

**JUVENILE, from page 4**

prison sentence, and they weren't willing to risk that outcome.

Now Bullitt is a convicted felon, and he will be on intensive probation in the adult system for three years. He remained in custody for 16 days while awaiting the plea deal, and if he violates probation, he could face incarceration for up to one year.

"Even when youth plead to lesser offenses, they are still stuck in the adult system, and they are served by probation officers and other people who are really experienced and have a better understanding of adult offenders than they do of youth offenders," said Mark McKechnie, director of Youth, Rights & Justice.

"Roughly half, now, of the youth that are committed to the Oregon Youth Authority are there on an adult sentence," he said.

In January, there were 311 youths in Oregon Youth Authority correctional facilities serving adult sentences. These youth can't participate in work release and other community-based programs available to youths serving time on juvenile sentences, even though they are held at the same facility.

"You could have two youth who are very similar, in terms of their risk and their behavior," said McKechnie, "but if you have one under a juvenile sentence, OYA has a lot more options, including releasing them, that they don't have for a youth under Department of Corrections supervision."

The practice of trying juveniles as adults has come under increasing scrutiny in recent years as scientific research has emerged showing an adolescent's brain is not fully developed until they are well into their 20s.

Connecticut Gov. Dannel Malloy is pushing his state to include offenders up to the age of 21 in juvenile court. He's also proposed extending certain juvenile justice protections to young adults as old as 25, such as keeping their crimes confidential.

Several countries in Europe already have similar policies in place. Germany has tried young adults up to age 21 in juvenile court since 1953.

While the age a person is charged as an adult in most states is 18, in some states, such as Texas, it's 17, and in New York and North Carolina, a defendant is considered an adult at age 16.

In Oregon, district attorneys have diverted more than 4,000 juveniles younger than 18 through adult court under Measure 11 since 1995, but prosecutors' propensity to use Measure 11 in juvenile cases varies from county to county.

"We tend to see that Multnomah County, along with a couple other counties, is much more inclined to file Measure 11 charges (against juveniles) when they can," McKechnie said.

Bobbin Singh, director of Oregon Justice Resource Center, said his organization is analyzing data on how Measure 11 has been applied to youths since 1995 and expects to publish a report later this spring.

When compared with county populations, the data show that of Oregon's four largest counties, Multnomah has the highest rate of using Measure 11 against juveniles – with 1,200 juveniles charged with Measure 11 crimes between 1995 and 2012. The majority were kids of color.



Before his arrest, Keeshawn Bullitt was the teacher's assistant in his high school dance class, where he helped instruct beginners.

"What you see," Singh said of his preliminary findings, "is a disproportionate use of Measure 11 against kids of color – specifically black kids or African-American kids."

Statewide and in Multnomah County, kids of color made up 66 percent of juveniles charged under Measure 11 between 1995 and 2012, according to Oregon Justice Resource Center data.

Second-degree robbery was most frequently the severest Measure 11 charge facing youths.

Street Roots' examination of the 49 juvenile Measure 11 cases resolved in Multnomah County in 2015 revealed 74 percent of defendants born in 1997 or later were kids of color.

This trend continued with young adults, with 69 percent of defendants between the ages of 18 and 21 charged with Measure 11 in Multnomah County also being minorities.

In both age groups, black youths were charged with Measure 11 more than any other race.

The prosecutor on Bullitt's case was Elisabeth Waner. She said, "sympathy factors" like age and prior criminal record come into play later, when a plea deal is offered. "It truly does come down to a matter of legal sufficiency," she said, and her office is obligated to treat everyone equally under the law.

She said because the boys committed the robbery as a group and because there was a knife involved, it qualified for both first- and second-degree robbery charges.

Adding increased seriousness to a crime because it was committed as a group – in the case of teenagers – goes against what we know about the teenage brain, said Lane Borg, director of Metropolitan Public Defenders.

Numerous studies over the past decade have revealed increased risk-taking behavior in teens is directly related to their adolescent brain chemistry and that risk-taking behavior is heavily influenced by the presence of other teenagers.

