

Nancy Campbell
PO Box 354
Depoe Bay, Oregon 97341

TO: Joint Committee on Public Safety

FR: Nancy Campbell, Retired Washington County Circuit Court Judge

DA: April 3, 2013

RE: Support for HB 3194 Public Safety Package

Co-Chairs and Members of the Committee:

For the record, my name is Nancy Campbell and I am a retired Circuit Court judge from Washington County, now living in Depoe Bay, Oregon.

I am providing this testimony to share my experience with *State v. Rodriguez/Buck*, a case argued before the Oregon Supreme Court in 2008. This case was a consolidation of two individual cases, one from Washington County and the other from Marion County, which the Supreme Court considered simultaneously because their presenting issues were so similar.

Both cases involved a charge of First-Degree Sexual Abuse, which I understand is before you for considered sentencing modification. When Veronica Rodriguez was convicted of this crime in my court in 2007, I sentenced her to 16 months in prison rather than the 75 months required by Measure 11. At no other time in my judicial career did I take such an extraordinary measure. I felt my actions were warranted in this case due to the nature of Ms. Rodriguez's offense, and the Oregon Supreme Court agreed.

It is never pleasant to discuss crimes, particularly those involving sexual abuse. In over 20 years on the bench, I saw a wide range of cases, some of which were horrific and warranted the long sentences the defendants received. The *Rodriguez* case was different. This case involved a young – and I think immature – teacher who took a 12-year-old student under her wing. Ms. Rodriguez worked at the Boys and Girls Club with at-risk youth. She took special care of this particular child, driving him to school and offering support and attention outside of the classroom. She clearly overstepped professional boundaries with this child and violated the rules of her employer.

Ms. Rodriguez was convicted for standing behind this child, in a room with 30 to 50 other people, and holding his head to her chest while patting his head for approximately one minute. A jury found that she had done this for sexual gratification, and that she was therefore guilty of Sexual Abuse I.

Under Measure 11, the mandatory sentence for Sexual Abuse I is six years and three months. During my time on the bench, I saw a range of cases. Some, as I said earlier, clearly warranted a lengthy sentence, but others seemed to deserve greater attention to the individual circumstances of the crimes. The Rodriguez case, for me, was the most egregious example of disproportionate sentencing. Ms. Rodriguez had exercised very poor judgment, but over six years in prison was an unconscionable sentence for her crime. While it was my duty to uphold Oregon law, I could not impose that sentence as I believed, considering the facts of her case, it would constitute “cruel and unusual” punishment.

While this was a bold decision, I knew it was the right one under the law, and the Oregon Supreme Court upheld my decision. Judge McCormick in Marion County had a First Degree Sexual Abuse case in which he similarly imposed a lesser sentence than what the law called for, and the Oregon Supreme Court upheld his decision as well. This is not a story of activist judges acting irresponsibly. My story, and I think that of Judge McCormick, is about challenging a law whose restrictions sometimes prevent judges from fulfilling our duty in the courtroom as the neutral arbiter between the two parties in a case. Mandatory sentencing does not allow judges to look at criminal history. Indeed, it can restrict us from imposing *longer* sentences when the crimes warrant them.

I take my role as a public servant seriously. Much of my work outside the courtroom has focused on the needs of victims of domestic violence. I founded Washington County’s Domestic Violence Intervention Council in 1993 because of my deep concern for the victimization that can occur in the home. For 13 years I worked with victim services, law enforcement and social service providers to better meet the needs of these victims. I know serious harm when I see it, and I believe in accountability. But our justice system must impose sentences that are proportional to the crimes committed. Ms. Rodriguez should not have received the same sentence as a father who regularly molested his own daughter.

In conclusion, I strongly urge you to modify Measure 11 to provide for sentencing discretion that would allow a judge to take into consideration the facts of the case, the criminal history (or lack thereof) of the defendant, and other mitigating and aggravating factors. The factual scenarios that constitute Sexual Abuse I vary so widely, from forced under-clothing genital contact (just short of Rape or Sexual Penetration) by a defendant who has been previously convicted of sex crimes, to a scenario such as in the case of Ms. Rodriguez. These very different scenarios deserve to be treated differently when considering what sentence is appropriate. Thank you for your time and consideration.

Nancy W. Campbell
Senior Judge