



Chair Bynum, Vice Chairs Noble and Power, and members of the House Judiciary Committee, thank you for the opportunity to answer the following question posed by Representative Wilde to ODAA:

Question

ODAA made the assertion that M11, and, by extension, increased incarceration rates, decreased serious crime rates. I asked how they could prove that, given that states that decreased incarceration rates also saw significant decreases in serious crime (CA, NY, etc)? I don't dispute the correlation in Oregon, but the causation seems highly debatable when data from other states is considered.

Answer

ODAA has long held the opinion that Measure 11 has been a significant factor in causing violent crime rates to drop in Oregon. We recognize that there are a multitude of factors that influence crime rates (such as incarceration policies, law enforcement practices, drug use, etc.), but we believe that sentencing practices under Measure 11 have played a key role in Oregon's dramatic decrease in crime since 1995, the very year Measure 11 went into effect. While we are not aware of a study that has concluded whether a causal relationship exists, we believe the evidence clearly supports this conclusion for the reasons set forth below.

(1) Severity, timing and consistency of the drop of violent crime rates demonstrates the impact of Measure 11

When voters passed Measure 11 in 1994, violent crime rates in Oregon were at historically high levels. In the first seven years following the passage of Measure 11, Oregon's violent crime rate dropped by 44%, and more than any other state in the nation.¹ Furthermore, in the two decades after the passage of Measure 11, violent crime rates in Oregon dropped by over 50%.²

It is true that in the late 1990s violent crime dropped throughout the nation. By 1994, all 50 states had adopted stricter sentencing schemes and criminal justice policies.³ However, Oregon's

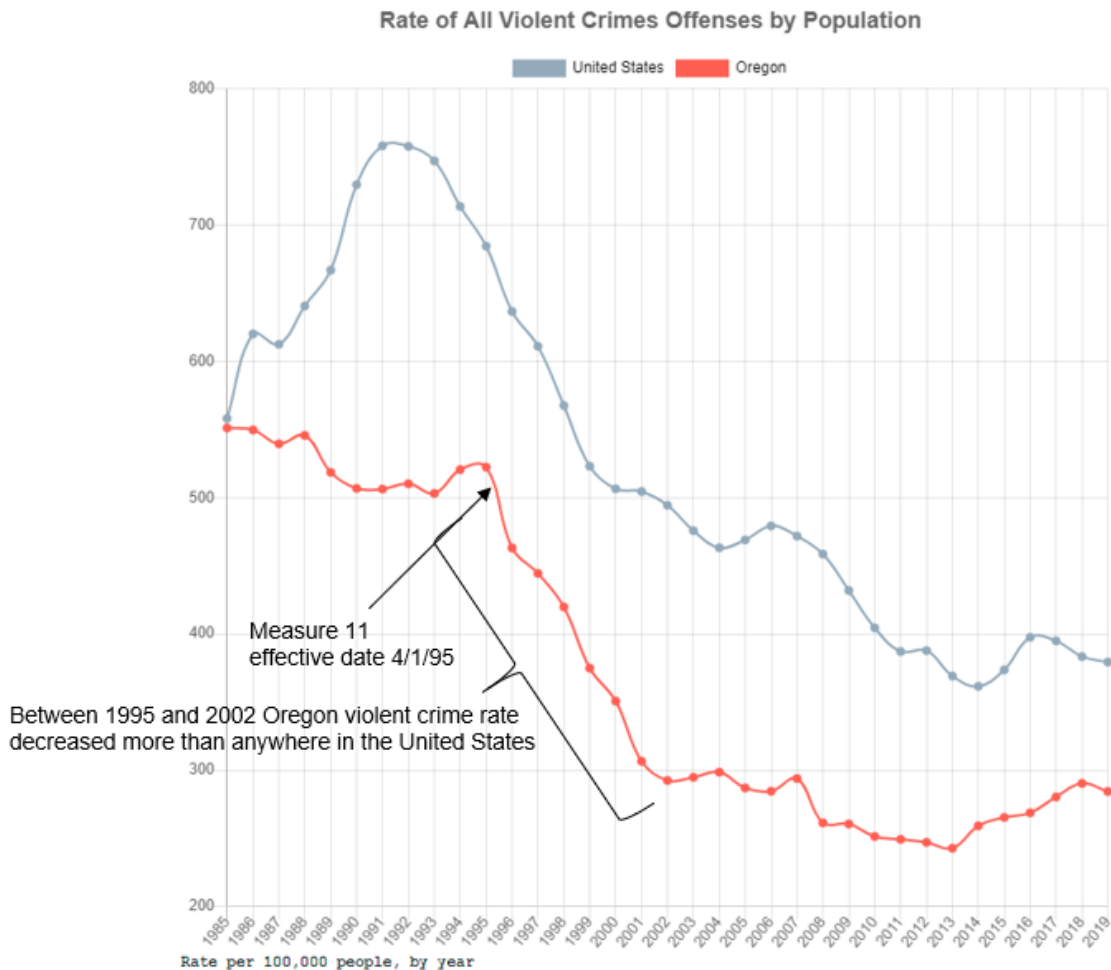
¹ See <https://crime-data-explorer.fr.cloud.gov/explorer/national/united-states/crime> (FBI data for violent crimes shows Oregon leading the nation in violent crime drop between 1995 and 2002 with a 44% drop compared to the national average of 28%)

² See FBI Index 1 violent crime rates per 100,000 population; see also Oregon Legislative Fiscal Office, Correctional Spending Trends, September 2011, p. 8.