In 2014, researchers in the psychology department at Temple University published a paper showing the perceived reward value of risky behavior goes up in teenagers when they are in the presence of their peers.

Additionally, one of the last parts of the

brain to fully mature is the area that weighs long-term consequences and controls impulses, according to National Institute of Mental Health.

Borg remembers that when Measure 11 first passed, judges were shocked when they saw cases involving kids who used guns and knives when stealing beer or tennis shoes.

"The thinking was, 'If these kids will go to these lengths now, what will they do as adults?'" he said. "Given what we know now – it's stupid to call 18 'adult.' We know using a gun to get beer is more of an example of the impulsivity and irrationality of the teenage brain."

He said Oregon should reverse the way it applies group behavior to criminal charges when it comes to teenagers. Instead of group behavior making a charge more serious, he said the court should acknowledge the group behavior more along the lines of, "They were acting like idiot teenagers and showing off."

Borg said implicit bias likely plays a role in the disproportionate rate at which black and Latino youths are sent through the adult system in Multnomah County.

Implicit bias, as opposed to explicit bias, occurs outside of conscious awareness and control. An ongoing study at Harvard, Project Implicit, took bias scores from more than 1.5 million Americans and determined most white people demonstrate bias against black people, even if they don't know it.

This can come into play when a person views a group of people of a race or ethnic background other than their own. Implicit bias, when left unchecked, can cause them to perceive the group as acting together, even when they are not.

Because being aided by another person can be the difference between second and third degree robbery – in other words, between Measure 11 and non-Measure 11 – Borg said the question of implicit bias should be raised during questioning.

He said another key "is getting the prosecutor and victim to be comfortable that the intervention will solve the problem – that the kid won't do it again. When there is a racial difference, it's harder to identify with the defendant."

American Psychological Association published a 2014 report suggesting black boys are perceived as less innocent than

white boys.

The authors stated evidence showed "Black boys are seen as older and less innocent, and that they prompt a less essential conception of childhood than do their White same-age peers."

One of the studies featured in the report indicated that, beginning at age 10, there are racial differences in assessments of innocence. Test subjects indicated black boys were more culpable of suggested crimes, and when a felony crime was suggested with a photograph, they overestimated the age of black boys by more than four years.

In 2008, sociologist Michael Kimmel reported that middle-class white boys are not held fully accountable for their actions well into their 20s, but research suggests black children may be viewed as adults when they are as young as 13, leading the study's authors to conclude that "Black children may be perceived as innocent only until deemed suspicious."

The Multnomah County District Attorney's Office employs three black attorneys, representing 3.4 percent of its prosecutors. In total, there are 15 minority prosecutors, which means 83 percent of the prosecutors are white.

While this may be roughly representative of the county's population, which is 76 percent white, the population processed through the district attorney's office is only 67 percent white, with 20 percent being black, according to 2014 data analyzed by the MacArthur Foundation.

District Attorney Rod Underhill told Street Roots in an email, "Obviously, my office plays a greater role in some of the decision points than in others. The decision to arrest an individual rests primarily with law enforcement agencies."

"Neither the MacArthur report, nor the actual data, answers the question of why cases in which people of color are accused of serious criminal activity are referred to my office at a significantly higher (relative) rate than those in which Caucasians are similarly accused," and that he "would like to know more about the reasons surrounding this troubling and persistent issue."

He said his office does not add to the disparity because it moves forward on cases against people of different racial and ethnic groups at roughly the same rate, as shown in the MacArthur Foundation's report. But this doesn't explain his office's propensity to charge black and Latino 15 to 17-year-olds as adults.

According to an Intelligence Report written by the director of the Southern Poverty Law Center's Legal Department, "Under American Law, government prosecuting attorneys have nearly absolute and unreviewable power to choose whether or not to bring criminal charges and what charges to bring."

If Bullitt stays out of trouble and doesn't violate his probation, he'll be able to expunge his criminal record in three years. However, his family worries the online media reports will haunt him forever.

Because all Measure 11 cases are in adult court, they are public record, as opposed to juvenile cases, which are kept sealed. Both KOIN and The Oregonian published stories