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# **JUVENILE JUSTICE IN OREGON**

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**An Analysis of the Performance of Oregon's Juvenile Justice System  
and  
Specific Recommendations for Improvements**

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This report is dedicated to **Bob and Dee Dee Kouns** pioneers for victims' rights in Oregon. After the murder of their daughter, **Valerie Dee McDonald** in 1980, they dedicated the rest of their lives to improving Oregon's criminal justice system. Amongst many other accomplishments, their work lead directly to the overhaul of Oregon's juvenile justice system in 1995. They have left a powerful legacy of volunteerism and public service which is a shining example to all who wish to serve our citizens.

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## PREFACE

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This report is the first formal attempt to compare the performance of Oregon's juvenile justice system with other states since Oregon's system was overhauled by the legislature in 1995. The foundations of Oregon's current juvenile criminal justice policy were established through the leadership of then Oregon Attorney General Ted Kulongoski in Senate Bill 1 and passed by the legislature and signed into law by Governor Kitzhaber in 1995. This landmark legislation fundamentally restructured Oregon's juvenile system, created the Oregon Youth Authority and established the concept of "early and certain intervention and sanctions" as the most effective way to hold juveniles accountable for their criminal behavior. (ORS419C.001)

Despite this clear legislative mandate, many of Oregon's juvenile departments have abandoned the principles of Senate Bill 1 through the influence of a large out-of-state private non-profit organization called the Annie E. Casey Foundation. As a result of the influence of the "Casey philosophy", more than a third of all juveniles accused of criminal behavior now have their cases dismissed with no action taken by the system. It is difficult to square these practices with the clearly stated principles of Senate Bill 1, particularly when considering Oregon's poor performance in reducing juvenile property and drug crime.

The writers of this report believe it is time to conduct a closer examination of how Oregon's juvenile system is actually performing in order to make it more effective and return it to the principles embodied in Senate Bill 1. Unfortunately, the most recent session of the legislature focused its attention on violent juvenile crime, an area in which Oregon has performed well. Since 1995 violent juvenile crime has dropped more than 50% and has remained far below national juvenile crime rates. In contrast, juvenile property crime in Oregon has remained well above national averages. And, most alarmingly, drug usage and addiction by juveniles in Oregon has reached epidemic proportions, ranking second nationally. This report focuses on areas of our current system that are underperforming, property crime and drugs.

Oregon is extremely fortunate to have so many dedicated professionals working in our juvenile justice system. These individuals work hard every day to help young people in trouble with the law and their efforts are to be commended and supported. Juvenile justice policy should be designed to help these professionals be as effective as possible in their important work and this report is intended to do exactly that. It should not be interpreted as criticism of them or their work. This review of the current system is designed to foster more transparency and effectiveness as measured by the best available data. However, any such review always brings some criticism or resistance from those within the system. We regret, but understand that inevitability.

This report concludes with specific recommendations which are intended to improve the entire system, particularly in the area of data collection and analysis. Even after these recommendations are implemented, however, the hard work of evaluating their effectiveness should continue indefinitely. We believe good public safety policy requires constant reassessment and improvement using the best, more complete data. We look forward to working with our colleagues in the system to make this happen.



John S. Foote  
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## **EXECUTIVE SUMMARY**

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Since the mid-1990s, juvenile justice departments in Oregon have evolved toward a “reformist” model of juvenile justice policy promoted by certain youth advocacy foundations across the nation. The philosophy behind this model suggests that lower youth detention rates and less involvement of formal justice institutions, such as the court system, are ultimately more effective in preventing juvenile criminal behavior than more traditional practices. Led by the Baltimore-based Annie E. Casey Foundation, which provides private funding for juvenile agencies that adopt its philosophy and practices, numerous counties across the nation have moved to limit juvenile detention and court processing of juvenile offenders. Oregon has been in the vanguard of that process.

Eleven of Oregon’s 36 counties have officially adopted Casey Juvenile Detention Alternatives Initiative (JDAI) policy and funding, and many of the others, though not officially signed up for Casey assistance, have largely embraced the practices advocated by that organization. As a consequence, Oregon has one of the nation’s lowest pre-adjudicatory juvenile detention rates and one of the lowest rates of formal court processing for juvenile offenders.

While Oregon as a whole has higher juvenile crime rates, lower rates of juvenile court petitions filed, and less use of juvenile detention than national averages, it is important to recognize that a small number of Oregon counties buck these overall state trends. For instance, while Oregon’s overall juvenile arrest rate is well above the national average, the juvenile arrest rates in six Oregon counties are actually below the national overall juvenile arrest rate. Oregon’s juvenile property arrest rates are also well above the national averages, but again seven Oregon counties are below. There are also a smaller number of counties that do not follow the Casey model of low detention rates and reluctance to involve the court system in juvenile delinquency matters. These counties tend to be smaller in size and their mainstream policies have little statistical impact on aggregate state rates. For example, Crook County (pop. 20,855) has one of the highest rates of petitions filed and uses of detention in the state and one of the lowest rates of recidivism. Please see the graphs included in [Appendix A](#) for more details about the performance of Oregon’s counties when compared to national and state averages.

### **Juvenile system crime performance in Oregon.**

There is abundant statistical evidence that Casey-funded departments across the nation have significantly reduced juvenile detention and formal court processing of offenders, as is evident in Oregon. There is no statistical evidence, however, that these agencies as a whole have produced better results than traditional systems across the nation in controlling juvenile crime.

In Oregon, as its juvenile justice system has increasingly adopted Casey practices over the past decade, the state has continued to produce significantly worse juvenile crime results than mainstream systems in all areas of non-violent crime, which in Oregon are the areas over which the juvenile justice system has control.

In at least one area of juvenile crime, adolescent drug abuse and resultant drug addiction, Oregon's performance in the Casey Foundation era borders on catastrophic, deteriorating over a decade from better than average to the second worst rate in the nation. In Oregon today, as many minors use illegal drugs as drink alcohol.

The contrast between the performance of Oregon's juvenile and adult systems is best seen in the area of major violent crime, where twenty years ago adult jurisdiction was mandated by state statutes for juveniles 15 years of age and older for major violent crime. Since the implementation of adult jurisdiction for major violent crimes in 1995, violent juvenile crime has decreased by 68%, one of the very best performances in the nation.

Unfortunately, in the last 20 years of Casey influence, no attempt has been made to critically analyze and compare the overall performance of Oregon's juvenile justice system to systems in other states. The closest effort was a fairly limited 2003 Department of Administrative Services study of OYA youth recidivism.

This report is an effort to review the comparative effectiveness of Oregon's juvenile justice system through a number of measures that are commonly used to assess the performance of justice systems, and particularly of juvenile systems. The measures used in this study are juvenile arrest rates, juvenile referral rates, and juvenile recidivism rates.

None of these measures indicate that Oregon's juvenile policy is more effective in controlling juvenile crime in the community than mainstream systems. In fact, the bulk of the evidence demonstrates the opposite.

### **Budget performance.**

Since a key selling point of juvenile detention reform has been the Casey Foundation assertion that such reforms save taxpayer money, an analysis of government budgets has been conducted to determine if claims of taxpayer savings are borne out under scrutiny. The results are mixed.

On the state level, for many years Oregon has had one of the most expensive juvenile justice systems in the nation, currently the fifth most costly nationally in per capita spending. However, the Oregon Youth Authority in recent years has definitively moved to effectively manage staffing levels in response to changing youth commitments and detention populations. This has resulted in a static budget over a number of years, and if adjusted for inflation, actual taxpayer savings. Declines in juvenile detention populations at OYA facilities have been appropriately accompanied by staff reductions, although the system still remains one of the most expensive in the nation. The trend in state government financial management is generally positive.

On the county level, however, especially in JDAI-affected counties, financial results are discouraging. A review of the budgets of the primary Casey site in the state, Multnomah County, demonstrates that despite purported reductions in detention populations prompted by the

adoption of Casey Foundation detention philosophy, the county today is actually employing more detention staff, at significantly greater public expense, than before the reductions occurred. In actual terms, while Multnomah County and the Casey Foundation have claimed juvenile detention reductions of 86% since JDAI practices were implemented, detention staffing levels have actually increased by 14%, and inflation adjusted detention budgets have increased by 61%. The reason expected budget reductions that might accompany detention reductions have not materialized is because those purported reductions in juvenile detention have largely been illusory. The juvenile detention population in Multnomah County today remains roughly the same as in 1994.

Multnomah County also provides juvenile detention services for Clackamas and Washington counties under intergovernmental agreements. Payments for those services are determined on a cost per day per bed basis. As detention costs have risen in Multnomah County, costs have also increased in those two neighboring counties. By ripple effect, therefore, juvenile detention costs for Clackamas and Washington counties have more than doubled in the last decade. Consequently, the implementation of JDAI policy in Oregon has been accompanied by dramatic taxpayer cost increases in these three major counties that constitute almost 45% of the state's population.

### **Casey Foundation performance across the nation.**

Although this report is designed as a review of the Oregon juvenile justice system, it is impossible to review the Oregon system without also examining the performance of Casey Foundation policies across the nation. Those policies are so influential in Oregon that a general picture of Casey performance throughout the country is necessary to explain juvenile justice trends in this state. Accordingly, an extensive [appendix](#) is attached that focuses on Casey JDAI site performance elsewhere in the United States. The information contained in the [appendix](#) demonstrates that, overall, JDAI sites have higher non-violent crime rates than mainstream systems, that juvenile crime trends at those sites are significantly worse than at mainstream systems, and that budget performance at states with high concentrations of JDAI sites has been worse than in states with little JDAI involvement. In short, the performance of the Oregon juvenile justice system is mirrored by the overall performance of Casey Foundation sites elsewhere.

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## **I. OREGON'S JUVENILE JUSTICE SYSTEM**

Oregon's juvenile justice system is comprised of a multitude of government agencies, each having significant effects on the performance of the system as a whole. Each county, individually or as a member of a collective, has a county juvenile department which makes key determinations regarding how juvenile cases will proceed in the system. The Oregon Youth Authority, a state agency, has responsibility to control and treat delinquent youth who have been committed to its jurisdiction by county courts after processing by county juvenile authorities. Underlying the entire process is the discretion of local police agencies, which usually represent the first point of contact with delinquent youth, and which may follow differing policies in choosing to, or declining to, refer juvenile cases to the juvenile system.

As a consequence of these layers of control in a state where differing political and social stances are evident, conclusions about the operation of the Oregon juvenile justice system must naturally be accompanied by the caveat that, while the overall operation and philosophical direction of juvenile justice in Oregon seem clear, there are significant differences in opinion, practices, and policy within the many agencies that have a hand in juvenile justice in Oregon. Those differences are evident in an examination of detention and court involvement policies. ([Appendix A](#))

### **Adoption of Casey Foundation practices.**

As a whole, juvenile justice policies and practices in Oregon are characterized by an adherence to what may be termed a reformist trend in juvenile policy that seeks to drastically alter the practices of juvenile justice policy across the nation. This movement is led by youth advocacy agencies, and most prominently the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), a multi-billion dollar private foundation that has contributed hundreds of millions of dollars to fund state and local juvenile agencies which adopt its policies. The policies advocated by the Casey Foundation promote drastic reductions in juvenile detention in all stages of delinquency cases, drastic reductions in the involvement of the court system for delinquent youth, and the significant use of "risk tools" rather than personal evaluations and assessments by professionals and judges to determine how the justice system should react to delinquent behavior.

Multnomah County was one of JDAI's national pilot programs, accepting a multi-million dollar grant from the Casey Foundation in 1994, and adopting and implementing JDAI policy since that date. In 2006, ten other Oregon counties, as members of a juvenile justice cooperative, followed suit. A review of Oregon's juvenile justice system demonstrates that, taken as a whole, Oregon closely adheres to the following hallmark policies advocated by Casey Foundation.

## 1. Reduction in juvenile detention.

The reduction of juvenile detention is one of the hallmarks of Casey Foundation policy, and Oregon has one of the lowest rates in the nation of pre-adjudication detention for new criminal charges against juveniles (Chart 1).<sup>1</sup>

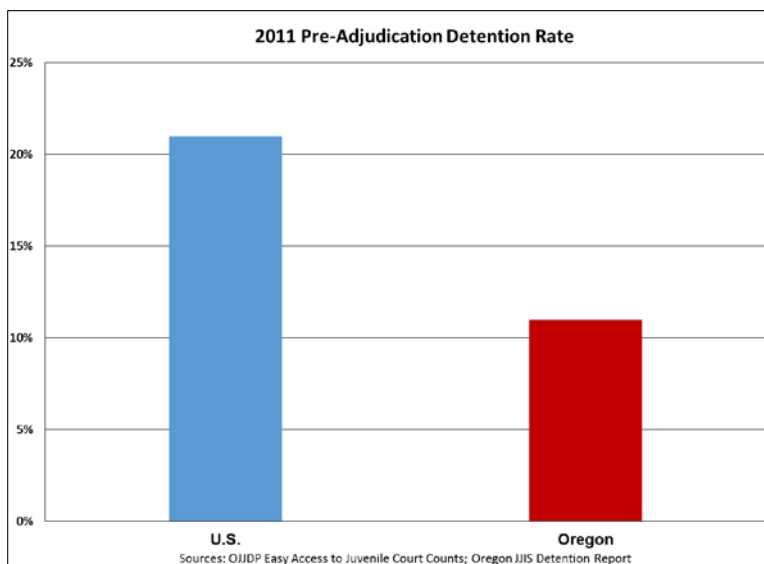


Chart 1. Pre-Adjudication Detention Rate

This disparity with national pre-adjudication rates is seen in detention facility statistics. In Oregon, 14.3% of detained juveniles are held in local detention facilities, which are predominantly used for pre-adjudicatory detention. Nationally, the figure is 30.9%. Only three other states hold a lower percentage of their detained juveniles in detention facilities.<sup>2</sup>

## 2. Risk assessment tools.

At the very core of Casey Foundation policy is the belief that the use of mechanisms such as an “offender risk assessment tool” permit juvenile departments to accurately assess the likelihood that each offender will commit subsequent crimes. The results of these assessments guide the system’s response to each delinquent act. These assessment instruments are designed to minimize the influence of personal judgment and discretion in decisions made by juvenile officers, state’s attorneys, and judges, and to process offenders based on risk scores and personal developmental needs identified by the tool.

A standardized risk assessment tool is in place through Oregon county juvenile departments which was constructed in collaboration with the Casey Foundation. (The Oregon Youth Authority has a separate risk assessment tool which was not created in the same manner). It is designed to determine what level of processing is necessary for delinquent youth. That tool, the JCP, according to the Oregon Juvenile Department Directors Association, “is utilized by all County juvenile departments and community prevention partners, allowing juvenile justice

<sup>1</sup> OJJDP, Census of Juveniles in Residential Placement, [http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State\\_Adj.asp](http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State_Adj.asp)

<sup>2</sup> Id.

professionals to focus critical resources on the highest risk youth, preventing low risk youth from penetrating further in the system.”<sup>3</sup>

Using the JCP risk assessment tool, and applying JDAI principles, juvenile departments opt to close almost 34% of cases of juvenile criminal activity at intake, with no resultant supervision or court involvement, on the theory that the risk tool identifies these offenders as more likely to benefit from the system taking no actions on their case.

### **3. Low rates of formal or informal supervision and sanctions.**

When a juvenile is arrested for a crime and referred by a police department to juvenile authorities, three major types of action can occur. First, the case can be closed at intake with no action taken by juvenile authorities. Second, an offender can be supervised informally by the juvenile department, without involvement of the court system, by mutual agreement of the parties. Third, the offender can be formally charged (“petitioned”) and processed in the court system. Nationally, 20% of juvenile cases are closed at intake with no action, 36% of cases are supervised or sanctioned informally by the juvenile department, and 54% are formally charged in court.<sup>4</sup>

The Oregon juvenile justice system, as a whole, and again in line with Casey Foundation policy recommendations, operates very differently. According to the Oregon Juvenile Justice Information System (JJIS), 34% of Oregon juvenile referrals are dismissed at intake with no sanctions or supervision. In some counties, dismissal figures exceed these state averages. In Multnomah County, 59.6% of juvenile crime referrals result in immediate dismissal and no action by the juvenile authorities beyond a possible warning letter. In that county, no action is taken on 79.0% of juvenile theft referrals; no action is taken on 67.0% of general property crime referrals; and no action is taken on 53.1% of juvenile drug abuse referrals.

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<sup>3</sup> “The OJDDA Perspective—Juvenile Justice Policy, Practices and Outcomes in Oregon.” (Appendix E)

<sup>4</sup> OJJDP, Delinquency Cases in Juvenile Court, 2010, <http://www.ojjdp.gov/pubs/243041.pdf>

Formal court processing rates in Oregon are also well below the 54% national average for the filing of court petitions. In Oregon, only 30.9% of crimes referred to juvenile department result in formal court charges<sup>5</sup> (Chart 2).

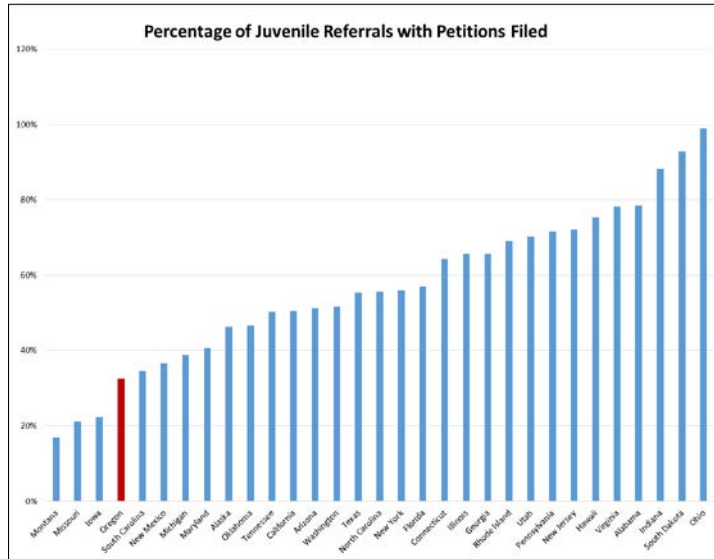


Chart 2. Percentage of Juvenile Referrals with Petitions Filed

Only Missouri, Montana and Iowa have lower percentages of referrals resulting in court petitions.<sup>6</sup> As might be expected in a state where many juvenile departments have been de-emphasizing formal court processes, petition rates have been declining in recent years. From 2006, the first year that Oregon reported to OJJDP comparative figures of referrals with petitions filed and referral without petitions, Oregon’s petition filing rate has declined from 36.7% to 30.9%.

<sup>5</sup> OJJDP, Easy Access to State and County Juvenile Case Counts, <http://www.ojjdp.gov/ojstatbb/ezaco/>

<sup>6</sup> These three states all have juvenile crime rates above the national average.



In some Oregon counties the rate of court petitions is much lower than even the state average. Multnomah County juvenile department officials, for instance, obtain delinquency petitions in only 18% of cases presented to juvenile authorities by police departments (Chart 3).

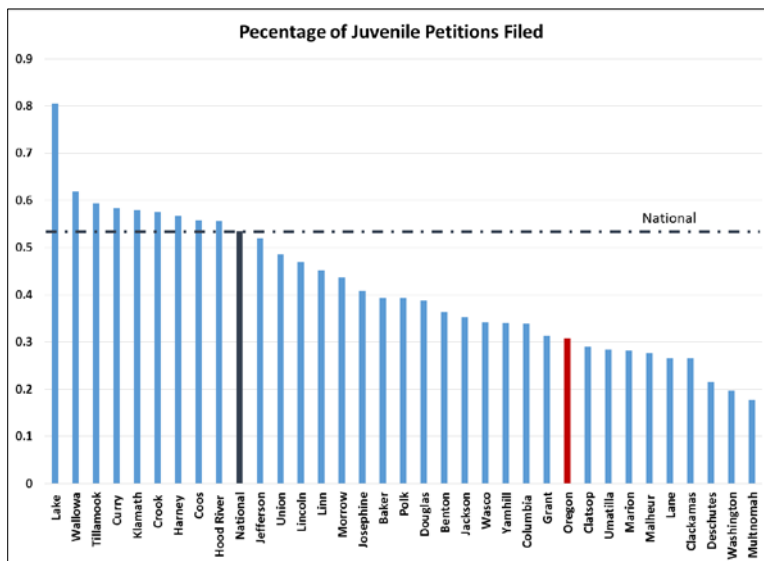


Chart 3. Oregon Counties Percentage of Juvenile Petitions Filed

A broader assessment of Oregon juvenile court involvement can also be obtained by comparing the number of juvenile arrests made by police officers to the number of cases ultimately brought to juvenile court. Each time a police officer arrests a youth, the potential exists for the court system to become involved in the case. However, the police department may choose not to refer the case to the juvenile department, the juvenile department may choose not to seek a petition from the prosecutor’s office, and the prosecutor’s office may decline to charge the offender with a petition to juvenile court. Taken together, the figures on these decision points define the overall inclination of an entire juvenile system to involve formal court processes in attempts to reform or treat youth offenders.

An examination and comparison of total juvenile arrest figures and total petitions filed again demonstrates that Oregon’s juvenile system is more reluctant to address juvenile offenses by using formal court procedures than almost all other systems in the nation. In Oregon in 2010, police made 26,155 arrests of juveniles.<sup>7</sup> The Oregon juvenile court system that year recorded 7,792 total petitions.<sup>8</sup> This was the fourth lowest ratio of formal court filings to arrests in the nation. Only Wyoming, Pennsylvania, and Montana had lower rates.<sup>9</sup>

Magnifying the effect of low rates of petition filings and court supervision, and almost certainly as a result of those low rates of system involvement, certain police agencies display extreme

<sup>7</sup> OJJDP, Easy Access to FBI Arrest Statistics.

<sup>8</sup> OJJDP, Easy Access to Juvenile Court Case Counts. Per the OJJDP, this data, “compiled and analyzed for the annual JCS report constitute the most detailed information on youth involved in the juvenile justice system and on the activities of U.S. juvenile courts.”

<sup>9</sup> These three states all have juvenile crime rates above the national average.

reluctance to arrest or refer juveniles at all in certain classes of crimes.<sup>10</sup> For instance, again in Multnomah County, with a population of 770,000, police agencies made only 228 juvenile drug arrests in all of 2011, the last year comparative arrest data was available. Those arrests resulted in a total of only 79 youth brought to court on petitions for drug and substance abuse crimes in the county that year.

Multnomah County is Oregon's only totally urbanized county, containing the only major-sized city in the state, and constituting 19.5% of state population. In 2011 Oregon had the tenth highest level of juvenile illicit drug use in the nation, and the fifth highest level of juvenile cocaine use,<sup>11</sup> and presumably that level of drug use was prevalent also in Oregon's most urbanized county. Yet, in 2011 the county accounted for only 7.0% of total juvenile drug arrests and for only 4.3% of total Oregon youth referred to court for drug abuse offenses. In 2011, by contrast, 20.2% of total state adult drug arrests were made in Multnomah County, a number corresponding almost exactly to the county's percentage of state population.

In the city of Portland itself, with a population of 583,776 in 2010, the type of major metropolitan area where drug activity historically flourishes, the Portland Police Bureau made only 129 juvenile drug abuse arrests in all of 2011<sup>12</sup>, or 4% of the state total of 3,265 juvenile drug abuse arrests. As a matter of comparison, in 2011, the city of Bend (population 76,639) recorded 124 juvenile drug arrests, the city of Medford (population 74,902) recorded 114 juvenile drug arrests, and the city of Springfield (population 59,403) recorded 122 juvenile drug arrests.<sup>13</sup>

Clearly, certain police forces have given up on enforcing drug laws, (and probably other violations as well) involving juveniles in Oregon.

Effectively, low arrest, referral and petition rates for drug offenses have removed juvenile departments and the court system from any meaningful role in addressing juvenile drug abuse in certain Oregon counties.<sup>14</sup> This certainly is consistent with the policy priorities of the Casey Foundation. This position, however, is in marked contrast to adult justice system policies in many Oregon counties, where the adult court system is seen as a gateway to treatment for drug dependent citizens. Oregon was one of the early advocates of drug courts for offenders,

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<sup>10</sup> In a 2008 survey conducted by Crime Victims United, 47% of law enforcement officers in Multnomah County indicated that they frequently or occasionally do not write police reports in juvenile cases because they feel that nothing will be done about the case by juvenile authorities.

<http://www.crimevictimsunited.org/issues/juvenilejustice/multcoreport.pdf>

<sup>11</sup> 2011-2012 National Survey of Drug Use and Health, SAMSA,

<http://www.samhsa.gov/data/NSDUH/2k12State/NSDUHsae2012/index.aspx>

<sup>12</sup> Although comparative statewide numbers are not currently available for 2012, Portland Police Bureau statistics for 2012 indicate that number fell further to 108 in 2012.

<sup>13</sup> Bureau of Justice Statistics, Data Analysis Tool, Quick Access to FBI Arrest Figures

<http://www.bjs.gov/index.cfm?ty=datool&url=/arrests/index.cfm#>

<sup>14</sup> Overall, Oregon has the second highest level of juvenile drug arrests in the nation, as will be discussed. Because police forces in certain counties like Multnomah County rarely arrest juveniles for drug offenses however, the overall state arrest rate probably understates the actual rate of juvenile drug use. As explained later, according to federal drug abuse surveys, Oregon has one of the highest rates of juvenile drug addiction in the nation.

designed to assist and cajole drug addicts into treatment in return for dismissals of cases. Such courts now operate in many Oregon counties, as what was once seen as innovation is now accepted practice. In the juvenile system, that idea has been rejected.

#### **4. Keeping offenders away from court control and supervision.**

The Casey Foundation has long emphasized the priority of keeping as many delinquent youth as possible away from the control of the court system, on the theory that what the foundation refers to as “the deep end” of the system carries more risk of engendering future criminal behavior than does leaving many offenders alone. Those principles are followed closely in certain Oregon counties.

Across the nation, 36.1% of delinquency referrals to juvenile departments result in probation supervision by the court system. In Oregon, that figure is only 15.9%.<sup>15</sup> In some Oregon counties, that figure is much lower still. In Multnomah County, only 8.1% of referrals result in court supervision. Effectively, therefore, in many Oregon counties the court system has been largely removed from any significant role in the juvenile justice system.

An examination of court supervision of juvenile offenders in Multnomah County demonstrates what JDAI policy looks like in practice. In 2011, the last year all statistics were available, police made 2,865 juvenile arrests in that county.<sup>16</sup> These arrests led to 2,331 delinquency referrals to the juvenile department, which ultimately resulted in only 189 offenders being placed on formal probation to the county juvenile department.<sup>17</sup> The rest were shunted away from the formal processing of the court system in some fashion or another, either by outright dismissals or informal dispositions. Almost as many juvenile offenders were committed to the OYA or sentenced in adult court in Multnomah County as were put on county juvenile probation supervision that year. Effectively, Casey “deep end” policy in Multnomah County has resulted in offenders being kept away from the formal system whenever possible, up to the point where they are committing the type of serious crimes that call for commitments to state training schools or adult court prosecution for major violent offenses.

A 2009 assessment of juvenile offenders on supervision to the court in Multnomah County details the effect of Casey “deep end” policies at work in that county.<sup>18</sup> The study reveals that delinquent youth on probation in that county, on average, committed their first criminal offense that led to a referral to juvenile authorities at age thirteen years and six months, although formal probation for many of these offenders did not start until age 16, after new criminal violations. Over half of the probationers had been placed on probation for violent offenses, including sex offenses, or firearms charges.

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<sup>15</sup> Oregon JJIS; OJJDP, Quick Access to Juvenile Court Statistics, <http://www.ojjdp.gov/ojstatbb/ezajcs/>

<sup>16</sup> OJJDP, Quick Access to FBI Arrest Figures.

<sup>17</sup> Oregon JJIS, Youth and Dispositions, 2011, [http://www.oregon.gov/oya/reports/jjis/2011/multnomah\\_dispositions\\_2011.pdf](http://www.oregon.gov/oya/reports/jjis/2011/multnomah_dispositions_2011.pdf)

<sup>18</sup> Liang Wu, Youth Who Received Formal Supervision in 2006, Multnomah County Department of Community Justice.

Clearly, therefore, unlike in most jurisdictions across the nation, court supervised probation is reserved in Multnomah County for only those who commit violent offenses or have been committing criminal offenses for years. Most of these offenders fail to complete their probations successfully. While on probation 46.5% commit new crimes, and another 27.4% re-offend within one year from the end of their probation. The average length of supervision for these offenders was less than a year-and-a-half, despite the fact that, given the extreme reluctance of the system in that county to use court-supervised probation, these youth were all the most serious juvenile offenders in the county. While on probation, 56.7% of these probationers were detained for violations, predominantly the commission of new crimes, and those detained for violations were brought back to detention an average of 4.1 times for probation violations during the duration of probation.

As can be seen by the figures from Multnomah County, the application of Casey Foundation policies regarding court supervision has meant that by the time the system finally decides to formally supervise these offenders, the data demonstrates that it is too late to change their behavior.

### 5. Low use of detention for supervision violations.

Another JDAI policy priority is the reluctance to use detention as discipline for supervision violations. Here also, Oregon practices line up with Casey policy. OJJDP records indicate that only 7% of total state detention beds are used for supervision sanctions ("technical violations"), as compared to 16% nationally (Chart 4).

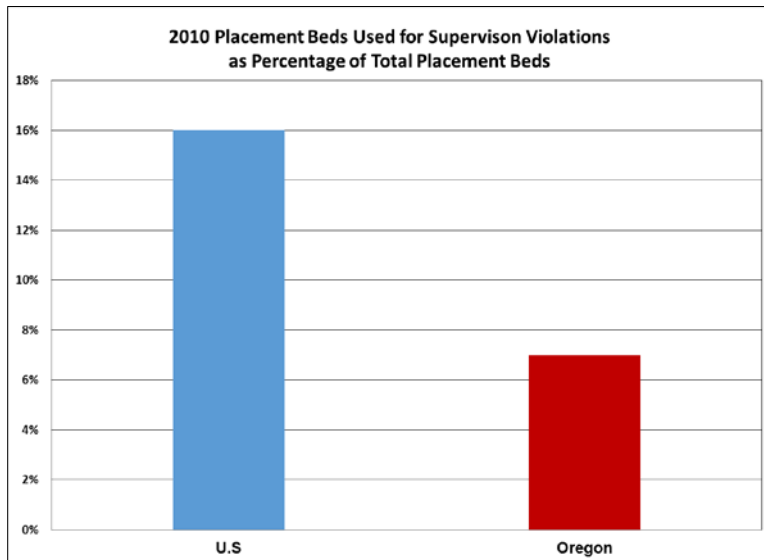


Chart 4. Placement Beds Used for Supervision Violations

Additionally, when detention sanctions are used, they are almost always detention sanctions in local facilities as opposed to sanctions to closed custody facilities. Nationally, 12% of closed custody beds are occupied by supervision violators, as opposed to 2% in Oregon (Chart 5).

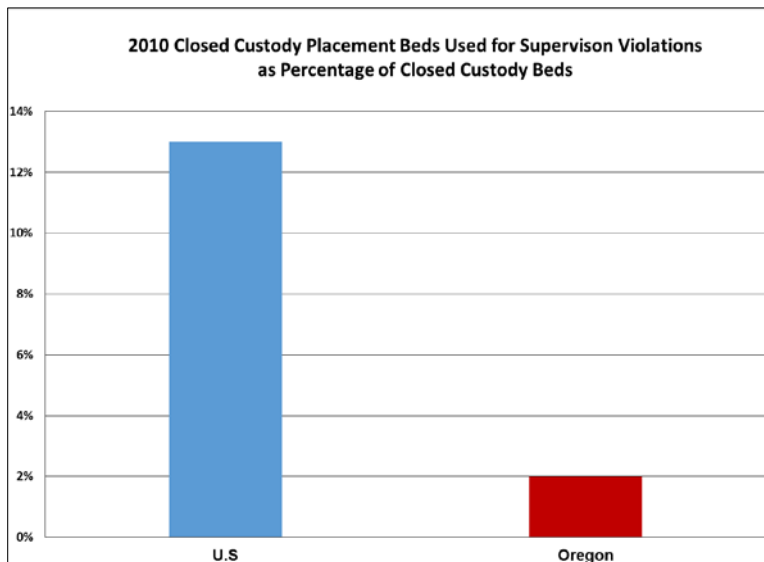


Chart 5. Closed Custody Placement Beds Used for Supervision Violations

Taken together, these factors all demonstrate that the Oregon juvenile justice system, taken as a whole, has virtually fully integrated JDAI philosophy into its procedures and policies. Again, it needs to be emphasized that not all Oregon counties adhere to these practices, but aggregate state statistics, driven by practices in large Oregon counties, depict close adherence to basic Casey policies.

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## II. COMPARISONS BETWEEN OREGON AND NATIONAL JUVENILE SYSTEM PERFORMANCE.

### A. Juvenile arrest rates.

A preliminary evaluation of Oregon's juvenile justice system was distributed in this process for comment to Oregon's juvenile justice leaders earlier in the year. That preliminary evaluation a memorandum entitled *Oregon Juvenile Justice Policy* focused primarily on juvenile arrest rates as a measure of system effectiveness, on the assumption that justice policy has an effect on crime rates, and that effective juvenile justice policies should produce lower crime rates than ineffective juvenile justice policy ([Appendix D](#)). At the outset, the preliminary evaluation found that non-violent juvenile arrest rates in Oregon were among the worst in the nation, a statistic seemingly indicating that Oregon's juvenile policies were not working as well as policies elsewhere. Oregon juvenile justice department leaders disagreed vigorously with this proposition,<sup>19</sup> asserting that juvenile crime rates can in no way be attributed to juvenile policy, and cannot therefore be used as an indicator of system effectiveness ([Appendix E](#).)

An examination of the assertion that juvenile crime and arrest rates cannot be associated with criminal justice policies demonstrates the assertion is without merit. In fact, arrest rates are commonly used by system experts throughout the nation to evaluate the effectiveness of justice systems, and recent assertions by juvenile directors here in Oregon that they are irrelevant as a measure of juvenile justice performance appear to be unique and without support. A brief review of how arrest rates are used by for system performance analysis demonstrates:

- In the juvenile sphere, the Annie Casey Foundation itself uses arrest rates to evaluate the performance of its JDAI sites, including sites in Oregon.<sup>20</sup>
- Oregon juvenile departments themselves, at least prior to the current debate, have used juvenile arrest rates in published documents to assess their own performance.<sup>21</sup>
- The Oregon Criminal Justice Commission routinely assembles crime and arrest rate comparisons and rankings, such as follow in this report, in its data analysis reports.<sup>22</sup>
- The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) systematically publishes comparative juvenile arrest rates, down to the county level, to allow juvenile system professionals to research system performance across the nation.<sup>23</sup>

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<sup>19</sup> [Clackamas Juvenile Department by Ellen Crawford, Director. March 2014](#);

“[The OJJDA Perspective—Juvenile Justice Policy, Practices and Outcomes in Oregon](#). April 2014.

<sup>20</sup> See [Appendix B](#)

<sup>21</sup> See “[Juvenile Delinquency Referral Trends in Multnomah County](#),” Dave Koch, Director of Multnomah County Juvenile Services, 2009. [http://www.jrsa.org/events/conference/presentations-08/David\\_Koch.pdf](http://www.jrsa.org/events/conference/presentations-08/David_Koch.pdf); See also Lane County Public Safety Coordinating Council Criminal Justice System Report Card Data Book, 2011. [http://www.lanecounty.org/departments/cao/pssc/documents/2011-pssc\\_reportcarddatadatabook.pdf](http://www.lanecounty.org/departments/cao/pssc/documents/2011-pssc_reportcarddatadatabook.pdf)

<sup>22</sup> Oregon Criminal Justice Commission, <http://www.oregon.gov/CJC/Pages/SAC.aspx>

<sup>23</sup> <http://www.ojjdp.gov/ojstatbb/nr2006/downloads/NR2006.pdf>

- The most extensive external study done of JDAI performance, by the University of California Berkley Warren School of Law and Social Policy in 2012, used juvenile arrest rate comparisons as a primary measure of the effectiveness of JDAI sites nationwide.<sup>24</sup>
- Independent academic analysis of the Oregon juvenile system conducted by Portland State University utilizes juvenile arrest rates as a key measure of justice system effectiveness.<sup>25</sup>
- In an extensive May 29, 2014 article on crime in Oregon, the Portland Oregonian published a complex interactive data graphic including arrest and crime report information, generated from numerous government data sources, and concluded that such data is “the best information available to judge the performance of the criminal justice system across the state.”<sup>26</sup>

It is unquestionable, therefore, that arrest rates are a valid and accepted benchmark of the effectiveness of a justice system.

Actual juvenile arrest rates for non-violent crimes in Oregon are alarming. In the latest comparative figures released by the FBI and OJJDP, Oregon has the second highest juvenile drug arrest rates in the nation, the 12<sup>th</sup> highest property crime rates, the fourth highest vandalism arrest rates, and the 14<sup>th</sup> highest overall juvenile arrests rates in the nation. Recent trends show a slight improvement in performance in juvenile property crime rates, but a significant deterioration in juvenile drug crime rates. In all areas of juvenile non-violent crime, Oregon rates are significantly higher than the national average.

Furthermore, in certain areas of juvenile crime the gap between Oregon and national averages has grown dramatically over the last ten years. Juvenile drug crime in this state was slightly below the national average in 2001, but recent figures released by the FBI and OJJDP show that Oregon is now 88% above the national average, and has the second worst drug crime rates in the country, and the rate is climbing each year. National health surveys demonstrate that, as a consequence, Oregon has one of the very highest rates of juvenile hard drug addiction in the United States.

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<sup>24</sup> JDAI Sites and States, UC Berkley, Warren School of Law and Social Policy, [https://www.law.berkeley.edu/files/JDAI\\_Rep\\_1\\_FINAL.pdf](https://www.law.berkeley.edu/files/JDAI_Rep_1_FINAL.pdf)

<sup>25</sup> William Feyerherm, Portland State University, Oregon Juvenile Justice System Needs Analysis: Juvenile Crime Trends and Recidivism Report, [http://www.oregon.gov/oya/dmcs/summit/2012/OregonJuvenileJusticeSystemNeedsAnalysis\\_FeyerhermMarch2011.pdf](http://www.oregon.gov/oya/dmcs/summit/2012/OregonJuvenileJusticeSystemNeedsAnalysis_FeyerhermMarch2011.pdf)

<sup>26</sup> Oregonian, Crime in Oregon 2007-2012, <http://projects.oregonlive.com/maps/rural-policing/>



## B. Juvenile crime in Oregon.

### 1. Violent index crime.

FBI Uniform Crime Report violent index crimes are generally accepted as benchmark data for violent criminal conduct. For juveniles in Oregon, these crimes have virtually all been within the jurisdiction of the adult court system since Ballot Measure 11 took effect in 1995. Oregon's overall violent index crime rates have declined dramatically during that period, and, at 38<sup>th</sup> highest in the nation in 2011, were among the best in the nation. During that period, Oregon experienced the second largest drop in violent crime in the United States. Of the twelve states with better overall violent crime rates in 2011, only two, Virginia and Rhode Island, had a greater percent of their population living in urban areas than Oregon. So Oregon, despite being a relatively highly urbanized state, a situation generally associated with higher crime rates, has been extraordinarily successful in addressing violent crime in the Measure 11 era.

The arrest rates for juvenile violent index crime, again, consisting of crimes overwhelmingly outside the control of the juvenile system in Oregon,<sup>27</sup> are likewise significantly below the national average (Chart 6).

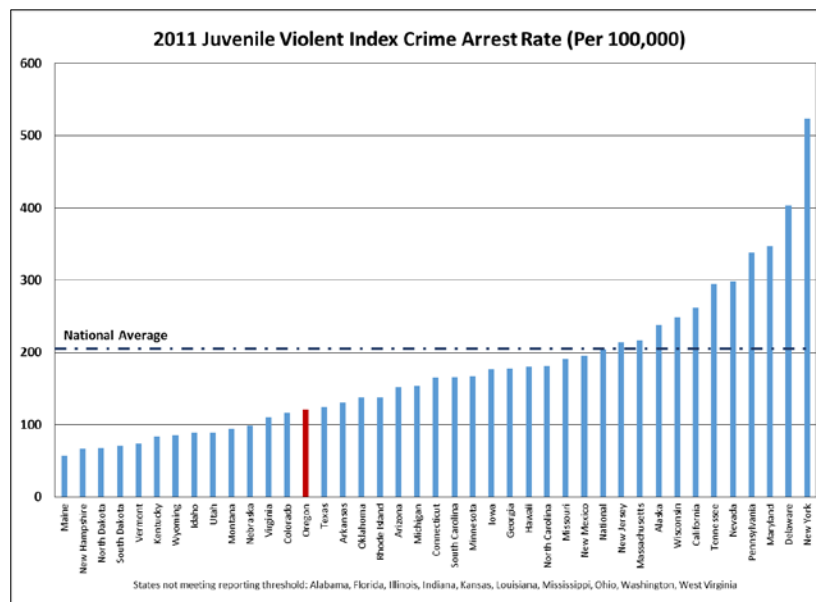


Chart 6. Juvenile Violent Index Crime Arrest Rate

<sup>27</sup> Juvenile jurisdiction only exists in Oregon for these crimes for juveniles 14 years of age and below.