³ See https://www.rand.org/content/dam/rand/pubs/technical_reports/2006/RAND_TR142.pdf, citing Parent, D., T. Dunworth, D. McDonald, and W. Rhoades, "Key Legislative Issues in Criminal Justice: Mandatory Sentencing." National Institute of Justice: Research in Action, U.S. Department of Justice, January 1997.



change was different. In Oregon, the decrease in violent crime was more significant, it occurred following the implementation of Measure 11 and it lasted for over two decades. The graph below illustrates this change.



Source of graph: <https://crime-data-explorer.fr.cloud.gov/explorer/state/oregon/crime>

(2) The divergence of Oregon’s violent and property crime rates supports ODA’s conclusion that Measure 11 (which addresses only violent crime) played a key role in decreasing violent crime rates

A review of violent crime and property crime rates in Oregon compared to other states demonstrates a significant distinction. In 1994 Oregon was ranked the 25th highest state in the nation for violent crime and 3rd highest state for property crime. Ten years later in 2004, Oregon



violent crime rates dropped (ranking Oregon 31st in the nation) but property crime rates remained very high (ranking Oregon 4th in the nation). As of 2019 (last year of fully available FBI data), Oregon is ranked 36th in violent crime and 8th in property crime.

Why was there such a change for violent crime, but no real change for property crime? We believe this distinction in violent crime and property crime rates in Oregon following the implementation of Measure 11 (which applies only to violent crime) is another indication that Measure 11 was a significant factor in decreasing crime rates.

It is apparent from these divergent figures that justice and sentencing policy has a significant influence on crime rates. Oregon policies on property crime largely failed to prevent criminal conduct and left Oregon with one of the worst property crime levels in the nation. On the other hand, Oregon policies regarding violent crime succeeded in increasing public safety in Oregon.

(3) Responsibly incarcerating offenders convicted of physically violent and sexually violent crimes plays a role in reducing crime

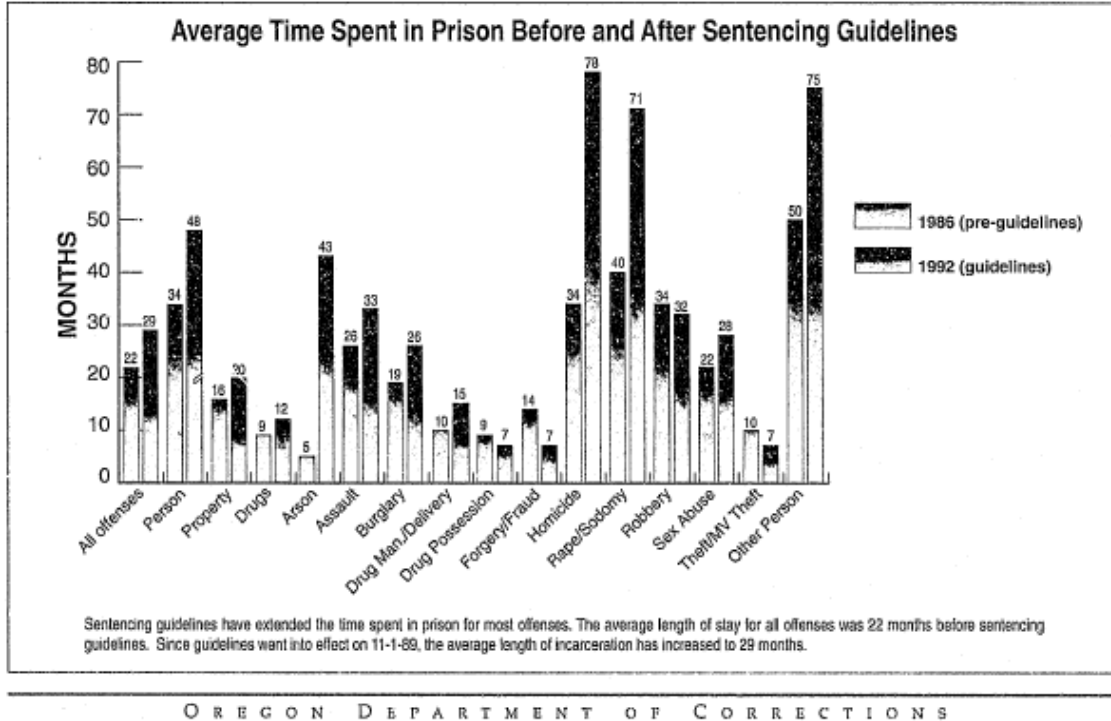
Incarcerating a dangerous offender prevents that offender from committing crime while the offender is incarcerated. Sentencing practices under Measure 11 have resulted in longer periods of incarceration for offenders convicted of physically violent and sexually violent crimes. While these offenders are incarcerated, they are unable to commit new crimes.

