

# Misguided measures revisited: Charging youths as adults

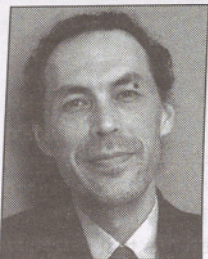
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In 2011, Partnership for Safety and Justice and the Campaign for Youth Justice published "Misguided Measures." We examined Oregon's Ballot Measure 11 (1994)

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and how, by exposing youth to the adult criminal justice system and extreme mandatory minimum sentences, it has caused avoidable harm and

degraded our system of justice. Today, this more than 20-year experiment with a "get tough" response to crime continues to have devastating consequences for young people, families, and communities, while doing little to help crime victims or increase long-term public safety.



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How do youth end up in Oregon's adult justice system?

In Oregon, the main driver of youth into the adult criminal justice system is Ballot Measure 11 (1994). Measure 11 required that any person age 15 or older charged with a specified felony, ranging from second-degree assault to aggravated murder, be automatically tried in adult criminal court. This one-size-fits-all rule pushed judges, who are expected to be impartial, out of the decision-making process and handed all discretion over to prosecutors, whose job it is to get a conviction. Under Measure 11, prosecutors decide which teenagers will be treated as adults and which will not, simply by charging them differently.

In our original report, we described a range of harms caused by Measure 11, from its disproportionate impact on young people of color to the danger faced by teenagers in counties where they were still being held in adult jails. We also described what Measure 11 had not done. Statistically, it had not made Oregonians safer, and it had not increased the likelihood that minors convicted as adults

would later succeed in the community – in fact, the opposite was more likely, given the life-long impact of an adult conviction.

In 2016, the news is not all bad. During the five years since we released "Misguided Measures" and the two decades since Measure 11 passed, persistent efforts by government officials and advocates have eliminated significant harms caused by the ballot initiative. Release of the first installment of our youth justice update, "Misguided Measures Revisited: Part 1 – Keeping Youth Out of Jails," recounts Oregon's efforts to keep young people safe after they have been charged as adults – specifically, ending the practice of confining youth in adult jails.

While this initial update recognizes significant progress, the two remaining segments of our new report will document on-going challenges faced by Oregon's youth justice system. The three briefs of this series, together, will examine:

1. The successful effort to keep minors out of adult jails.
2. The ongoing and devastating impact of Measure 11 on young people and its disproportionate impact on youth of color.
3. The need to address the long-term consequences of adult criminal convictions for youth.

Part 1 of our update concludes with two concrete policy recommendations aimed at improving both the outcomes for justice-involved youth and ensuring the safety of all Oregonians. These are practical solutions that can be implemented immediately – and should, given what we know today about adolescent development and the prevention of future criminality.

## Recommendations

1. Enact statewide legislation to ensure that youth facing adult criminal charges never see the inside of an adult jail cell. State lawmakers should enact legislation that requires counties to place youth in juvenile detention when pretrial confinement is unavoidable. While most counties no longer detain youth in adult

jails, informal local policies can easily shift based on fiscal pressures, changes in the political climate, and a host of other factors. State legislation will ensure the consistent treatment of youth across Oregon.

2. Expand supervised release, so that certain youth who are charged as adults can be managed in the community as their cases move through the court system. When youth can be maintained under supervision in the community, in a safe and stable environment where they pose no danger to victims or the general public, outcomes are usually better for the young person, their families and their communities. Eliminating pretrial detention is also less costly for taxpayers and can promote greater public safety in the long-run, as the young person reaches adulthood.

The more long-term concern that must be addressed is the underlying destructive policy of charging young people as adults. Teenagers are different from fully developed adults. That's established science. Even among people who reject science, most know a teenager and would have to agree that young people are different. The proof is even in language: How many thousands of times a day do teenagers around the world hear, "Oh, grow up!"

Even harder to deny is that, deep down, every adult knows that he or she is a very different person from her or his adolescent self.

And that is the problem: Measure 11's requirement that certain 15-, 16- and 17-year olds face mandatory minimum sentences of 5 years and 10 months up to 25 years makes very little sense in terms of what we know about the judgement and emotional makeup of teenagers – and even less sense still given the cost of incarceration, impact on the young person's future functioning in society and long-term public safety. The challenge in reforming Measure 11, as it applies to young people, is to bring some sense to how we respond to crimes committed by youth – to hold these young people appropriately accountable, while not condemning them for what they are not: adults.

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