Over the last ten years, violent juvenile crime has decreased at the same rate as national rates, and has always remained well below national rates (Chart 7).

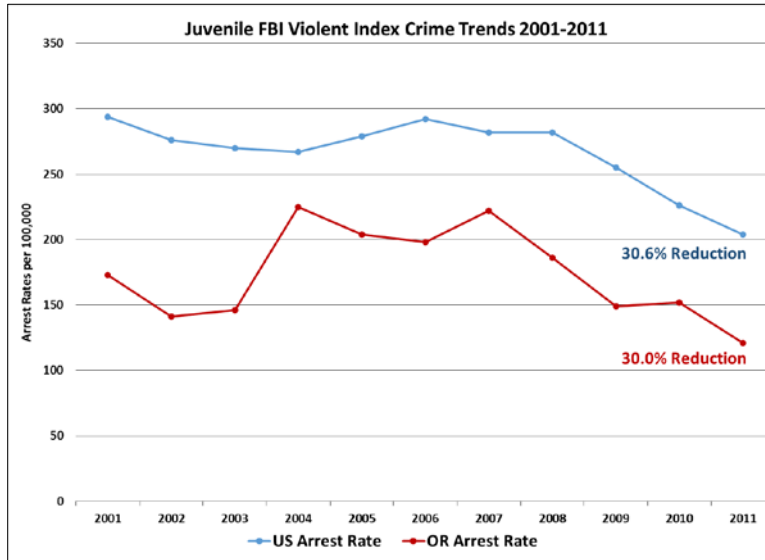


Chart 7. Juvenile FBI Violent Index Crime Trends

## 2. Property index crime.

Juvenile property crime arrest rates, however, diverge dramatically from violent index crimes, and in Oregon, juvenile property crime is almost exclusively the responsibility of the juvenile justice system. Oregon’s FBI UCR property index crime arrest rates for juveniles are among the worst in the nation. Juvenile property crime rates in Oregon are as bad, compared to national averages, as the state’s violent crime rates are good, and they spotlight the difference between adult system performance and juvenile system performance (Chart 8).

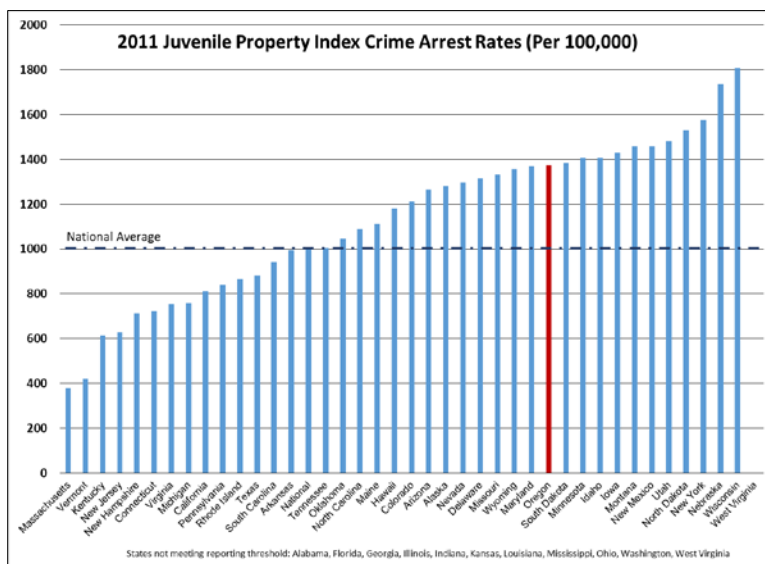


Chart 8. Juvenile Property Index Crime Arrest Rates

Juvenile property crime rates have declined during the last ten years at approximately the same rate as national rates and, in contrast to Oregon violent juvenile crime, have always remained well above national rates (Chart 9).

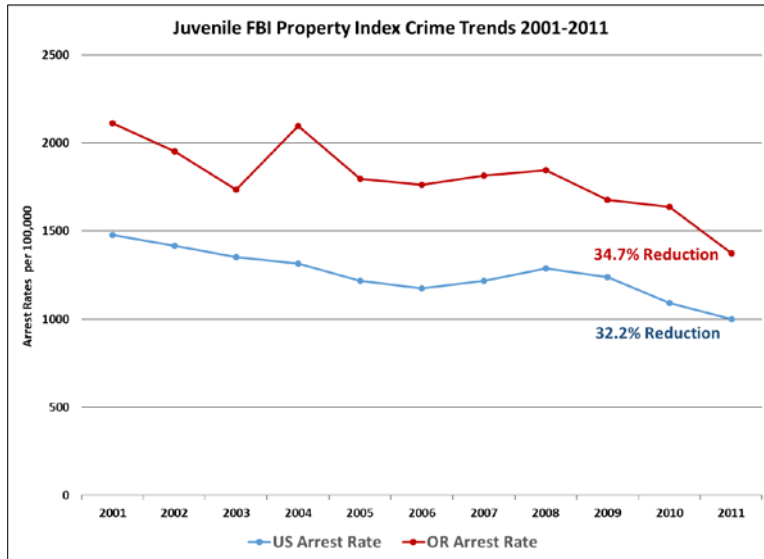


Chart 9. Juvenile FBI Property Index Crime Trends

### 3. Drug abuse crime.

Juvenile drug offenses in Oregon, perhaps more than any other category of crime, highlight deficiencies in Oregon’s juvenile justice system. Oregon’s juvenile drug abuse arrest rate was once lower than the national average, but since the onset of JDAI reforms in this this state, those rates have spiked dramatically, to their current position as second worst in the nation (Chart 10).

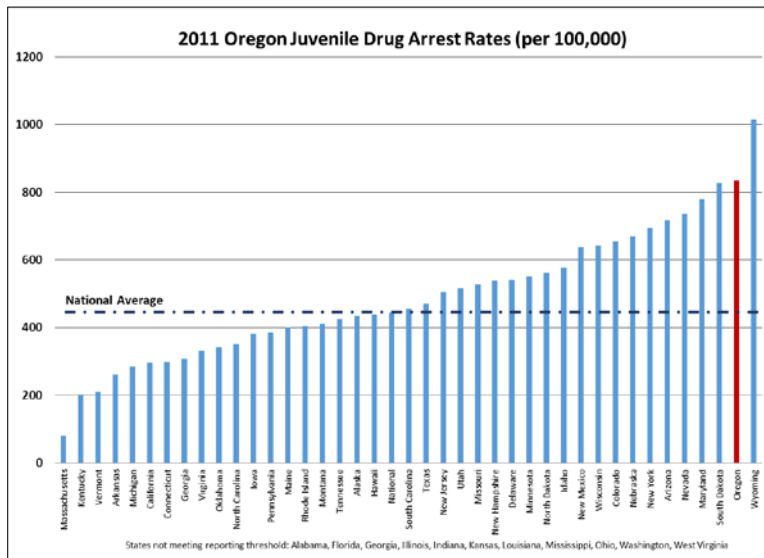


Chart 10. Oregon Juvenile Drug Arrest Rates

Disturbingly, in the last ten years statewide juvenile drug crime arrest rates have increased significantly in Oregon while they have decreased significantly in the rest of the nation (Chart 11).

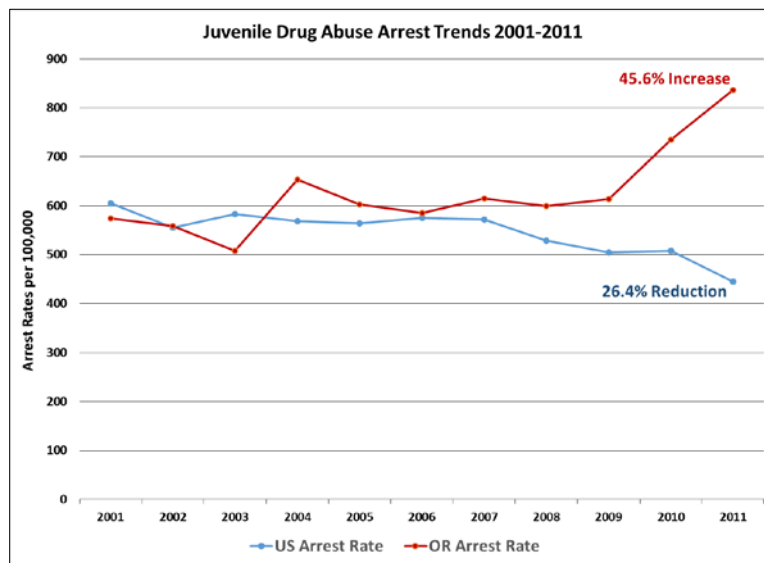
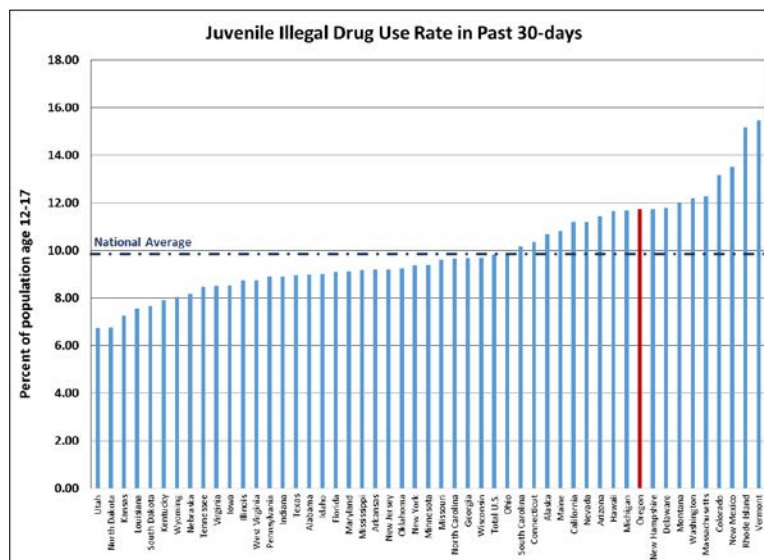


Chart 11. Juvenile Drug Abuse Arrest Trends

Higher juvenile drug arrest rates in Oregon are not the result of enforcement policy, which can occur if a jurisdiction adds significant resources to the enforcement of drug laws. This situation will generally result in more drug arrests even though the actual drug use rate may be unchanged. This is not the case in Oregon. Oregon’s juvenile drug arrest rates are produced by actual drug abuse by children. This is evident by examining federal Substance Abuse and Mental Health Services Administration surveys of drug abuse by state. Oregon has the tenth highest overall juvenile drug abuse rate in the nation (Chart 12), the sixth highest rate of juvenile cocaine use (Chart 13), and the seventh highest rate of juvenile marijuana use (Chart 14). High juvenile drug arrest rates are the product of high juvenile drug use.



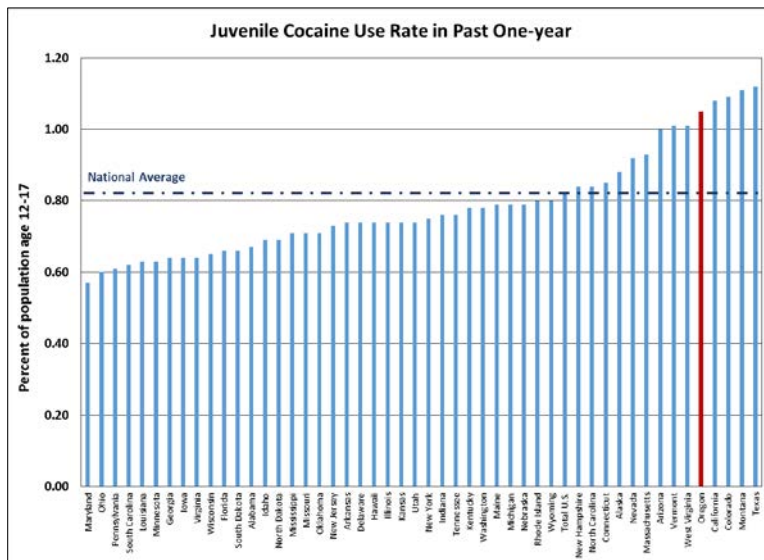


Chart 13. Juvenile Cocaine Use Rate in Past One-Year

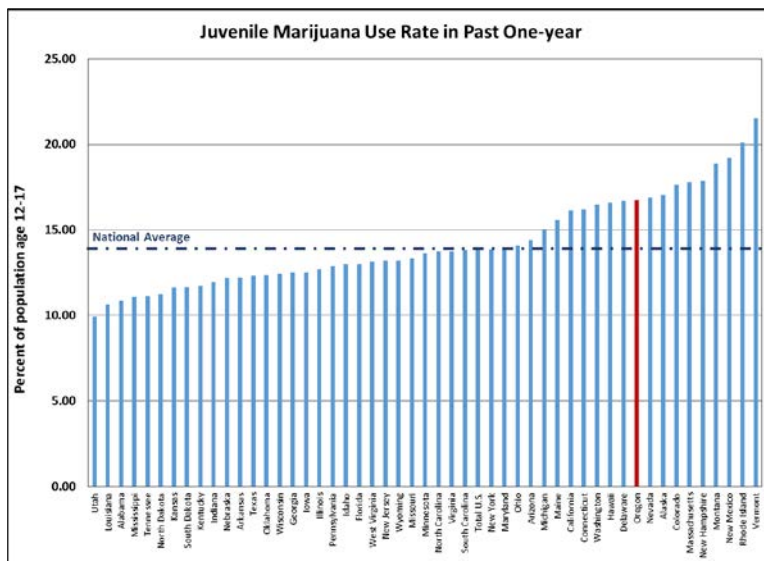


Chart 14. Juvenile Marijuana Use Rate in Past One-Year

Unquestionably, as these figures demonstrate, Oregon’s juvenile drug arrest rate is a product of very real juvenile drug abuse, and not merely an aberration produced by enforcement doctrine.

Strangely, Oregon has one of the lowest rates of juvenile alcohol and tobacco use in the nation, hand-in-hand with one of the worst rates of juvenile drug use. So, while policies in Oregon have been extremely successful in addressing alcohol and tobacco use among children, the state has failed to effectively address juvenile drug abuse.



The situation in Oregon is very different. In 2000, Oregon’s ratio of referrals to juvenile drug arrests was 0.84. By 2005 it had dropped to 0.60. Today it is 0.68 (Chart 16).

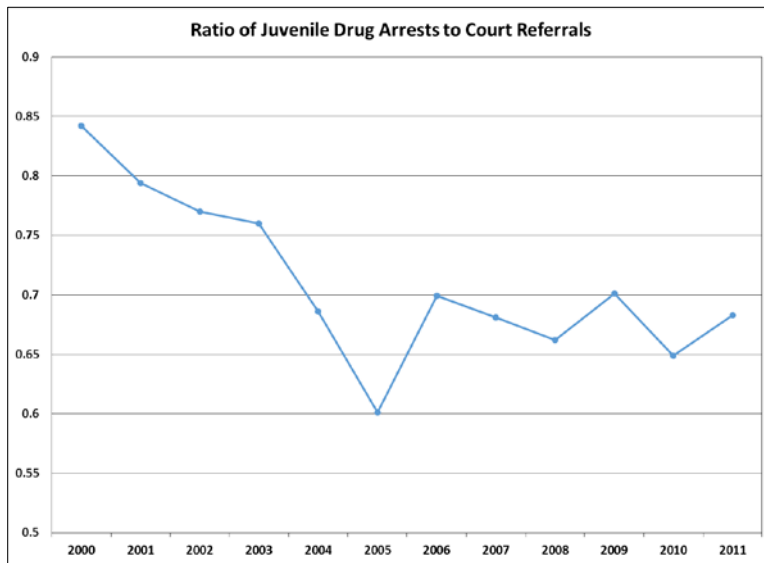


Chart 16. Ratio of Juvenile Drug Arrests to Court Referrals

Effectively, many police departments and individual officers have simply stopped referring “minor” offenses to the juvenile system. Faced with the perception that the juvenile system has increasingly failed to address these matters, by not detaining offenders and by largely closing cases at intake with no action taken, officers have often decided to ignore juvenile drug offenses, either by not making arrests in the first place, or by not referring those cases to juvenile authorities.

The depths of police disillusionment with Oregon’s juvenile authorities can be seen in Multnomah County, where in a county with a population of 770,000, as noted above, only 129 juvenile drug arrests were made by the Portland Police Bureau in all of 2011,<sup>30</sup> and only 79 youth in the entire county were referred to the juvenile department for drug abuse incidents.<sup>31</sup> That disillusionment is evident in a 2008 survey of Portland and Gresham police officers, a survey in which police officers expressed overwhelming frustration and dismay with virtually all aspects of the juvenile system in that county.<sup>32</sup>

<sup>30</sup> FBI UCR arrest data, *Crime in America*, 2011

<sup>31</sup> Oregon JJIS, Youth and Referrals, 2011

<sup>32</sup> <http://www.crimevictimsunited.org/issues/juvenilejustice/multcoreport.pdf>

The dynamics produced by lesser enforcement and lesser system involvement for juvenile drug offenders result in forfeited opportunities to treat juvenile drug addicts who are never introduced into the system, and are therefore never able to benefit from the system’s extensive addiction treatment services. Accordingly, in the Substance Abuse and Mental Health Administration’s most recent drug and health survey, Oregon now ranks as having the sixth highest rate of untreated juvenile drug addicts in the nation (Chart 17).

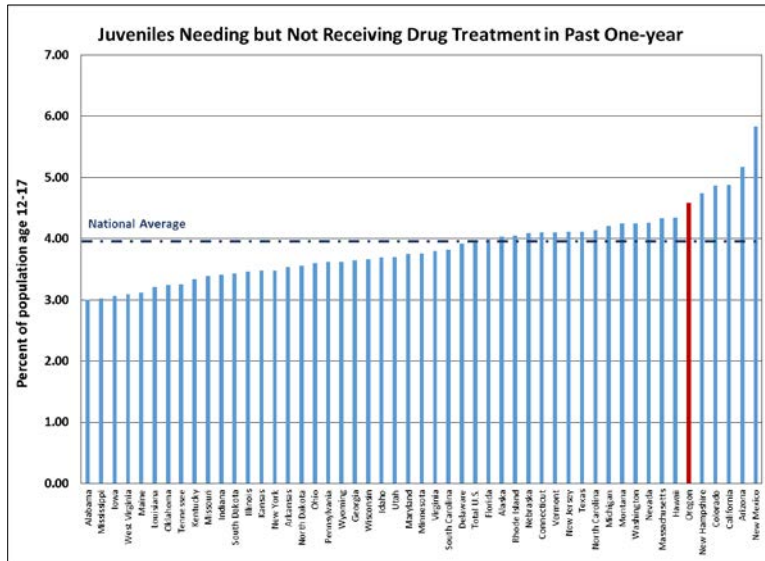
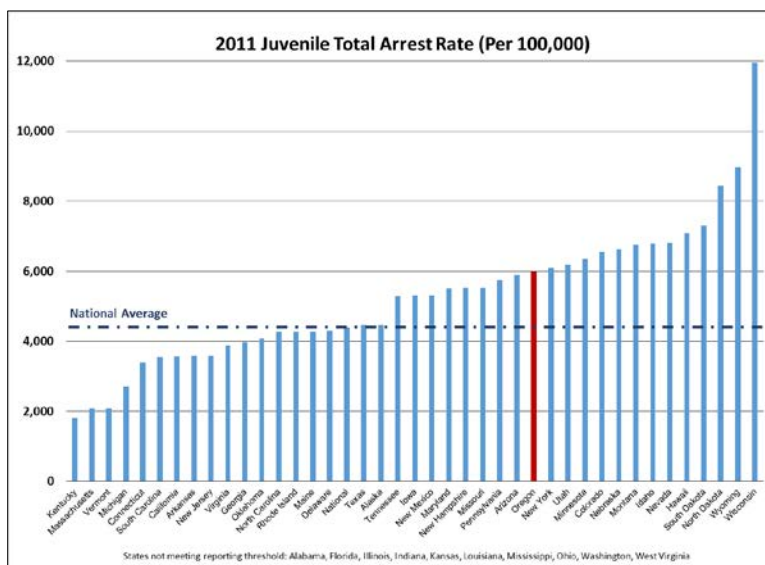


Chart 17. Juveniles Needing but Not Receiving Drug Treatment

#### 4. Overall juvenile arrests.

Overall juvenile arrest rates are also often used to measure juvenile performance. These rates reflect all arrests of juveniles for violent, property, public order, and drug offenses, and include arrests for behavior like runaway and curfew violations. They may be seen as a general overall measure of juvenile conduct. Here, too, Oregon fares poorly (Chart 18).





Total juvenile arrest trends over the last decade are similar to other non-violent juvenile arrest trends. Rates have declined (with the exception of drug rates) at roughly the same rate as the national average, but again, are well above national averages (Chart 19).

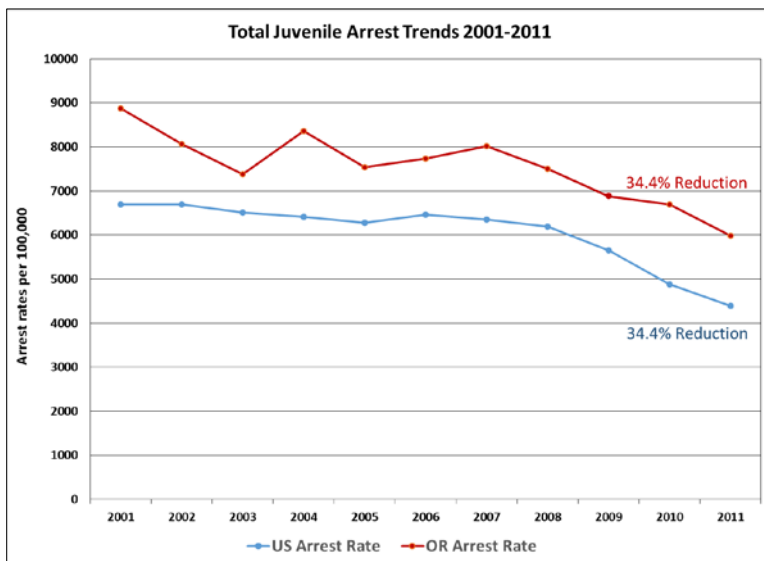


Chart 19. Total Juvenile Arrest Trends

As this review of juvenile crime in Oregon demonstrates, the juvenile justice system in this state has consistently failed to perform at the same level as systems in most other states. The overall picture of crime in Oregon is of juvenile crime rates that are significantly above national averages. As the following graph of arrest rate profile by age demonstrates, compared to national averages, crime in Oregon is marked by significant criminal conduct among juveniles, beginning at an earlier age than elsewhere in the nation, which immediately tapers off when the adult justice system takes over (Chart 20).

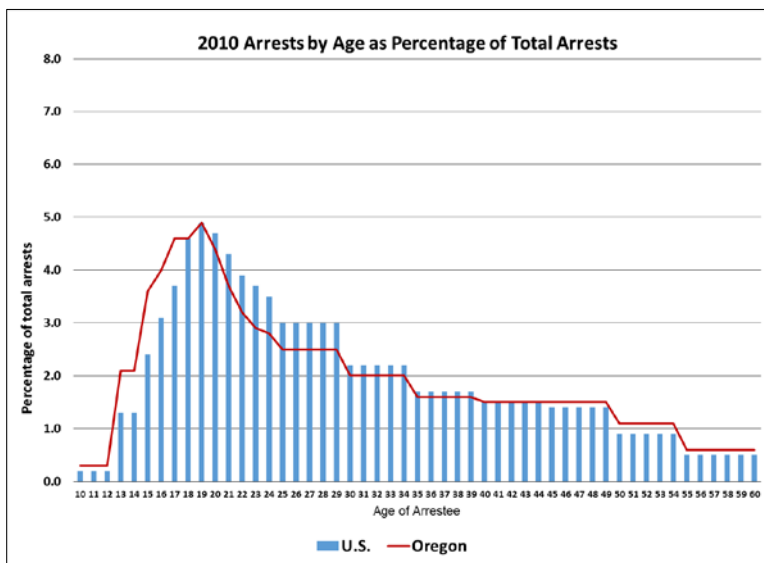


Chart 20. Arrests by Age as percentage of Total Arrests

### **C. Juvenile referrals in Oregon.**

A second level of juvenile system evaluation has been referral rates. When law enforcement officers arrest youth for the commission of a crime, they must decide whether or not to refer that individual's case to the county juvenile department.

Referral rates are strongly associated with arrest rates, because most juvenile arrests, approximately 80% across the nation, result in police departments referring delinquent youth to the juvenile system. However, the referral practices of different police departments may vary, as police departments exercise their own considerable discretion in how juvenile cases are processed. For this reason, referral figures are a less reliable indicator of juvenile crime than the arrests themselves, and juvenile referral rates should be seen as weak proxy data for arrest rates, adding a level of inaccuracy to an assessment of actual juvenile crime. Juvenile directors, however, suggested the examination of referral data as a measure of system performance.

A review of juvenile referral rates in Oregon merely confirms the problem with juvenile crime that is apparent in juvenile arrest rates in this state. The Oregon referral rate for all juvenile delinquency offenses is 17% higher than the national average. For juvenile property offenses, the Oregon referral rate is 71% higher than the national rate. For juvenile drug offenses, the Oregon rate is 1% below the national average. As is explained above, Oregon's relatively lower referral rates for juvenile drug arrests are not the result of lower drug use rates by that age group. In fact, Oregon has a much higher rate of drug use and arrests for juveniles than almost anywhere in the nation. Lower juvenile drug referral rates are the product of police forces deciding not to arrest juveniles for drug offenses, or not to refer arrested juveniles to the juvenile justice system.

### **D. Juvenile recidivism rates in Oregon.**

Recidivism is the third area of comparison of Oregon juvenile system performance. Recidivism measurement on a national level is universally recognized as a tangled thicket of data where nationwide comparisons are impossible. This is because each state measures recidivism data in a different manner, using overlapping standards that seldom equate completely with those used by other state systems. A vigorous national debate is currently underway regarding the need for standardized recidivism measurement.<sup>33</sup> Currently, valid state-to-state comparisons must be severely limited in scope because of the multitude of different recidivism measures used across the nation.

Oregon itself has chosen a juvenile recidivism measurement system that is used by no other state, making immediate comparisons impossible. Oregon defines "recidivism" for all juveniles as the number of juveniles who are referred to the juvenile system and who are then re-referred for a subsequent crime within 12 months of the initial referral.<sup>34</sup> No attempt is made to track re-

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<sup>33</sup> A 2009 CJCA workgroup produced a key white paper recommending standardization of juvenile recidivism tracking using certain data it deemed to be the best practices in recidivism reporting. Oregon's measures meet none of those requirements. <http://cjca.net/attachments/article/55/CJCA-Recidivism-White-Paper.pdf>

<sup>34</sup> The Oregon Youth Authority maintains a separate recidivism tracking protocol for offenders who are committed to their facilities and released.

offense rates of offenders after they become adults, or to track out-of-state criminal behavior. Based on the current standard, the one year “recidivism” rate for juveniles is 27.1%.

### 1. Oregon’s juvenile recidivism performance.

Oregon’s 27.1% recidivism rate reflects a slow improvement over many years. Over the last decade, the 12-month referral-to-referral rate fell from 31.3% in 2004 to its current 27.1% figure. It is probably accurate, therefore, to conclude that fewer juvenile offenders return to criminal behavior than ten years ago.

However, the figure provides no insight into how our system compares to other systems across the nation. Juvenile criminal conduct has dropped dramatically across the nation, and that is undoubtedly the result, at least in part, of reductions in juvenile recidivism everywhere. In the same ten-year period mentioned in the preceding paragraph, juvenile arrests dropped by 31.5% nationwide. So while the reduction in the recidivism rate in Oregon is positive news, it is unlikely that our system is producing better results than states whose juvenile crime rates are already far lower than ours. At the very least, no claims can be made that the Oregon juvenile system, which features low detention and court involvement rates, is producing better recidivism results than mainstream systems.

A review of the very limited number of states where recidivism tracking can be compared to Oregon’s, using expanded data provided by OYA for this study, seen in Table 1, below, shows that Oregon does not perform better on recidivism than those states where rates can be compared using that expanded Oregon data.

Table 1. Oregon Referral Recidivism

Oregon Juvenile Referrals - 24 and 36 month Referral Recidivism - 2010-2012									
Year	12 month *			24 month **			36 month ***		
	Published Measure			# Offenders	# Recd	%	# Offenders	# Recd	%
2012	11,750	3,189	27.1	n/a			n/a		
2011	13,134	3,737	28.5	13,136	4,656	35.4	n/a		
2010	14,003	3,940	28.1	14,002	5,095	36.4	14,002	5,556	39.7

Using the expanded data on Oregon’s referral-to-referral recidivism rate provided for this study by OYA, the following comparisons can be made with two other state studies (and a third that is close):

### **a. Iowa.**

In 2005 the state of Iowa conducted a referral-to-referral recidivism study that utilized the exact same referral-to-referral (called “complaints” in that state) analysis that is used in Oregon.<sup>35</sup>

Until now, however, the Iowa study was not comparable to Oregon’s because the Iowa tracking period was up to three years. Recently obtained JJIS figures now allow a valid comparison. Because of the construction of the Iowa study, the average tracking period for all juveniles was 30 months, and the overall recidivism rate was 35%. New JJIS data shows that Oregon’s 24-month rate for the 2010 cohort was 36.4% and for the 2011 cohort was 35.4%. So in both the 2010 and 2011 cohort, Oregon’s 24-month recidivism rates were worse than Iowa’s 30-month rate. The 36-month rate for Oregon’s 2010 cohort was 39.7%, meaning that at 30 months, Oregon’s recidivism rate was likely around 38%, or three percentage points higher than Iowa’s.

### **b. North Carolina.**

In 2009, the court system in North Carolina conducted an exhaustive study of juvenile recidivism,<sup>36</sup> utilizing an identical referral-to-referral measure, except the study used a 36-month tracking period. Because of the longer tracking period, however, the data could not be compared to Oregon’s 12-month tracking data. The expanded Oregon 36-month data now allows a direct comparison to Oregon’s performance. Overall, North Carolina’s juvenile 36-month recidivism rate was 36.7%. Oregon’s 36-month rate was 3 percentage points worse at 39.7%.

### **c. Missouri.**

Missouri is another state that conducted a detailed juvenile referral-to-referral recidivism study in 2009.<sup>37</sup> The results are not precisely comparable because Missouri removed referrals that were deemed to be legally insufficient. With new OYA statistics based upon individual youth instead of on referrals, which break out youth whose referrals were rejected for apparent factual reasons, an approximate comparison can be made. It appears that Oregon and Missouri have similar recidivism rates.

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<sup>35</sup> <http://publications.iowa.gov/14678/1/Juvenile%20Recidivism%20Report2005.pdf>

<sup>36</sup> [http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/ncspacjuvrecid\\_2009.pdf](http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/ncspacjuvrecid_2009.pdf)

<sup>37</sup> <https://www.courts.mo.gov/file.jsp?id=34387>

## 2. Recidivism rates as a measure of community safety.

Oregon's 12-month referral-to-referral tracking measure is a valuable tool to determine whether Oregon's juvenile system is improving as measured against its own prior performance. It is not, however, a valid yardstick of juvenile crime in the community, or of the true re-offense rate of juvenile offenders. As an indicator of how many delinquent youth actually re-offend, in fact, the measure is deceptive and inaccurate.<sup>38</sup> Actual data regarding how many delinquent youth return to delinquent behavior presents a remarkably different picture from the official 27.1% recidivism rate.

As noted, expanded referral-to-referral rates provided by OYA, which tracked juveniles for 36 months rather than the official 12-month period, demonstrate that 39.7% of delinquent youth are re-referred to the juvenile system for new crimes within three years.

Were new criminal arrests, instead of re-referrals, used as recidivating events, which is the standard established by the federal Bureau of Justice Statistics and many other systems,<sup>39</sup> the figure would jump even more dramatically. First, as noted, not all Oregon juvenile arrests result in juvenile referrals, meaning that the use of re-referrals as recidivating events undercounts actual re-offenses and therefore reduces the actual recidivism rate. Second, the current recidivism definition excludes all behavior that occurs after a juvenile turns 18. Other studies demonstrate that including adult arrests adds 8% to arrest-based recidivism rates.<sup>40</sup> Third, the current recidivism definition excludes out-of-state criminal activity. A key federal adult recidivism study demonstrates that out-of-state arrests add 11% to recidivism rates for adults.<sup>41</sup> Finally, the same study also shows that tracking offenders for five years rather than for three years adds an additional 9% to recidivism rates.

When taking into account all these factors, the true rate at which Oregon's delinquent juveniles actually become re-involved in the criminal justice system likely approaches or exceeds 60%.<sup>42</sup> Although widespread specific national comparisons are impossible due to different measurement protocols, these rates generally appear consistent with the performance of other juvenile agencies in other states as documented in numerous studies conducted across the nation. In short, there is no statistical evidence to suggest that Oregon's juvenile justice system is more effective in preventing future criminal conduct than most other state systems.

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<sup>38</sup> Even the Annie Casey Foundation finds significant fault with recidivism measurement that only tracks recidivism for 12 months. See Annie Casey Foundation, [No Place for Kids](#), 2011, p. 36.

<sup>39</sup> The new BJS report on adult recidivism of prisoners released in 2005 in 30 states actually has expanded the tracking period to five years. <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

<sup>40</sup> Id.

<sup>41</sup> *Supra*, fn. 19.

<sup>42</sup> The one Oregon study on juvenile recidivism, conducted by the Office of Economic Analysis in 2003, demonstrated that 51% of Oregon juveniles released by OYA had adult felony convictions by age 25. When adding misdemeanors convictions and arrests, therefore, the rate of justice system re-involvement for this category of serious offenders is likely to approach 80%.

### 3. Oregon juvenile risk assessments and recidivism rates.

As has been noted, 34% of all juvenile delinquency referrals in Oregon are closed at intake with no system involvement, mostly on the belief that the system can identify these offenders as individuals with minimal risk to repeat their illegal conduct. No previous attempt has ever been made, however, to actually check the JJIS data system to determine how these “low-risk” offenders actually fared after their cases were closed at intake. For this current study, the Oregon Youth Authority for the first time conducted a recidivism analysis on juvenile offenders that tracked recidivism for youth by category of case disposition ([Appendix C](#)).

Three major categories of disposition appear. The first category is for cases closed at intake with no action beyond a possible warning to the offender. These cases are presumably the ones where juvenile departments felt offenders had the lowest risk to re-offend. The second category of cases consisted of those offenders whose cases were dealt with informally, by supervision or accountability agreements outside of the court system. The third category of cases were those cases which were charged formally with petitions in the court system, and presumably were considered the highest risk to re-offend.

The data demonstrates that there is remarkably little difference in re-offense rates between the three categories. The group of offenders whose cases were closed at intake had a combined 23.4% recidivism rate, while the offenders who were supervised informally by the juvenile department had a 20.5% recidivism rate, and the group of offenders whose cases were charged formally had a combined 27.9% recidivism rate<sup>43</sup>. When recidivism rates between the cases closed at intake were compared to the recidivism rates for offenders who were actually supervised by the system, either informally or formally (combining the second and third categories of offenders), the rates were virtually identical, 23.4% for cases closed at intake and 23.3% for those whose cases were processed in some fashion by the juvenile justice system.

This immediately calls into question decisions made to close juvenile allegations at the outset with no juvenile system involvement with the offender. The figures demonstrate that allegations that were closed at intake (presumably on the belief that the offenders who committed them represented a low risk to recidivate), when tracked, did no better in recidivism performance than those whose cases were actually processed by the justice system. Such a finding casts significant doubt on the fundamental working assumption of JDAI juvenile justice policy, which maintains that juvenile authorities have acquired the capacity to differentiate high risk and low risk offenders, and that many offenders can therefore be safely shunted away from any system involvement.

The import of this is extremely troubling in a system that has substantially adopted a reformist juvenile justice policy. First, it appears that currently utilized risk protocols, in practice, are ineffective in establishing recidivism risk at intake, and second, it appears that “low-risk” offenders in Oregon do not actually benefit by having their cases dismissed without system involvement of any kind. Both of these conclusions are fundamentally at odds with Casey

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<sup>43</sup> Offenders sent to OYA custody were excluded because they were in custody during the 12-month tracking period.

Foundation theories and policies.

Oregon has one of the highest rates in the nation of closing juvenile delinquency cases with no action taken. That policy appears to be ineffective in preventing future delinquent behavior.

#### **4. Juvenile recidivism rates in Oregon Casey Foundation counties.**

As is established above, it is impossible to use Oregon's official recidivism rate structure to compare state system performance to other states. As noted above, only with the use of expanded statistics was it possible in this report to compare performance to an extremely limited number of states.

It is, however, possible to use the current recidivism rate structure to compare and track Oregon county-to-county recidivism performance over the course of many years. As noted, the rate is of limited use as an indicator of actual crime in the community, but it can highlight differences in system performance between jurisdictions which use identical measures. Since all Oregon counties use the same recidivism measure, conclusions are possible about the effectiveness of various approaches to preventing juvenile recidivism.

Oregon's official 12-month referral-to-referral recidivism measure demonstrates that Multnomah County, the "model" JDAI county in the state, operating under JDAI policy for twenty years, has performed worse than the state as whole in every year since the inception of the 12-month referral-to-referral measure. Additionally, the aggregate recidivism rates of the ten JDAI counties in the Central and Eastern Oregon Juvenile Justice Consortium have been above the state average in five of the six years that these ten counties have been associated with JDAI.<sup>44</sup>

So it is relatively clear that JDAI policies have done nothing to improve the comparative recidivism performance of counties in Oregon which have adopted those practices.

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<sup>44</sup> Oregon JJIS, "Referral-Based Recidivism."  
[http://www.oregon.gov/oja/pages/jjis\\_data\\_eval\\_rpts.aspx#Referral\\_Based\\_Recidivism](http://www.oregon.gov/oja/pages/jjis_data_eval_rpts.aspx#Referral_Based_Recidivism)

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## II. PURPORTED BUDGET SAVINGS

As a bedrock principle, the Casey Foundation has always maintained that the juvenile justice policies it advocates will effectively reduce juvenile budgets and save taxpayer dollars. Throughout the history of the project, budgetary savings have been a key selling point in promoting its policies to juvenile departments around the nation. As stated in a key Casey Foundation document, “in addition to reducing confinement of young people and enhancing public safety, JDAI is generating substantial savings for taxpayers by enabling participating jurisdictions to avoid costs for the construction and operation of secure detention facilities.”<sup>45</sup>

The foundation, however, has made no systematic study of JDAI site budgets to determine if their assertions regarding budgetary savings are accurate. In fact, sites are not required to report budget figures in annual results reports. The Casey Foundation has relied on publishing its analysis of facility bed reduction data from a small number of carefully selected sites to suggest that, because of what it asserts to be lower detention rates, JDAI sites must consequently be reducing budgets. No attempt has been made by the organization, however, to analyze actual budget data from its sites to confirm the accuracy of those assertions.

Those familiar with the dynamics of government operations will immediately understand the pitfalls associated with presuming that reductions in government services will automatically produce budget savings.

### A. County budget savings.

To be sure, analyzing county budgets across the nation would be a daunting task even if those budgets conformed to uniform standards, which they decidedly do not. So it is understandable that the Casey Foundation would have chosen to defer from that task. However, without such a systematic study, claims that JDAI sites save county taxpayer dollars would seem unsupported at best.

A review of a the budget of the one Oregon county that Casey has used repeatedly to showcase its detention reduction policies reveals the questionable nature of assuming that claimed detention reductions lead to budget savings. Multnomah County was one of the first sites in the nation to adopt JDAI philosophy, beginning in 1995 as one of JDAI’s first “model” sites. It has been repeatedly claimed that Multnomah County has reduced its juvenile detention population more than any other county in the nation—an 86% reduction from the date of adoption of JDAI policies. According to Casey’s JDAI director, new juvenile practices in Multnomah County have “made detention relatively obsolete.”<sup>46</sup>

It has also been repeatedly asserted that detention reductions in Multnomah County have led to significant budget savings. The director of JDAI recently repeated the Casey claim that

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<sup>45</sup> Richard Mendel, *Two Decades of JDAI*. Annie Casey Foundation, 2009

<sup>46</sup> Bart Lubow, JDAI director, May 7, 2014, [Willamette Week](#)

mothballing juvenile beds saves the county \$2.4 million each year in staffing costs.<sup>47</sup> Upon examination, however, that claim is demonstrably wrong. In fact, the opposite is actually the truth, as is explained below.

The Casey Foundation appears to have never actually examined Multnomah County juvenile detention populations, detention staffing, and county budgets to determine if detention reductions have actually occurred and, if so, have led to the staffing cuts and budget savings they claim. The foundation seems to have simply accepted the assertions of the county juvenile department that such reductions and savings have occurred. They have not occurred.

