in 1994 to 3 strikes and out. When voters learned it was 1 strike, many were upset and want the law changed; they would not have voted for that. 1994 was a different time and 27 years later, times have changed and this law needs to change. It is in part, too costly. Now people are savvy so the Citizens United and their supporters who like Measure 11, have been working harder to keep dark complexion people out of society, scare voters and hide behind the "protect the victim rights" mask. Absolutely protect the victims but be honest about the ploy when advertising; don't exploit the victims for personal/ political/bias gain and use fear tactics to scare people by only talking about the most heinous 2 crimes! That is misleading and too many are painted with the harsh broad brush!

Our country does not do well with mental health issues and many are spawned by those living with the emotional and psychological scars associated with Measure 11. We say we are a compassionate society, we believe in 2<sup>nd</sup> chances, fair and balanced but if we keep Measure 11 and all its devastation to remain, are we really? Our society has lost its conscience and humanity.

The children, siblings of inmates are adversely affected. Who knows how many of the traumatized will have terrible futures? Measure 11 is setting up people to fail and cause more pain. I've seen a young girl hysterically fall apart when she had to leave her dad, she passed out; many of us felt her that day. What about the collateral, unintended victims of Measure 11? At least if a Judge rules, there is an appearance of justice and acceptance of the sentence. Leaving sentencing in the hands of a prosecutor who already has agenda to convict, isn't the right thing to do! Just realizing what that means, is incomprehensible and unconscionable in America!

Measure 11 creates more disdain/hatred to those in Law Enforcement. Law makers need to look forward, not just in the moment to appease those with money and power, if there is care about the constituents and protecting our valued police officers. Measure 11 is guaranteeing future criminals and victims from the injustices associated of a DA being Judge, Jury and Executioner!

Our society is so desensitized by movies, the news and we are raised to not question authority. For those who have not experienced Measure 11 personally, it is easy to have these sentiments, "They got what they deserve! They should rot in prison!" True in many cases, but justice should not a broad Measure 11 brush. There are certain cases which demand a Judge and Jury. There are many real people attached to these sentences, not just the offender and the victims.

The guards at the institutions do not like Measure 11! They see people like my son who are wasted and simply warehoused. The guards and managers we met at visiting all apologized to us that he got so much time. They said, "Trust me. I see who needs to be here and he's not one of them!" They would add that his situation is another reason they don't like it. They saw him as honest, hard-working, responsible, not a complainer, always had a smile! They don't like dealing with the people who flaunt their sentence, "You can't give me anymore time!" when they choose to act up. The programs are not available to all incarcerated. It's a nicety said to give false comfort to voters when they send them for mandatory sentencing.

My son has seen many who after serving mandatory sentences, cannot deal with being released and reoffend to comeback to structure, stability, food, and no responsibilities because in part, their family or friend support system gave up on them. Being away from real life and all its progressions can be overwhelming. This unyielding law can take away the desire to want to/should thrive and it will create more victims in the new commission of crimes just to come back to what was known for so long.

Getting rid of Measure 11 does not mean anyone gets away with their crime. It just puts the sentencing back to the Judge and Jury to decide, like before 1994. It is a law of man, not a law of God. That means it is fallible and is too tempting for those who desire to seek, keep and abuse power. Not all Measure 11 people are monsters. Many First-time offenders don't even know about Measure 11.

Victims deserve all protections and concern, but Measure 11 people will be released, they are not gone forever. A recent DA in this hearing, spoke for her client and stated the victim says she has lifelong emotional scars, that she will never heal. Keeping Measure 11 won't heal her scars. Her case, like too many, should have a Judge give a harsh sentence to the abuser, to help these victims find peace. Increments of 90 months with Measure 11 will keep the scars from healing and the nightmares, stress and anxiety too close. Let the Judge decide a harsh sentence beyond 90 months. The many, usually younger, first-time offenders do not create those scars and they should not be subjected to the same harsh sentences the monster criminals deserve. My son screwed up! But he had a minimal role in a crime that took 16 years from him. He helped the victims; they didn't want him charged but he got more time than most rapists and murderers!

Our country is doing a good job as forward thinkers by giving rights to every cause now to be inclusive and politically correct. It's now time to get rid of 27-year-old Measure 11 and move into this new millennium. Until any law maker experiences this personally, as we have, they will rush to change this law, screaming it is unfair and unjust! Judges should want this gone, their career efforts have been taken from them and bestowed on the DA. We must get rid of such an arcane, medieval, too much leeway law that is discriminatory, to one DA, unjust law. I hope we are as good and compassionate as we think we are and finally amend criminal justice reform and eliminate mandatory sentences.

Thank you and fingers crossed!

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