

Time for a new look at state's youth justice policies

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CONTRIBUTING WRITER

For months, we have heard story after story in the national media about young people — often young people of color — who have been abused by our criminal justice system. The latest story, out

of New York, was about Kalief Browder, a young man who was arrested at 16 and spent three years in solitary confinement at an adult jail while awaiting trial.

Ultimately, his case was dismissed and he

was released, but the trauma Kalief suffered was too great. Tragically, Kalief took his own life.

We are fortunate in Oregon to have a forward-looking juvenile justice system that national experts have upheld as a model for other jurisdictions. In recent years, lawmakers and juvenile justice leaders here have taken steps to better protect young people from the harms of the adult criminal justice system while still holding them accountable in an age-appropriate manner and providing them support to help ensure they will not return to criminal activity. In 2011, for example, lawmakers enacted House Bill 2707, which encouraged local jurisdictions to house youths charged with serious crimes in juvenile detention facilities rather than in county jails while they moved through their court proceedings. Following the passage of that bill, numerous counties revised their policies so that very few, if any, young Oregonians would ever set foot inside a jail cell.

While the horrendous experiences Kalief suffered likely would not have happened in Oregon, we should not be content with the knowledge that young people are treated worse elsewhere. Despite all the progress we have made to hold youths appropriately

accountable and help them rebuild their lives, there is still far more work to do.

Oregon, along with every other state in the country, has laws on the books allowing minors to be charged and convicted within the adult criminal justice system under certain circumstances. The main driver of youths into Oregon's adult system is an amendment to state law resulting from Measure 11, which voters approved in 1994. The law established that any person 15 or older who is charged with one of 21 felonies, ranging from second-degree assault to aggravated murder, will be tried automatically in adult criminal court. Between 1995 and 2008, there were more than 3,200 indictments of youths for Measure 11 offenses.

The enactment of Measure 11 two decades ago followed a national trend at that time toward more punitive, "tough on crime" criminal justice rhetoric and policy. Following an uptick in the juvenile violent crime rate in the 1980s and early '90s, state legislatures enacted numerous laws resulting in large numbers of youths being saddled with adult criminal convictions. Between 1992 and 1999, all but one state broadened its juvenile transfer laws so that more youths would be prosecuted as adults.

In the time since these laws went into effect, it has become clear, through both research and experience, that they do more harm than good. We now know that youths with adult convictions are more likely to commit future crimes compared to similar youths who are adjudicated in juvenile court. Numerous studies have repeated and affirmed these findings: trying and convicting youths as adults leads to worse outcomes for them and does little to deter juvenile crime.

One area of Oregon's justice system that is ripe for reform is the policy regarding earned review for incarcerated youths, also known as "second look." Under current law, some people who are serving time for crimes they committed as juveniles are eligible for a hearing to determine whether

they can serve part of their sentence under parole supervision. However, the law bars people who were convicted under Measure 11 from receiving such hearings. In 2013, House Bill 3194, the most significant public safety legislation Oregon lawmakers have enacted in recent memory, established a Public Safety Task Force composed of legislators and criminal justice practitioners to consider, among other things, the implications of amending the law to allow earned review for young people who were convicted under Measure 11.

There are several reasons earned review for people convicted when they were youths makes good sense. First, there is a wealth of evidence that young people who are incarcerated, even those who are incarcerated in juvenile facilities, face worse outcomes and are more likely to commit additional crimes once released compared to similar youths who are supervised in the community. Second, monitoring and supporting youths at home, at school and in the community is far less costly to taxpayers than keeping them locked up. And finally, people who commit crimes as teenagers show great promise to make positive changes in their lives as they mature and gain experience. They deserve an opportunity to demonstrate those changes and to take accountability for their actions before a judge at an earned review hearing.

The 2015 legislative session is now drawing to a close, and the Public Safety Task Force has not taken action on its earned review study. It will have to confront this issue soon, however, as HB 3194 requires the group to report its findings to the governor no later than Oct. 1 of next year.

In the two decades since we adopted Measure 11, we have seen the harmful, long-term impact of holding youths accountable in the adult system. Changing this outdated and ineffective approach to youth justice, even incrementally, can't come too soon.

SAFETY and JUSTICE

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