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<sup>47</sup> *Id.*

County budget documents from 1995 (Figure 1), the first full year of JDAI operations, show the Multnomah County juvenile department employed 62.06 full time employees in its “detention services” unit, and the budget for that unit in 1995 was \$3,602,766.<sup>48</sup>

Budget Overview				
	1995-96	1996-97	1997-98	
	Actual	Adopted Budget	Adopted Budget	Difference
Staffing FTE	62.06	67.80	69.80	2.00
Program Costs	\$3,602,766	\$3,695,371	\$3,844,841	\$149,470

Key Results				
	1994-95	1995-96	1996-97	1997-98
	Actual	Actual	Original Projection	Current Estimate
% of youth who do not escape detention	99%	100%	100%	100%
% of admissions by youth in custody that are	100%	100%	95%	92.5%
				95%

Figure 1. Multnomah Community Justice - 1995-96 Juvenile Detention Budget

Between 1995 and 2014, the Casey Foundation has claimed that Multnomah County, employing JDAI policies, reduced its juvenile detention population by 86%. So measured by the number of juveniles detained and requiring supervision, the Multnomah County juvenile detention supervision unit currently should have only 14% of the workload it had in 1995, assuming that Casey detention reduction claims are accurate. Presumably, detention reductions of this magnitude would have generated vast budget savings, as the Casey Foundation has repeatedly asserted.

However, county budget documents reveal that in 2015, despite a purported 86% detention reduction, the staffing of the detention services unit had actually increased to 70.50 full-time employees in the current budget, with a corresponding budget of \$9,051,312 (Figure 2).

Community Justice					
fy2015 proposed budget					
Prog. #	Program Name	FY 2015 General Fund	Other Funds	Total Cost	FTE
<b>Juvenile Services Division</b>					
50050	Juvenile Services Management	1,575,216	197,416	1,772,632	10.50
50051	Juvenile Services Support	2,504,816	0	2,504,816	16.00
50052	Family Court Services	112,101	1,035,428	1,147,529	8.59
50053	Family Court Services - Supervised Parenting Time	154,782	209,377	364,159	2.31
50054A	Juvenile Detention Services - 64 Beds	7,267,659	1,076,729	8,344,388	64.50
50054B	Juvenile Detention Services - 16 Beds	706,924	0	706,924	6.00
50055	Community Monitoring Program	294,823	342,727	637,550	0.00

Figure 2. Multnomah Community Justice – Proposed 2015 Juvenile Detention Budget

<sup>48</sup> “Detention services” is the unit responsible for security of the juvenile detention facility. It is a systematically reported distinct budget entity that is tracked year-by-year, allowing for exact comparisons.

So, while the number of Multnomah County youth in detention is purported to be only 14% of what it was before JDAI philosophy was adopted in 1995, staffing for the supervision of those youth has actually increased by 13.5%. And even after adjusting for inflation, the detention services budget has increased by 61.5% during a time when workload was supposed to have decreased by 86%. During this period, the detention services budget has expanded from 19.4% of the total Juvenile Department budget to 34.6% of the total budget.

Paradoxically, this increase in Multnomah County detention staff has come at the expense of non-detention alternative programs, a development which is exactly the opposite of what is advocated by the Casey Foundation, which strongly supports the use of non-custodial programs for juveniles. In 1995, non-detention operations constituted 72.7% of the employee staffing at the Multnomah County Juvenile Department.<sup>49</sup> In the last 20 years, however, as detention staffing has increased, despite the Casey Foundation's claims of enormous reductions in the number of juveniles in detention, non-detention staffing has shrunk dramatically. For fiscal year 2015, only 58.1% of Juvenile Department staffing are involved in non-detention service units such as juvenile probation, behavior modification programs, family outreach programs, and gang outreach efforts.<sup>50</sup> Residential treatment programs for juvenile sex offenders and for substance dependency have been terminated.

The picture in Multnomah County, therefore, would appear to be exactly the opposite of what is claimed by the Casey Foundation. Policies put into place since 1995 have not only failed to produce staffing and budget savings, but have produced increases in those areas, increases which have severely jeopardized the very non-detention alternative programs that are promoted by the Casey Foundation.

A closer examination of the detention numbers and budgets reveals what has actually transpired in Multnomah County juvenile detention and budgeting. In actuality, the claimed detention reduction figures are illusory. In fact, there has been no 86% reduction in Multnomah County juvenile detention. The number of juveniles detained in Multnomah County is almost exactly the same today as it was in 1993, despite the fact that juvenile crime has decreased significantly over that period.

Reductions in Multnomah County juvenile detention claimed by the Casey Foundation were largely a product of statistical manipulation, as explained below.

First, as a "baseline," the Casey Foundation used a figure of 96 juveniles in detention in 1993. This figure represents the total capacity of the old Donald E. Long Center, before it was rebuilt in 1994. That capacity, which was not always completely used, included beds rented by

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<sup>49</sup> Multnomah County Adopted Budget Narrative 1997-98. 161 of 223 Juvenile Department employees worked outside of the detention services unit in 1995-95.

<sup>50</sup> Multnomah County Budget, 2015. 98 of 168 Juvenile Department employees currently work outside of the detention services unit. Since 1995, the total full-time employees working outside of the detention services unit has declined from 161 to 98, a 43% reduction.

Clackamas and Washington counties, and beds assigned for residential juvenile drug and alcohol dependence treatment programs.

Using this figure of 96 as a baseline, the Casey Foundation then made comparisons to juvenile populations after the implementation of JDAI policies that did not include the Washington and Clackamas county rental beds that had been included in the “baseline” figure, and did not include treatment program beds that had been included in the “baseline” figures.

Additionally, in 1994 the voters of Oregon passed Ballot Measure 11, which automatically treated minors over 14 years of age accused of major violent offenses as adults, instead of as juveniles. In Multnomah County, these offenders were, and remain today, housed in the juvenile detention facility, even though they are awaiting trial as adults. Even though these offenders, always a significant number in Multnomah County, were occupying beds in the juvenile detention facility, the Casey Foundation excluded them from their juvenile detention count, because they were now classified as “adults” by the justice system.

In effect, therefore, the largest single juvenile detention “reduction” in Multnomah County had nothing to do with JDAI policies, but was a paperwork product of the passage of Measure 11, which now treated many offenders, who had heretofore been considered juveniles, as adults.

By excluding populations that were included in the “baseline” figures, and by conveniently excluding Measure 11 detainees, even though they were less than 18 years of age and were occupying juvenile detention beds, the Casey Foundation managed to claim a completely illusory reduction in the juvenile detention population in Multnomah County. That figure was used repeatedly in Casey literature across the nation as an example of how JDAI principles could be used to safely lower juvenile detention rates at one of its “model” sites. As the budget and staffing figures above demonstrate, however, budget savings never materialized because, in reality, the juvenile detention population remained largely the same.<sup>51</sup>

As the figures above demonstrate, after adjustment for inflation, juvenile detention budgets in Multnomah County have increased significantly during the time JDAI policies have been in effect in Multnomah County. As a consequence, not only have the increased detention costs associated with the implementation of JDAI policy in Multnomah County affected the taxpayers of that county, they have also affected neighboring counties. This is because the Donald E. Long juvenile detention facility, located in Multnomah County and staffed by Multnomah County employees, also serves as a regional juvenile detention facility holding juveniles from neighboring Clackamas and Washington counties.

Juvenile departments from Washington and Clackamas counties rent detention space and services from Multnomah County at the Long Center under the terms of intergovernmental

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<sup>51</sup> In fact, because juvenile arrests have declined significantly in Multnomah County over the last twenty years while the average daily number of juveniles being detained in the county remains roughly the same, it would appear that the average juvenile offender today stands a significantly greater chance of being detained at some point in the processing of their case than in 1994.

agreements which stipulate reimbursement for detention services based on a cost-per-day-per-detainee rate. Because detention budgets increased significantly, well above the rate of inflation during this period, unit cost-per-day rates have skyrocketed. The result for Washington and Clackamas counties, whose intergovernmental agreements call for cost-per-day reimbursement for detention services, has been detention costs for juveniles that have more than doubled in the last seven years.

Together, Multnomah, Clackamas, and Washington counties constitute almost 45% of the population of Oregon, so it is apparent that the higher costs that have accompanied the implementation of Casey philosophy in Multnomah County have dramatically raised taxpayer costs for juvenile detention in almost half the state.

### **B. State budget savings.**

Budget information from the state youth authority presents a far better picture of budget performance. The OYA is not an official JDAI site, but because its mission is to house and treat juveniles who have been committed by the various counties, it is heavily affected by decisions made by those county agencies which follow JDAI practices. Since 2002 the OYA close custody population has decreased from 984 to 622 and OYA community juvenile offender population from 1660 to 1095. In response, OYA staff has been reduced from 1204 to 992. The OYA budget, adjusted for inflation during that period has declined by 10.6%. While that decline does not match the percentage of the decline in offenders supervised, it is very consistent with the fixed costs associated with running numerous facilities across the state.

Despite the reductions in staff and inflation-adjusted budget, OYA remains one of the most expensive state juvenile corrections systems in the nation, a situation that is the product of a labor structure that has existed for many years.

## RECOMMENDATIONS

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### Overview

Oregon's juvenile justice system is designed to be collaborative, with the active participation of juvenile departments, district attorney offices, defense attorneys, social service agencies, non-profit organizations and, of course, the court. As noted in this report, the current system excludes almost 70% of all juvenile referrals at the front end, thereby eliminating many of these organizations from the process. We believe this trend needs to be reversed.

If done properly, more diverse points of view will be an advantage, stimulating vigorous debate and discussion about what is working best and what needs to improve. Combined with more rigorous scientific program evaluation as reflected in a new definition of "scientifically based research" in ORS 182.515(5), Oregon's current juvenile justice system can only be strengthened.

### 1. Return to the Fundamental Principles Contained in ORS 419C.001

The Oregon Juvenile Justice system should apply the principles enumerated in the preamble of Senate Bill 1 and ORS 419C.001(1).

The Legislative Assembly declares that in delinquency cases, the purposes of the Oregon Juvenile Justice System from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize *prevention of further criminal activity by the use of early and certain sanctions*, reformation and rehabilitation programs and *swift and decisive intervention in delinquent behavior*. [emphasis added] The system shall be open and accountable to the people of Oregon and their elected representatives.

Oregon's statutory principle of accountability includes the use of "early and certain sanctions" and "swift and decisive intervention in delinquent behavior." The "Casey Model" actually treats the use of court petitions and detention as obstacles to be avoided, rather than effective tools to reduce juvenile criminal conduct, despite the fact that is the statutory foundation of our current juvenile justice system. Obviously, the data indicates that this 'model' is not working effectively in Oregon and it is time to return to the principles contained in Senate Bill 1 and ORS 419C.001(1).

As noted previously, there are some Oregon counties that currently practice early interventions and sanctions as reflected in the charts in [Appendix A](#). However, in most Oregon counties, there are far too few swift and decisive interventions in delinquent behavior and often no use of early and certain sanctions. In fact, despite the good work in some small counties, our current system

closes approximately 40% of all the juvenile criminal referrals at intake with no further action taken. Only 30% of all referrals even result in the filing of petitions in court, and very few of those cases are placed under formal supervision to the court system. In the specific case of juvenile drug abuse and addiction, we believe this has led to catastrophic consequences.

## **2. New Definition of Recidivism**

Currently Oregon's juvenile justice system has two separate definitions of recidivism, one for OYA and one for county juvenile departments. Furthermore, both of these definitions are rarely used (only one state has one and none have the other) making it impossible to compare Oregon's recidivism performance to other states. Also, the current dual definitions are extremely limited, thereby failing to capture much of the actual juvenile recidivist behavior that is occurring.

The Oregon Youth Authority has been given the responsibility by the legislature, after consulting with OJJDP to "adopt one or more definitions of recidivism and to establish a recidivism reporting system applicable to youth offenders<sup>52</sup>. However, OYA has never fully exercised this authority to create one clear and inclusive recidivism definition for all Oregon youth offenders. OYA should be immediately directed to meet its legislative responsibilities by defining recidivism as described below making it applicable throughout the state.

In the 2013 legislative session, Oregon revised its recidivism definitions for the adult system because it was too rare and limited in scope. Oregon's juvenile justice system should follow suit. There should be one definition of recidivism for the entire juvenile system, consistent with national standards recommended by the National Juvenile Corrections Administrators in 2009 and with the new definition in House Bill 3194 for the adult system. We recommend the following definition, meeting all these requirements.

- Recidivism should be defined as any new a). referral, b). adjudication or c). return to close custody
- The tracking period should be three years, starting when the original referral is resolved, either by the failure to file a petition or adjudication or dismissal of any petition that is filed. Releases from closed custody should also be tracked for three years beginning when the juvenile is released.
- It should include any arrests or convictions in the adult system after the juvenile turns 18 years of age if it falls within the 3 year tracking period.

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<sup>52</sup> Oregon State Legislature. Oregon Revised Statutes (ORS) 2013 Edition. 420A.012 Recidivism; definition; reporting system; duties of Oregon Youth Authority and juvenile departments. (1) The Oregon Youth Authority, in consultation with the Oregon Juvenile Department Directors' Association, shall adopt one or more definitions of recidivism and establish a recidivism reporting system applicable to youth offenders. The definition must be designed to address outcomes including, but not limited to, community safety and rehabilitation, [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors420A.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors420A.html) (last accessed Aug 19, 2014).



- The definition should track new referrals, adjudications and returns to close custody as three separate measures of recidivism.

At the present time, there is no operational method to track out of state referrals or adjudications despite the fact that, if counted, they can significantly impact reported recidivism. For instance, in recent studies by the Bureau of Justice Statistics it was calculated that out of state arrests of adults would, if counted, increase adult recidivism rates approximately 11%. We recommend a study be conducted for Oregon's juvenile system, similar to the one conducted by the BJA in their 2004 and 2014 national recidivism studies in which they were able to calculate the probably effect of out of state arrests. This new tracking rate could be called an "effective recidivism rate" taking into account the calculated effect of the uncounted out of state referrals and adjudications (and any new arrests or convictions once the juvenile turns 18).

This new definition will be a major step forward in our efforts to accurately capture the true extent of juvenile criminal misconduct which will consequently provide a much more accurate understanding of the performance of our juvenile justice system.

### **3. Annual Reports on the performance of both county juvenile departments and OYA**

Oregon is fortunate to have a robust data system (JJIS), but data analysis has been sorely lacking. Data analysis, not ideology should drive juvenile justice policy. Detailed statistical reporting should be maintained on an annual basis

This data should include recidivism rates (defined as recommended in this report) and crime rates, at the county, state, and national level. It should include overall recidivism rates (defined as recommended in this report) for counties and the state. It should include the most up-to-date crime rates statewide and for each county and include comparisons to national crime rates.

The following three types of referral dispositions currently tracked in JJIS are of particular importance: cases closed at intake, cases supervised informally by juvenile departments, and cases handled formally with court petitions. Tracking rates of recidivism for different categories of dispositions can help determine which policies and practices are most effective in reducing juvenile criminal conduct.

It is frankly surprising and disappointing that while this data has been available in JJIS for years, it has never been analyzed in this way. This has been a lost opportunity to improve the performance of the juvenile system at the local level and provide important information to policy makers. That mistake should be corrected and this kind of vital information should be available on an annual basis.

The rate of detention usage as a tool to change behavior, both pre-adjudication and on supervision should also be tracked by county and statewide. Particular attention should be paid to drug use and addiction statistics for juvenile since this is the most underperforming portion of the Oregon's juvenile system at the present time. Both detention and court petitions should be

viewed as effective tools, if used properly and in moderation, to change juvenile delinquency, not as the cause of juvenile crime.

Additionally, the current tracking for restitution and community service fails to present an accurate picture of juvenile accountability because they do not record actual levels of completion. Instead, the data tracks when a condition is "satisfied." In many, if not most, situations where community service or restitution is imposed, a probation officer may choose to consider the condition "satisfied" even though a youth has completed only a fraction of the requirement. This presents a fundamentally false picture of accountability on the part of the offender.

Consequently, to accurately measure the accountability our system requires of offenders, data needs to track precisely what percentage of restitution is actually paid by juvenile offenders and what percentage of community service is actually performed. The adult system tracks these figures in this manner and so should the juvenile system.

Annual Reports should be published by OYA and OJDDP and made available to all juvenile justice partners and policy makers in the state. They should operate as the foundation of juvenile justice policy decisions moving forward.

#### **4. Enhanced Collaboration in Our Juvenile Justice System**

Oregon's juvenile justice system is collaborative by its very design. In a number of the smaller counties, this collaborative design is alive and well. However, in the larger counties which handle most of the juvenile referrals, the current trend in juvenile justice has increasingly moved away from the use of the court system, and District Attorneys' offices, in many aspects of juvenile procedure. These institutions are important voices for proportionality in justice, for victims, and for the public.

We believe that all juvenile criminal referrals should be sent to both the juvenile department and the District Attorney's office for review. Doing so would promote a level of co-operation between these entities, which represent somewhat different perspectives, which is lacking when decisions are made unilaterally.

Collaborative relationships between juvenile departments and District Attorney Offices would be enhanced by this process, including a better understanding throughout the system of many of the programs and services currently provided. Combined with much more rigorous program evaluation and the statutory changes to "scientifically based research" as recommended in this report, we should see steady improvement in the outcomes of these programs. The expertise and training of our local juvenile departments must continue to play a vital role in the execution of this new strategy. It is highly likely that there will remain a proper mix of informal and formal disposition of criminal referrals, but only after greater collaboration between the offices and disciplines. A broader mix of diverse points of view throughout the system will be an advantage if used properly, respecting the importance of the different points of view.

## 5. Strengthen the definition of “scientifically based research” in ORS 182.515(5)

As noted in this report if all the recidivism data is included the three year recidivism rate for juveniles in Oregon may exceed 50%. While this can be viewed as discouraging, it is also valuable information if we are serious about reducing juvenile criminal conduct.

One possible explanation for this high rate of recidivism is that Oregon does an inadequate job of evaluating the effectiveness of programs designed to reduce juvenile criminal conduct. More than 10 years ago, Oregon required that programs in the criminal justice system be “evidenced based” in ORS 182.515(3). This was a positive step forward for good criminal justice program design. According to ORS 182.515(3)(a) a program is evidenced based if it incorporates “practices based on scientific research.” And in ORS 182.515(5) “*scientifically based research*” [emphasis added] is defined as:

(5) *Scientifically based research* [emphasis added] means research that obtains reliable and valid knowledge by:

(a) Employing systematic, empirical methods that draw on observation or experiment;

(b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and

(c) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators. [2003 c.669 §3; 2005 c.503 §12; 2009 c.595 §162]

We challenge anyone to tell us what this means. As a result of this weak statutory definition, program evaluations have varied widely in their rigor and scientific foundations.

In order to be more effective in reducing juvenile crime and recidivism, the statutory definition of “*scientifically based research*” [emphasis added] upon which program evaluation is to be based must be strengthened. We recommend that any definition of scientific research should include the following essential elements, crucial to any rigorous, independent and credible scientific evaluation:

- The evaluation should be conducted *INDEPENDENTLY* of the organizations which have implemented, fund or support the program
- The evaluation should include all those who are originally enrolled (intent to treat), not just those who complete the program
- The evaluation should be of “experimental design”, meaning that it should use rigorous, scientific methods to randomize the pool of participants and the pool comparisons.

If the purpose is to get the best results from our juvenile justice programs and thereby reduce juvenile criminal misconduct, we should insist on the highest standards of program evaluation. It is simply not enough that a juvenile justice program sounds compassionate or good for kids. It must be scientifically proven to reduce criminal misconduct if it is to be included as part of our juvenile justice system. We should focus all of our efforts and funding on those programs. By doing so, we will actually preserve more funding for the most effective programs by eliminating, through scientific program evaluation, those programs that might sound good but really don't reduce juvenile crime.

## **6. Application of “Truth in Sentencing” for Juveniles Committed to OYA**

Over the past 25 years the movement towards “truth in sentencing” in Oregon has been a powerful force for victims and has dramatically bolstered public confidence in the integrity of our criminal justice system. It has eliminated the early release of convicted felons and assured sentences ordered in court are actually served. It is difficult to overstate the positive effect this fundamental change has had in our current system over the past 25 decades.

The one exception to this trend towards truth in sentencing is in the juvenile system. Outside of Measure 11, the Oregon Youth Authority has unlimited authority to change the sentence of any juvenile ordered into their custody. This includes juveniles (younger than 15) who are convicted of violent crimes (such as homicides, forcible sex crimes, assaults, and armed robberies.) It also includes any juvenile (up to the age of 18) convicted of any number of property crimes (such as residential burglaries, car thefts, identity theft, and drug crimes.) The court currently has no authority to order or enforce the length of detention for these serious juvenile offenders. We believe this has the potential to once again create public distrust and anger among victims and the community.

By their nature, cases where juvenile offenders are committed to OYA custody are the most serious matters in our juvenile system, with specific victims whose lives have been affected by actions of the offender. We believe these victims have the right to a level of certainty in understanding the sentence of the juvenile offender, beyond simply being told that the offender can be released at any time.

We would propose that in every juvenile case in which the adjudicated youth is ordered into the custody of the Oregon Youth Authority that the court be required to indicate a minimum amount of time the youth must serve in the custody of OYA before release back into the community. We are not recommending any sort of statutory minimum sentence or other requirement for the court, only that the court make a determination that a certain amount of time in OYA detention be required in each case to be served before release.

The Oregon Youth Authority has expertise in working with juveniles, with specialized experience and knowledge in the area of youth development and accountability for juveniles in their custody. We recommend that OYA be invited to actively participate in the sentencing process to assist the court in determining the appropriate length of detention in each case. The

active participation of victims and OYA in the sentencing process will provide certainty and a sense of justice for everyone involved.

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## CONCLUSION

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This report is a call for a return to the principles enumerated in ORS 419C.001 as the foundation of our current juvenile justice system. Common sense and our own experience as parents has taught us that it is always best to intervene early in the misconduct of youth and thereby avoid much more serious and lengthy interventions later. It is this very principle that we believe needs to be fully implemented in Oregon.

A fine example of early and consistent interventions as an effective tool to change criminal conduct is HOPE probation in Hawaii. Started in 2004 by an imaginative and compassionate jurist, Judge Steven Alm, HOPE has been highly successful in reducing drug usage by adult probationers for more than 10 years, including a rigorous two year randomized controlled trial completed in 2009. Programs modeled on HOPE are quickly spreading around the country because of their immediate effective on criminal conduct.

Judge Alm instituted the program after he personally observed many well intentioned probation officers, often overwhelmed by their work loads, giving their probationers repeated second chances after violating the rules of probation. He witnessed how this inconsistent, sometimes even nonexistent, enforcement of the rules failed to change the criminal conduct of those on supervision. So, he changed the way the system worked because he wanted his probationers to succeed and he knew that the best way for that to happen was for them to be held accountable for their behavior with moderate, early jail sanctions. The result was better behavior and less crime.

The principles behind HOPE are quite simple. Criminal conduct is consistently met with early and moderate sanctions by the court. The chances of getting away with misconduct without sanctions is virtually eliminated through rigorous drug testing. In the two year randomized controlled study, completed in 2009, the overwhelming majority (over 90%) of those in the program were able to stop using drugs without treatment.<sup>53</sup> The threat of immediate short jail sanctions changed their behavior. This dramatic decrease in drug usage by probationers was accomplished with no discernible increase in the local jail population.

Judge Alm in explaining why he chose to change the way he treated probationers, has repeatedly said that inconsistent or nonexistent enforcement of the rules “was not the way I raised my own kids.” Mark A.R. Kleiman, the highly renowned UCLA Professor of Public Policy who evaluated the HOPE probation has stated, “make the rules less numerous, the monitoring tighter and the sanctions swift, certain and reasonably mild, the need for severity falls away.”

The age and development of every juvenile must be taken into careful consideration in every case. However, Oregon’s current juvenile justice system is statutorily founded on the principles of early swift and certain sanctions for juvenile criminal behavior. There is a fair but firm way to

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<sup>53</sup>National Institute of Justice. Link to full evaluation. Hawken, Angela, and Mark Kleiman, Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii’s HOPE (pdf, page 18) <https://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf> (last accessed Aug 21, 2014)

hold juvenile offenders accountable for their criminal conduct at the early stages which actually can reduce crime. This is the path envisioned by the legislature in 1995 when they passed ORS 419C.001 and is the path to which we should return if we are serious about helping our youth change their criminal conduct.



## APPENDIX A: Oregon Counties - Juvenile Arrests, Petitions, Detention, and One-Year Recidivism Statistics

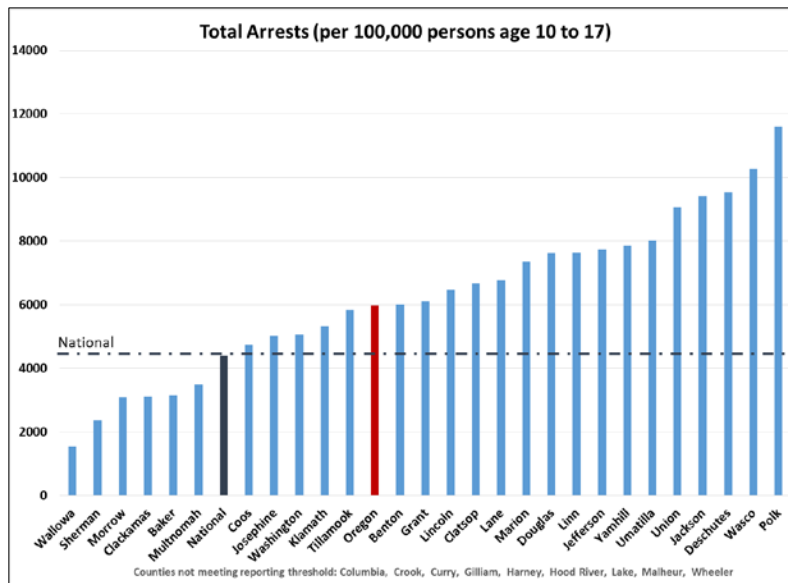


Chart 21. Oregon Counties Total Juvenile Arrests<sup>54, 55</sup>

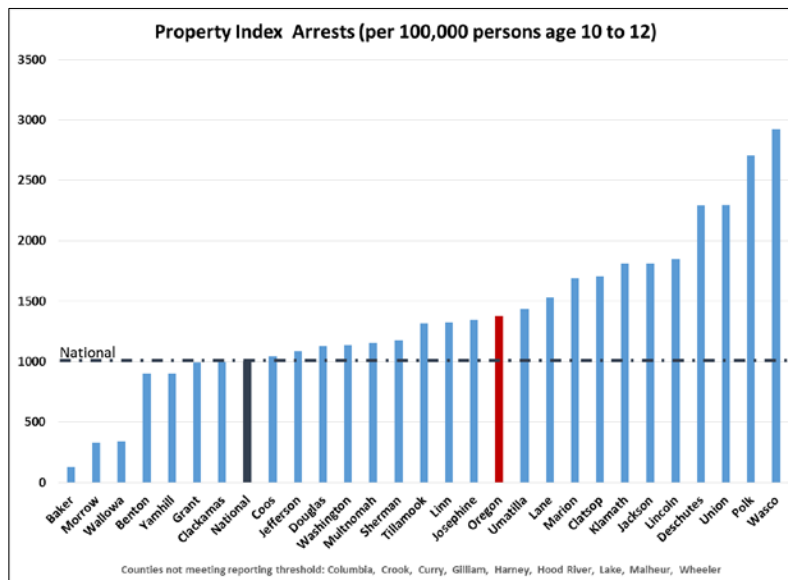


Chart 22. Oregon Counties Juvenile Property Index Arrests<sup>54, 55</sup>

<sup>54</sup> OJJDP, Easy Access to FBI Arrest Statistics <http://www.ojjdp.gov/ojstatbb/ezaucr/>.

<sup>55</sup> Arrest figures for certain jurisdictions are not included. To be included at least 90% of the population in that jurisdiction must be covered by a law enforcement agency that reports data [http://www.ojjdp.gov/ojstatbb/ezaucr/asp/ucr\\_display.asp](http://www.ojjdp.gov/ojstatbb/ezaucr/asp/ucr_display.asp).

APPENDIX A: Continued

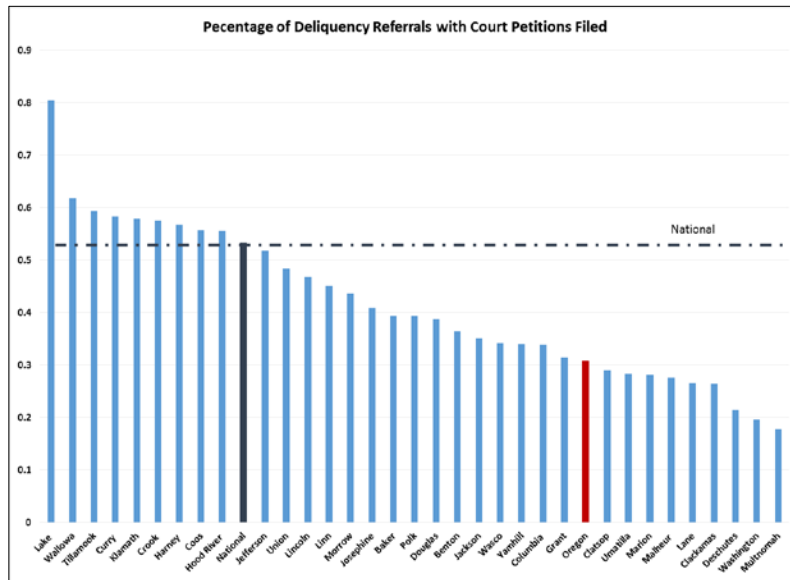


Chart 23. Oregon Counties Percentage of Juvenile Petitions Filed<sup>56</sup>

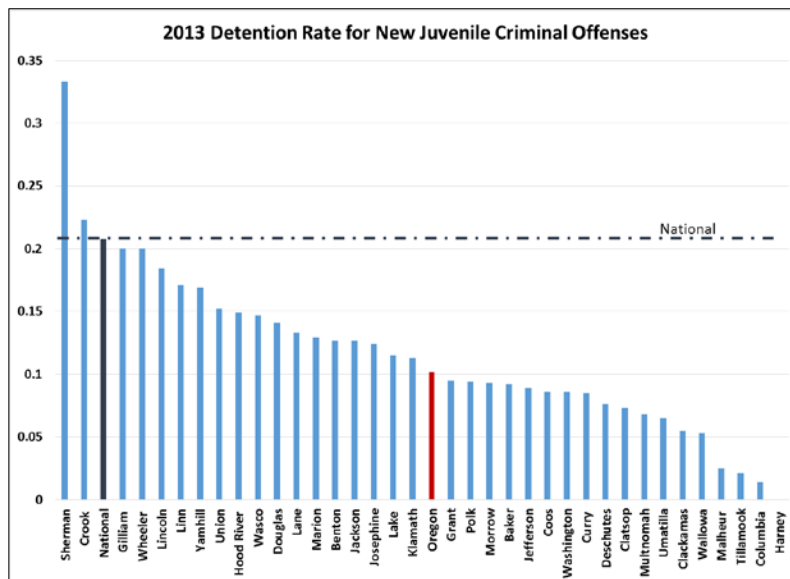


Chart 24. Oregon Counties 2013 Detention Rate for Juvenile Crimes<sup>57</sup>

<sup>56</sup>OJJDP, EasyAccess to Juvenile Case Counts, <http://www.ojjdp.gov/ojstatbb/ezaco/asp/TableDisplay.asp>

<sup>57</sup> Oregon JJIS Annual Detention and Disposition Reports, [http://www.oregon.gov/oja/pages/jjis\\_data\\_eval\\_rpts.aspx](http://www.oregon.gov/oja/pages/jjis_data_eval_rpts.aspx)

**APPENDIX A: Continued**

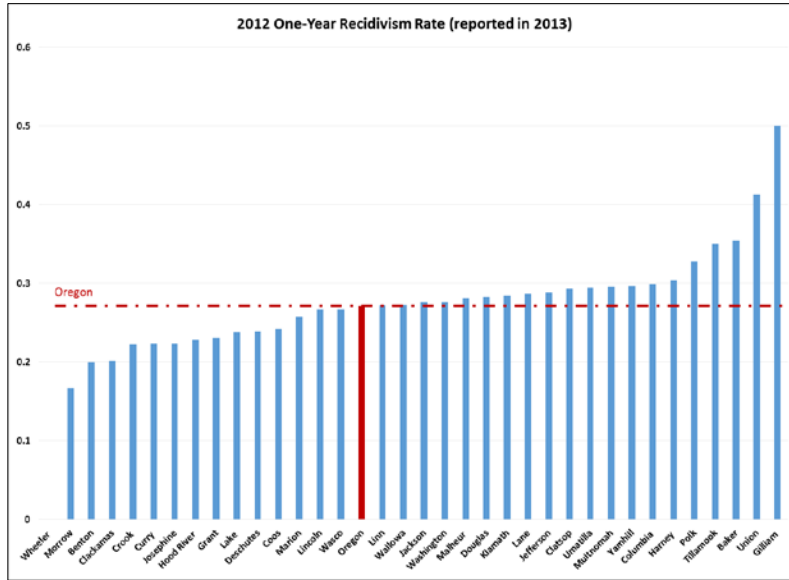


Chart 25. Oregon Counties 2012 One-Year Recidivism Rate<sup>58</sup>

<sup>58</sup> Oregon JJIS Annual Recidivism Reports, [http://www.oregon.gov/oia/reports/jjis/2013/2012\\_Recidivism.pdf](http://www.oregon.gov/oia/reports/jjis/2013/2012_Recidivism.pdf)

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## **APPENDIX B: Public Safety and Budget Performance of Casey Foundation JDAI Sites**

For almost twenty years the Annie Casey Foundation has promoted fundamental changes in the processing of delinquent youth. The foundation's Juvenile Detention Alternatives Initiative program has developed a highly detailed philosophy and process centered on reducing juvenile pre-adjudicatory detention, reducing the involvement of the court system in juvenile delinquency cases, and reducing commitments to local detention and state training schools. The cornerstone principle of the policies advocated by JDAI has always been the assertion that the changes it advocates can actually enhance public safety by reducing delinquent behavior, and that the changes will result in less expensive juvenile justice systems across the nation.

JDAI now operates officially in almost 200 sites across the nation, and undoubtedly those sites, in their aggregate, have reduced juvenile detention, court involvement, and commitments far more than have mainstream systems. Unfortunately, no systematic study has ever been conducted to compare public safety performance of JDAI sites to national averages. Additionally, no attempt has been made to examine juvenile budgets to determine if the promise of budgetary savings has been fulfilled.

This review of both public safety and budgetary performance at JDAI sites demonstrates that in both areas, compared to national averages, there is no evidence that JDAI either enhances public safety or saves taxpayer dollars. In fact, the opposite appears to be the case.

### **A. JDAI Public Safety Performance.**

The philosophy of the Annie Casey Foundation Juvenile Detention Alternatives Initiative, promoted intensely by that organization throughout the United States, is based on the organization's assertion that mainstream juvenile justice policy can be dramatically changed "in ways that protect or enhance public safety."<sup>59</sup> JDAI's advocates have promoted drastic reductions in both juvenile detention rates and the rates of court involvement and supervision of delinquent youth. From the outset, the foundation has maintained that these changes will produce safer communities and less expensive juvenile justice systems. In that vein, JDAI literature has claimed "there is substantial reason to believe that by steering substantial numbers of youth away from the deep end of the juvenile corrections system . . . JDAI is making communities safer in the long-term."<sup>60</sup>

Unfortunately, the Casey Foundation has conducted no meaningful studies to demonstrate that JDAI policy, in practice, produces safer communities. Although the Casey Foundation has established the effective collection of data as a core component of its process, in the area of public safety performance, the measures used by the organization to assess public safety have little relationship with actual community crime. In fact, the measures JDAI has chosen to assess

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<sup>59</sup> Richard Mendel, Two Decades of JDAI, Annie E. Casey Foundation.

<sup>60</sup> *Id.*

“public safety” produce deceptive results, for reasons described below, results that grossly distort the reality of public safety performance at JDAI sites.

### **1. JDAI public safety performance measures.**

JDAI collects data on “public safety” from its sponsored sites by allowing those sites to report on one of four “juvenile crime indicator” measures--juvenile detention intake admissions, juvenile arrests in the community, total juvenile delinquency petitions filed, or juvenile felony petitions filed. It is readily apparent that three of these measures are illusory indicators of actual juvenile crime. JDAI sites are only sponsored and funded by the Casey Foundation upon their accepted commitment to adopt policies that reduce juvenile detention and court involvement. Consequently, measuring reductions in juvenile detention admissions or juvenile court petitions filed only reflects their adherence to JDAI policy strictures, at best.

Only the JDAI measurement of juvenile arrests correlates strongly with crime committed by that age group. The Casey Foundation, however, has steered its sites away from the use of arrests as a performance measure and towards a single measure of reporting—felony petitions filed. “In 2009 the Foundation suggested that, whenever possible, sites report ‘felony petitions filed’ as the measure of serious juvenile crime.”<sup>61</sup>

Since juvenile departments are in overall control of the decision to file delinquency petitions, and since all JDAI sites have agreed to reduce the number of juvenile petitions under Casey policies, and since the Casey Foundation has actively discouraged its sites from reporting arrest rates as a performance measure, it is hardly surprising that most would choose juvenile petitions filed as their “juvenile crime indicator” measure.

Additionally, by permitting each site to choose which “juvenile crime indicator” to use to report “public safety” outcomes, they encourage those sites to select whichever measure of the four will reflect best on its performance in the eyes of the foundation funding their operations. The biases fostered by this process are compounded by the fact that sites are permitted to switch reporting measures from year to year,<sup>62</sup> allowing them to tailor their results each year by abandoning measures which might show poor results one year, and then switching back in later years if returning to an earlier measure makes performance appear better.

Further data collection biases are incorporated into the Casey “juvenile crime indicator” reporting structure by the latitude given to sites in define for themselves what type of arrests they choose to report, if they opt to report arrests at all. When JDAI sites report “juvenile crime indicators” there is no uniform rule regarding which class of data to report, but “in gathering data, we advise sites to select measures of “serious” juvenile crime.”<sup>63</sup> This allows the few sites

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<sup>61</sup> 2010 Annual Results Report Summary, Casey Foundation JDAI.

<http://www.jdaihelpdesk.org/intersiteconf2012/2010%20JDAI%20Annual%20Results%20Report.pdf>

<sup>62</sup> 2012 JDAI Annual Results Report General Instructions.

<http://www.jdaihelpdesk.org/dataannualres/2012%20ARR%20Instructions%20Memo%20-%20final.pdf>

<sup>63</sup> Id.

that might be inclined to report arrests to report only arrests for those crimes that Casey considers “serious,” meaning person-to-person violent felonies. JDAI sites are encouraged to ignore property, drug, and public order offense arrests in reporting arrest figures, if they choose to report arrests.

The overall result of the statistical biases built into the JDAI “public safety” reporting protocol is a system in which arrests, which actually reflect real crime in the community, are devalued in favor of JDAI-crafted “public safety” measures, which do not. The Casey Foundation asserts that one-fourth of the nation’s youth live in JDAI sites. In 2011, the FBI recorded 1,470,000 juvenile arrests. Using the Casey Foundation’s carefully crafted “public safety” measures, however, its sites reported only 27,065, or 1.8% of those arrests.

Taken as a whole, the JDAI reporting process virtually guarantees that “juvenile crime indicator” results will always appear to be good, even though they may have little actual relationship with juvenile crime in the community.

Selective and tailored reporting, therefore, is precisely what has occurred. JDAI sites have overwhelmingly chosen to report on “public safety” measures over which they have the most control, delinquency petitions filed, either by total or by felony petitions only. Of 131 JDAI sites listed in the 2013 Results Report, 95 reported petition filings as their “juvenile crime indicator” performance measure. Only 23 sites reported juvenile arrests.

And it is also hardly surprising, therefore, that the small number of sites that self-select to report arrest rates have reported good results in that measure. Presumably, if they had not achieved good results in juvenile arrest rates, they would have chosen a different “public safety” measure to report to JDAI.

A review of the data from the 23 sites reporting juvenile arrests as a “juvenile crime indicator” in 2013 demonstrates just how deceptive that measure can be when only carefully selected sites report arrests. In its 2013 Results Report, Casey notes that juvenile arrests were down 40% at JDAI sites reporting arrests from the time those sites became operational.<sup>64</sup> This would seemingly suggest better performance than the nation as whole, where juvenile arrests declined by 34% between 2001 and 2011.

Because juvenile arrest data has been reported selectively, however, that result is fundamentally deceptive. By excluding the 108 sites which chose not to report arrests rates as a performance measure, and where arrest data looks much worse than the 23 states which did report arrests, the Casey Foundation has systematically presented a distorted picture of public safety at JDAI sites. Only an examination of arrests at all JDAI sites can provide a true picture of public safety under JDAI policies.

