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with Street Roots to talk about how she's seen Measure 11 play out in the courtroom.

A graduate of University of Oregon's School of Law, Horne has worked at Metropolitan Public Defenders for 15 years.

Emily Green: *When did you first begin to think there was something wrong with the way Measure 11 is applied to youths?*

DeAnna Horne: The first time I had a client charged under Ballot Measure 11. The first time that happened, my client was first charged in juvenile court with this series of events that ended up being charged under Ballot Measure 11. In the (juvenile justice) delinquency world, you get to know so much about the family and backgrounds of children and what kind of things led into their behaviors and all that stuff. When it became an adult prosecution, all of those supports for that family were gone.

Teenagers are impulsive. They make bad choices and the story writes itself. A bunch of teenage boys get together and what happens? Generally something stupid. That's what happened in that particular case, and I was like, this isn't right.

E.G.: *What kinds of supports did they have in juvenile court that they lost being moved into adult court?*

D.H.: If you've got a youth in detention on juvenile charges, it's going to be a partnership of people that get together. It's going to be the juvenile court counselor, and it's going to be a group of people that supervise youth on release, and the family is going to come in and sit down. There might be workers from the Department of Human Services that come in to support the family. There could be drug and alcohol counselors that come in. It becomes a whole team that really wraps this child up in a supportive way, with the recognition that youth do better outside of detention.

When you move somebody from that juvenile world to the adult world, first of all, you lose a lot of the confidentiality that that teen holds – their name gets published in the newspaper, everybody knows, their families are known, that kind of thing. The other thing that happens is you don't have that collaborative process with the recognition that kids really change and they really grow and the best way they can change and grow is with support of a community. That community really goes away in the adult system because that system really becomes a

punitive system rather than a supportive and growth-oriented system.

E.G.: *Do you think the problem is with the law itself, or is the problem with the prosecutorial application of the law?*

D.H.: There are lots of places in our law and in our society where we recognize that kids are different than adults, and yet, when you're 15, 16 or 17 years old in Oregon and you do a particular list of things, and some of them sound pretty familiar to anybody who has been around teenagers – yes they do that. So it's like we're going to treat them like adults all of a sudden because of the behavior, because we can describe the behavior in such a way, so I hate that the law exists.

Now the question about whether or not there is a prosecutorial choice, we don't know. One of the things that happens in our criminal justice system is that prosecutors decide things in a vacuum – they decide them in a black box. As members of society, we don't get to understand what thought processes go into whether you charge a particular child under Ballot Measure 11.

Like why are you going to charge the Assault III, which would be charged in juvenile court, or are you going to charge the Assault II, which is Ballot Measure 11, and now you're charged in adult court. What decisions does a prosecutor make at that point when making that charging decision? We don't know.

Mr. Underhill (Multnomah County District Attorney Rod Underhill) has recognized that some of the kids charged under Ballot Measure 11, that start off in adult court, really do belong in juvenile court. Underhill looks at every single one of the cases that his office returns from adult court into juvenile court under Ballot Measure 11. So it's really on the defense attorney to convince the prosecuting attorney and Rod Underhill that your client is a kid and belongs in juvenile court.

That system was really in response to their realization that here in Multnomah County, we're treating children of color as adults more often than white kids.

I applaud Multnomah County District Attorney's Office for recognizing that this is

an issue and moving to address it on the back end, but on the front end, there's really no check on how they're charging. Are they making that Ballot Measure 11 choice for kids of color more often than they are for

white kids? I suspect I know the answer to that because I very rarely represent a white kid charged under Ballot Measure 11.

E.G.: *So they might stay in adult court even though they are no longer being charged under Ballot Measure 11?*

D.H.: Yes, that has happened. It used to happen with significant frequency – we never got kids returned to juvenile court – that in order to make a plea deal, your

client had to agree to adult jurisdiction. And so what would happen then is that you've got a kid who is has just made admissions to a crime that would have been a juvenile court jurisdiction, but they're being supervised by adult probation officers and being offered the services that they offer to adults in the Department of Community Justice and not offered things available in juvenile court, like Project Payback, which is a way that they can do community service and earn money to pay their restitution. Really appropriate mentorships for youth, or a real one-on-one relationship with a juvenile court counselor that specializes with youth and not supervising adults. It's a little troubling.

E.G.: *Street Roots examined a case out of Grant High School a couple of years ago, where four teenagers surrounded a classmate and demanded his money, and one of the kids pulled out a pocket knife. They were all charged under Measure 11, second-degree robbery, which carries a mandatory minimum sentence of five years 10 months. Of the four kids, none had any criminal history. How common is it for you to see a Measure 11 case against youth where the crime seems worse on paper than the reality of the situation actually is?*

D.H.: All the time. The most frequent Measure 11 charges that I get for youth are robbery in the second degree, which can be completed in one of two ways. One is being armed with something that's not a deadly weapon – like a knife or a BB gun. Or it can be committed by being aided by another

person. So, like a group of people ganging up on another person.

And Assault II, which is also not a deadly-weapon situation, but if you get whole gang of people beating someone up, it's particularly frightening for the victim in the case, and I understand that, I really do. But the stories kind of write themselves, right? Generally, a bunch of teenage boys decide together that a really good idea is to take somebody's cellphone out of their hand. And they all – you can picture it, right – they all swoop in and somebody punches somebody and somebody takes the phone and goes “woohoo” and runs away. Those stories are so full of that youthful, impulsivity and bad choice making that make teenagers so particularly teenager-y, and make them special and adorable and frustrating and all those things that teenagers are, all at the same time. It sounds pretty awful when somebody held a fake gun to somebody's head and somebody else came in and snatched the cellphone – that is terrifying for the person who's on the receiving end – but when you start looking at it from the point of view of the offenders, it is kind of like, of course something happened. There's five boys running around and someone's got a BB gun; something bad is going to happen.

E.G.: *Have you had Measure 11 cases where the weapon was a BB gun or a fake gun?*

D.H.: Oh yeah. Both adults and juveniles, actually. For second-degree robbery, it can also be pretending to have a weapon. So like sticking your hand in your pocket and being like, “I have a gun.” And it's really just your finger. But that really doesn't make it any less terrifying for the person who is on the pointy end of your finger.

E.G.: *Do you think it is ever appropriate to charge a youth as an adult?*

D.H.: I don't. Kids are different, and the brain science continues to prove it over and over again. Most of us don't have fully formed frontal lobes with good executive functioning and really good decision making until we're 25. Some of us even take longer – I might have taken longer with my 12 years to finish an undergrad degree, you know, but we've put this arbitrary mark at 18 and said, “now you're responsible” and it's probably that that number itself is too low, but can we at least be consistent and stay at 18?

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however, investigating a complaint related to signature gatherers working for the same company who collected signatures for Measure 104. That measure would expand the three-fifths supermajority vote requirement for any legislation that raises revenue through tax exemptions, credits and deductions.

Voters who signed petitions in various areas around Portland told Street Roots they felt they'd been misled into signing the petition for the initiative to repeal the state's sanctuary status, with many saying they support Oregon's sanctuary status and would never have signed the petition if they

knew what it could actually do.

In Oregon, making false statements to anyone who signs a petition or makes requests of information about it can result in a felony conviction and fines of up to \$125,000.

According to the justice department, to prove a violation of that statute, it would have to prove beyond a reasonable doubt that a circulator made a specific statement, that the statement was false, and that the circulator knew the statement was false at the time the circulator made the statement.

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