TO: **Sen. Floyd Prozanski, Chair**
Sen. Kim Thatcher, Vice-Chair
Members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation

FR: **Amanda Dalton**
OR District Attorneys Association
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RE: **Concerns with SB 418**

February 16, 2021

ODAA writes to express our concerns with Senate Bill 418. As drafted, the bill will hamstring law enforcement's ability to adequately investigate criminal conduct committed by juveniles in our community.

Oregon Law already provides significant constitutional safeguards for youth who are interviewed in connection with a criminal investigation. All statements in a criminal case can be subject to a Motion to Suppress filed on behalf of the youth by his or her attorney. The Trial Court assesses each situation on a case-by-case basis and makes a determination, based on all the surrounding circumstances, whether the statements were free and voluntarily provided, and that law enforcement did not act in some manner to overcome a reasonable person's free will in providing a statement.

For instance, the Court will consider the age of the youth, the cognitive abilities of the youth, whether the youth is under the influence of any alcohol or controlled substances, how many police officers were present during the statement, how they were dressed (uniform or plain clothes), whether they had a visible gun, whether they read the youth his or her *Miranda* rights (if necessary), and what they said to the youth to elicit a statement. That is, were any threats or promises made, etc., either explicitly or implicitly, that had an effect on the youth's free will in providing information during an interview.

The law does currently allow law enforcement officers to make inaccurate statements to youth who are being investigated for a crime, to possibly elicit a response. Such as, "We found your DNA on the victim" or "We found your fingerprints on the window where the suspect entered the apartment," or "The ballistics from a gun found in your car matches the bullets recovered at the scene" and the Court can always do a comprehensive review to determine whether or not to allow the statements into evidence, which will often be reviewed by an Appellate Court as well.

We are also concerned that the terms “deceit, trickery or artifice, or any other misleading interrogation technique” are overly broad and not adequately defined. This will cause lengthy and time-consuming litigation in an area of the law that is relatively well-settled.

For all these reasons, we ask that you not consider changing the law in this manner and allow Judges to continue to make these important decisions on a case-by-case basis for the youths being investigated, the community, and the victims of crime. Thank you for your time and serious consideration in this important matter.