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<sup>64</sup> In the 2011 JDAI Results Report, JDAI reports that of the 20 sites that chose juvenile arrests as a public safety performance measure in 2011, arrests rose by 2% from 2010-2011. This occurred at a time when national juvenile arrests declined 11%. The current Results Report for 2013 no longer reports juvenile arrests trends on a year-to-year basis, switching back to a format of aggregate arrest trends from the time of adoption of JDAI (the “baseline” year).

## **2. Crime rate performance at JDAI sites v. national rates.**

A review of all JDAI sites for arrest data from the “baseline year” to present, as is done below, presents a starkly different picture of public safety performance in JDAI sites.

The data assembled below follows all JDAI sites which were in operation in 2007 and which therefore have at least four years of juvenile arrest records to examine. It tracks sites monitored in a key JDAI program review conducted by the University of California Berkley in 2012, and compares arrest records at these sites to national arrest rate records. Unlike the Casey Foundation’s optional and tailored self-reporting of a selective category of arrests, UC Berkley researchers actually used arrest data compiled by the FBI for all counties in the United States, on all juvenile arrests. Their study did not compare JDAI sites to national averages, but their methodology provides a valid research basis upon which a follow-up study can be conducted. That follow-up study demonstrates:

- Of the 62 sites where complete juvenile arrest data was available from OJJDP and the FBI, 37 sites, or 60% of the total, performed below the national average during the period in which they operated under JDAI policy. Only 25 sites did better than the national average for juvenile arrests (presumably those sites that chose to report arrests).
- Juvenile crime has decreased across the nation in the last 15 years, but aggregate total reduction in juvenile arrests in three of four JDAI group cohorts from the year they first adopted JDAI policies to 2011 falls below the national average reduction.
- A comparison of juvenile arrest rates in the states with the greatest percentage of youth living in JDAI sites demonstrates that these sites have overwhelmingly higher juvenile crime rates than states with little or no involvement in JDAI practices.
- A review of each JDAI site mentioned in the Berkley study also reveals that in 2011, juvenile non-violent crime at Casey sites was significantly higher than in the nation as a whole.

In short, the “whole picture” of crime in JDAI sites is a picture of JDAI sites significantly underperforming national averages for juvenile criminal behavior over the entire course of their association with the Casey Foundation.

### **a. Crime performance trends in JDAI sites vs. national averages.**

The attached study is comprised of arrest data reported to the FBI for those under age 18. It replicates the methodology established by the 2012 University of California Berkley Warren School of Social Policy and Law study of JDAI effectiveness. That study compared existing JDAI sites to other sites in the same state, using juvenile arrest rates as one measure of policy effectiveness. That study concluded that in 10 of 15 states where data were available, JDAI sites



performed better than state averages for juvenile arrests. Unfortunately, the study made no attempt to determine how JDAI sites performed against national juvenile arrest rates.

The table below tracks the same UC Berkley study JDAI cites from their inception (the “baseline year” established by Casey) to 2011,<sup>65</sup> the latest year that juvenile arrest statistics are available from the FBI and OJJDP. Of the 62 JDAI sites in operation in 2007 which had arrest rates reported to the FBI and OJJDP, 37 sites, or 60%, performed below the national average for juvenile arrests.

Table 2. Crime performance trends in JDAI sites vs. national averages

JDAI State Site	Baseline Year	Juvenile Arrests Baseline Year	Juvenile Arrests 2011	Juvenile Arrest Trends JDAI Site	Juvenile Arrest Trends National Average	JDAI Site Performance vs. National Average
<b>Arizona</b>						
Pima County	03-11	13,856	9,676	-30.2	-33.5	<b>Worse</b>
<b>California</b>						
Santa Cruz County	01-11	2,055	1,116	-45.7	-34.0	Better
San Francisco County	01-11	2,839	1,556	-45.2	-34.0	Better
Ventura County	01-11	8,320	4,647	-44.1	-34.0	Better
<b>Hawaii</b>						
Hawaii County	07-11	2,006	1,323	-34.0	-32.3	Better
Honolulu County	07-11	9,006	6,316	-29.9	-32.3	<b>Worse</b>
<b>Idaho</b>						
Ada County	01-11	4,645	3,121	-32.8	-34.0	<b>Worse</b>
<b>Iowa</b>						
Black Hawk County	07-11	1,435	859	-40.1	-32.3	Better
Polk County	07-11	3,160	2,393	-24.3	-32.3	<b>Worse</b>
Woodbury County	07-11	1,626	1,371	-15.7	-32.3	<b>Worse</b>
<b>Louisiana</b>						
Caddo Parrish	06-11	3,231	3,017	-6.6	-33.6	<b>Worse</b>
E. Baton Rouge Parrish	06-11	4,896	4,332	-11.5	-33.6	<b>Worse</b>
<b>Maryland</b>						
Baltimore City	01-11	10,592	4,378	-58.7	-34.0	Better

<sup>65</sup> Information on the “baseline year” was taken from the UC Berkley study. The Casey Foundation was contacted in this process to obtain information about the baseline years of each of their sites, but refused to provide that data.

<b>Massachusetts</b>						
Suffolk County	06-11	3,030	1,370	-54.8	-33.6	Better
Worcester County	06-11	2,762	2,151	-22.1	-33.6	Worse
<b>Minnesota</b>						
Dakota County	06-11	3,739	2,360	-36.9	-33.6	Better
Hennepin County	06-11	16,609	12,431	-25.2	-33.6	Worse
St. Louis County	06-11	1,565	1,047	-33.1	-33.6	Worse
<b>Mississippi</b>						
Leflore County	07-11	153	89	-41.8	-32.3	Better
<b>Missouri</b>						
Cass & Johnson County	06-11	1,494	1,139	-23.8	-33.6	Worse
Jackson County	06-11	6,379	3,419	-46.4	-33.6	Better
Greene County	06-11	1,116	932	-16.5	-33.6	Worse
St. Louis County	06-11	11,259	9,802	-12.9	-33.6	Worse
<b>Montana</b>						
Cascade County	07-11	1,775	1,333	-24.9	-32.3	Worse
Hill County	07-11	482	262	-45.6	-32.3	Better
Missoula County	07-11	1,415	1,282	-9.4	-32.3	Worse
Yellowstone County	07-11	1,224	828	-32.4	-32.3	Better
<b>Nevada</b>						
Clark County	03-11	15,313	13,908	-9.2	-33.5	Worse
Washoe County	03-11	4,852	4,098	-15.5	-33.5	Worse
<b>New Jersey</b>						
Essex County	03-11	6,163	2,700	-56.2	-33.5	Better
Mercer County	03-11	4,906	2,387	-51.3	-33.5	Better
Ocean County	03-11	3,626	1,667	-54	-33.5	Better
Atlantic County	03-11	2,639	1,576	-40.3	-33.5	Better
Bergen County	03-11	4,700	2,889	-38.5	-33.5	Better
Camden County	03-11	8,518	3,703	-56.5	-33.5	Better
Hudson County	03-11	3,603	1,667	-53.7	-33.5	Better
Union County	03-11	3,343	1,685	-49.6	-33.5	Better
Burlington County	03-11	2,425	1,743	-28.1	-33.5	Worse
Monmouth County	03-11	3,901	2,685	-31.2	-33.5	Worse

<b>New Mexico</b>						
Bernalillo County	06-11	1,858	3,172	70.7	-33.6	<b>Worse</b>
Lea County	06-11	398	337	-15.3	-33.6	<b>Worse</b>
San Juan County	06-11	1,289	971	-24.7	-33.6	<b>Worse</b>
Santa Fe County	06-11	129	235	82.2	-33.6	<b>Worse</b>
<b>Oregon</b>						
Multnomah County	06-11	4,680	2,172	-53.6	-33.6	Better
CEOJJC	06-11	1,467	1,051	-28.4	-33.6	<b>Worse</b>
<b>Texas</b>						
Dallas County	06-11	13,671	10,657	-22.0	-33.6	<b>Worse</b>
Harris County	06-11	29,767	23,523	-21.01	-33.6	<b>Worse</b>
<b>Virginia</b>						
Lynchburg City	03-11	499	223	-55.3	-33.5	Better
Petersburg City	03-11	259	125	-51.7	-33.5	Better
Virginia Beach City	03-11	4,050	2,755	-31.9	-33.5	<b>Worse</b>
Loudon County	03-11	864	840	-2.8	-33.5	<b>Worse</b>
Bedford City	03-11	99	70	-29.3	-33.5	<b>Worse</b>
Hampton City	03-11	1,035	1,283	24.0	-33.5	<b>Worse</b>
Richmond City	03-11	852	816	-4.2	-33.5	<b>Worse</b>
Newport News City	03-11	2,085	1,016	-51.3	-33.5	Better
Norfolk City	03-11	1,552	2,226	43.4	-33.5	<b>Worse</b>
Hopewell City	03-11	26	128	392.0	-33.5	<b>Worse</b>
<b>Washington</b>						
Benton & Franklin County	03-11	3,297	2,118	-35.8	-33.5	Better
Skagit County	03-11	1,144	744	-34.9	-33.5	Better
Whatcom County	03-11	1,438	949	-34.0	-33.5	Better
Pierce County	03-11	4,159	2,977	-28.4	-33.5	<b>Worse</b>
Mason County	03-11	360	290	-19.4	-33.5	<b>Worse</b>

**b. Three of four JDAI cohort groups perform below national averages.**

The UC Berkley study also established four “baseline” JDAI site cohorts for juvenile arrests (2001-2011, 2003-2011, 2006-2011, and 2007-2011). These were separate groups of JDAI sites that formally adopted JDAI policy at different times. The arrest rates of these groups have been aggregated from the totals in Table 2 and tracked separately for performance against national juvenile arrest averages. Three of the four cohorts underperformed national averages in aggregate juvenile arrest rate trends in the years they have operated as JDAI sites.

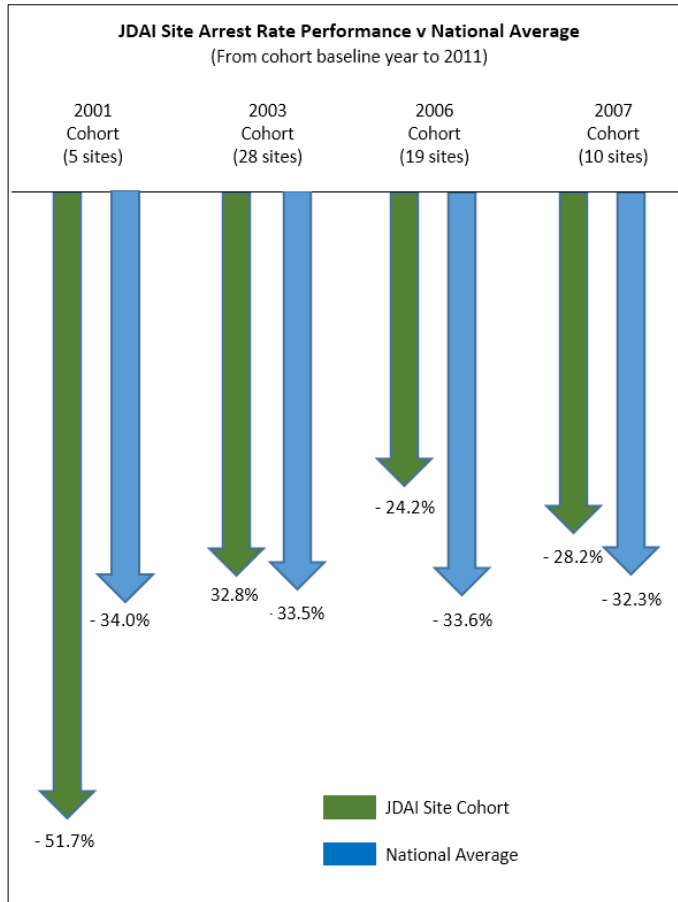


Figure 3. JDAI Site Arrest Rate Performance v National Average

**c. High crime rates in JDAI states.**

The UC Berkley study also identified states by “JDAI penetration,” defined as the percentage of a state’s youth living in JDAI jurisdictions. The top ten states had JDAI penetration ranging from 35% to 87% of total state youth. Presumably, if JDAI policies actually enhanced public safety, that effect would be most evident in states with significant JDAI participation.

Comparing juvenile arrest rates in these states to national averages, however, demonstrates the opposite effect, especially for non-violent crime rates (Table 3). In five of the top ten JDAI states, 2011 juvenile FBI violent index arrests rates were higher than the national average. In eight of the ten states, juvenile FBI property crime index rates were above national average. In eight of the ten states, juvenile drug crime arrest rates were above the national average.

Consequently, it is evident that the adoption of Casey Foundation policies has done nothing to produce better public safety results in states where JDAI practices are most prevalent.

*Table 3. JDAI States Crime Rates v. National Average*

TOP TEN JDAI STATES CRIME RATES V. NATIONAL AVERAGE				
	Percent of State Youth Living in JDAI Sites	Juvenile Arrests per 100,000		
		Violent	Property	Drug
<b>National Average</b>		<b>204</b>	<b>1001</b>	<b>445</b>
Nevada	87%	<b>298</b>	<b>1297</b>	<b>736</b>
New Jersey	84%	<b>214</b>	628	<b>505</b>
Hawaii	81%	180	<b>1181</b>	439
Illinois*	58%	<b>757</b>	<b>1599</b>	<b>1461</b>
Missouri	57%	191	<b>1332</b>	<b>528</b>
New Mexico	56%	195	<b>1439</b>	<b>638</b>
Massachusetts	56%	<b>217</b>	390	81
Washington*	55%	170	<b>1305</b>	<b>548</b>
Minnesota	40%	151	<b>1407</b>	<b>552</b>
Louisiana*	35%	<b>523</b>	<b>1325</b>	<b>448</b>

**Red** indicates rates worse than national average.

\* IL, WA, LA data taken from [National Report Series Juvenile Arrests 2011](#), Charles Puzzanchera, OJJDP. All other rates from OJJDP Data Tools.

**d. High crime rates at individual JDAI sites.**

A follow-up review of the JDAI sites included in the UC Berkley study demonstrates, not surprisingly, that the same high juvenile crime rates seen at “high penetration” JDAI states are also seen at the individual county sites themselves. The latest comparative FBI arrest rates reported by OJJDP on a county-by-county basis in 2011 allow comparisons of JDAI site arrest rates to national arrest rates for juveniles. In this category, OJJDP reports the arrest rates per 100,000 juveniles in each jurisdiction, and not raw totals as were used by the UC Berkley study.

In 2011, 69 separate JDAI counties, cities, or parishes examined in the UC Berkley study had juvenile arrest rates reported per 100,000 youth in FBI and OJJDP data banks. An examination of those rates allows an understanding of juvenile crime rates at JDAI sites compared to national averages.<sup>66</sup>

Of the 69 separate JDAI sites, 45 of 69 (65%) had total juvenile arrest rates above the national average (Chart 26), 40 of the 69 (58%) sites had higher juvenile FBI property index crime rates than the national average (Chart 27), and 46 of 69 (67%) had higher juvenile drug arrest rates than the national average (Chart 28). In short, for juvenile crime, Casey JDAI sites look remarkably similar to Oregon.

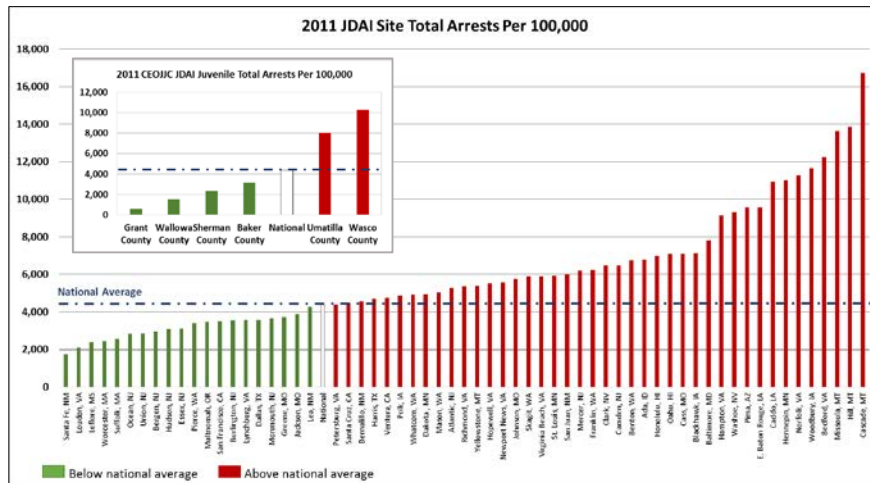


Chart 26. JDAI Site Total Arrests

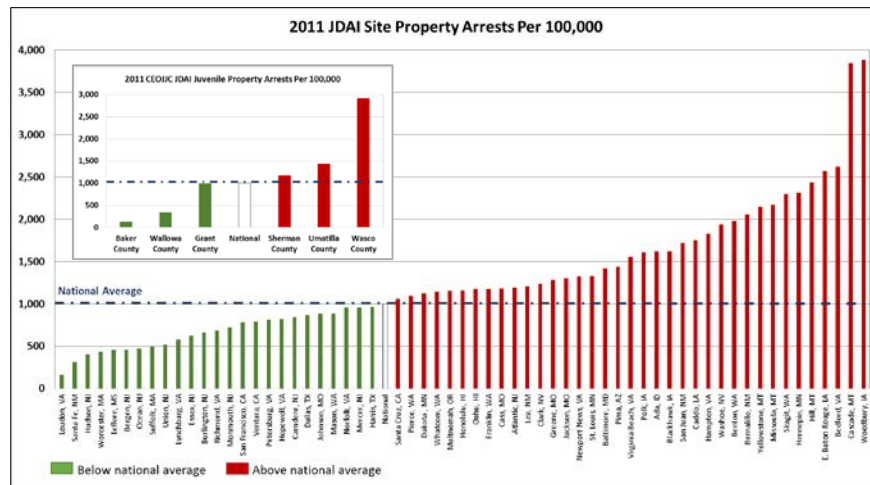


Chart 27. JDAI Site Property Arrests

<sup>66</sup> The rates of three sites that were reported as consortium aggregates in the UC Berkley report were reported separately as individual jurisdictions, accounting for the different number of sites, 69 instead of 62 in the Berkley study and the follow-up on that study above.

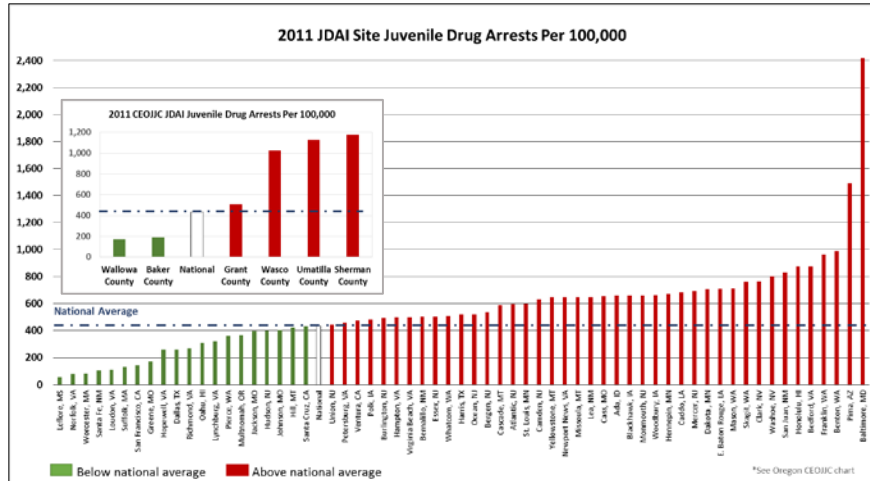


Chart 28. JDAI Site Juvenile Drug Arrests

Only in violent FBI index crime did arrest rates at JDAI counties appear better than the national average, with only 30 of 69 (43.5%) sites performing worse than the national average (Chart 29). This is to be expected. As in Oregon, over the last 25 years, juvenile departments across the nation have been legislatively stripped of control over serious violent crime by means of automatic remand or waiver procedures, prosecutorial discretion to remove violent offenders to adult court, blended adult jurisdiction, and automatic adult court jurisdiction. JDAI policies have little effect in these situations because serious violent crime by juveniles across the nation is largely controlled in some fashion by the adult court system. And where this is not the case, the Casey Foundation itself recommends significant caution, detention, and even sanctions for serious violent juvenile offenders. So JDAI policy for violent crimes actually looks very much like mainstream policy.

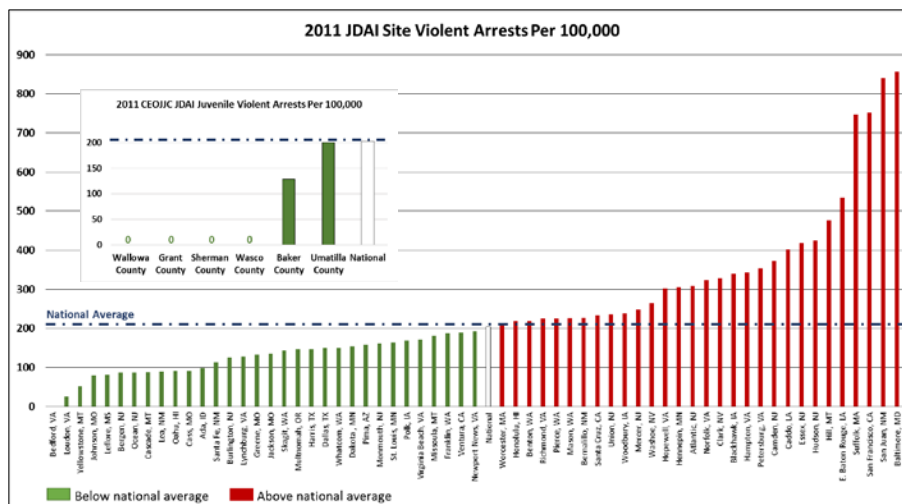


Chart 29. JDAI Site Violent Arrests

In summary, in juvenile crime rate reporting, the Casey Foundation has long employed selectively chosen statistics to present a carefully crafted picture of public safety performance at its sites. The conclusion that emerges, however, from an examination of the entire body of juvenile crime statistics is that JDAI sites have, as a whole, performed significantly worse than non-JDAI jurisdictions at the county and state level compared to national crime trends. The policies advocated by JDAI, in the vast majority of sites in which the Casey Foundation operates, have been unable to deliver crime rates better than national averages, especially in areas of the drug and property crime, where JDAI policies have had significant effect.

## **B. Budgetary performance at JDAI sites.**

As a bedrock principle, the Casey Foundation has always maintained that the juvenile justice policies it advocates will effectively reduce juvenile budgets and save taxpayer dollars. Throughout the history of the project, budgetary savings have been a key selling point in promoting its policies to juvenile departments around the nation. As stated in a key JDAI document, “in addition to reducing confinement of young people and enhancing public safety, JDAI is generating substantial savings for taxpayers by enabling participating jurisdictions to avoid costs for the construction and operation of secure detention facilities.”<sup>67</sup>

Again, however, the foundation has made no systematic study of JDAI site budgets to determine if their assertions regarding budgetary savings are accurate. In fact, JDAI sites are not required to report budget figures to JDAI in annual results reports. JDAI has relied on publishing facility bed reduction data from a small number of selected sites to suggest that, because of lower detention rates, JDAI sites must be reducing budgets. No attempt has been made by the organization, however, to analyze actual budget data from its sites to determine if those assertions are true. Those familiar with the dynamics of government operations will immediately understand the pitfalls associated with presuming that reductions in government services will automatically produce budget savings.

### **1. County budget savings.**

To be sure, analyzing county budgets across the nation would be a daunting task even if those budgets conformed to uniform standards, which they decidedly do not. So it is understandable that the Casey Foundation would have decided to defer from that task. However, without such a systematic study, claims that JDAI sites save county taxpayer dollars would seem unsupported at best.

A review of a the budget of the one Oregon county that Casey has used repeatedly to showcase its detention reduction policies reveals the questionable nature of assuming that detention reductions lead to budget savings. Multnomah County was one of the first sites in the nation to adopt JDAI philosophy, beginning in 1995. As the county and the Casey Foundation have

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<sup>67</sup> Mendel, Two Decades of JDAI.



claimed repeatedly, Multnomah County has reduced its juvenile detention population more than any other county in the nation—an 86% reduction from the date of adoption of JDAI policies. According to Casey’s JDAI director, new juvenile practices in Multnomah County have “made detention relatively obsolete.”<sup>68</sup>

The Casey Foundation has also repeatedly asserted that detention reductions in Multnomah County have led to significant budget savings. The director of JDAI recently repeated the Casey claim that mothballing juvenile beds saves the county \$2.4 million each year in staffing costs.<sup>69</sup> Upon examination, however, that claim is demonstrably wrong. In fact, the opposite is actually the truth.

The Casey Foundation apparently made no efforts to actually examine Multnomah County detention staffing and budgets to determine if detention reductions have led to the staffing reductions and budget savings they claim. The foundation apparently simply accepted the claims of the county juvenile department that such reductions and savings have occurred. They have not occurred.

County budget documents show that in 1995, the first full year of JDAI operations, the Multnomah County juvenile department employed 62.06 full time employees in its “detention services” unit, and the budget for that unit in 1995 was \$3,602,766.<sup>70</sup>

<u>Budget Overview</u>		1995-96	1996-97	1997-98	
	Actual	Adopted Budget	Adopted Budget	Difference	
Staffing FTE	62.06	67.80	69.80	2.00	
Program Costs	\$3,602,766	\$3,695,371	\$3,844,841	\$149,470	

<u>Key Results</u>		1994-95	1995-96	1996-97	1996-97	1997-98
	Actual	Actual	Original Projection	Current Estimate	Projected	
% of youth who do not escape detention	99%	100%	100%	100%	100%	
% of admissions by youth in custody that are	100%	100%	95%	92.5%	95%	

Figure 4. Multnomah County Juvenile Department 1995-96 Budget

Between 1995 and 2014, Multnomah County, employing JDAI policies, purportedly reduced its juvenile detention population by 86%, according to the Casey Foundation. So measured by the number of juveniles detained and requiring supervision, the Multnomah County juvenile detention supervision unit should only be left with 14% of the workload that it had in 1995.

<sup>68</sup> Bart Lubow, JDAI director, May 7, 2014, Willamette Week, “Spare the Jail and Spoil the Child?”

<sup>69</sup> *Id.*

<sup>70</sup> “Detention services” is the unit responsible for security of the juvenile detention facility. It is a systematically reported distinct budget entity that is tracked year by year, allowing for exact comparisons.

Presumably, purported reductions of this magnitude would have generated vast budget savings, as the Casey Foundation has repeatedly asserted, apparently without checking.

However, county budget documents reveal that in 2014, despite the purported 86% detention reduction, the staffing of the detention services unit had actually increased to 70.50 full-time employees, with a budget of \$9,051,312.

Community Justice					
fy2015 proposed budget					
Prog. #	Program Name	FY 2015 General Fund	Other Funds	Total Cost	FTE
<b>Juvenile Services Division</b>					
50050	Juvenile Services Management	1,575,216	197,416	1,772,632	10.50
50051	Juvenile Services Support	2,504,816	0	2,504,816	16.00
50052	Family Court Services	112,101	1,035,428	1,147,529	8.59
50053	Family Court Services - Supervised Parenting Time	154,782	209,377	364,159	2.31
50054A	Juvenile Detention Services - 64 Beds	7,267,659	1,076,729	8,344,388	64.50
50054B	Juvenile Detention Services - 16 Beds	706,924	0	706,924	6.00
50055	Community Monitoring Program	294,823	342,727	637,550	0.00

Figure 5. Multnomah County FY2015 Proposed Budget for Detention Beds

So, while the Casey Foundation claims that the number of Multnomah County youth in detention is only 14% of what it was before JDAI philosophy was adopted in 1995, staffing for the supervision of those youth has actually increased by 13.5%. And even after adjusting for inflation, the detention services budget has increased by 61.5% during a time when workload had reportedly decreased by 86%. During this period, the detention services budget has expanded from 19.4% of the total Juvenile Department budget to 34.6% of the total departmental budget.

Paradoxically, this incongruous increase in Multnomah County detention staff has come at the expense of non-detention alternative programs, a development which is exactly the opposite of what is advocated by the Casey Foundation, which strongly supports the use of non-custodial programs for juveniles. In 1995, non-detention operations constituted 72.7% of the employee staffing at the Multnomah County Juvenile Department.<sup>71</sup> In the last 20 years, however, as detention staffing has increased, non-detention staffing has shrunk dramatically. For the current fiscal year, only 58.1% of Juvenile Department staffing will be involved in non-detention service

<sup>71</sup> Multnomah County Adopted Budget Narrative 1997-98. 161 of 223 Juvenile Department employees worked outside of the detention services unit in 1995-95.

units such as juvenile probation, behavior modification programs, family outreach programs, and gang outreach efforts.<sup>72</sup>

The picture in Multnomah County, therefore, is exactly the opposite of what is claimed by the Casey Foundation. Purported reductions in juvenile detention have not only failed to produce staffing and budget savings, but have produced increases in those areas, increases which have severely jeopardized the very non-detention alternative programs that are promoted by the Casey Foundation.

Not only have the increased detention costs associated with the implementation of JDAI policy in Multnomah County affected the taxpayers of that county, they have also affected neighboring counties. This is because the Donald E. Long juvenile detention facility, located in Multnomah County and staffed by Multnomah County employees, also serves as a regional juvenile detention facility holding juveniles from neighboring Clackamas and Washington counties.

Juvenile departments from Washington and Clackamas counties rent detention space and services from Multnomah County at the Long Center under the terms of intergovernmental agreements which stipulate reimbursement for detention services based on a cost-per-day-per-detainee rate. Consequently, increases in detention costs for detention services in Multnomah County result in increases in costs for those two neighboring counties. The result for Washington and Clackamas counties, whose intergovernmental agreements call for cost-per-day reimbursement for detention services, has been detention costs for juveniles that have more than doubled in the last seven years.

Together, Multnomah, Clackamas, and Washington counties constitute almost 45% of the population of Oregon, so it is apparent that the higher costs that have accompanied Casey philosophy implementation in Multnomah County have dramatically raised taxpayer costs for juvenile detention in almost half the state.

While it is unlikely that discrepancies of this magnitude exist at every JDAI site in the nation, figures such as these demonstrate why it is foolhardy to presume that detention reductions automatically lead to savings, as the Casey Foundation does. Figures of this nature, especially when they involve JDAI's showcase site, suggest that prudence requires the actual verification of budget figures before making assertions of taxpayer savings.

## **2. State budget savings.**

An actual examination of state juvenile corrections budgets is a manageable task and may also provide additional generalized insight into the proposition that JDAI policies are more effective than mainstream policies in budget management. Apparently, the Casey Foundation has never

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<sup>72</sup> Multnomah County Proposed Budget, 2015. 98 of 168 Juvenile Department employees currently work outside of the detention services unit. Since 1995, the total full-time employees working outside of the detention services unit has declined from 161 to 98, a 43% reduction.

attempted to systematically investigate state budget performance either, although there is relatively robust data collected on state juvenile corrections budgets.

An examination of state juvenile corrections budgets provides a rough evaluation of JDAI fiscal efficiency. Of course, it is certainly not a definitive assessment, since, like county budgets, state budget protocols and state agency organization may differ, making some comparisons uncertain. However, to assist juvenile administrators in research, the Council of Juvenile Corrections Administrators annually produces state data comparisons that list state juvenile corrections budgets, with the caveat, “just as each of the 52 juvenile justice systems in the country are configured differently, all budgets are appropriated uniquely. An agency’s budget is one indicator of how it fulfills its mission and establishes priorities.”<sup>73</sup>

JDAI asserts that a mission that prioritizes lower rates of commitments to state training schools should reduce state corrections budgets, and the assertion sounds reasonable. A look at state juvenile budget comparisons, however, shows it is not. Presumably, states with the highest percentage of youth in JDAI sites (JDAI “penetration”) should be producing more state juvenile corrections budget savings than those states with little or no JDAI penetration, simply as a result of committing fewer delinquent youth to state training schools.

A review of CJCA state budget comparisons demonstrates that JDAI states, far from doing better in recent budgetary comparisons than states with little JDAI involvement, appear to be doing significantly worse.

Again, the ten states with the greatest JDAI penetration, ranging from 35% to 87% of state youth, were chosen to compare with the remainder of states. Nine of the “high penetration” JDAI states reported budgets to CJCA between 2008 and 2010. Of the forty remaining “non-JDAI” states, 33 reported budgets to CJCA in that time period. 2008-2010 was chosen because it is the period when the greatest number of JDAI sites were in operation. 2010 is the latest year for which CJCA currently provides comparative budget figures.

2008-2010 was a difficult time for state finances across the nation, and juvenile corrections budgets declined in most states. In the nine states with high JDAI penetration, juvenile corrections budgets declined by 7.1%. In states with low JDAI penetration or none at all, juvenile corrections budgets declined by a far greater 12.8%.

The data presented by state budget comparisons, although perhaps not definitive, is certainly more robust than the data JDAI uses from carefully selected sites across the nation, with no examination of actual budgets, while asserting that “JDAI is generating substantial savings for taxpayers.” That assertion is unjustified as a conclusion about the program as a whole, because data on budget savings presented by Casey is selective and anecdotal at best. An examination of the entire spectrum of state juvenile corrections budgets appears to show that the opposite is true.

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<sup>73</sup> 2012 Yearbook, Council of Juvenile Corrections Administrators.

**APPENDIX C: 2010 – Youth Disposed for Criminal Referral – 12 month Juvenile Criminal Referral Recidivism by Dispositional Category\***

Table 4. Youth Disposed for Criminal Referral<sup>74</sup>

Manner of Handling	Dispositional Category	Disposition	# Youth Disposed**	# Youth Recidivating	% Recidivism	Concerns
Not Petitioned	Review & Close	No Jurisdiction	17	7	41.2%	Low "N"
		Referred to Another Agency	336	62	18.5%	
		Review & Close	867	176	20.3%	
		Warning	1375	306	22.3%	
		Divert & Close	263	50	19.0%	
		Intake Office Contact & Close	860	168	19.5%	
		Rejected by DA/Juv Dept	1330	378	28.4%	
		Alternative Process	321	108	33.6%	
	Diversion & Informal Supervision	Diversion Supervision	854	135	15.8%	
		Diversion – Youth Court	934	158	16.9%	
		Diversion – Traffic/Municipal Court	8	1	12.5%	Low "N"
		Informal Sanctions & Supervision	1484	318	21.4%	
		Formal Accountability Agreement	2052	482	23.5%	
Petitioned	Dismissed	Dismissed	534	119	22.3%	
	Alternative Process	Plea or Alternative Process	301	75	24.9%	
	Adjudicated Delinquent (Review Concerns)	Formal Sanction	200	47	23.5%	
		Probation	2116	636	30.1%	
		Commit/Custody – Non OYA	4	2	50.0%	Low "N"; DHS placement
		Probation – Custody Other Agency	13	4	30.8%	Low "N"; DHS placements / probation.
		Probation – Commit to OYA for Community Placement	257	47	18.3%	Rate may be low – youth are in a residential placement for part or all of the 12 month tracking period.

<sup>74</sup> Source: OYA. August 18, 2014

		OYA Commitment for YCF	247	27	10.9%	Rate is different than the OYA standard rate and definition – This population is normally tracked from their release date not commitment date. These youth are incarcerated for part or all of the 12 month tracking period.
<b>Adult Court</b> <i>(Review Concerns)</i>		Waived/Transferred	102	15	14.7%	Rate may be low – These youth have been transferred out of the juvenile court system to the adult court system. Youth may be incarcerated for part or all of the 12 month tracking period awaiting trial, or serving a sentence.
		Adult Sentence	101	6	5.9%	Rate is different than the OYA standard rate and definition – This population is normally tracked from their release date not sentence date. These youth are incarcerated for the part or all of the 12 month tracking period.
<b>Statewide Total</b>			<b>14576</b>	<b>3327</b>	<b>22.8%</b>	

\*Report criteria

- The dispositional year for this data is 2010. The original information was for the dispositional year 2012.
- The indicator of recidivism is the receipt of a criminal referral (felony or misdemeanor) to the juvenile department or OYA within 12 months following the 2010 disposition date. Adult arrest data is not included in the rates.
- A youth is reported only one time during the year. He/she is reported in the first dispositional category received for a criminal referral in 2010.

\*\*Categories with a small number of youth (low “N”) can create misleading percentages



## John S. Foote, District Attorney for Clackamas County

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### APPENDIX D: Oregon Juvenile Justice Policy Memo

To: John Foote  
From: Chuck French  
Date: March 13, 2014  
Re: Oregon Juvenile Justice Policy

I have been asked by the Clackamas County District Attorney to take an open-ended look at the operation and performance of our juvenile criminal justice system, including the Oregon Youth Authority and county juvenile justice agencies, although obviously this requires an examination of other significant components of our system as a whole.

At the outset, I stress it appears to me there has been a widespread reluctance on the part of most in the law enforcement community outside of the juvenile sphere to delve deeply into the functioning of the juvenile system. Even among members of district attorney's offices there is a significant lack of understanding of this critical criminal justice component. Many of my conclusions, even those based on indisputable statistical fact, I believe it is fair to say, would come as surprises to many in the law enforcement community. I attribute this to a general lack of engagement in the juvenile system by many of those in law enforcement whose major focus has long been adult criminal law and sentencing policy. After voters removed serious violent crimes from the jurisdiction of the juvenile justice system by passing Measure 11 in 1994, law enforcement largely left the remainder of the juvenile justice to develop on its own.

As a consequence, for many years juvenile justice policy in this state has been left in the hands of state and local juvenile departments, working with out-of-state interest groups which have provided philosophical leadership and even significant funding, to create a "model" juvenile system in Oregon that has largely gone unchallenged by those in law enforcement. In general, I believe it is seldom healthy for public policy to be developed outside of the realm of public debate and advocacy, but effectively this has happened with Oregon's juvenile justice policy, largely due to the lack of engagement by law enforcement and their deferral of an active role in juvenile policy decisions.

Seemingly unknown to the populace, to law enforcement, and perhaps even to the juvenile justice community (and certainly unknown to me until recently), Oregon has one of the most expensive juvenile corrections systems in the nation, by one survey, the second most expensive system per capita in the country. Despite the amount of money being spent for this system, however, Oregon faces one of the worst juvenile crime problems in the nation in the realm of crimes over which our juvenile justice system has jurisdiction. Juvenile property crime arrest rates in Oregon are the fifth highest in the nation, a situation that is completely out of sync with all the areas of criminal activity in our state that are the province of the adult system. Oregon also suffers from one of the highest drug use and drug addiction problems among youth in the United States. All this is occurring among juveniles at a time where Oregon's adult criminal justice system is producing some of the best violent crime results in the nation, and where property crime rates are steadily improving also

I have attempted to assess the reason for this demographic aberration in criminal activity in our state, and to offer some opinions on whether it is a result, improbably, of some natural phenomenon, or has been produced by public policy decisions.

I have spent some time examining juvenile social welfare conditions and policies and the connection that many believe child welfare policies have with juvenile crime. The results are surprising.

I have also spent significant time examining how Oregon's juvenile justice system differs from national practices, to draw distinctions that may provide policy explanations for Oregon's poor performance in addressing juvenile crime.

My ultimate conclusion, as I believe is explained below, is that Oregon has an extremely expensive juvenile delinquency system that operates, almost experimentally, very far from mainstream practices, but which has failed to produce better results than most mainstream systems, and in fact in many areas produces far worse results.