Before Measure 11 and the sentencing guidelines, the average prison sentence served for homicides was 2.9 years and the average sentence for rape or sodomy was 3.4 years. After the sentencing guidelines were implemented but before the voters passed Measure 11, the average sentence served for a homicide increased only to 6.5 years and for rape or sodomy to only 5.9 years.⁴ Today under Measure 11, the minimum sentence for murder is 25 to 30 years and for first degree forcible rape or sodomy is 8.3 years.

⁴ <https://www.ojp.gov/pdffiles1/Digitization/155576NCJRS.pdf>



Figure 8



As a result of Oregon’s Measure 11 sentencing focus on violent crimes, currently approximately three out of every four Oregon prison inmates is serving a sentence for a violent felony, including Measure 11 crimes.⁵ Oregon is a leader in the nation in use of prison beds for violent offenders.⁶

Furthermore, studies have shown that there is a connection between a longer period of incarceration and reduced recidivism. In a 2002 nationwide study of all prison inmates, data showed that those who served the longest time (61 months or more) had lower rates of recidivism.^{7 8}

⁵ <https://www.oregon.gov/doc/Documents/inmate-profile.pdf>

⁶ <https://www.bjs.gov/content/pub/pdf/p18.pdf>

⁷ <https://www.bjs.gov/content/pub/pdf/rpr94.pdf> (page 11)

⁸ While we are not aware of any study regarding Measure 11 and recidivism, some have pointed to a 2017 study by Portland State University as standing for the proposition that sentencing length does not impact recidivism. However, it should be noted that this study was limited to Justice Reinvestment (JRI) crimes (non-violent and non-sex crime) and the study authors specifically warned not to use the results for violent offenders: “[t]he findings in the report should not be generalized to offenders convicted of a non-JRI offense.” Additionally, the data in the study showed that recidivism does reduce for sentences over 36 months, and especially after 60 months, which is consistent with the 2002 BJS study.



Time served in prison

No evidence was found that spending more time in prison raises the recidivism rate. The evidence was mixed regarding the question of whether spending more time in prison reduces the recidivism rate.

Recidivism rates did not differ significantly among those released after serving 6 months or less (66.0%), those released after 7 to 12 months (64.8%), those released after 13 to 18 months (64.2%), those released after 19 to 24 months (65.4%), and those released after 25 to 30 months (68.3%) (table 13).

Those who served the longest time — 61 months or more — had a significantly lower rearrest rate (54.2%) than every other category of prisoners defined by time in confinement.

Also, both those who served 31 to 36 months (62.6%) and those who served 37 to 60 months (63.2%) had a significantly lower rearrest rate than those who served 25 to 30 months (68.3%).

Methodology

Step 1: Draw the sample

In 1998 BJS (the Bureau of Justice Statistics in the U.S. Department of Justice) asked 15 State departments of corrections to participate in a national study of recidivism by supplying BJS with information on all prison releases in 1994. (For Illinois, releases were for fiscal year 1994 rather than calendar year 1994.) The States are large and diverse, collectively accounting for the majority of prisoners released in 1994.

Eleven of the 15 were chosen because they were in an earlier BJS recidivism study (*Recidivism of Prisoners*

Released in 1983, April 1989, NCJ 116261). Inclusion of the 11 makes possible a comparison of recidivism

Table 13. Rate of rearrest of 162,195 State prisoners released in 1994, by time served in prison

Time served in prison	Percent of all "first releases"	
	All	Rearrested within 3 years
Total	100%	64.6%
6 months or less	23.5	66.0
7-12	25.8	64.8
13-18	15.6	64.2
19-24	9.5	65.4
25-30	6.8	68.3
31-36	4.7	62.6
37-60	9.6	63.2
61 months or more	4.5	54.2

Note: A first release includes only those offenders leaving prison for the first time since beginning their sentence. It excludes those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release. The table excludes Michigan and Ohio releases.

Conclusion

As described above, ODAA believes that Measure 11 has been a significant factor in causing crime rates to drop in Oregon. We support responsible criminal justice reform and reducing disparities in our justice system, and we welcome the opportunity to engage in further dialogue regarding those important issues. However, we do not believe that a complete repeal of Measure 11 and a return to pre 1995 sentencing practices will accomplish that goal.