**Costs of Oregon juvenile corrections system.** To attempt to determine how Oregon's juvenile system's budget ranks among the states, I turned to the Annie E. Casey Foundation, perhaps the foremost child welfare advocacy organization in the nation. Although many in law enforcement may disagree with the justice philosophy of the Casey Foundation that organization has unquestionably amassed an extraordinarily extensive juvenile data collection. To analyze corrections budgets, the Casey Foundation Juvenile Detention Alternatives Initiative (JDAI) cites studies from the Council of Juvenile Corrections Directors and from the American Correctional Association, both of which attempt to analyze and report on the corrections budgets of each State.<sup>75</sup>

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<sup>75</sup>[http://www.aecf.org/OurWork/JuvenileJustice/~/\\_media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/BudgetsIn2008.pdf](http://www.aecf.org/OurWork/JuvenileJustice/~/_media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/BudgetsIn2008.pdf)



**STATE JUVENILE  
CORRECTIONS  
BUDGETS IN  
2008**

Unofficial Estimates  
from the Council of  
Juvenile Correctional  
Administrators and the  
American Correctional  
Association

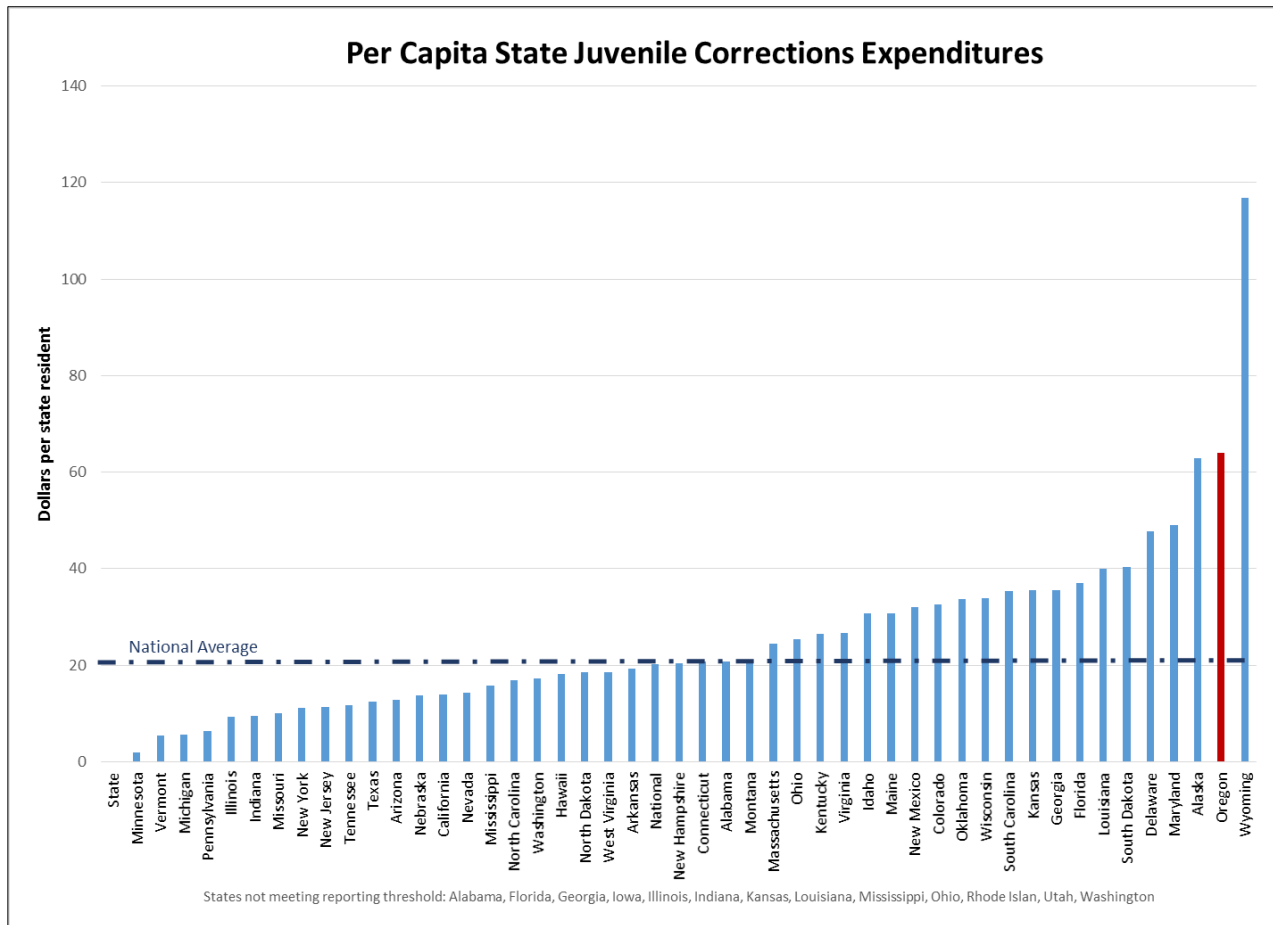
	CJCA	ACA
Alabama	\$97,659,395	\$107,043,143
Alaska	\$46,237,400	\$46,237,400
Arizona	\$85,062,891	?
Arkansas	\$58,316,325	\$55,691,874
California	\$534,794,000	\$472,194,000
Colorado	\$140,466,369	\$152,036,266
Connecticut	\$70,406,122	\$43,293,744
Delaware	\$42,731,300	\$22,520,500
District of Columbia	\$87,947,000	?
Florida	\$695,051,915	\$627,718,953
Georgia	\$343,192,282	\$364,857,351
Hawaii	\$24,810,962	\$10,628,046
Idaho	\$49,829,001	\$49,829,001
Illinois	\$119,649,400	?
Indiana	\$61,291,377	\$58,966,312
Iowa	?	?
Kansas	\$101,167,985	\$101,167,985
Kentucky	\$115,359,200	\$115,729,200
Louisiana	\$181,784,584	\$185,964,600
Maine	\$40,843,653	\$30,050,047
Maryland	\$282,913,171	\$268,226,734
Massachusetts	\$160,353,526	\$161,517,014
Michigan	\$56,025,500	\$274,541,000
Minnesota	\$10,570,140	?
Mississippi	\$46,592,452	\$20,497,707
Missouri	\$60,276,738	\$67,205,925
Montana	\$20,475,256	\$20,475,256
Nebraska	\$25,098,067	\$17,245,540
Nevada	\$38,423,842	\$33,366,955
New Hampshire	\$26,922,307	\$28,600,421
New Jersey	\$99,132,000	\$128,052,000
New Mexico	\$66,108,100	\$72,665,600
New York	\$216,262,000	?
North Carolina	\$161,389,888	\$165,744,045
North Dakota	\$11,844,591	\$11,844,591
Ohio	\$293,675,380	\$317,684,225
Oklahoma	\$126,219,921	\$127,469,921
Oregon	\$245,563,147	\$150,933,438
Pennsylvania	\$80,056,211	\$70,163,000
Puerto Rico	\$80,014,000	?
Rhode Island	?	\$30,520,261
South Carolina	\$163,873,670	\$163,873,670
South Dakota	\$32,825,057	\$33,826,946
Tennessee	\$74,630,600	\$72,863,600
Texas	\$314,902,868	\$283,883,020
Utah	?	\$108,349,000
Vermont	\$3,431,106	\$3,500,000
Virginia	\$213,631,612	\$252,987,157
Washington	\$116,574,000	\$117,733,000
West Virginia	\$34,530,788	\$14,159,875
Wisconsin	\$192,400,000	\$196,160,500
Wyoming	\$65,800,310	?
<b>TOTAL</b>	<b>\$6,217,117,409</b>	<b>\$5,658,048,853</b>

Sources: Council of Juvenile  
Correctional Administrators,  
American Correctional  
Association.

Source: Annie Casey Foundation

These figures are easily translated to per capita expenditures by dividing the budgets by state resident populations. According to Council of Juvenile Corrections Administrators figures, Oregon has the second most costly state juvenile corrections budget, on a per capita basis, in the nation. The American Correctional Association, presumably using a slightly different methodology, finds Oregon to be the sixth most costly in the nation.

The following graph utilizes the Casey Foundation budget figures from the CJCA to demonstrate the per capita budgeted expense of various state juvenile systems.



Graph 1

Given the amount of money that Oregon is spending on its juvenile corrections system, it is fair to ask what return this state has received from this investment.

**Performance of Oregon's juvenile justice system.** Any analysis of the effectiveness of a policy, system, or organization requires the use of performance measures that appropriately relate to the goals of the policy, system, or organization. Various juvenile justice agencies utilize differing methods to measure their performance. A glance at different county agency websites demonstrates that these agencies use a number of figures to explain their performance, ranging from budgets, detention facility usage and recidivism rates. Unlike the Oregon Department of Corrections Community Corrections division, there are no uniform statewide juvenile

performance measures that readily allow county comparisons. None of the agencies reviewed made any attempt to document the juvenile crime rates in their county, even though those figures are readily available. If one accepts the idea that the prevention of juvenile crime is the primary goal of the juvenile justice system, it would seem logical to at least report on the level of juvenile crime in a community when reporting on the performance of a juvenile justice system. Yet, unlike our adult justice system, crime rates and figures seem to be uniformly ignored by juvenile justice systems in our state.

The procedures of the Oregon Youth Authority, for instance, are instructive and seemingly representative of juvenile departments across the state. I have used information from that state agency because it is readily available and documents what I believe may represent an overall mind-set in juvenile justice throughout this state. In fact, if anything, it would appear to me that the Oregon Youth Authority has been far more reluctant to adopt some of the more radical approaches to juvenile justice that prevail in many county juvenile departments across the state. Yet even the OYA seems disinclined to focus on juvenile crime rates as a measure of the effectiveness of the juvenile justice system.

The stated mission of the Oregon Youth Authority "is to protect the public and reduce crime by holding youth offenders accountable and providing opportunities for reformation in safe environments." To assess its progress toward this goal, the agency tracks a number of performance measures that are designed to contribute to that goal. Each year the agency publishes the results of its performance measures.<sup>76</sup>

The performance measures listed in OYA's annual reports are designed to determine how effectively OYA performs its functions. They list such factors as recidivism,<sup>77</sup> programming, and youth to staff violence, among others. The one factor missing, however, from these agency performance measures is the actual effect that OYA policies have on overall youth criminal activity. In fact, as will be explained below, Oregon's juvenile crime rate, especially the non-violent crime, is close to the worst in the nation. Quite frankly, I was surprised that in all the literature I have read about our juvenile system, I came across no OYA reference to comparative juvenile crime rates. Comparative figures are readily accessible and the federal Bureau of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP), the leading statistical resource in the field for years, has monitored data from every state across the nation and made that data freely available in its interactive website.<sup>78</sup> The OJJDP, in fact, promotes the use of these comparative statistics for the benefit of juvenile policy leaders across the nation. One would think that such an important comparative measure of system effectiveness would have been a key component in OYA system analysis.

OYA practices seem to reflect general policy throughout the state and are used here simply to demonstrate a system-wide focus on measuring what might be considered largely irrelevant minutiae. Not even mentioned or considered, apparently, in self-analyses of agency performance

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<sup>76</sup> The latest performance report can be found at [http://www.oregon.gov/oia/docs/APPR\\_2013.pdf](http://www.oregon.gov/oia/docs/APPR_2013.pdf)

<sup>77</sup> Significant problems exist with using OYA recidivism statistics to measure the effectiveness of the agency because the OYA definition of recidivism does not conform to recent legislative definitions of that term.

<sup>78</sup> In fact, much of the data in this memo is derived from that database.

is an astonishingly high juvenile crime rate in the types of crime that are the province of juvenile justice agencies across the state. Those juvenile crime rates merit significant discussion.

Since major violent crime in Oregon is largely no longer the province of the juvenile justice system and has been turned over to the adult system by the voters, the effectiveness of our youth system must largely be assessed by its performance in controlling non-violent juvenile criminal behavior.

An analysis of crime data available from the FBI and OJJDP demonstrates that Oregon has done an exemplary job in addressing what was once an extremely severe violent crime problem. Our overall violent crime rates, among the very worst in the nation in the 1970s, are now one of the best in the nation. The same is true of violent juvenile crime, where Oregon records some of the better rates in the United States, well below the national average, although Oregon juvenile violent crime rates were never historically quite as bad, relative to national rates, as were Oregon's overall violent crime rates.

A similar analysis of non-violent crime rates, however, shows the opposite effect, at least as far as juvenile crime is concerned. Overall property crime rates for all ages combined in Oregon were once also close to the worst in the nation, and in fact in 2003 were the third highest in the country. By 2010, those rates had fallen to 21st in the United States, not yet good, but improving dramatically. Juvenile non-violent crime, however, did not follow suit. In 2010, Oregon's juvenile property crime rates were fifth highest in the nation.

The ultimate performance measure for a criminal justice system, in my estimation, is whether public policies contribute to public safety. While overall crime rates, in Oregon and the United States in general, have undoubtedly declined over the last 15 years, in both juvenile and adult sectors, Oregon's crime rates must be measured against the nation as a whole to determine whether the policies we have adopted are as effective as those utilized elsewhere, especially in light of the fact that Oregon is spending more on its system than almost any other state. What follows is an analysis of Oregon crime rates, directed at the performance of the juvenile justice system.

**Overall crime rates.** Overall crime rates are most often expressed in terms of reported crimes. The FBI maintains the Uniform Crime Report (UCR) system, a robust database of reported crimes that tracks crimes reported to all police agencies across the nation. These crimes are recorded in various categories that allow analysts to compare crime trends and crime in different jurisdictions. The most commonly cited figures used for comparisons are known as "Index" crimes, eight categories of criminal offense broken into four violent crimes and four property crimes. These Index crimes have been consistently tracked since 1930, allowing for relevant historical crime comparisons.

A recent Oregon Criminal Justice Commission analysis of UCR reports of overall violent and property Index offenses details Oregon's current crime rates in comparison to the rest of the country, and also provides a historical perspective of crime in Oregon.<sup>79</sup> The analysis demonstrates that Oregon currently has the 21st highest property crime rates in the United States

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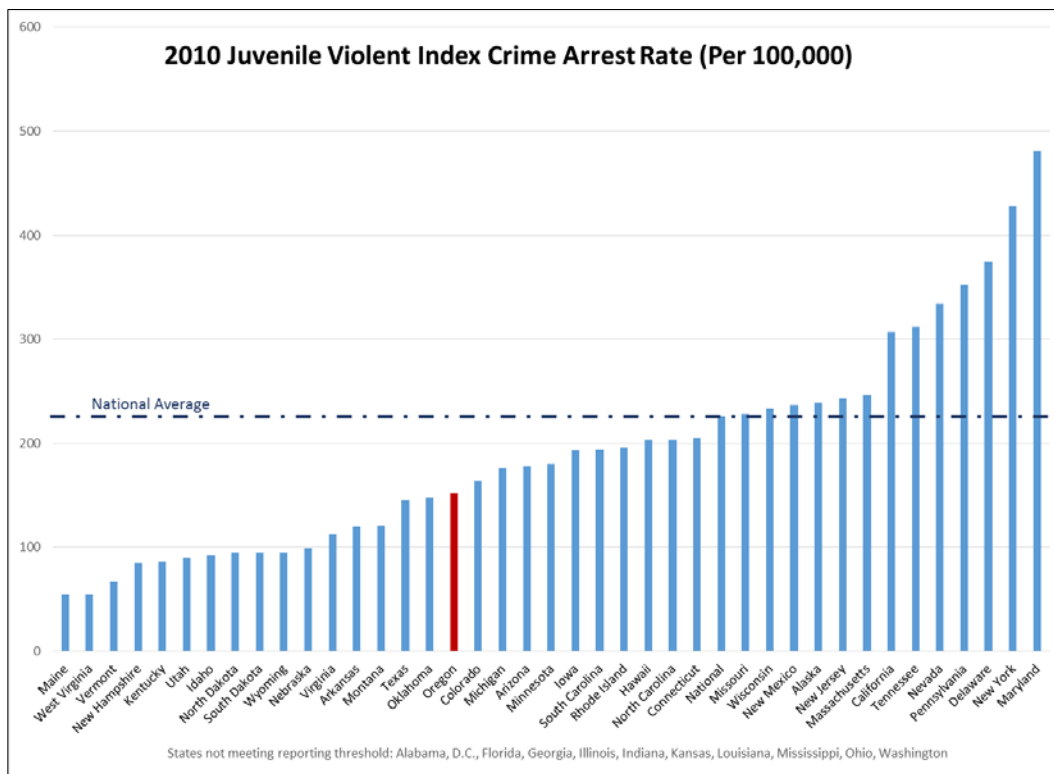
<sup>79</sup> <http://www.oregon.gov/CJC/pages/indexcrimrate09.aspx>

and the 39th highest violent crime rates. Additionally, the historical analysis shows that overall crime rates in Oregon in both violent and property Index crime categories, in comparison to rates in other states, have improved significantly. The improvement in violent crime rates in comparison to other states has come over a period of many years and the improvement in property crime rates has occurred largely in the mid-2000s.

**Juvenile crime rates.** Because FBI UCR statistics only record reported crime, and because over 80% of reported crimes are not solved, and the identity of the perpetrator is therefore unknown, these cannot be used to determine the age of offenders. Instead, arrest records are used to determine the age profile of the body of criminal offenders. Arrest records, which obviously record data only on those who are actually apprehended for criminal activity, are also maintained by the FBI, and based on reporting from police agencies across the country. These records detail the demographic makeup of arrestees and can be used to determine what percentage of criminal activity in various crime categories is being committed by different demographic cohorts, including age groups.

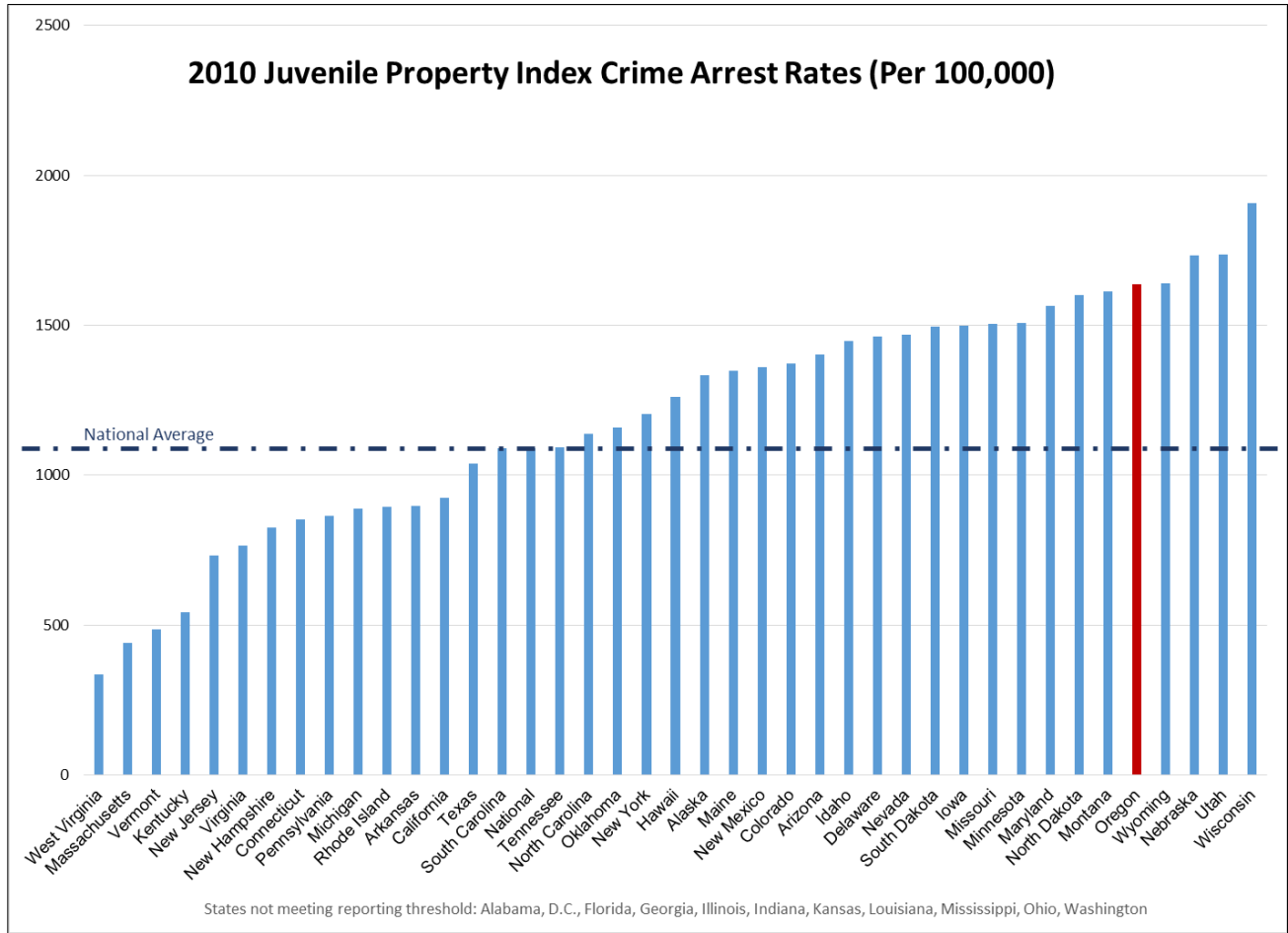
Arrest records for juveniles in Oregon present some alarming figures.

As can be seen in Graph 2, FBI violent Index crime arrest rates for juveniles in Oregon are well below the national average. As noted, however, violent Index crimes (homicides, aggravated assaults, robberies, and sex crimes) are handled largely by the adult court system in Oregon, after the passage of Ballot Measure 11. To the extent, therefore, that the justice system is responsible for low juvenile violent crime rates in Oregon, it is the adult justice system that must be credited with that achievement, and not the juvenile system.



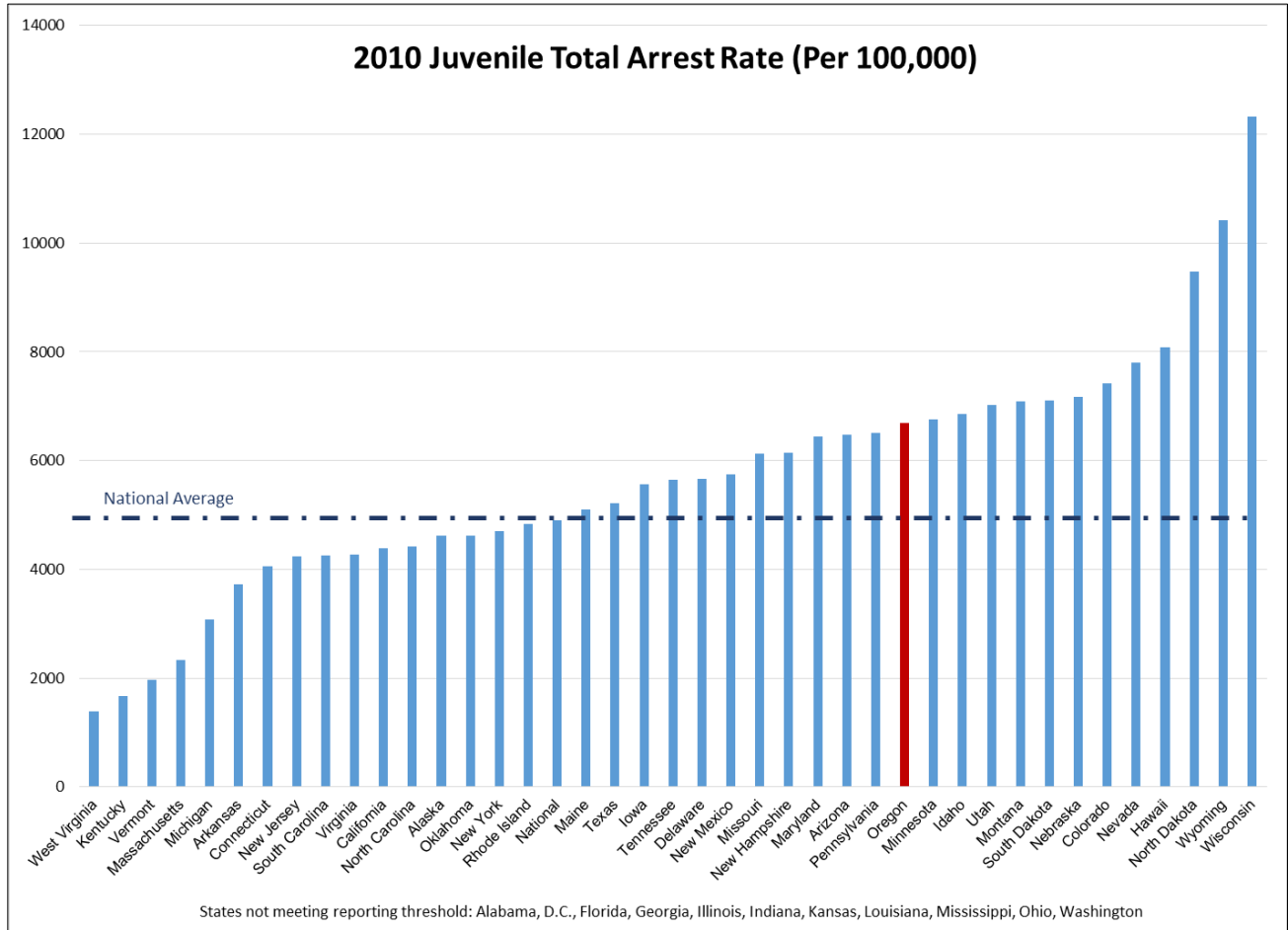
**Graph 2**

Juvenile property crime rates, however, reflect a completely different picture. As can be seen from Graph 3, below, regarding juvenile FBI property Index crime rates, Oregon has one of the worst juvenile property crime arrest rates in the country. Only four states have a higher juvenile property crime rate than Oregon.



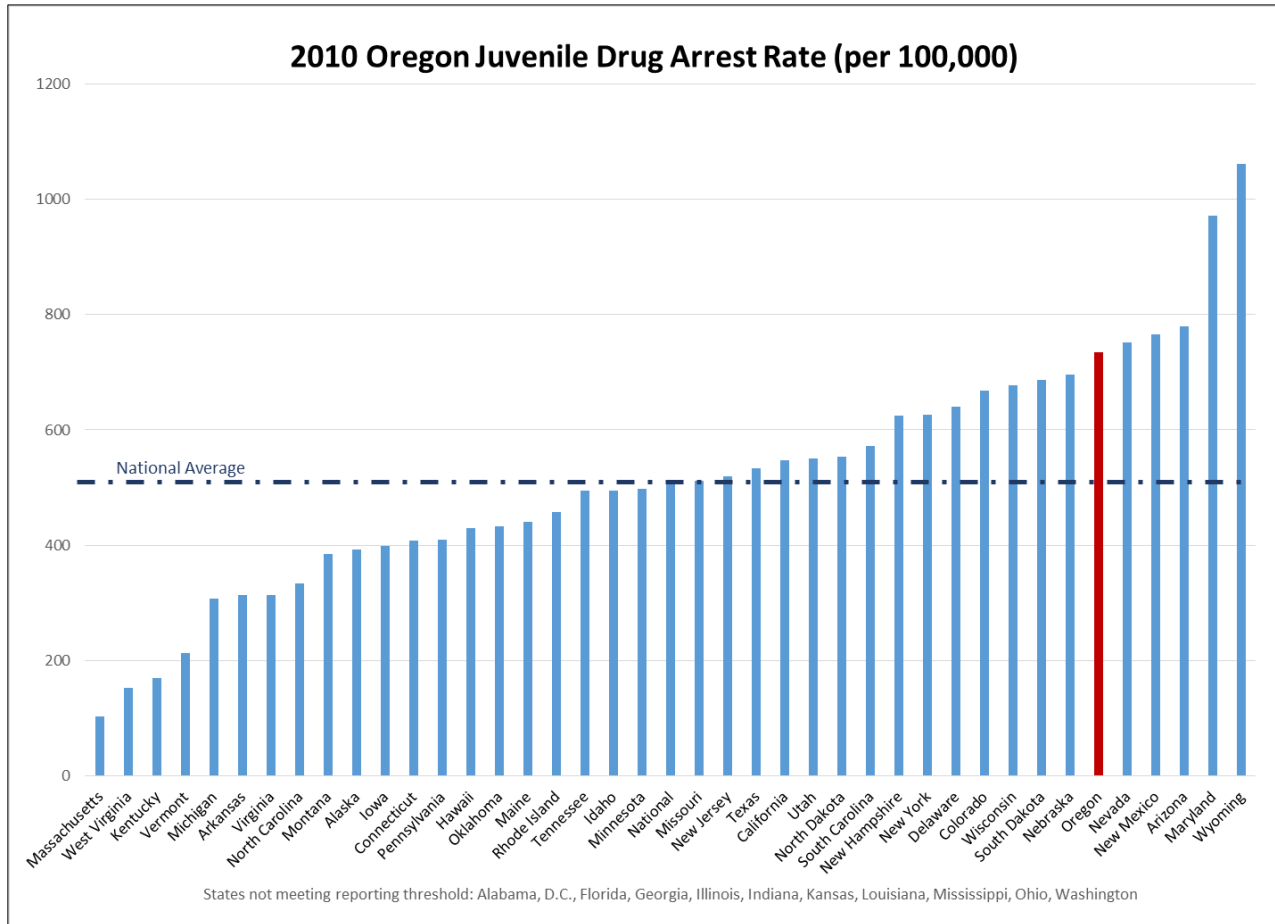
**Graph 3**

These high juvenile arrest rates also apply to total juvenile arrests (meaning FBI Index crime arrests, plus all other juvenile arrests) as can be seen in Graph 4. Again, to the extent that the performance of the justice system is responsible for crime in a community, the responsibility for juvenile property crime in Oregon rests with the juvenile system, since these types of cases are handled uniquely in the juvenile system, and virtually none of these cases are even eligible for adult court prosecution.



**Graph 4**

An analysis of juvenile hard drug arrests in Oregon shows the same disturbing results. Here, in Graph 5, Oregon has the sixth highest level of juvenile arrests in the nation.

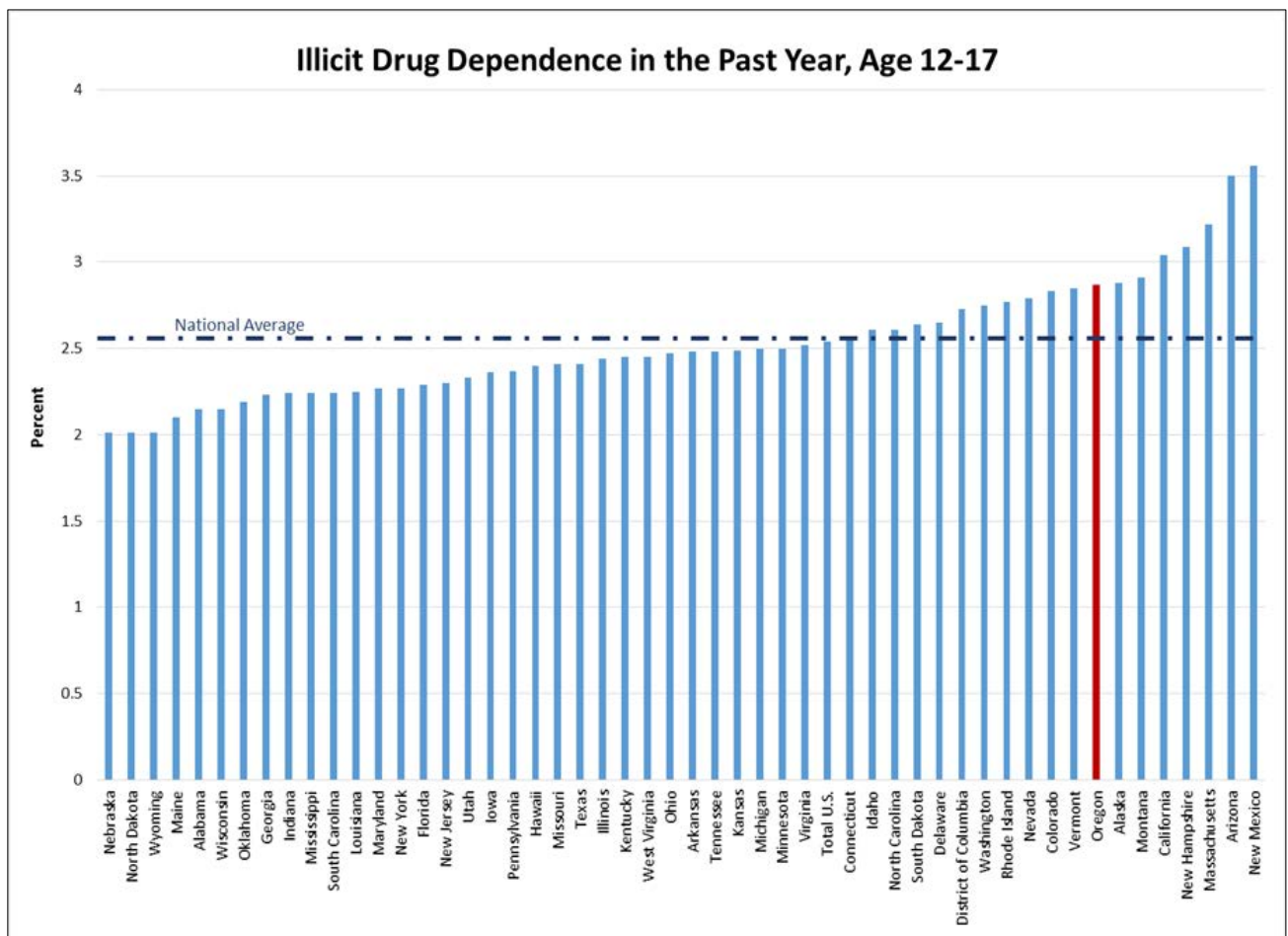


**Graph 5**



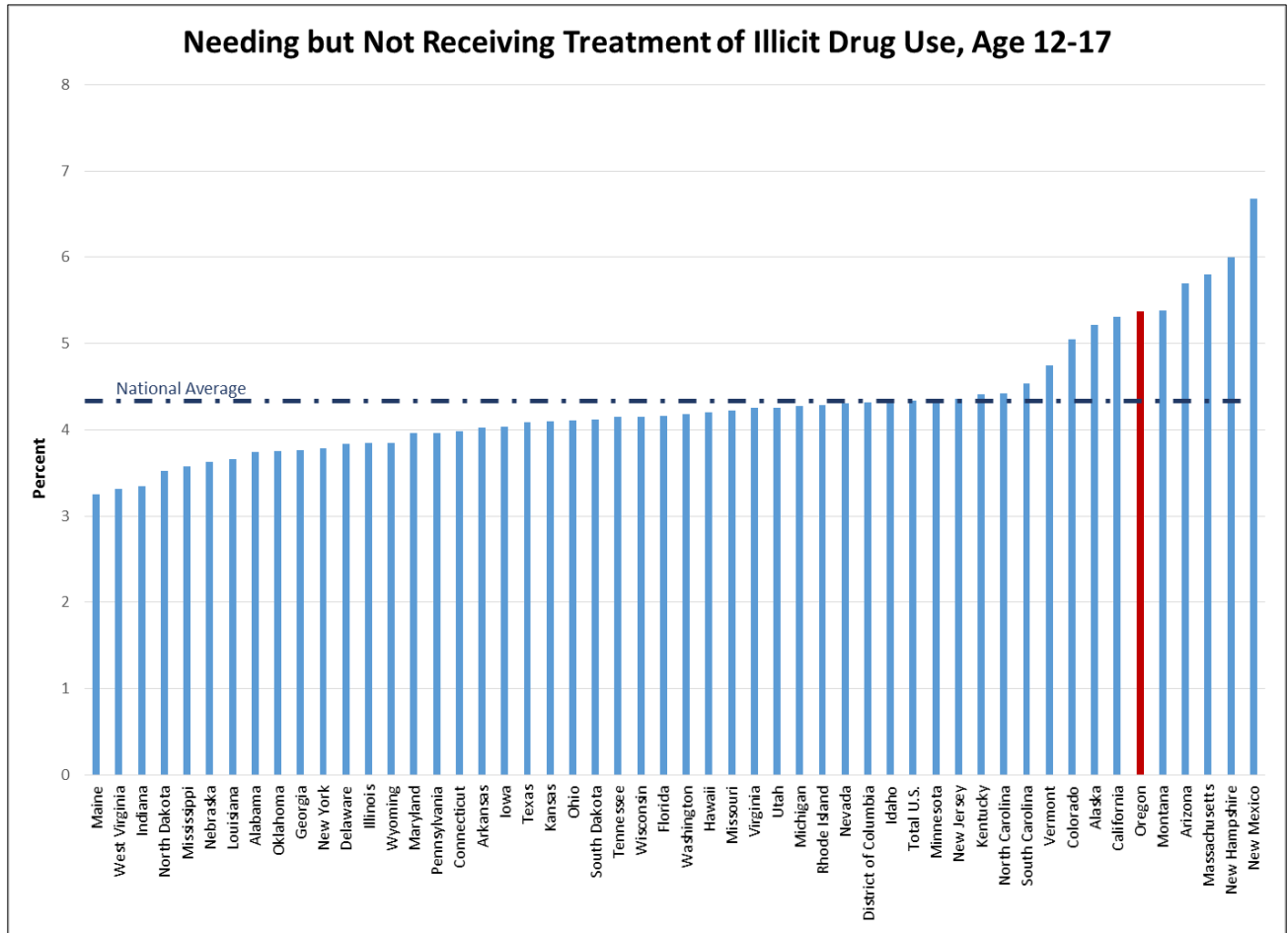
Those in law enforcement know, however, that arrest rates for drug offenses can often reflect enforcement policy rather than actual levels of drug use. Where law enforcement agencies decide to put significant resources into drug enforcement, arrest rates will usually increase in a manner unrelated to actual drug use or activity.

To check against the possibility that high juvenile drug arrest rates are simply a product of tighter drug enforcement, I checked national figures for drug use by age group produced by the National Health Service in its 2010-11 National Survey on Drug Use and Health (NSDUH). That survey indicates that among 12-17 year-olds, Oregon has the seventh highest rate of use hard drug use in the United States, and the eighth highest rate of drug addiction among that age group. The figures in Graph 6 confirm that high Oregon drug arrest rates among adolescents reflect a very real and disturbing problem with drug abuse in that group in this state.



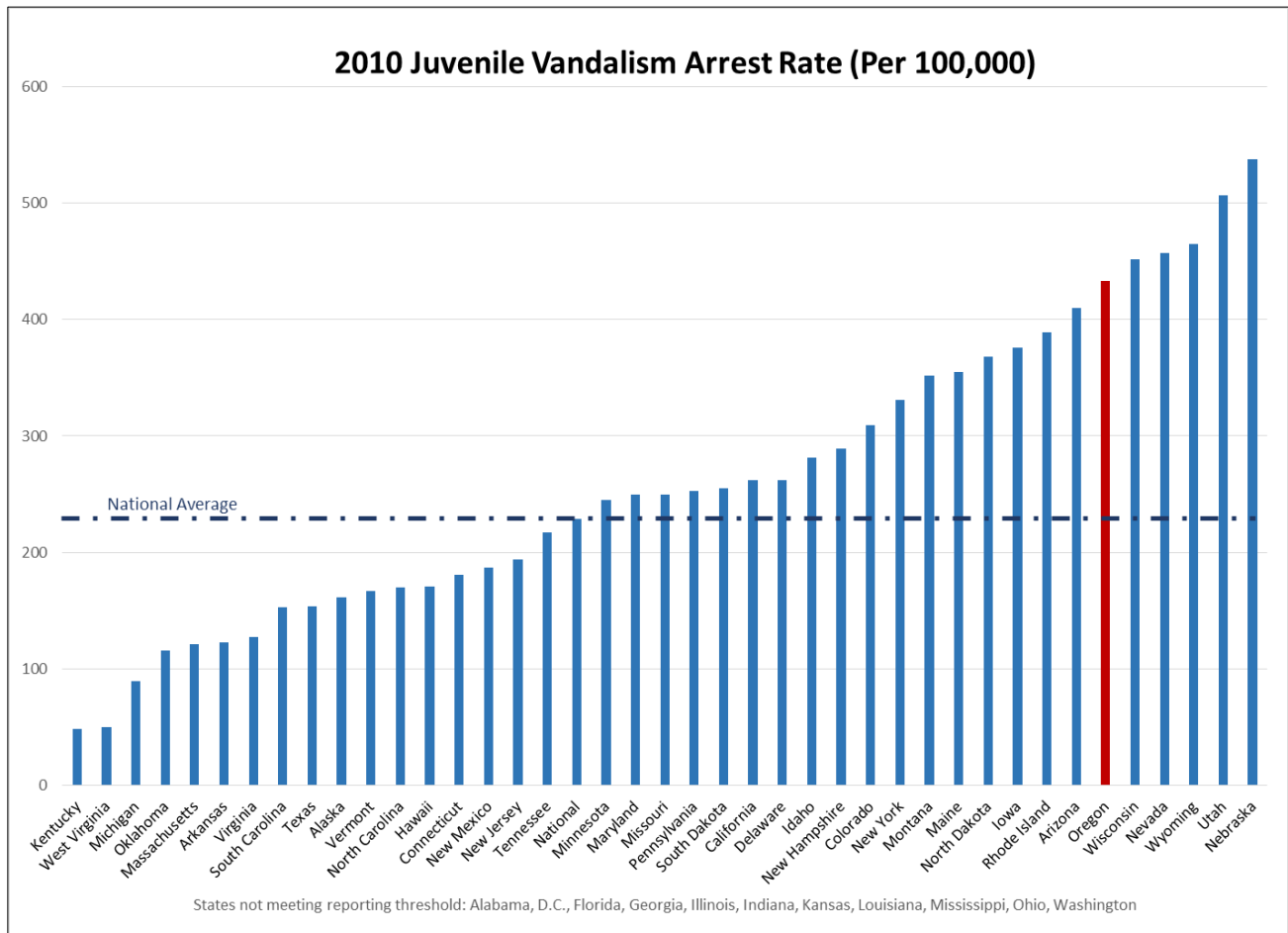
Graph 6

Some of those who favor informal resolution of drug offenses claim, reasonably, that the most important policy goal should be to assist users in obtaining treatment for potential drug dependence, and not necessarily formal criminal proceedings. To check if this is the case in Oregon, I examined the NSDUH statistics and as can be seen in Graph 7, found that in fact Oregon has one of the worst records in the nation in providing drug treatment to juveniles who need it. So, if the intent of Oregon's aversion to formal enforcement of drug laws for juveniles is to promote treatment instead of prosecution, that policy has failed.



Graph 7

I also checked juvenile crime figures for what are considered “quality-of-life” offenses, usually “minor” crimes outside of the category of FBI Index Crimes, to see where Oregon stands in juvenile crime in that arena. To highlight that situation, I isolated the crime of vandalism to see where juveniles in this state rank. In Oregon, as is reflected in Graph 8, the vandalism rate is almost two times the national average for juveniles, and ranks sixth highest in the nation. I understand there is a current philosophy among many progressive reformers that “minor” crimes such as vandalism are largely inconsequential events of daily life that do not reflect truly aberrant behavior, especially among juveniles, and which call for a higher level of tolerance among the populace in general. At the very least it is certainly the position of organizations like the Casey Foundation that detention is inappropriate as a sanction for such offenders. I suspect however, that relatively few among the general populace would subscribe to that philosophy.

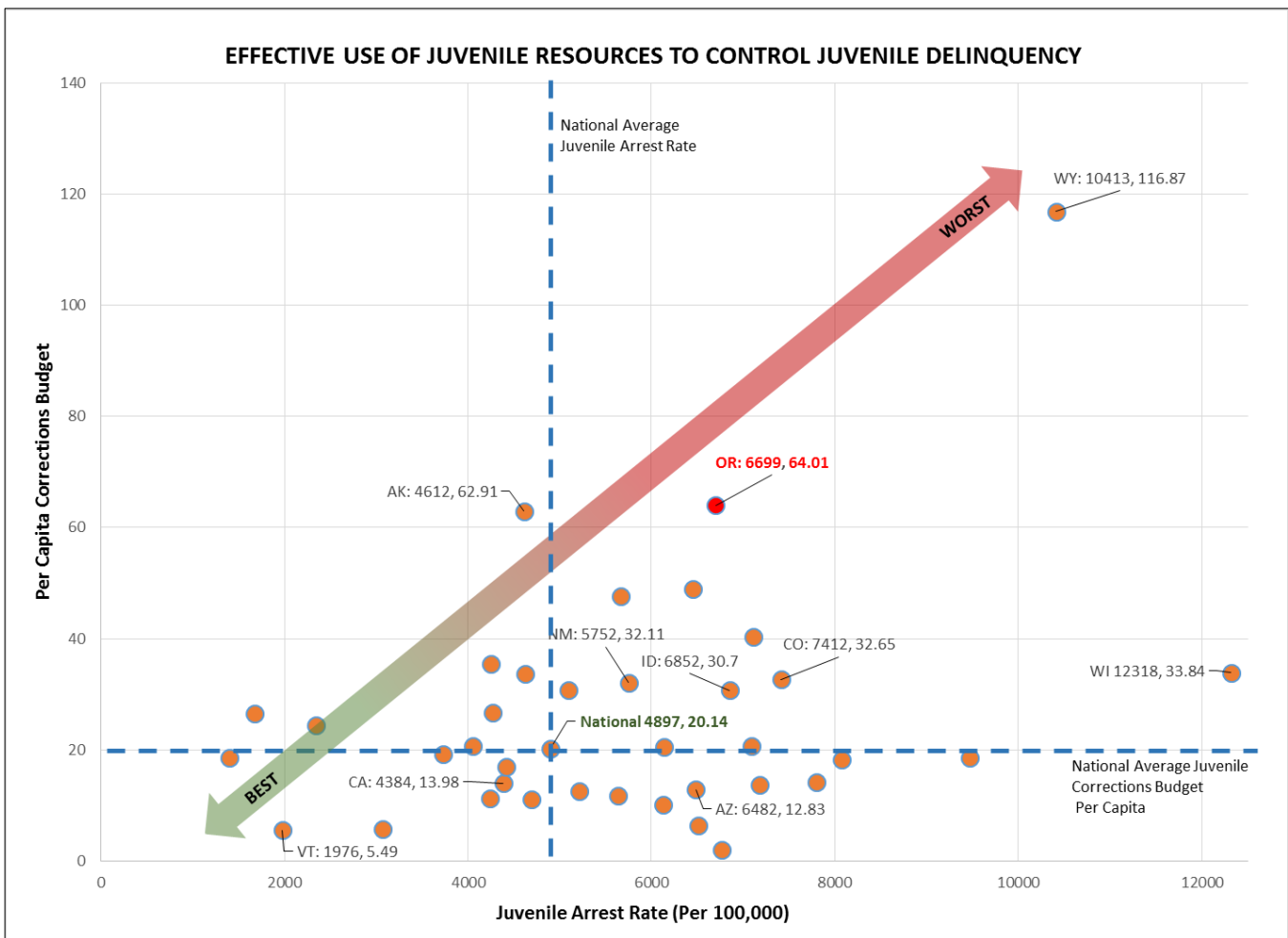


**Graph 8**

In summary, in almost all areas of non-violent criminal conduct, juveniles in Oregon display rates that are higher than exist throughout most of the rest of the nation, in some cases, radically higher. After juveniles become adults in this state, however, those rates seem to improve dramatically.

## Quantifying the effectiveness of Oregon's juvenile justice system.

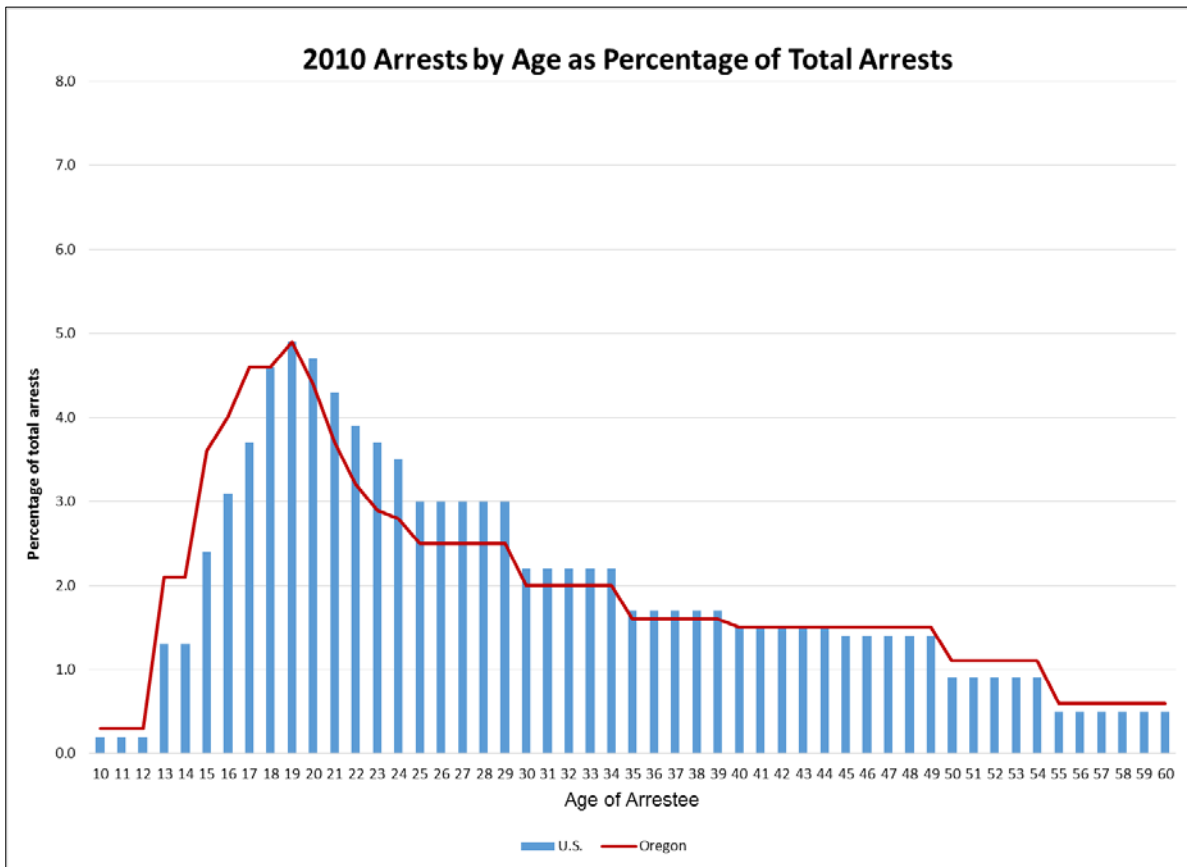
Utilizing comparative state juvenile justice budget figures and juvenile crime rates, it is possible to determine which states spend budgeted resources most effectively to control juvenile criminal activity. Graph 9, shown below combines these two data sets to show which states perform best in using public dollars in juvenile justice and which states perform worst. Some states have relatively small per capita juvenile budgets yet maintain low juvenile crime rates. They are the best performers. Some states have expansive juvenile budgets yet are unable to control juvenile crime. They are the poor performers. Outside of the state of Wyoming, which combines poor juvenile crime results with a per capita juvenile budget which is literally off the charts, Oregon has the worst performing juvenile justice system in the nation, at least in terms of the ineffective use of public resources to control crime.



Graph 9

States not meeting the reporting threshold: AL, FL, GA, IA, IL, IN, KS, LA, MS, OH, RI, UT, & WA

**Effect on police resources.** The ineffective use of juvenile department resources, however, is only one part of the budget problems presented by a juvenile system which is unable to affect delinquent behavior. A historical analysis of juvenile arrest records from 1994 to the present demonstrates that low juvenile violent crime arrest rates hand-in-hand with high juvenile property crime arrest rates have been consistent features of Oregon's criminal landscape. They have burdened policing resources for years, requiring a significant shifting of police resources to combat juvenile criminal conduct. As Graph 10, below, demonstrates, the arrest profiles for Oregon arrests shift significantly toward arrests for crimes at younger ages than elsewhere in the nation, necessitating a configuration of police resources towards younger offenders more than elsewhere. And as noted, as soon as the Oregon offender population reaches adulthood, the situation improves dramatically.



**Graph 10**

**Do Oregon's high juvenile property crime rates occur naturally or are they the result of policy decisions?** The statistics above demonstrate a number of significant age-related anomalies in Oregon's crime spectrum. It is important to attempt to ascertain whether these anomalies are naturally-occurring phenomena or are the product of policy decisions made over the years in Oregon.

As noted, a number of significant anomalies appear in the crime picture in this state. Oregon for some years has enjoyed a low overall violent rate at the same time it has suffered from high overall property crime rates. Juvenile crime rates reflect the same situation. Furthermore, improvements in overall property crime rates were completely out of sync with, and twenty years behind, improvements in violent crime rates. Additionally, juvenile property crime rates have not followed the same pattern of improvement in comparison with national rates as have violent crime rates. Over the last twenty years, juvenile violent crime rates have dropped significantly faster compared to overall national rates than have juvenile property crime rates, which have lagged behind the improvement in national rates.

An analysis of other states' crime rates shows that, in general, individual state property crime and violent crime rates cluster together. A state with a high violent crime rate will usually have a high property crime rate.

In fact, Oregon has a low overall violent crime rate whose disparity with a high state property crime rate is exceeded by only three states in the nation, and this is after a dramatic improvement in our state ranking in property crime since 2004. It was worse in 2003, when Oregon had the third highest property crime rate in the nation and the 33rd highest violent crime rate, a disparity which at the time was behind only Hawaii in divergence between any state's rankings for violent and property crime rates. Again, it seems impossible for this type of situation to occur naturally or randomly year after year.

It is difficult to discern too many scenarios where low violent crime rates would naturally occur in the presence of high property crime rates. Even more difficult to attribute to naturally occurring dynamics is the situation where youth property crime is now the solitary area where extremely high crime rates prevail.

All this points to state policy decisions that have historically allowed high property crime rates to flourish, in both adult and juvenile systems, while violent crime rates have been suppressed. The question becomes, therefore, which state policies may have produced this distorted crime picture.

**Social policy.** A review of economic, educational and social factors which are believed to contribute to criminal conduct also reveals very little that would point to extremely high crime rates in Oregon, and especially among juveniles, and only for property offenses. In fact, since 1994 when comparative juvenile arrest statistics were available for examination, and which show a consistent and extreme state problem with juvenile property crime, U.S. census data demonstrates that Oregon has hovered in the middle of the nation's spectrum in social welfare and economic rankings. Figures on poverty, education, medical care and more generally on child welfare paint a historical picture of Oregon as a completely average state, without great extremes in either achievement or lack of achievement in most social factors. For those who

believe that poor social welfare conditions contribute to crime, there is nothing from census statistics that demonstrate social welfare conditions in Oregon that should produce a singular crime phenomenon that is limited only to property crime, and now only to property crime among juveniles.

But this may miss the point because it presumes that social welfare conditions actually affect crime, and that presumption is, at best, shaky. Although this idea is a cherished concept among policy makers, especially in Oregon, it requires scrutiny. Widespread predictions, for instance, that the recession of 2008 and its aftermath would result in a crime wave due to depressed social and economic conditions proved to be completely wrong. In fact, national crime rates actually fell throughout the recession.

**Do juvenile social welfare policy and achievements affect juvenile crime?** For many years, reform leaders have contended that government policies that improve child welfare are the key to reducing juvenile crime. This proposition has, in fact, become almost received wisdom among public safety reformers, many of whom are now in leadership positions across the country, who argue that social welfare policies should replace incarceration as a public safety policy, because these policies will reduce crime, in addition to improving the lives of many citizens.

It would seem indisputable that improving the social and economic condition of our populace, and especially of children, is a laudable goal by itself, although there will always be a robust debate on how to achieve that goal. But is there evidence that better social and economic conditions for children actually reduce juvenile crime? Using data from the Annie E. Casey Foundation, the nation's foremost child advocacy agency, coupled with OJJDP arrest records, the answer seems to be that there is no discernible relationship between child welfare policy and juvenile crime.

To test the generally accepted proposition that child social welfare policy will affect juvenile crime I turned to the 2010 Annie E. Casey Foundation's Kids Count state rankings. Every year the Casey Foundation releases a report ranking each state in the United States on their performance on a number of child welfare areas. The annual Casey Foundation Kids Count Data Book is a detailed and wide-ranging data resource that measures achievement in numerous categories in the economic, education, health and family welfare fields. Each state is graded on their performance in these areas, based on quantifiable statistics from numerous government statistical sources. Rankings are issued in each of the various fields, and an overall state ranking is produced as a singular composite of all the underlying data.

The Casey Kids Count rankings produce common sense results, with prosperous Northeast states faring best, and poorer Southern states on the bottom, and the majority in the middle, just as anyone who is familiar with American current affairs might expect.

Using the Casey rankings as a guide to individual states' child social welfare achievement, I compared them to OJJDP juvenile arrest records to determine whether states with excellent social welfare systems have less juvenile crime, and whether states with poor social welfare systems have more juvenile crime. The result is that there is no correlation at all between child welfare achievement, or lack of it, and juvenile crime.

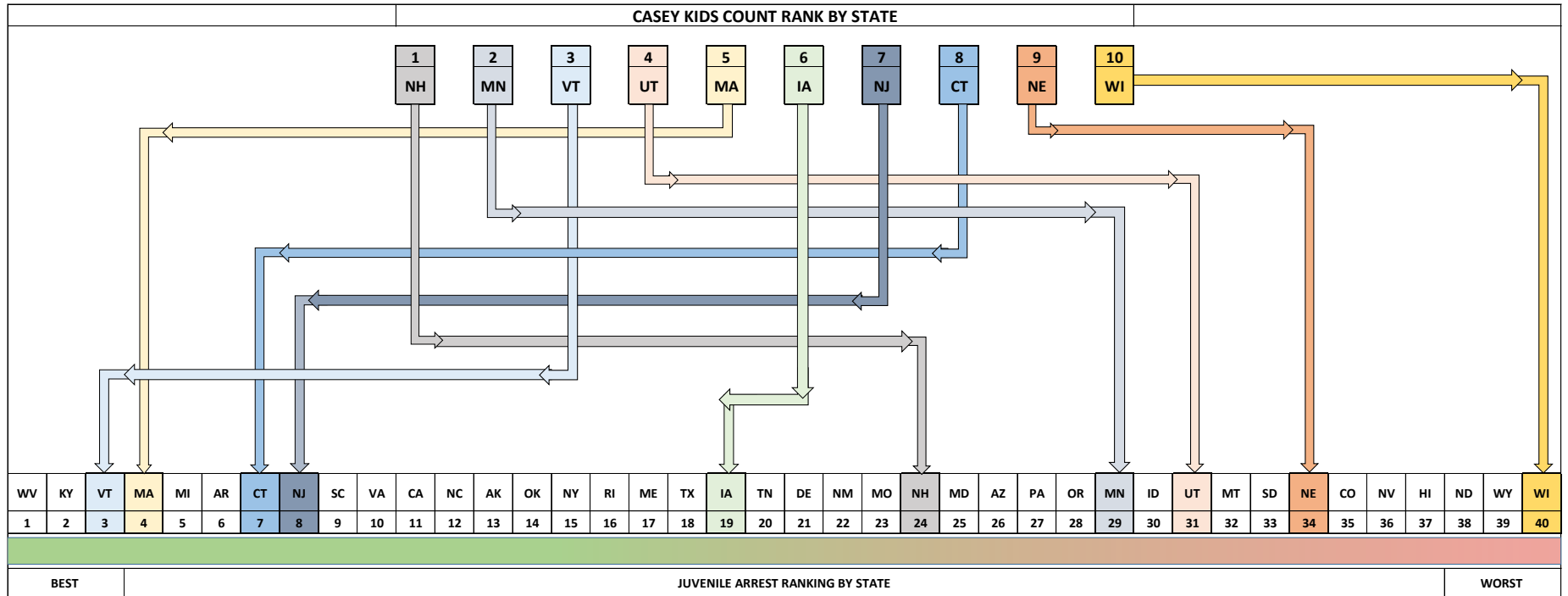
Forty states met the threshold for reporting juvenile arrests in 2010.<sup>80</sup> I compared these forty states' Kids Count child welfare rankings with their juvenile arrest rankings. The top ten performing states in the Casey child welfare rankings had respective juvenile arrest rate rankings (the lower the ranking the worse the arrest rate) of 24, 29, 3, 31, 4, 19, 8, 7, 34, and 40 (dead last), for an average juvenile crime ranking of 19.9. The ten worst states in the Casey child welfare rankings had respective arrest rate rankings of 6, 22, 9, 14, 1 (the very best in the nation), 20, 2, 26, 13, and 12, for an average juvenile crime ranking of 12.5. In fact, almost perversely, the ten states with the worst Casey Kids Count social welfare rankings actually performed substantially better on average in preventing juvenile crime than the ten best states. See the Diagrams on pages 16 and 17, below, for details.

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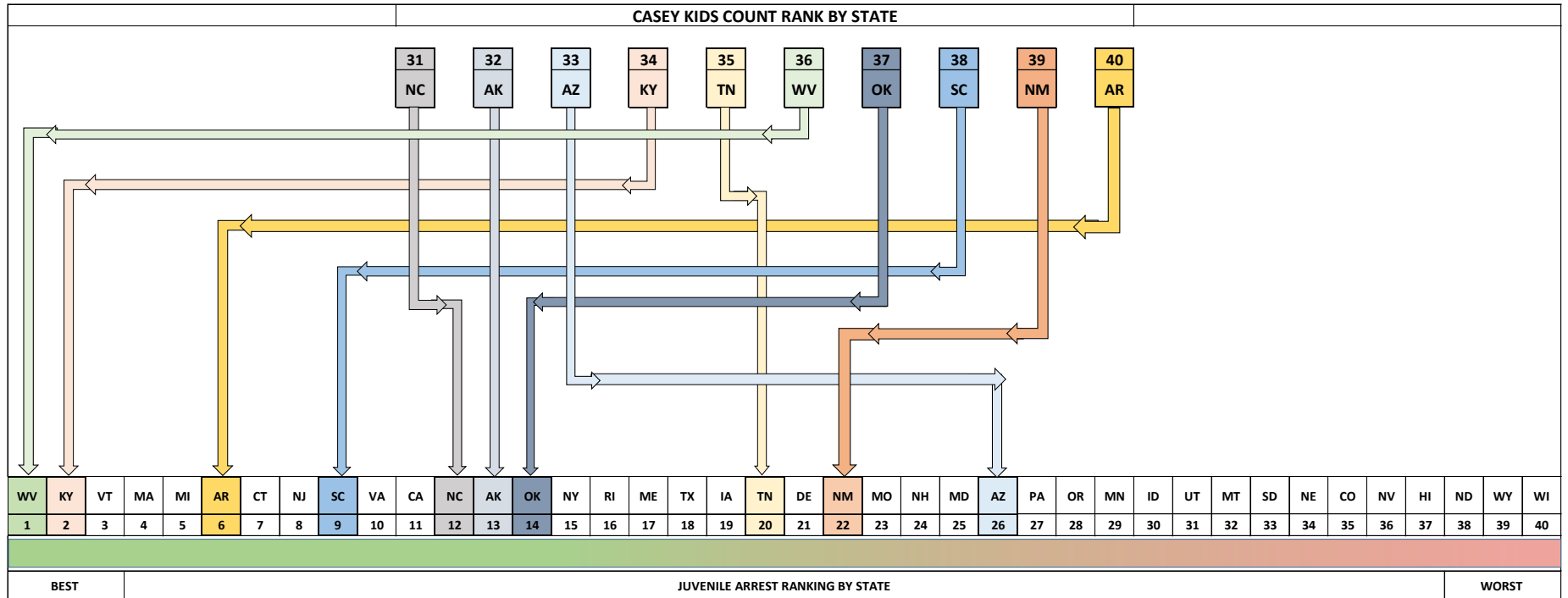
<sup>80</sup> OJJDP only listed state arrest records for states where over 90% of individual police agencies reported their arrests. The missing states were Alabama, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Mississippi, Ohio, and Washington.



## Performance of Top Ten Child Welfare States by Juvenile Crime Ranking



## Performance of Bottom Ten Child Welfare States by Juvenile Crime Ranking



A review of historical juvenile crime data in Oregon against the Kids Count rankings is consistent with the national figures. Since the Casey Foundation began its rankings in 1996 Oregon has fluctuated from having good child welfare rankings to mediocre rankings. However, just as throughout the rest of the nation, good social welfare rankings in Oregon have not translated into lower crime rates, just as bad rankings have not translated into higher crime rates. Whether Oregon's child welfare ranking was good at 11th (in 2005), or mediocre at 27th (in 1996 and 1997), Oregon's juvenile property crime arrest rate ranking was always very bad and Oregon's juvenile violent crime rate ranking was always relatively good.

It is therefore logically straightforward to conclude from these figures that, consistent with national results, social welfare policy decisions in this state have had no effect on crime committed by juveniles. I recognize that this conclusion is probably philosophically unpalatable for many in leadership who believe that attacking social welfare problems will solve public safety problems, but it seems inescapable from these figures.

It seems evident to me, therefore, that, first, the disparities described earlier in Oregon crime rates are not randomly occurring phenomena, but are instead the product of policy choices that have been made in this state. Second, it appears that policy choices in the field of child social welfare policy are not the responsible party here, since as the OJJDP and Casey figures demonstrate, social welfare policy has little or no relation to juvenile crime. Finally, I believe it is reasonable, therefore, to suspect that the policies that are responsible for Oregon's juvenile crime are policies within the criminal justice system itself.

### **Oregon juvenile justice policies in comparison with the rest of the nation.**

In 1985 Oregon was one of the most dangerous states in America, with the 13th highest violent crime rate in the nation. By 2008, our state was one of the safest, with the 41st highest violent crime rate. Throughout this period the legislature and the people themselves made policy choices that aggressively targeted violent crime, largely through increased incarceration, but also through programming for offenders. Even opponents of incarceration concede that a significant degree of the improvement in crime rates, up to thirty percent by their estimates and, in my opinion, significantly more here in Oregon, are attributable to increased incarceration policies.

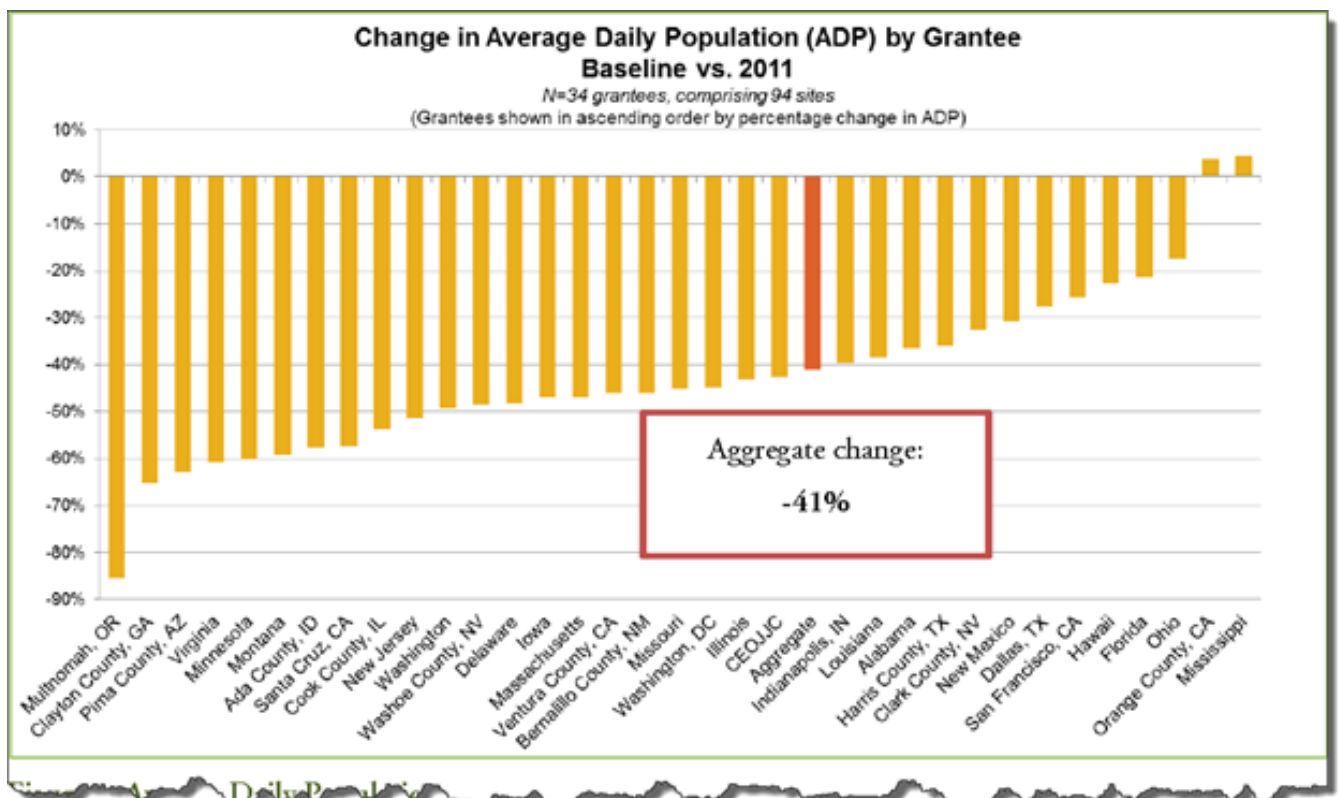
It is instructive, therefore, to examine our juvenile justice system to determine if there are identifiable factors where our state's policies differ from other systems around the nation, factors which might explain the extreme juvenile crime rates that exist here.

A review of our system reveals very significant differences in certain areas of Oregon's juvenile justice system when compared to overall national practices. It is readily apparent that our system has established policies that promote low pre-adjudicatory detention rates by discouraging or even prohibiting detention in all but the most extreme cases, and policies that promote informal resolutions of cases without involvement by the court system, and that limit the use of detention for violations of supervision.

I suspect that few in the juvenile justice system would disagree with this assessment of Oregon's juvenile system as it compares to rest of the nation; in fact, Oregon juvenile practices which

diverge from those in place across the nation are viewed by many juvenile justice leaders as model practices. The Oregon juvenile justice system is, in fact, a model that has been advocated nationally for years by such influential organizations as the Annie E. Casey Foundation and its Juvenile Detention Alternatives Initiative (JDAI), which has promoted and actually funded "model" systems here in Oregon, designed to reduce the use of detention for juveniles. Multnomah County was one of the first jurisdictions in the nation to adopt the Casey JDAI philosophy, and has served as "model" jurisdiction for that organization.

Literature from the Casey Foundation has lauded Multnomah County for "achieving" the greatest reduction in the nation in juvenile detention, as the graph, below, from the Casey literature illustrates.<sup>81</sup>

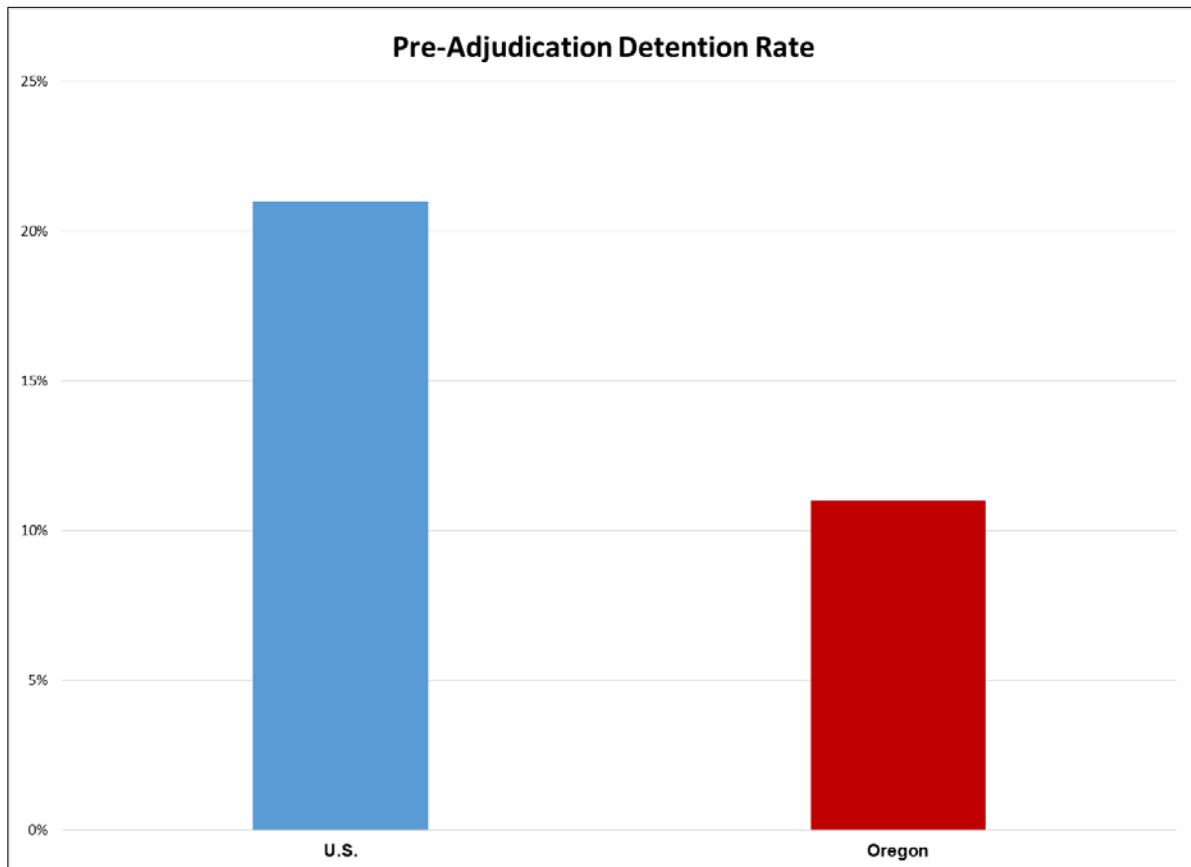


Given that philosophical foothold in Oregon, there is little wonder that Oregon has adopted precisely that model, and there should be little wonder that Oregon's system displays features that diverge dramatically from how most juvenile systems operate around the nation.

<sup>81</sup> JDAI 2011 Annual Results Report  
<http://www.aecf.org/~media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/JDAIResultsReport2011/JDAIResults2011.pdf>

The following is a summary of areas where Oregon juvenile practices diverge from general practices across the nation.

**Lower rates of pre-adjudicatory detention.** The Casey Foundation has always advocated extremely limited detention of juveniles who are arrested for criminal conduct prior to the resolution of their cases. In Oregon, this policy has been adopted and is even required by law, where the least restrictive alternative to detention must be used prior to adjudication, if it does not conflict with public safety. Nationally, 21% of juveniles arrested and referred for crimes are detained for any period of time prior to the resolution of their cases. In Oregon, as can be seen in Graph 11, the figure is 11%.



**Graph 11**

Undoubtedly, organizations like the Casey Foundation will point to numerous studies they claim demonstrate the ineffectiveness of pre-adjudicatory detention. For years, however, other advocates of evidence-based sanctioning, many of whom are also anti-incarceration advocates, have stressed the need for "swift-and-sure" sanctioning practices, and most parents would agree that common sense dictates this practice with juveniles even more than with adults. So while I understand why rejecting pre-adjudicatory detention perhaps makes sense from a civil rights perspective for individuals who have not been found guilty by a court, I question its efficacy as a crime prevention tool. Oregon's juvenile crime rates, it should be noted, seem to imply that this approach may actually be counter-productive.

Additional statistics confirm that Oregon is among a small handful of states that have largely rejected the concept of pre-adjudicatory detention of juveniles for new crimes. Oregon has the 13th lowest rate of juvenile confinement to detention facilities in the nation. But even this low rate overstates the low level of pre-adjudicatory detention in Oregon. Many of the states with lower detention rates actually treat offenders as adults at younger ages than Oregon. In New York, for instance, adult court criminal jurisdiction begins at age 16, effectively removing 16 and 17-year-olds from juvenile facilities, and removing them from the OJJDP census. Rather than reflecting more lenient juvenile policies in those states, the apparently lower pre-adjudicatory detention rates there actually reflect significantly more punitive state laws which hold juvenile offenders accountable in the adult court system at younger ages.<sup>82</sup>

Furthermore, it is unlikely that more than a handful of the 156 youth offenders held in local detention facilities (as opposed to committed to state facilities by the court after adjudication) that were counted in the latest OJJDP juvenile detention census in 2011 are actually being held by the juvenile court prior to the adjudication of a new criminal offense. As noted, Oregon law actually prohibits the pre-adjudicatory confinement of juveniles if a less restrictive alternative is available. The vast majority of Oregon juvenile offenders held in local juvenile detention facilities are actually being prosecuted and held as adults by the adult court system prior to trial on Measure 11 charges, or are being held locally on juvenile probation violation sanctions.

Oregon JJIS figures allow us to establish an accurate estimate of how many total juveniles would actually be in pre-adjudication detention for new crimes across the state. These figures show that juvenile new crimes detainees make up only 21.6% of all juvenile detainees held in local detention facilities in the entire state. The rest are post-adjudicatory offenders like probation violators, offenders with warrants, or are being held by the adult court system. A daily count of pre-adjudicatory juveniles held for the commission of new crimes in the juvenile court system would amount to no more than 40 in the entire state of Oregon, or a rate of 10 per 100,000, certainly one of the very lowest rates in the nation.

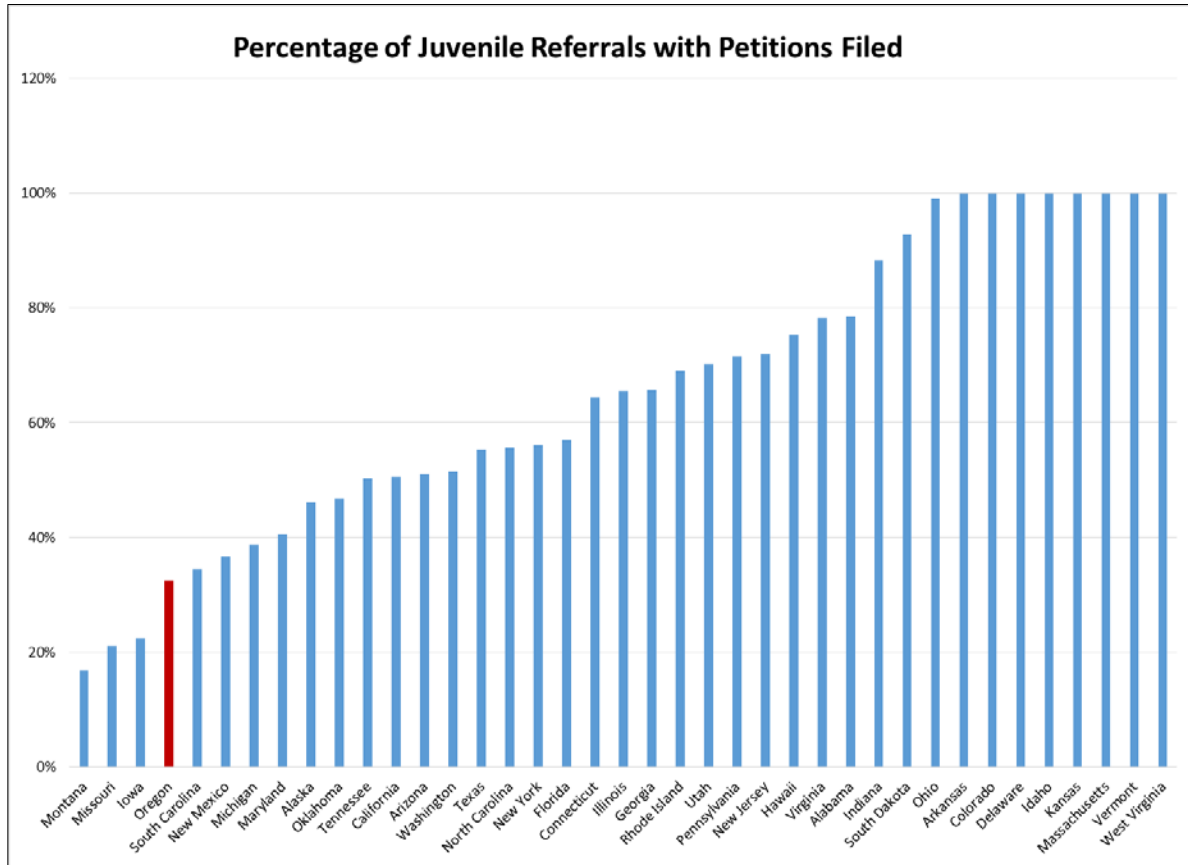
Nor should this extremely low detention rate be unexpected, because it has been promoted for years by many as a model practice. As the excerpt from the Casey Foundation literature above indicates, as a Casey "model" jurisdiction, Multnomah County managed to reduce its local juvenile population **by approximately 85%** since that organization began providing advice and financial support to encourage the county to adopt its detention reform policies. In addition to Multnomah County being a "model" JDAI site used by Casey as a national example of their policy, 10 other Oregon counties are JDAI sites and receive assistance and advice from the Casey Foundation.

So the Casey Foundation's anti-detention model has unquestionably left its imprint on Oregon policy.

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<sup>82</sup> One of the continuous misconceptions about Oregon juvenile practices is that juveniles in Oregon are treated more harshly than those in other states, especially under Measure 11. In fact, almost 40 other states have similar automatic transfer or statutory exemption for violent crimes. 17 other states, in fact have automatic adult treatment of all crimes at lower ages than Oregon.

**Lower rates of formal processing of juvenile referrals.** Across the nation, when police officers arrest juveniles for criminal activity, juvenile authorities file formal court charges, known as petitions, in 55% of cases. In Oregon, the rate is 32%. As Graph 12, below, demonstrates, this is the fourth lowest rate of petitions in the nation.



**Graph 12**

In addition to a far smaller overall rate of issuing petitions, a comparison of OJJDP and JJIS data shows that Oregon issues petitions very differently among classes of cases than in the rest of the nation. For minor assaults (non-Index crime assaults), across the nation 56.0% of referrals result in petitions, compared to 47% of these types of referrals in Oregon, so Oregon is much closer to the national average here than in other classes of cases.<sup>83</sup> For property offenses, however, the national average is 50.3% and the Oregon rate is 30.5%. For public order offenses like weapons offenses or disorderly conduct, the national average is 56.8% and in Oregon only 28.4%, or half the national rate.

<sup>83</sup> The rate of petitions filed in minor assault cases is perhaps instructive about the effectiveness of Oregon juvenile delinquency policy. This sector of violent crime was left in the hands of the juvenile system when Measure 11 moved major violent crimes to the adult system. As noted, the rate of petitions for this sector of the juvenile system is close to the national average. Juvenile arrests for minor assaults are also the sole area of the juvenile justice system where Oregon does better than the national average. This reinforces a suspicion that Oregon's high juvenile non-violent crime rates are a result of an overall policy that has prioritized violent crimes for aggressive enforcement and has reduced the emphasis on enforcing non-violent offenses.

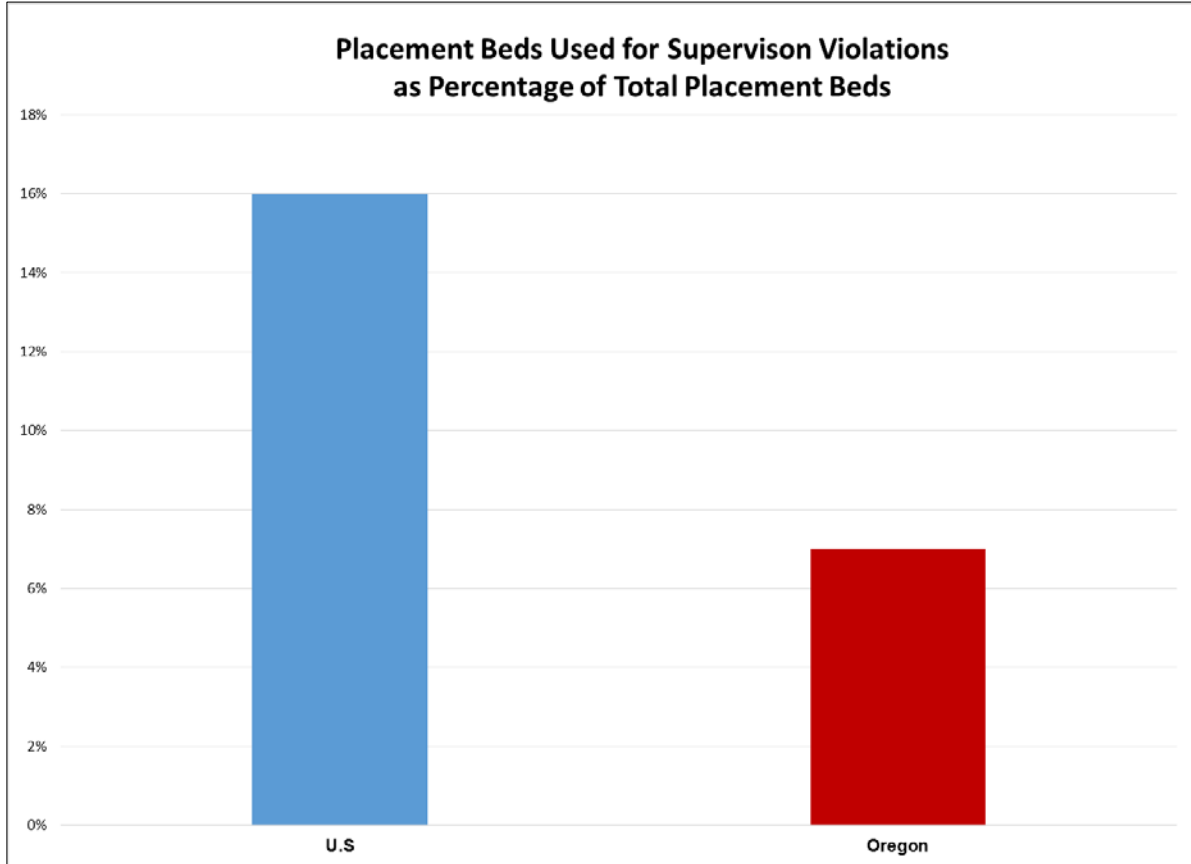
Again, there are probably numerous studies that purport to demonstrate that juveniles are more effectively handled informally without the intervention of institutions of authority like the courts. It seems to be, in fact, a bedrock principle among many in the justice reform community that involving offenders in formal actions that require personal accountability before the institutions of justice may actually promote rather than deter criminal activity. And again, Oregon's juvenile crime rate seems to show that this is a questionable proposition.

Not coincidentally, I suspect, a review of juvenile arrest rates for the three states with lower rates than Oregon for filing juvenile petitions, Iowa, Missouri, and Montana, demonstrates that these three states also suffer from juvenile arrest rates, and especially juvenile property crime rates, well above the national average. In fact, the experience of Montana, the state with the most extreme practice in rejecting the use of formal court proceedings for juvenile crime, is instructive. In Montana, only 17% of referrals result in court proceedings. And in that state, while the overall arrest rate for adults is 32% below the national average, the overall arrest rate for juveniles is 45% above the national average, which may be some indication of the effectiveness of that juvenile policy.

**Lower rates of out-of-home placement dispositions.** Across the nation, 8.9% of juvenile referrals result in out-of-home placements by the court. In Oregon the figure is 7.0%, or 21% lower than the national average. This figure, in and of itself, does not deviate enormously from national averages, and were it standing alone would not raise questions about detention practices. However, coupled with other areas of the Oregon system which tend to reduce detention or which distort the configuration of detention from national practices among various classes of criminal cases, it calls for further examination. For instance, because Oregon issues petitions at close to the national rate for minor assaults, but at far below the national rate for public order and property offenses, it may mean that the profile of offenders committed to out-of-home placements is significantly differently in this state than elsewhere. It is difficult to arrive at a conclusion on that matter from the data available online.

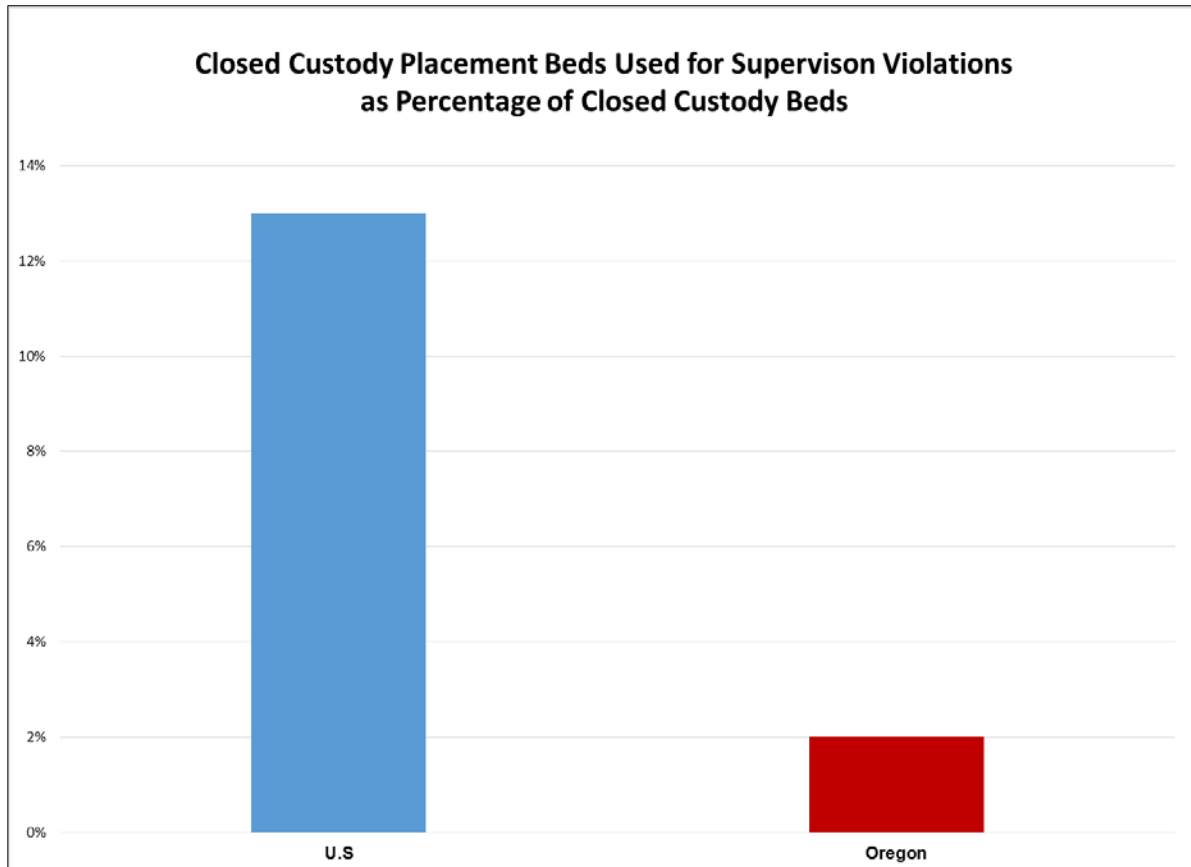


**Less use of detention for violations of supervision.** In Oregon, juvenile authorities are less inclined to use detention to sanction juvenile offenders for the violation of parole or probation supervision. OJJDP records indicate that only 7% of total state detention beds are used for supervision sanctions ("technical violations"), as compared to 16% nationally. See Graph 13.



**Graph 13**

Additionally, when detention sanctions are used, they are almost always detention sanctions in local facilities as opposed to sanctions to closed custody facilities. Nationally, 12% of closed custody beds are occupied by supervision violators, as opposed to 2% in Oregon. See Graph 14.

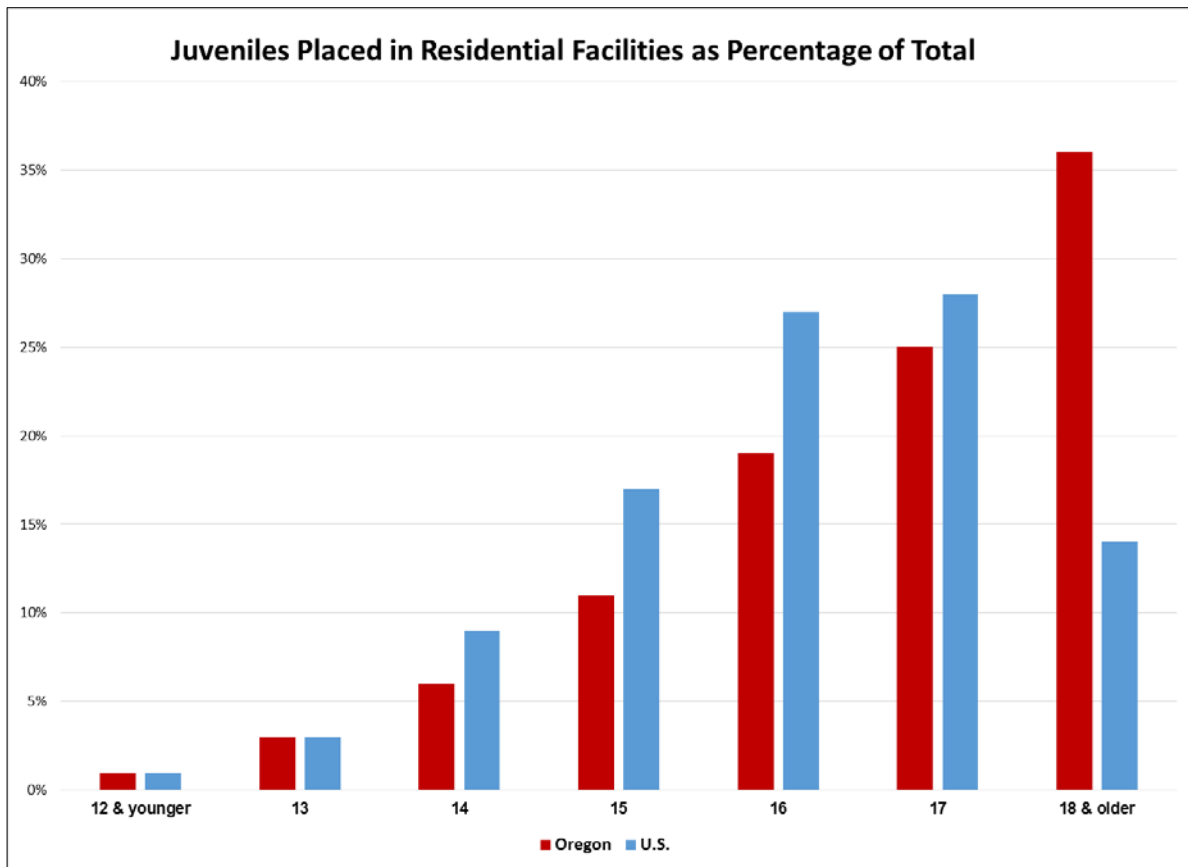


Graph 14

**Later age for filing petitions.** Consistent with the practice of filing petitions against juveniles in fewer cases, Oregon also seems to file petitions at a later average age. Across the nation 59% of all juvenile court petitions are filed before age 15. In Oregon it appears the figure is 49%, although there is some discrepancy about this.

**Oregon does not detain status offenders.** Across the nation, juvenile systems have the option of detaining juveniles who commit status offenses such as truancy, curfew violations, and runaways. Nationally, 4% of detention beds are used to hold such juveniles, usually for short periods of time until arrangements can be made for them. Organizations such as the Casey Foundation have vigorously opposed such measures as anachronistic relics like debtors prisons. Oregon has adopted the Casey position and does not detain status offenders.

**Use of the detention system for adult offenders.** 66% of those detained by OYA in closed custody facilities are actually adults between 18 and 25 years of age. 44% of the total OYA youth on probation, parole or in out-of-home community placements are likewise actually adults. As a consequence, only 49% of all offenders under OYA jurisdiction are actually juveniles. As can be seen in Graph 15, below, Oregon’s residential juvenile configuration diverges markedly from national rates. This appears to be the highest rate of adults in a state juvenile system in the nation. What I believe this illustrates is an overall philosophical aversion to the use of significant sanctions for juveniles, very much in line with the ideas of organizations like the Casey Foundation. As a consequence, the OYA system, and especially its closed custody component, is in reality not a system for juveniles, but a system for adults.



Graph 15

**Conclusion.** There are no simple answers in the figures that have been presented in this memorandum. To me, many of the undeniably problematic levels of juvenile crime in this state seem, just with the application of common sense, to be related to a policy path that has been chosen in Oregon, a heretofore untested policy path that diverges dramatically from widespread practices by de-emphasizing formal court processing and sanctions for juvenile offenders. For more than a decade, Oregon has been a testing ground for that policy, and if one simply uses juvenile crime as a yardstick, as I believe most citizens would reasonably do, that policy has not worked. I recognize that many in the field would disagree with that contention.

What is undeniable is that Oregon has a severe problem with juvenile crime, especially non-violent crime in all categories of criminal conduct putatively controlled by our juvenile justice system. A system that is one of the most expensive in the nation, but which presides over some of the highest rates of juvenile major and minor property crime, some of the very highest rates juvenile hard drug offenses, and as a consequence, tragically, some of the very highest rates of adolescent hard drug addiction, far too often left untreated, should be considered a failure.

I suspect that most citizens who understood they are paying for one of the most expensive juvenile systems in the country would reasonably expect that the results produced by that system would be at least average or maybe better, and not among the worst in the country. Unfortunately, none of this has been widely known or advertised, and few questions have been asked.

**APPENDIX E: Response to Policy Memo**

**[A. Clackamas Juvenile Department by Ellen Crawford, Director, March 24, 2014.pdf](#)**

**[B. The OJDDA Perspective Juvenile Justice Policy Practices and Outcomes in Oregon, April 17, 2014.pdf](#)**

**[C. Juvenile Justice in Lane County from Crisis to Opportunity by Al Levine, Youth Services Division Manager, Lane County Division of Youth Services, April 22, 2014.pdf](#)**

**[D. Oregon Youth Authority by Fariborz Pakseresht, Director, May 1, 2014.pdf](#)**



Ellen Crawford  
Director

**JUVENILE DEPARTMENT**

**Juvenile Intake and Assessment Center**  
2121 Kaen Road | Oregon City, OR 97045

March 24, 2014

In response to a solicited report by John Foote, District Attorney, regarding the "operation and performance of our juvenile criminal justice system" the following information is provided.

Juvenile Justice policy in the State of Oregon has been developed through the research and application of evidenced based practices for effective interventions in juvenile delinquency. Oregon cites impressive performance outcomes demonstrating a positive and impressive impact on juvenile crime rates. While the report depends on national data for juvenile arrests, there is no correlation to this being a measure of the "operations and performance" of the juvenile justice system. Because crime rates are influenced by many community factors, attitudes and policies, comparisons across jurisdictions "should be made with caution". (U.S. Dept. of Justice report, Dec. 2013)

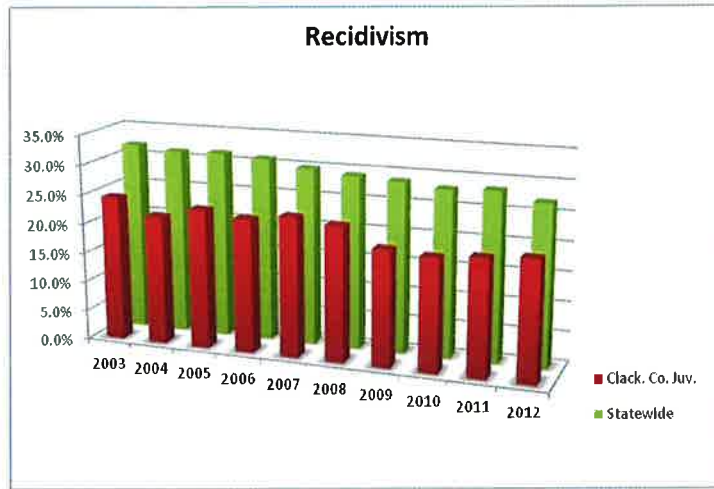
To look at the effectiveness of the juvenile justice system, one must look at outcomes, specifically the chronic offender rate and recidivism. Both of these measures demonstrate the effectiveness of the juvenile justice system once youth are arrested and referred to the juvenile justice system.

Oregon has the largest, most comprehensive data collection system for juvenile justice in the nation. This was implemented in 1998 and adopted as the Juvenile Justice Information System, (JJIS). Data from JJIS is reported annually and can be referenced on the Oregon Juvenile Department Directors website, [ojdda.org](http://ojdda.org).

This document will cite the effectiveness of the operation and performance of the juvenile justice system in Clackamas County. The Oregon Juvenile Department Directors will be addressing similar data points for the State of Oregon.

### **Recidivism**

Recidivism measures how many youth re-offend within one year after a juvenile department referral. Recidivism in Clackamas County has decreased from 24.5% in 2003 to 20.2% in 2013. Comparatively, the State of Oregon has seen a similar decrease in juvenile recidivism from 32% in 2003 to 27.1% in 2013.



### Property Crime Allegations – Clackamas County Juvenile Department

The overall youth population has remained steady in Clackamas County over the past 10 years with only a 4.28% reduction. In that same period of time property crime allegations which were referred to Clackamas County Juvenile Department decreased by 53.4%, (from 1,250 property crimes to 582). In the past 5 years alone there has been a 44.4% reduction in juvenile property crimes.

Year	Property Offenses	
2004	1,250	
2013	582	A 53.4% reduction

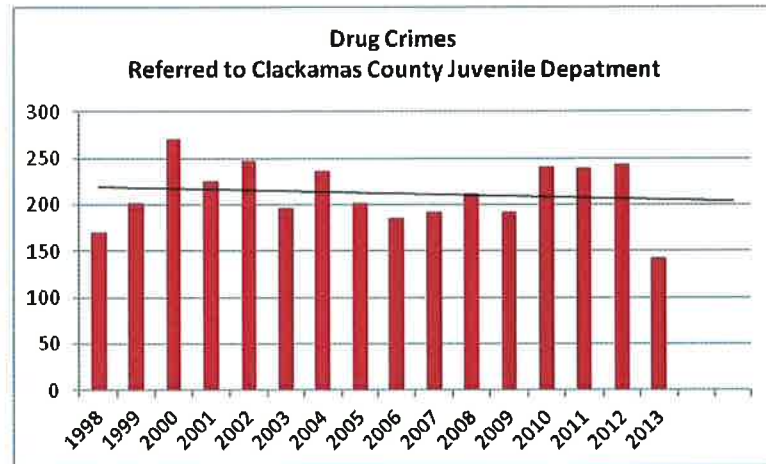
Year	Property Offenses	
2009	1046	
2013	582	A 44.4% reduction

Five years ago 27.1% of all allegations the Juvenile Department received were property crime related. Today 23.3% of all allegations the Juvenile Department receives are property crime related.

Year	Total Juvenile Department Allegations	Property Offenses Allegation	% Property offenses of all Allegations Made
2009	3866	1046	27.1% of all allegation
2013	2502	582	23.3% of all allegations

## Juvenile Drug Crimes in Clackamas County

The number of drug crimes referred to the Juvenile Department over the last 16 years has remained relatively stable, although show a significant decline in 2013. The linear forecasting trend line suggests a slow long-term downward trend.



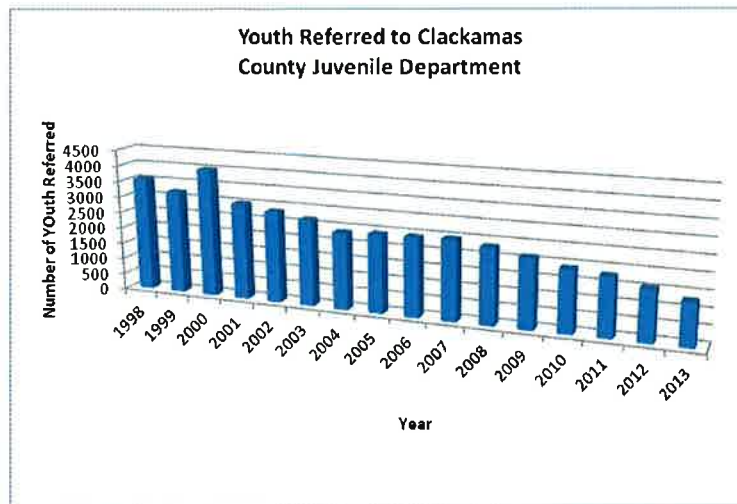
## Detention Utilization – Clackamas County Juvenile Department

In 2013 Clackamas County Juvenile Department had 370 incidents where youth were lodged in detention. Of those lodging 58.6% were for pre-adjudicative detention. Probation Violation, Court Ordered Sanctions and Parole violations account for a majority of Post Adjudicative lodgings – 41.5%.

## Overall Juvenile Crime in Clackamas County

Clackamas County Juvenile Department has seen a 67% reduction in youth referrals since 2000 and that decline is continuing.





This decline has allowed the Department to focus on implementing evidenced based prevention and intervention services for youth as well as developing significant resources allowing youth to repair harm to victims. In 2013, the Department collected 93.5% of the Court ordered restitution for victims.

### Summary and Points of Interest

1. Clackamas County Juvenile Department implements researched, evidenced based practices to positively impact juvenile offenders and reduce recidivism.
2. Oregon does have a “uniform statewide juvenile performance measures that readily allow county comparisons.” This data collection system, referred to as JJIS, is utilized by all juvenile justice partners in the State of Oregon. Comprehensive and comparative reports are generated annually.
3. “Crime Rate” should not be utilized in evaluating juvenile justice because it does not measure the operations and performance of juvenile justice systems.
4. Property crime referrals to the Juvenile Departments in the State of Oregon and within Clackamas County have dropped consistently and dramatically over the past 15 years.
5. Clackamas County has had the lowest recidivism rate of any medium or large sized County for the 5th consecutively year.
6. Juvenile crime (measured by referrals to the Juvenile Department) is down 67% in the last 13 years.
7. Crime rates do not measure juvenile justice effectiveness – recidivism measures do.
8. Detention is primarily used for public safety reasons and to assure court attendance. It is also used as a sanction. Literature does not support the use of detention as an effective tool to reduce future incidents of crime, in fact research points to it being counterproductive for low risk offenders.
9. Tools such risk assessments help to distinguish between youth who pose risks to public safety and those who would be better served in less-restrictive settings.

10. Petitions are filed for serious crimes, repeat offenders, non-compliant offenders, those needing out of home placement and those most likely to reoffend. There is no research suggesting filing a petition in Juvenile Court is an effective tool to reduce future incidents of crime.



## **Oregon Juvenile Department Directors Association**

*Representing Oregon's County Juvenile Departments*

www.ojdda.org

- Faye Fagel, President
- Torri Lynn, President Elect
- Joe Ferguson, Treasurer

OJDDA  
609 W. 10<sup>th</sup> St  
Medford, OR, 97501

### **The OJDDA Perspective:**

#### **Juvenile Justice Policy, Practices, and Outcomes in Oregon**

The Oregon Juvenile Department Directors' Association (OJDDA) is responding to the report produced by Mr. Chuck French for Mr. John Foote, Clackamas County District Attorney. OJDDA looks forward to a full and open conversation about juvenile justice. This paper reviews the purpose of the juvenile justice system, the philosophies under which we navigate the activities we have engaged over the past 15 years, and the outcomes we have achieved.

#### **ABSTRACT**

Oregon's juvenile justice system has made significant strides towards community safety through implementation of best practices supported by research in the juvenile justice field. Intentional and strategic decisions have moved Oregon juvenile justice to a risk based system, which provides a continuum of interventions for low, medium and high risk offenders. Data and performance outcome measures demonstrate this is the most effective approach with juveniles. Oregon has developed a statewide Juvenile Justice Information System (JJIS) that tracks all juvenile offenders and reports on juvenile crime, treatment, sanctions, accountability and outcomes at every level. By conducting assessments and implementing evidence-based practices, Oregon is experiencing a significant and meaningful decline in juvenile crime on every measure. Since 2000, juvenile crime is down 59.6%; person crimes are down 57.9%; property crimes are down 64.8%; drug use crimes are down 30%; and felony crimes are down 65.8%.<sup>(1)</sup> "Juvenile crime rates" do not measure juvenile justice effectiveness. Crime rates are good indicators of community health. One of the best measures of Oregon's juvenile justice system's effectiveness is recidivism (repeat offenders) and the number of "chronic offenders" (those with multiple repeat offenses). In spite of a 3% increase in juvenile population, Oregon's recidivism has dropped from 34.8% (in 2000) to 27.1% today. The percent of chronic offenders has fallen from 8.1% to 4.6% over the same time period.

The success of Oregon's juvenile justice system can be attributed to: a) a research and evidence based focus, b) an assessment tool which accurately identifies the youth's risk, c) its continuum of interventions (including detention) based on the youth's risk, d) specifically targeting each youth's criminogenic needs, risk and protective factors, e) focusing on the best intervention for each youth and, f) swift and certain accountability and sanctions for at risk youth. The juvenile justice system and adult

justice system have unique distinctions because juveniles are developmentally very different from adults. While following the mandates of state statute, the juvenile justice system in Oregon has a substantial body of knowledge and skills to successfully address this unique population and prevent juveniles from entering the adult justice system, while still keeping public safety its primary focus. Though continually striving toward improvement, the information in this document concludes that the Oregon juvenile justice system is not only knowledgeable and data driven, but efficient and very effective.

## **MANDATES AND GOALS FOR OREGON'S JUVENILE JUSTICE SYSTEM**

Oregon's juvenile departments are state mandated agencies under Oregon Revised Statutes. "The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior" (ORS 419C.001(1), State of Oregon, 2012, p. 731).

Oregon's Juvenile Justice System has been guided by a strategic plan culminating from two statewide Juvenile Justice Symposiums, in 2005 and 2010. The goal of the 2010 Symposium was "to develop a set of strategies for advancing the states' already strong juvenile justice system" (*Oregon Juvenile Justice System Symposium*, 2011, p.3).

This goal served as a call to action and a compass for maintaining an efficient and cost-effective juvenile justice system. Steering Committee members implemented a collaborative process with multiple system partners, including representatives from the Oregon District Attorneys Association, State of Oregon Representatives, Juvenile Department Directors, Oregon Youth Authority Director, Judges, Attorneys and program Executive Directors. Over 250 participants actively engaged in the 2010 symposium developing **10 strategic directions** for advancing the state's juvenile justice system:

1. Support Victim's Rights
2. Improve education and vocation readiness services
3. Improve transition and re-entry services
4. Provide timely access to services
5. Foster collaborative leadership
6. Strengthen partnership engagement
7. Maximize return on investment
8. Expand use of science-and data-driven practices
9. Improve assessment tools and practices
10. Advance professional development

## **OREGON'S INFORMATION SYSTEM PROVIDES DATA DRIVEN OUTCOME BASED EVALUATIONS**

Oregon has the largest, most comprehensive, data collection system for juvenile justice in the nation. This data system was implemented in 1998 and adopted as the "Juvenile Justice Information System" (JJIS). This collaboration between juvenile departments and Oregon Youth Authority provides consistent, reliable data; and tracks statewide aggregate and county-specific measures related to youth referred to county juvenile departments, dispositional decisions, use of detention, recidivism, accountability measures (restitution and community service) treatment programs and services. Data reports have been

published annually since 1998, and can be referenced on the Oregon Juvenile Department Director's website, [ojdda.org](http://ojdda.org). The information gathered from this data system has allowed OJDDA members to continually analyze outcomes, and make decisions and recommendations regarding performance, resource development and utilization.

## **BEST PRACTICES IN JUVENILE JUSTICE**

The philosophies that OJDDA has embraced are research based and well supported. Key elements for effective interventions involve assessing risk, identifying criminogenic need, understanding responsivity, matching treatment to youth, and maintaining fidelity in the delivery of services. There are 3 key and equally important tasks in juvenile justice: community safety, offender accountability and competency skill development for youth and their families, (see ORS 419C.510)(State of Oregon, 2012). OJDDA members have taken strategic steps to apply these key elements in our local practices.

### Offender Accountability

Youth offender accountability is one of the key components of Oregon's juvenile justice system within the context of public safety, restitution to the victims and to the community. Providing a continuum of interventions allows for sanctions at all levels of intervention. Repairing the harm to victims and attending to victims' needs throughout the juvenile department's involvement is a priority for counties. Requirements for the payment of restitution and completion of community service promote juvenile offender accountability to victims and the community. The accountability of an offender is not just carried forward through supervision and skills development, but through restitution to victims, community service, and an emphasis toward restorative justice, which is restorative in nature toward victims, and connects youth to their community. The OJDDA has been an active participant throughout the years in several of the Oregon Attorney General's workgroups related to victim rights. One example of the meaningful impact of OJDDA's involvement in these workgroups was the embedding of victims' rights in the juvenile delinquency code in 2008.

### Risk/Needs Assessment

OJDDA, in conjunction with NPC Research, developed the Juvenile Crime Prevention Risk Assessment (NPC Research, 2007), which identifies a youth's risk to reoffend, and the protective factors that mitigate that risk. This tool, utilized both by community prevention programs and Juvenile Departments, has been validated by NCP Research (most recently in 2011) and by the National Council on Crime & Delinquency (2013). In a national study of 9 such tools, the JCP assessment was identified to be the most reliable tool available (Malsch, Mackin, & Tarte, 2011; Howell, Healy & Baird, 2013). This tool allows juvenile justice professionals to identify the highest risk offenders needing the most intensive services, the primary risk domains, and critical risk and protective factors that can influence a youth's ability to thrive. This tool is utilized by all County juvenile departments and community prevention partners, allowing juvenile justice professionals to focus critical resources on the highest risk youth, preventing low risk youth from penetrating further in the system. Mixing low and high risk youth results in the low risk youth learning antisocial behaviors and negativity disrupting their pro-social networks, resulting in increases in recidivism, by as much as four percent (Latessa, 2010). This tool has resulted in juvenile departments implementing a continuum of services that match a youth's risk to appropriate service levels that support best practice models. This is the most cost effective approach impacting delinquency, while maintaining community safety. Lower risk youth are referred to diversion alternatives while higher risk youth are assigned to intensive supervision. This philosophy produces

positive youth outcomes, creates fewer victims, dictates an efficient use of public money and provides targeted case management. Oregon's implementation of risk/needs assessment is further supported by Bonnie, Johnson, Chemers, & Schuck (2013) who state, "the introduction of risk/needs assessment is a significant shift in how juvenile justice agencies conceptualize the potential impact of court involvement. This approach implies a dynamic view of juvenile justice involvement, reflects a shift from predicting risk to managing risk, and puts less stock in determining categories of offenders than on the malleable factors that might contribute to criminal involvement. Using risk/needs assessment at critical points can reduce idiosyncratic decision making and maximize the impact of resources by targeting them to the risk level of each offender" (p. 5).

### Training

OJDDA supports a juvenile justice training team that provides comprehensive training to all new juvenile justice professionals as well as advanced skills training for staff throughout the year. OJDDA also committed to a uniform methodology to improve community supervision and increase youth's positive outcomes by adopting Effective Practices in Community Supervision (EPICS) (Lowenkamp, Pealer, Smith, & Latessa, 2006). OJDDA is only one of several states with certified trainers to support the ongoing training of staff in EPICS, equipping them to address the core correctional issues that drive crime, including antisocial attitudes and beliefs, antisocial peers, antisocial personality, and family dysfunction (Lowenkamp et al., 2006). Juvenile justice also supports specialty courts which creates system collaborations between court programs and treatment. Staff involved in those programs who received formal training or orientation had significantly greater reductions in youth recidivism (Carey, Mackin, & Finigan, 2012).

### Cognitive Behavioral Interventions

OJDDA embraces the use of cognitive behavioral interventions, sometimes referred to as CBT, as the treatment modality of choice. This highly researched modality is active, focuses on the present, challenges thinking in the formative brain, and builds new skills to increase current functioning. This modality is used in the EPICS interventions and in skill-building groups at the community, detention, residential and facility levels. It is not enough to have the correct modality, it is also important to have the right dosage over time based on the risk of the offender. Specifically, for high risk offenders, 200 hours of intervention over a 1 year period is indicated by research to be effective (Sperber, Latessa, & Makarios, 2013).

### Developmentally Appropriate Approaches

Significant research in brain development has identified the period of adolescence as having unique behaviors associated with that particular stage of brain development. "Adolescence is a developmental period characterized by suboptimal decisions and actions that give rise to an increased incidence of unintentional injuries and violence, alcohol and drug abuse, unintended pregnancy and sexually transmitted diseases (Casey, Getz, & Galvan, 2007, p. 62)." Adolescence sees "increased reward-seeking, especially in the presence of peers, fueled mainly by a dramatic remodeling of the brain's dopaminergic system (Steinberg, 2008, p. 78)." This heightened risk taking, even accompanied by uncertainty and potential harm can be explained by a weak harm avoidant system and strong reward system within the brain (Ernst, Pine, and Hardin, 2006). These behaviors often reduce as a person enters young adulthood (Steinberg, 2008). Courts and social systems have recognized these

developmental differences between adolescents and adults in developing a justice structure more appropriate for addressing primary treatment and accountability issues at this point in development.

Evidence-informed, data driven decision making has been a progression, building from the development of the risk/needs assessment in 1998, which enables Oregon's juvenile justice professionals to identify a youth's risk to reoffend and implement targeted case management plans directed at reducing risk and increasing protective factors. The results of this planned and implemented approach are evident in the progressive decline in juvenile recidivism and in chronic juvenile recidivism shown later in this document.

Best practices in juvenile justice address accountability with many approaches. Oregon's County juvenile departments understand the importance of community expectations for youth accountability, to address the harm to victims and target corrective actions. "It does not follow, however, that the mechanisms of accountability for juveniles should mimic criminal punishments" (Bonnie et al., 2013, p.4). Research supporting the best practices outlined above in holding youth offenders accountable does create reduction in crime, as evidenced by an overall 22.1% decrease in juvenile recidivism from 2000 to 2013 in Oregon.

### **UTILIZATION OF JUVENILE DETENTION**

Detention is utilized for community safety (pre-adjudicatory detention) and as a sanction for court violations. Oregon statutes provide a directive to utilize the "least restrictive" intervention to ensure youth will appear for their hearing, ORS 419C.145(2)(a)(State of Oregon, 2012). In 2013, Oregon utilized pre-adjudicatory detention for 4,217 admissions, 62.7% of the total detention admissions; post adjudicatory detention on 1,121 occasions, (16.6%); and 20.7% were other admissions, i.e., warrants.

Detention reform initiatives have suggested that keeping youth out of detention facilities would facilitate better outcomes. In fact, groups who have reduced their reliance on detention, along with other initiatives, such as reducing disproportionality among youth in their systems, diversion of status offending youth from the court system, developing strong services for youth in the community, and improving conditions within juvenile facilities, have seen not only reduced confinement, but also reduced juvenile arrests (Justice Policy Institute, 2013; Mendel, 2009). Use of detention can also be a barrier to treatment, with youth being separated from their families, long distances often making it unlikely families can participate in treatment, and separating youth from their schools. This kind of separation also creates issues of re-entry, which is often difficult for youth who have been institutionalized, but are then dropped back into their home community without strong support.

In order to comply with "least restrictive" statutory mandates and minimize the negative outcomes that can result from detention stays, juvenile departments, based on local resources, have developed a spectrum of detention alternatives that can be utilized, including House Arrest, Electronic Monitoring, Shelter Care and Assessment Services.

### **MINIMIZING DISPROPORTIONATE MINORITY CONTACT**

Disproportionate Minority Contact (DMC) refers to the disproportionate number of minority youth who come into contact with the juvenile justice system. Oregon participates in the Juvenile Justice and Delinquency Prevention Act, Title II, Part B, receiving Formula grants. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) require states under this program to address DMC in their state juvenile

justice and delinquency prevention plans (Office of Juvenile Justice and Delinquency Prevention, 2012). The core requirement is to ensure equal and fair treatment for every youth in the juvenile justice system, regardless of race and ethnicity.

Relative Rate Index for Youth of Color In Oregon by Decision Point

Juvenile departments have reviewed their utilization of detention for youth of color. Data concerning disproportionality of these youth at different decision points within the juvenile justice system has been tracked since 2010. Table 1 below demonstrates the Relative Rate Index (RRI), a measure used to calculate the disproportionate contact of minority rate/white rate. An index of one would represent statistical equality. An index of 2.00 reflects a volume of contact for minority youth double the volume for white youth, while an index of .50 shows a volume of contact for minority youth half the volume of contact experienced by white youth.

As represented below in Table 1, between 2010 and 2013, youth of color in Oregon have been between 1.18 and 1.24 times more likely to be placed in secure detention than White youth; have been up to 1.2 times more likely to have their cases formally petitioned in court than White youth; and have been between 1.39 and 1.7 times more likely to be placed in confinement in a secure juvenile correctional facility.<sup>(2)</sup> In the last 4 years, youth of color have also been overrepresented in being placed on probation and have been as much as 2.66 times more likely than White youth to have their cases transferred to adult court.

Disproportionality continues to be an issue of importance in Oregon. Increased diversion programs and objective screening instruments need to be implemented to reduce disparity for youth of color. Annie E. Casey has promoted these interventions, and Multnomah County has participated as a study site. The foundation has found that organizations that utilize these methods have been able to reduce disproportionality within their systems (Mendel, 2009). Oregon has been instrumental in utilizing federal funding to access and impact the disproportionality at major decision points, including detention.

Table 1.

*2010-2013 Relative Rate Index for Oregon Juvenile Justice System<sup>(3)</sup>*

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Cases Diverted	1.01	1.00	0.99	0.99
Cases Involving Secure Detention	1.24	1.18	1.20	1.23
Cases Petitioned	1.11	1.06	1.01	1.20
Cases Resulting in Delinquent Findings	0.97	1.02	0.96	0.96
Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	1.70	1.56	1.39	1.46
Cases Resulting in Probation Placement	1.07	1.07	1.06	1.04
Cases Transferred to Adult Court	2.48	2.28	2.66	1.88

Source: Juvenile Justice Information System - Yearly Annual Reports

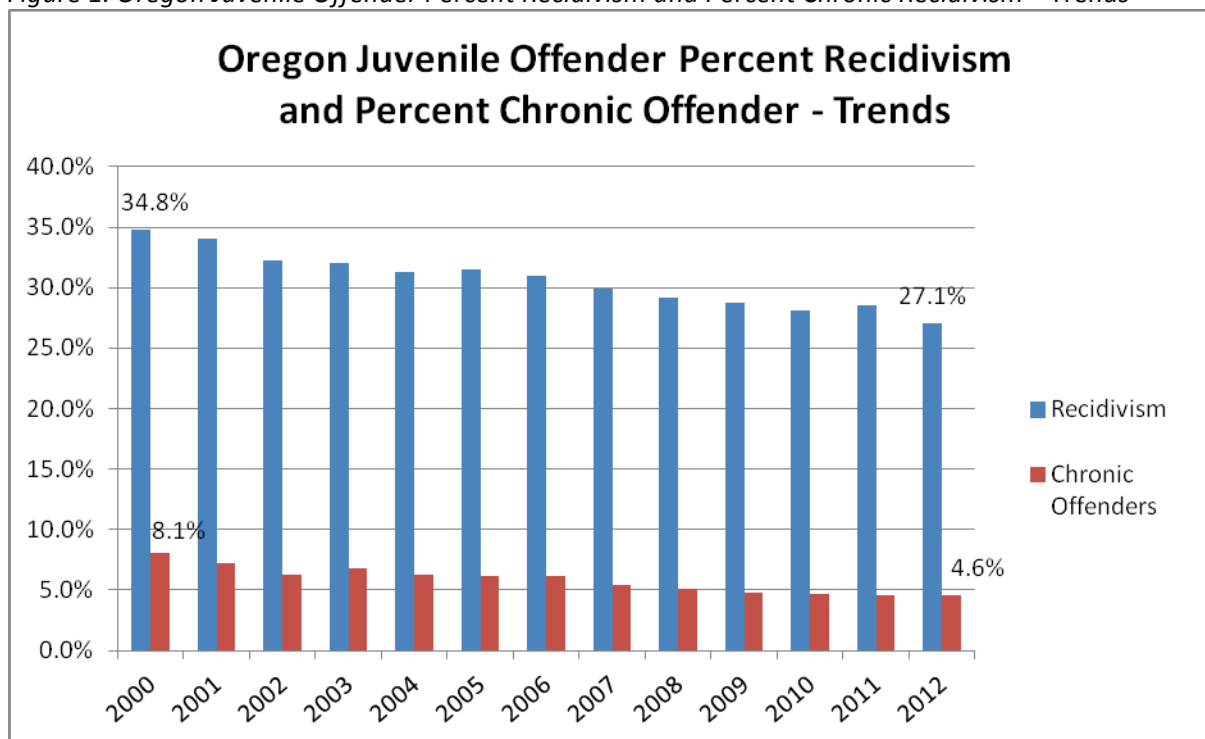


## OUTCOMES OF OREGON'S JUVENILE JUSTICE SYSTEM

### Recidivism Defined

Two important measures of juvenile justice success are “recidivism” and “chronic offenders.” Oregon’s County Juvenile Departments in consultation with OYA were directed to adopt a definition of recidivism pursuant to 2007 ORS 420A.012 (State of Oregon, 2007, pg. 848). The definition for recidivism is defined as a new criminal referral; a criminal referral is a law enforcement report to a juvenile department alleging one or more felony or misdemeanor acts (offenses), following a 12 month period after the last referral. This measure has been tracked and publically reported statewide since 1996. Recidivism from 2000 to 2013 has declined 22.1%, as demonstrated in Figure 1 below. This achievement also reflects a reduction in the number of victims of juvenile crime in Oregon. Also critical in evaluating the juvenile justice system is a review of the chronic recidivism rates. Chronic recidivism is defined as 3 subsequent referrals. These youth have significant risk factors, often in combination, including involvement in crime at an early age, significant family and school problems, substance use, and behavior that harms others. Even modest reductions in recidivism rates for these youth can result in major long term savings to the juvenile justice system (Office of Juvenile Justice and Delinquency Prevention, 2001).

Figure 1. Oregon Juvenile Offender Percent Recidivism and Percent Chronic Recidivism—Trends



Source: Juvenile Justice Information System - Yearly Annual Reports

From 2000-2013, Oregon saw:

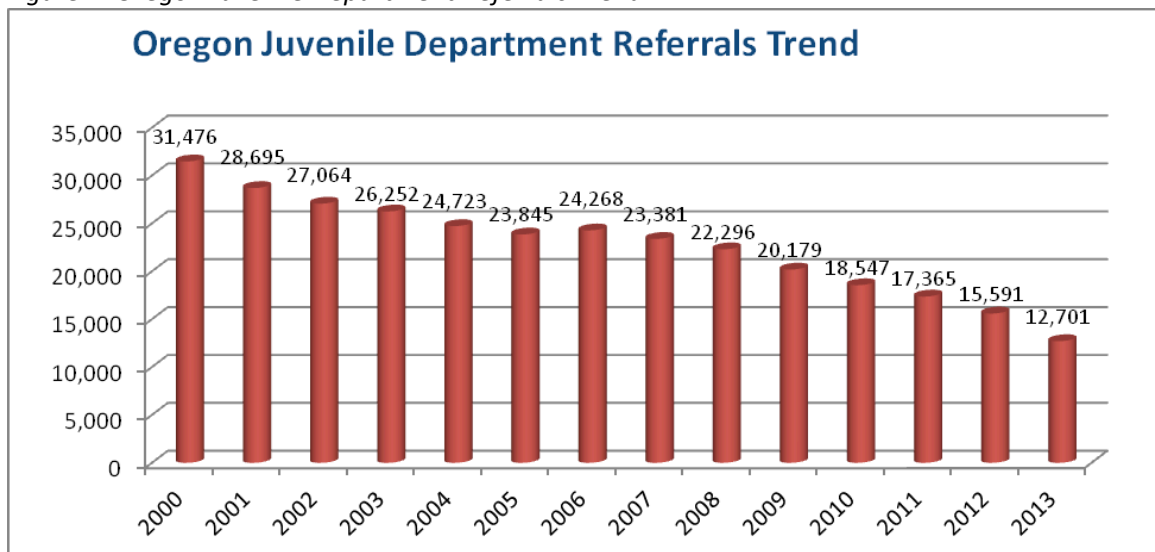
- 3% increase in size of population
- 59.6% decrease in the number of youth referrals
- 22.1% decrease in recidivism
- 54% decrease in chronic recidivism

Recidivism data are critical in measuring the success of the juvenile justice system. Although crime rates have declined dramatically in the last 13 years, isolating crime rates as the sole measure of the effectiveness of the juvenile justice system is a perspective that fails to take in more reliable data that directly correlates to a youth's success after being referred to the juvenile justice system. The "crime rate" measures the scope of a community problem, not the success or failure of the juvenile justice system alone. The Federal Bureau of Investigation (FBI) itself, which maintains the FBI Uniform Crime Report (UCR) system, cautions that "since crime is a sociological phenomenon influenced by a variety of factors, the FBI discourages ranking the agencies and using the data as a measurement of law enforcement effectiveness." The Ministry of Justice (2009) identified social risk factors for involvement in crime: family, education, economics, community and peers, and alcohol and other drugs. Interestingly, four of five of these social risk factors directly correlate to the risk and protective factors utilized in the assessment of Oregon's juvenile youth population.

### **Oregon Referrals**

Adopting research based principles, integrating practice, and utilizing reliable information systems in evaluating services has produced positive outcomes over the past decade. From 2000 to 2013 juvenile justice in Oregon has seen a 59.6% decrease in juvenile referrals and a 65.8% decrease in felony referrals as evidenced by the following table and figures.

Figure 2. Oregon Juvenile Department Referrals Trend



Source: Juvenile Justice Information System - Yearly Annual Report

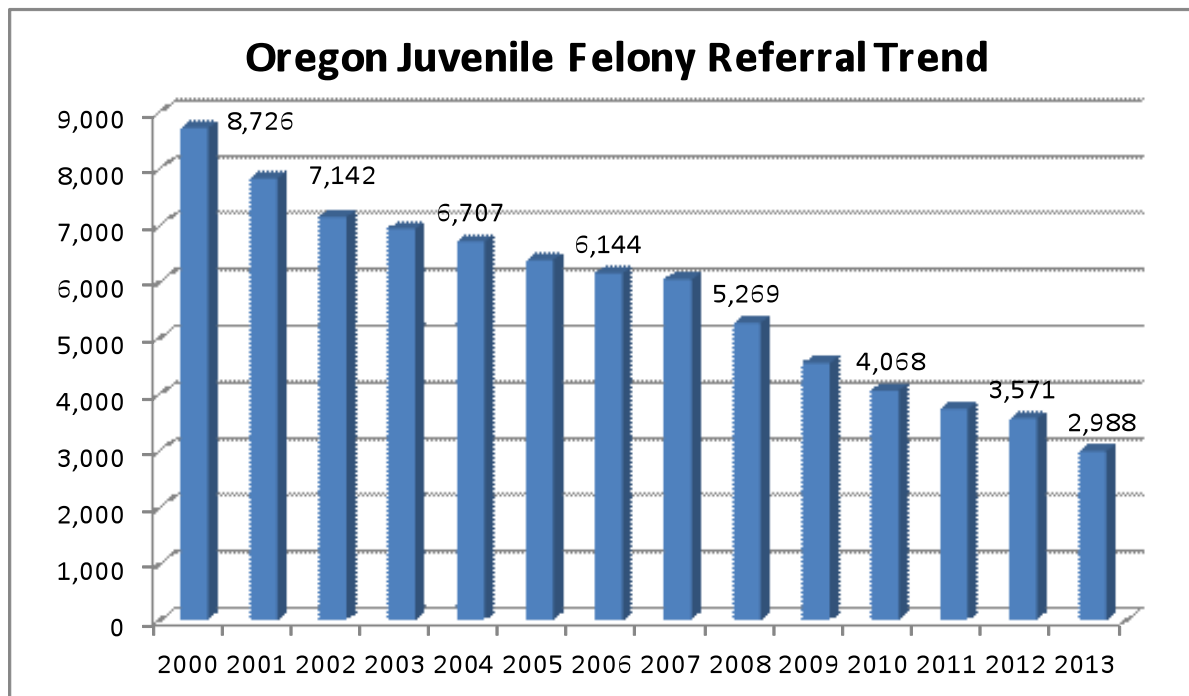
Table 2.

2000-2013 Oregon Referrals

Year	Person	Property	Public Order	Substance Abuse	Other Criminal	Total
2000	5,527	18,389	3,291	1,985	2,284	31,476
2001	5,137	16,363	3,194	1,798	2,203	28,695
2002	4,842	15,388	3,344	1,711	1,779	27,064
2003	4,614	15,124	3,271	1,540	1,703	26,252
2004	4,544	13,427	3,340	1,787	1,625	24,723
2005	4,405	12,831	3,222	1,842	1,545	23,845
2006	4,311	13,346	3,507	1,641	1,463	24,268
2007	4,034	12,946	3,285	1,667	1,449	23,381
2008	3,697	12,468	3,245	1,576	1,310	22,296
2009	3,225	11,275	2,852	1,698	1,129	20,179
2010	3,077	9,896	2,676	1,863	1,035	18,547
2011	2,857	8,818	2,543	2,231	916	17,365
2012	2,753	7,852	2,328	1,841	817	15,591
2013	2,327	6,476	1,782	1,389	727	12,701
	<b>57.9%</b> decrease	<b>64.8%</b> decrease	<b>45.8%</b> decrease	<b>30%</b> decrease	<b>68.2%</b> decrease	<b>59.6%</b> decrease

Source: Juvenile Justice Information System - Yearly Annual Report

Figure 3. Oregon Juvenile Felony Referral Trend



Source: Juvenile Justice Information System - Yearly Annual Reports

While substance abuse referrals have seen a 30% decline since 2000, treating youth offenders' addictions continues to present challenges. Oregon implements best practices in youth offender treatment and currently 10 Juvenile Drug Courts operate in Oregon.

## SUMMARY

OJDDA sees this report as an opportunity for further dialogue regarding what works in juvenile justice. The juvenile justice system in Oregon has engaged in a collaborative and strategic approach to how we work with juvenile offenders, as well as high risk youth who have not yet reached the justice system, which has resulted in consistent positive outcomes for youth and progressive improvements to public safety.

Significant data are available to help understand and evaluate the Oregon system. Oregon's juvenile justice system cannot be judged on crime rates alone. Data on recidivism and chronic offenders and the results from application of risk assessment and evidenced based interventions suggests a highly effective juvenile justice system which has resulted in the reduction of re-offenses.

Oregon has advanced the state's juvenile justice system by adhering to the strategies dictated by collaborative efforts of the 2010 Oregon Juvenile Justice System Symposium:

- Positive youth **outcomes** are demonstrated in reductions in recidivism, reduction in risk factors and an increase in protective factors, and youth are leading crime-free lives
- Effective **continuums of interventions** are in place providing timely access to services and resources allocated for prevention and intervention
- Strong **collaborations** exist within the juvenile justice continuum, including community stake holders, public safety officials and public and private service providers
- **Cost-effective practices** are in place including validated risk assessment tools, research based interventions and community supervision and data systems allowing for continued process and outcome evaluation
- **Strategic planning** in juvenile justice is utilizing data driven, outcome based decision making
- Priority is given to **professional development and training** for juvenile justice professionals

OJDDA members are committed in continuing to be a leading voice for juvenile justice, holding youth offenders accountable to victims, and teaching youth to become contributing citizens resulting in safer communities.

## ENDNOTES:

(1) Unless cited otherwise, all data and statistics discussed in this report are from the Juvenile Justice Information System (JJIS) Annual Data and Evaluation Reports, which can be viewed and downloaded at [http://www.oregon.gov/oya/Pages/jjis\\_data\\_eval\\_rpts.aspx](http://www.oregon.gov/oya/Pages/jjis_data_eval_rpts.aspx)

(2) Youth placed in “secure detention” include local County operated detention facilities; youth placed in “secure juvenile correctional facilities” include State operated secure Youth Correctional Facilities.

(3) Includes all youth of color.

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# Lane County Health and Human Service

## Division of Youth Services

### *Safer Communities through Crime-Free Youth*



#### **Juvenile Justice in Lane County:**

##### **From Crisis to Opportunity**

In 1995, when juvenile crime was at a peak, voters generously supported the request to build the John Serbu Youth Campus. Again, in 2013, voters generously voted to support detention and the treatment program, allowing for 8 additional beds in each. This public, private non-profit youth campus is the juvenile justice provider for Lane County, an area the size of Connecticut, serving around 350,000 people. Most of the citizens of Lane County will only have contact with juvenile justice as the result of being the victim of a crime, or if they or a family member have been involved in committing a crime. As part of the community in Lane County, we have a value of sharing the work that we are doing. On the John Serbu Youth Campus there are many services and efforts that the community-at-large know very little about. As an example, the majority of youth served never spend time in any of the 16 detention beds that are currently open. Detention is actually used as a community safety protection only. In addition to these beds, we serve the community through our MLK Jr. Education Center, horticulture crews out working in the community, a catering service staffed with youth from our programs, community supervision of youth on informal and formal probation, and a 16 bed, secure treatment center for young men. This work is accomplished not only by Lane County staff, but also through partnerships with treatment providers, educators, law enforcement, and referred youth and their families, and reflects how as an organization, we try to help youth and families move from a moment of crisis to a point of opportunity. In an effort to be transparent about our practices, we'd like to share not only the theoretical background of what we do and our successes, but also some of our results, and some of the things we are actively working to strengthen.

##### **Evidence-Based Best Practice**

The Juvenile Justice System is charged with three important missions toward creating a healthy community. The first is community safety. Each community has the right to be safe from criminal behavior. The second is offender accountability, which is defined by the juvenile offender, making the victim and community whole again. The third is for the youth and their family to get the skills that they need so that they successfully complete their probation and never go on to the adult system. Lane County Youth Services has several values which help us in accomplishing these tasks, which include;

using effective intervention strategies/programs for juvenile offenders and families; assisting juvenile offenders and families in identifying strengths and the development of new prosocial skills; promoting positive growth in juvenile offenders and families; being committed to achieving equity in all aspects of our organization and services; providing culturally relevant and gender specific services; providing reparation and support to victims; and, fostering partnerships with the community. These values are woven into the fabric of what we do to achieve positive results in the critical 3 tasks of our organization.

### **Community Safety**

The key ingredients to effective interventions are; assessing risk, identifying criminogenic need, understanding responsivity, matching treatment to youth, and maintaining fidelity in the delivery of services. The risk to reoffend and the protective factors that mitigate this risk are identified in the State of Oregon by the Juvenile Crime Prevention Checklist (NPC Research, 2007). This risk assessment tool, utilized both by community prevention programs and Juvenile Departments, has been validated by NCP Research. This tool allows us to identify the highest risk offenders needing the most services, the key risk domains, and identifies critical protective factors that can influence a youth's ability to thrive. Because this tool is utilized, we are able to focus critical resources on the highest risk youth, allowing low risk youth to keep from penetrating the system.

Criminogenic need, or the engine that drives crime, needs to be the primary focus of intervention. Through the use of case plans, validated assessments, well trained staff, and the implementation of the evidence-informed EPICS intervention (Smith, Schweitzer, Labrecque, & Latessa, 2012), we begin to increase our interventions on the core correctional issues that drive crime. Examples of this include; antisocial attitudes and beliefs, antisocial peers, antisocial personality, and family dysfunction (Lownkamp, Pealer, Smith, & Latessa, 2006).

### **Accountability**

Addressing victims is an integral leg of the juvenile justice system. The accountability of an offender is not just carried forward through supervision and skills development, but through restitution to victims, community service, and an emphasis toward restorative justice, which is not only restorative in nature toward victims, but ties youth back to their own community, potentially giving them a sense of belonging as they mandatorily pay due restitution through work and community service.

### **Skill Development**

Research indicates that successfully addressing the barriers to receiving interventions increases the likelihood that youth will be successful on probation, and more likely, not commit further crimes. Responsivity must be addressed by identifying learning styles, motivation, and active engagement. In addition, it is necessary to understand and minimize the barriers, such as; transportation, language, poverty, and mental health issues. In many cases, it is the relationship with a corrections professional that is the doorway to fully understanding and addressing those barriers (Lipsey, Howell, Kelly, Chapman, & Carver, 2010; Andrews & Dowden, 2005).



The treatment modality of choice for adolescents is cognitive behavioral interventions, sometimes referred to as CBT. This highly researched psycho-educational training focuses on changing behavior in the present by challenging the values and beliefs linked to specific challenging behaviors. CBT has been researched to be most effective for high risk offender with roughly 200 hours of intervention over a year's time (Gentry Sperber, Latessa, & Makarios, 2013). It is also imperative to match the youth's skills, strengths, and interests to that of the provider. The package for successful intervention includes; relationship and rapport building, goal setting (both short and long term), interventions that focus on criminogenic need, review and practice of positive prosocial skills, and the appropriate use of sanctions, effective use of authority, and rewards.

Fidelity can be achieved by utilizing tools such as the Correctional Program Assessment Inventory which has evolved into the Correctional Program Checklist (Matthews, Hubbard, & Latessa, 2001). These tools have been used expansively and have robust evaluative research. This program evaluation tool encompasses program structure and longevity, curriculum, use of rewards and sanctions, staff training and education, clinical supervision, success rates, and regularity of evaluation.

None of these components of evidence based programming will be successful alone, and success cannot be achieved without any of them. Evidence-informed, data driven decision making has been a progression, building from the risk tool which was developed in 1995, which enables us to enhance the quality of intervention and success with youth by continuous self-evaluation. This progression has been embraced by Lane County Division of Youth Services whole heartedly and been used as a guide in intervention development and case processing.

### **Use of Detention and Sanctions**

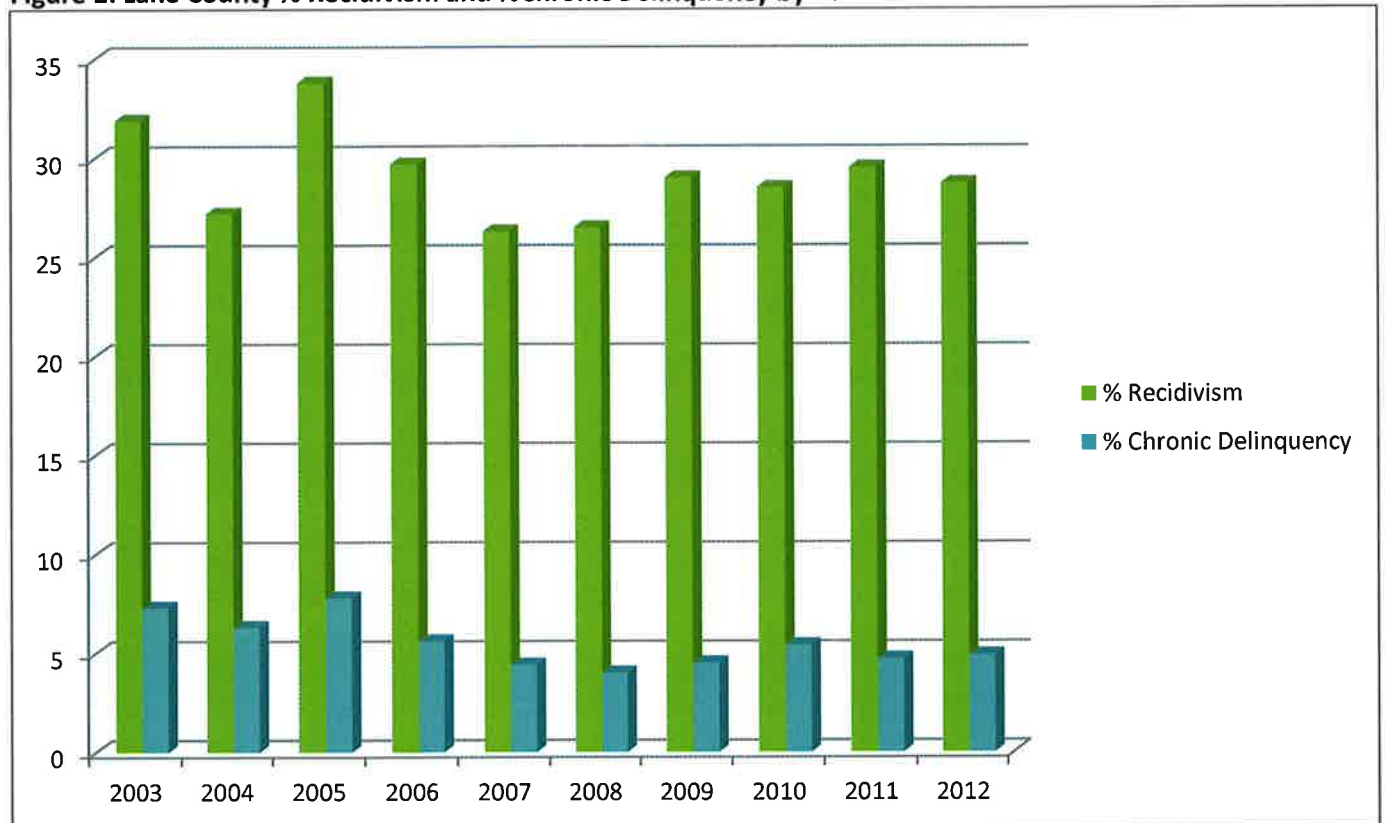
Current neuroscientific research suggests that the adolescent and young adult brain is much different than the adult brain, characterized by risk taking and poor decision making behavior despite consequences (Casey, Getz, & Galvan, 2007; Ernst, Pine, and Hardin, 2006; Steinberg, 2007). For this reason, juvenile justice has a desire to intervene differently with youth than we do adults.

One of the movements toward that end is detention reform. Initiatives from groups such as the Casey Foundation have sought to place fewer kids in detention, while at the same time working toward reducing disproportionality, strengthening the continuum of services available in local communities and diverting youth with non-criminal referrals away from the system. This initiative has shown positive results with decreasing arrests in many participating jurisdictions (Justice Policy Institute, 2013; Mendel, 2009). In Lane County, we choose to use secure detention as a resource for those youth who pose an immediate risk to community safety, rather than housing youth for longer periods of time as sanctions or for low risk youth, as we want to keep these youth from penetrating the system and becoming institutionalized. Further, we would like to keep youth, whenever possible, in their home community with appropriate services and support, rather than send youth long distances, separating them from their home and community, causing disturbance upon reentry to the community later.

## Lane County Outcomes

Recidivism, or juvenile justice involved youth who have a new criminal referral, is often the key outcome that is discussed with regard to juvenile justice. This reflects the success of intervention in keeping youth from committing crimes. Since 2003, Lane County has had recidivism rates of between just over 26% to just under 34%, with an average of around 29%, closely reflecting the state average. Chronic delinquency is another common outcome measure in Oregon. This counts the percentage of youth who have 3 or more new criminal referrals. Chronic delinquency rates in Lane County over the last 10 years have ranged between 4% and 7.8%, with an average of about 5.5%. This also closely follows overall state trends.

**Figure 1. Lane County % Recidivism and %Chronic Delinquency by Year**



Source: Juvenile Justice Information System - Yearly Annual Reports

Criminal (misdemeanor or felony) referrals have seen a downward trend since 2000. Overall referrals are down 55% since 2000, person crime referrals are down 56%, property crimes are down 64%, and felony allegations have dropped at the largest rate of 75%. In addition, we've also seen a 62% reduction in non-criminal referrals, which include things like minor in possession, curfew, and tobacco allegations. While this downward trend in crime is very exciting to see, it is likely that many factors have contributed to it, possibly including community prevention efforts, and changes in policing or law, in addition to juvenile justice efforts

**Table 1. Criminal Referral Trends in Lane County since 2000**

Year	# Referrals	# Property Crime Referrals	# Person Crime Referrals	# Non-Criminal Referrals	# Felony Allegations
2000	2674	1679	429	904	1157
2001	2441	1576	397	962	1175
2002	2282	1547	307	840	942
2003	2158	1356	314	785	887
2004	2090	1220	323	730	917
2005	1766	1069	278	675	836
2006	2012	1305	275	478	876
2007	1819	1071	283	814	745
2008	1724	993	284	620	719
2009	1575	860	257	317	542
2010	1704	911	260	540	504
2011	1679	853	283	336	461
2012	1560	807	264	305	482
2013	1203	613	187	342	385
	<b>55% decrease</b>	<b>64% decrease</b>	<b>56% decrease</b>	<b>62% decrease</b>	<b>75% decrease</b>

Source: Juvenile Justice Information System - Yearly Annual Reports and Report 47a

In 2012, we were lucky enough to receive assistance from Oregon Youth Authority in a quasi-experimental evaluation of our secure residential treatment program, the Phoenix Program. When matched with a comparison group with similar backgrounds, and risk, Phoenix youth were 21.3% less likely to recidivate than the comparison group.

### **Opportunities for Growth and Collaboration**

While Lane County YS focuses on bringing strong evidence based interventions to have strong impacts with youth, and are seeing positive results, there are still opportunities to grow and improve

Disproportionality minority contact (DMC) within the juvenile justice system is a nation-wide problem, and one that occurs in Lane County as well. We have analyzed data regarding the problem, developed new tools as suggested by the DMC Technical Assistance Manual, and have begun a series of conversations with staff that will be ongoing. This important work is just beginning, and will need to become an ongoing, long-term discussion in order to see positive change. YS would love to partner with community agencies to provide culturally relevant interventions to best serve all youth.

Currently, there are few local treatment bed options for youth. The Phoenix program has 16 beds available for young men in the community on probation. There are not beds available for youth with lower risk or for more preventive services. Often, youth need to be placed under the supervision of the state to access appropriate services which are often removed from their home communities, making the opportunity to participate in treatment very difficult for families. In addition, there are no treatment beds available for females. There is a need to develop more local options for treatment and diversion services for youth of all risk levels.

Though we are an organization that prides ourselves on being strength-based in our approach with youth, we have very few outcome measures that measure change in strength; rather, we focus on outcomes such as recidivism and criminal referrals. We are currently in the process of piloting a strength based measure that we are hoping will be useful in the future for measuring some of the positive changes that youth are experiencing as they progress through our system.

Youth Services values our partnerships with the community, and has a long history of inclusion with research and treatment providers. The Lane County community is the largest stakeholder in our work, and we hope to include the community, and have open conversations about what we do. In an effort to build collaboration, we have reached out to various community organizations to begin these conversations and let people know what we are doing, and what services we provide. We would be glad to attend any community meeting to continue this work.

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# Oregon

John A. Kitzhaber, MD, Governor

## Oregon Youth Authority

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May 1, 2014

Dear Mr. Foote,

This letter is in response to the draft memo (Oregon juvenile justice policy) dated January 9, 2014, and provided to district attorneys and subsequently a number of other system partners. The following comments are made with the intent of reiterating our previous concerns, provided to you verbally, and improving the accuracy of the report.

I appreciate your office's raising ideas about improving Oregon's justice system. This type of dialog is a valuable and necessary component of improving the system and increasing the safety of Oregon's communities. Our previous comments and the information in this letter are made with the intent to help achieve this goal.

### **Costs**

The memo states that Oregon's juvenile justice system is the second most expensive in the nation. However, the calculation method used to derive this statistic – simply dividing budgets by state resident population – is hardly a meaningful comparator or an indication of the efficiency or effectiveness of the system. In fact, per capita expenditure is a misleading figure which does not consider numerous variables that contribute to cost or effectiveness. For example, California, with a population of 38 million, incarcerates about 700 youth through its state juvenile justice system. This is close to the same number of youth in OYA close custody. Because Oregon's population is less than 4 million compared with California's population of approximately 38 million, Oregon's per capita expenditure is far greater than California's. One way to improve our per capita expenditure is to significantly reduce the OYA close-custody population. I am confident that is not what you intended to suggest.

The 2012 *Council of Juvenile Correctional Administrators (CJCA) Yearbook* notes that cost comparisons are problematic because "Juvenile correctional agencies across the country are as unique as each state and jurisdiction they serve. Agencies vary in structure, size, scope of responsibilities, function within state governments, age range of population served, and more."

CJCA cites the following differences as examples of why apples to apples cost comparisons among states are problematic:

- Structure – Approximately 40 percent of agencies are freestanding departments within the executive branch or under another agency (e.g., child welfare/social services, adult corrections, human services). The Oregon Youth Authority is an example of a freestanding department. The remaining 60 percent of states have different structures.
- Community supervision – While 88 percent of states (including Oregon) provide oversight after a youth leaves secure custody, the remaining 12 percent do not.
- Status of youth pre-trial and/or post-trial – Just 44 percent of states provide pretrial detention.
- Age of youth within jurisdiction – The lower and upper age limits of juvenile court jurisdiction vary among states.
- Services provided – Not all states provide similar treatment, education, and vocation services.
- Number of staff and facilities – States have different types and sizes of facilities, which affect operational costs, and different types and ratios of staff.

Of particular importance to Oregon is the age of youth served. As the CJCA discusses, the age of a youth is a key factor in determining the types of programs and services needed. Only three of the states that reported in the 2012 Yearbook have an upper age limit of 25 years old and only 2 percent of the youth population in all surveyed jurisdictions was 21 or older. This is a key difference that makes Oregon’s juvenile system, and its costs, distinguishable from most other states. Measure 11 changed the age make up of Oregon’s youth correctional facilities; now more than half of the youth placed in a youth correctional facility are there under Measure 11 or Measure 11 reduced convictions. This is a cost driver for OYA’s population, as these youth were 15, 16, or 17 years of age at the time the crime was committed and were sentenced in adult court to the Oregon Department of Corrections (DOC), but serve their sentence until the age of 25 in an OYA facility.

### **Measuring outcomes**

The memo conveys that OYA’s practices reflect a “system-wide focus on measuring what might be considered largely irrelevant minutiae.” To the contrary, 15 years ago OYA, in collaboration with Oregon’s county juvenile departments, created an information system, the Juvenile Justice System (JJIS), which is still unique in the nation in its ability to provide abundant and accurate data that can be analyzed to inform decisions to produce the best outcomes for youth and communities. The effort to develop outcome measures and the focus on evidence-based practices, while intensive, is not irrelevant.

OYA is a data-driven organization that relies upon research-based, validated assessment and measurement tools, as well as evidence-based treatment programming, from the point of intake until release. Research into juvenile brain development shows that youth have the ability to learn and adopt appropriate thoughts and behaviors given the right combination of treatment, education, and job preparation. OYA uses data to determine the services that will most effectively help youth reform.

Recidivism is an important measure of effectiveness. The average recidivism rate for youth leaving OYA has been dropping steadily since OYA began keeping records in 1996. This decline in recidivism demonstrates that the juvenile justice system in Oregon is effectively responding to juvenile crime and providing appropriate sanctions, services, and treatments to reduce the likelihood that juveniles will continue to engage in criminal behavior. The below chart shows that, while there has been a 3 percent increase in the number of youth aged 10-17 in Oregon's population since 1996, there has been a 51 percent decrease in the number of youth offenders. When looking at recidivism, there has been a 27 percent decrease in recidivism (defined as a new misdemeanor or felony referral within 12 months) and a 54 percent decrease in chronic recidivism (defined as three or more new misdemeanor or felony referrals within 12 months).

Year	Oregon Youth Population 10-17	Number of Offenders	Percent Recidivism	Percent Chronic Recidivism (3 or more criminal referrals)
1996	376,324	24192	37.3	10
1997	383,009	23444	38.3	10.1
1998	385,420	22311	36.3	9.1
1999	387,690	21007	36.9	8.5
2000	390,787	21129	34.8	8.1
2001	393,838	19794	34.1	7.2
2002	396,792	19218	32.2	6.3
2003	397,291	18399	32	6.8
2004	395,794	17730	31.3	6.3
2005	396,157	17265	31.5	6.2
2006	398,216	17597	31	6.2
2007	397,735	17258	29.9	5.4
2008	395,094	16645	29.2	5.1
2009	392,586	15124	28.8	4.8
2010	391,292	14003	28.1	4.7
2011	390,384	13134	28.5	4.6
2012	389,067	11750	27.1	4.6

While measures of recidivism may vary, recidivism may be broadly defined as a relapse into criminal behavior. However, to measure recidivism in a consistent manner requires four variables to be defined: 1) a group of people to track, 2) a date to start tracking, 3) the length of time to track, and 4) a recidivism event. For any recidivism statistic to be compared, all four variables need to be the same.

Oregon historically has had two measures of recidivism. House Bill 3194, passed in 2013, adds other requirements.



The first historical measure is a referral-based measure adopted jointly by OYA and Oregon's county juvenile departments pursuant to ORS 420A.012. This statute states, in part, "As a measure of public safety, recidivism is defined as a new criminal referral. A criminal referral is a law enforcement report to a juvenile department alleging one or more felony or misdemeanor acts (offenses)." This measure has been tracked and publicly reported statewide and in county-to-county comparisons since 1996. The data can be found on OYA's website in the section on [Referral-Based Recidivism](#).

The second historical measure is the Felony Adjudication/Conviction Measure adopted by OYA at the request of the Oregon Legislature to parallel the DOC measure. OYA uses this measure for its three commitment populations (OYA Probation/Residential Placement, OYA Close Custody, and DOC youth placed at OYA). This measure defines recidivism as, "Any felony adjudication (juvenile court) or felony conviction (adult court) with a disposition of formal supervision (e.g., probation, OYA commitment, DOC prison sentence, or local control jail sentence). OYA calculates recidivism rates at 12, 24, and 36 months following the start-tracking date. This has been tracked and publically reported since 2001. Results can be found on OYA's website at [OYA Recidivism FY01-FY12](#).

The new requirements set forth by HB 3194 are being reviewed and discussed with the JJIS Data and Evaluation Committee; changes have not yet been directed nor implemented.

CJCA is a national non-profit organization, formed in 1994 to improve local juvenile correctional services, programs, and practices so youth within the system succeed when they return to the community. CJCA also provides national leadership and leadership development for the individuals responsible for managing the systems. CJCA has developed a White Paper, [Defining and Measuring Recidivism](#), which articulates recommendations for a national standard as well as the benefits of tracking multiple measures. Oregon uses multiple measures and is in the process of exploring additional measures. OYA's current measures conform to the CJCA national recommendation to include measures of adjudications. Finally, OYA has completed an analysis of a variety of measures of recidivism to explore the strengths and weaknesses of each measure. No measure is perfect. What is important is to select a meaningful measure and track it over time.

### **Adult versus juvenile outcomes**

The memo stated that the adult system gets better outcomes and recommended that the state's juvenile justice system should operate more like the adult system. Comparing adult and juvenile justice systems may sound like a simple, logical solution. However, comparisons are difficult as there are youth ages 15-25 originally sentenced in the adult system who serve time in an OYA facility rather than in an adult facility. Additionally, effective treatment and sentencing are very different for adult and youth populations. Data and science underscore this reality.

The current system, using the most recent assessment and analytical tools developed by OYA and DOC researchers, allows OYA to calculate the optimum length of stay for youth in close custody. A process that puts in place more “adult type sentences” would result in a system in which youth by age or crime type are sentenced with determinant lengths of stay.

Studies show that keeping youth longer than necessary (i.e., after they have demonstrated successful completion of treatment) actually increases the chance they will commit a new crime and create additional victims. OYA uses treatment progress data and predictive analytics to determine the optimal placements and treatment dosages for youth offenders. Losing the flexibility to determine placements, treatments, and lengths of stay by moving to a determinant sentencing system for all youth harms the state’s ability to reduce juvenile offender recidivism.

**Crime rates as measure of effectiveness**

The memo also claims that OYA is disinclined to focus on crime rates as a measure of effectiveness. There are a number of factors that contribute to the crime rate in a state and a county, and it is inaccurate to focus solely on crime rates as the measure of effectiveness for an agency that manages a fraction of Oregon’s juvenile delinquent population. In addition, statistics show that referrals to juvenile departments and juvenile recidivism rates have been declining since 2000.

The chart on the following page shows referral counts since 2000, not unduplicated youth; youth can have more than one referral in a year.

Year	Person	Property	Public Order	Substance Abuse	Other Criminal	Total
2000	5,527	18,389	3,291	1,985	2,284	31,476
2001	5,137	16,363	3,194	1,798	2,203	28,695
2002	4,842	15,388	3,344	1,711	1,779	27,064
2003	4,614	15,124	3,271	1,540	1,703	26,252
2004	4,544	13,427	3,340	1,787	1,625	24,723
2005	4,405	12,831	3,222	1,842	1,545	23,845
2006	4,311	13,346	3,507	1,641	1,463	24,268
2007	4,034	12,946	3,285	1,667	1,449	23,381
2008	3,697	12,468	3,245	1,576	1,310	22,296
2009	3,225	11,275	2,852	1,698	1,129	20,179
2010	3,077	9,896	2,676	1,863	1,035	18,547
2011	2,857	8,818	2,543	2,231	916	17,365
2012	2,753	7,852	2,328	1,841	817	15,591
2013	2,327	6,476	1,782	1,389	727	12,701
% Change	<b>57.9% Decrease</b>	<b>64.8% Decrease</b>	<b>45.8% Decrease</b>	<b>30% Decrease</b>	<b>68.2% Decrease</b>	<b>59.6% Decrease</b>

### **In closing**

The memo states that juvenile justice in Oregon operates “almost experimentally, very far from mainstream practices...” In response, I want to provide you with further information. OYA follows the best practices and strategies recommended by national professional organizations that include the National Council on Crime and Delinquency, Council of State Governments, U.S. Department of Justice, and Council for Juvenile Corrections Administrators.

In 1995, the federal Office of Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice published the *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* that addresses, among other types of crime, property crime. (Property offenders historically have been the most chronic offending population.) The guide, which can be found at <https://www.ncjrs.gov/pdffiles/guide.pdf>, provides best-practice information found in an exhaustive survey of the research addressing successful mobilization of communities, assessment of the needs of those communities in a risk-focused prevention approach, and the identification of appropriate and effective prevention and intervention activities in a graduated sanctions model. Oregon continues to follow many of these best practices and to seek out and validate new and emerging data on successful approaches to reducing recidivism.

In response to the strategies recommended by the U.S. Department of Justice, Oregon’s county juvenile departments developed a Juvenile Crime Prevention Risk Assessment and later OYA developed its Risk/Needs Assessment. These tools are used to help identify and focus on youth most at risk of reoffending. Subsequently, OYA refined its approach to risk by using sophisticated data analytics to develop more refined risk models. OYA now leverages the power of the risk/needs data to determine the optimal placement and treatment for youth.

Oregon’s juvenile justice system is geared toward intervening early to redirect a youth’s trajectory of at-risk and criminal behavior. The system involves a range of talented, dedicated, and knowledgeable partners. In particular, Oregon’s counties, which handle the greatest number of juvenile delinquents, continue to provide access to services and treatments geared toward addressing issues that lead to problematic behavior. Oregon’s system is inclusive, effective, and data driven, and its members continue to research and assess new methods of improving outcomes.

Oregon’s juvenile justice system involves a range of expert partners that includes county juvenile departments, courts and district attorneys, law enforcement agencies, tribes, local communities, residential treatment providers, mental health and addiction counseling programs, victim advocacy groups, social service agencies, communities of color, the faith community, the Oregon Department of Corrections, the Oregon Department of Human Services, the Oregon Department of Education, the Youth Development Council, and a number of non-profit and volunteer organizations. These partners coordinate their efforts to find and provide the most effective sanctions and services to address past criminal actions and reduce the likelihood of future criminal activities. This point is reinforced by the significance of the

effort and importance in the commitment to the outcome directions set by the 2010 Juvenile Justice Symposium.

OYA and county juvenile departments have published a number of reports since 1996 to track the performance of Oregon's juvenile justice system. These reports provide statewide aggregate and county-specific measures for youth referred to county juvenile departments, dispositional decisions, use of detention, recidivism, accountability measures (restitution and community service), and treatment programs and services. Key reports include:

- *County – Referral Recidivism* (since 1996)
- *OYA – Felony Recidivism* (since 1998)
- *Youth and Referrals in Crime Categories* (since 1998)
- *Dispositions of Youth, Referrals, and Referrals by Offense Category* (since 2002)
- *Detention Admissions, Length of Stay, and Average Daily Population* (since 2002)
- *Restitution and Community Service* (since 2005)
- *Programs and Services* (since 2008 for all OYA funded services and case plan interventions and county JCP Basic and Diversion funded treatment programs)

These reports can be found at [Oregon's Annual Juvenile Justice Reports](#).

I agree with the first sentence in the conclusion section of the memo, which states that, "There are no simple answers in the figures that have been presented in this memorandum." Any system is subject to improvement, and Oregon's juvenile justice system has many areas ripe for discussion and focus. These include the impact of different practices and the availability of resources for mental health, addiction, and intensive services throughout the state; enhancing the continuum of services in communities so youth have access to the supports they need before they get deeper into the system; the continuing disproportionate impact on youth of color at many points throughout the system; and improving reentry supports to help youth leaving the system maintain a productive, crime-free lifestyle.

Thank you again for providing the opportunity to respond to the draft memo from your office and from Mr. French. We welcome the opportunity to continue the discussion with you and other system partners to continuously improve our practices, be responsive to community needs, create better outcomes for youth, reduce victimization, and make our communities safer.

Sincerely,



Fariborz Pakseresht  
Director

