

# **An Examination of Measure 11 Cases for Juveniles in State Custody in September 2017**

**Oregon District Attorneys Association, Inc.**



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# Oregon District Attorneys Association, Inc.

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## INTRODUCTION

This report is the latest assessment of the juvenile offenders who have been convicted of Measure 11 offenses<sup>1</sup> which the Oregon Department of Corrections (DOC) and the Oregon Youth Authority (OYA) have reported were in custody as of September, 2017.<sup>2</sup> This report lists the offenders in alphabetical order, by county of conviction, and includes the crime(s) of conviction, basic facts of the crime(s), any criminal history that is available and the age of the offender at the time of conviction. The purpose of this report is to assist policy makers and the general public in understanding what kind of crimes and offenders are being sent to juvenile correctional facilities in Oregon under Measure 11. This report is intended to help inform all those who wish to debate the efficacy or application of Measure 11 as it is applied to juvenile offenders between the ages of 15 and 18.

At the time of this report, the Oregon Department of Corrections has reported that there were **134** Measure 11 juveniles in custody in the Oregon Youth Authority. The Oregon Department of Corrections also reported that there were **225** inmates in the adult prison system who began their sentences as juveniles under Measure 11. As the details of this report will show, this group of adult offenders was convicted of more serious crimes which resulted in longer sentences.

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<sup>1</sup> Measure 11 was passed overwhelmingly by the voters in 1994 when high rates of violent crime was of great public concern. As originally written and passed by the voters, Measure 11 contained only 16 violent crimes out of the hundreds of felony and misdemeanor crimes on the books in Oregon. But those 16 crimes were considered the most serious violent crimes under Oregon law and included Murder, Manslaughter I and II, Rape I and II, Sodomy I and II, Sexual Penetration I and II, Sexual Abuse I and II, Robbery I and ii, Assault I and II and Kidnapping I and II. Since the passage of Measure 11 in 1994, the Oregon Legislature decided to add a few more crimes to Measure 11, including aggravated vehicular homicide, arson I, attempted aggravated murder, attempted murder, compelling prostitution, and using a child in a sexual display.

<sup>2</sup> The Oregon Department of Corrections and Oregon Youth Authority provided the list of juvenile Measure 11 offenders in both the adult DOC and juvenile OYA as of this date. It is the list used in this report. There were some offenders listed by DOC/OYA who in fact were prosecuted as juveniles and they were removed from the DOC list and listed separately.

Oregon's juvenile justice system deals with more than 18,000 juveniles each year.<sup>3</sup> The group of **134** juvenile offenders in custody in OYA for the most serious violent crimes represent only a tiny fraction (0.7%) of Oregon's overall juvenile justice population.

For the past 23 years, Oregon has had a uniquely progressive system for handling older juveniles (between 15 and 18) convicted of serious violent crimes. Under Oregon's system, an older juvenile offender who commits one of the violent crimes listed under Measure 11 crime is eligible to be prosecuted in adult court. Under Oregon's unique system, any juvenile offender sentenced under Measure 11 can remain in the Oregon Youth Authority until the age of 25 if the correctional authorities determine that is the best place for that offender to remain during their sentences. The Oregon Youth Authority and the Oregon Department of Corrections also retain the authority to move an older juvenile offender out of OYA if they determine their sentence is best served with adults, not juveniles. This authority is unique around the country and allows the correctional system much more flexibility in handling the wide variety of juvenile offenders for which they are responsible. Any juvenile offender who stays in OYA past their 18<sup>th</sup> birthday can be transferred to the Oregon Department of Corrections any time before their 25<sup>th</sup> birthday, but once reaching 25, they are required to be transferred to the Oregon Department of Corrections where they will finish their sentence. If their sentence ends before their transfer to the Oregon Department of Corrections, they are released directly from OYA and never serve time in the adult system.

#### **PROFILE OF CONVICTIONS FOR JUVENILE OFFENDERS IN OYA**

As noted above, there are only 134 juvenile offenders in custody for measure 11 crimes in OYA. As one can see from the pie chart below, The majority are incarcerated for sex crimes and robbery offenses.

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<sup>3</sup> According to the 2016 Juvenile Justice Information System, Youth and Referral Report published by the Oregon Youth Authority and the Oregon Juvenile Department Directors' Association, there were 10,146 juveniles referred to the juvenile criminal system, 4,571 juveniles referred to the non-criminal juvenile system and 4,128 referred to the juvenile dependency system, for a total of 18,845 juvenile referrals in Oregon's juvenile justice system in one year.

## OYA Custody Conviction Crime Categories

Sex Offense   Robbery   Assault   Murder   Attempted Murder

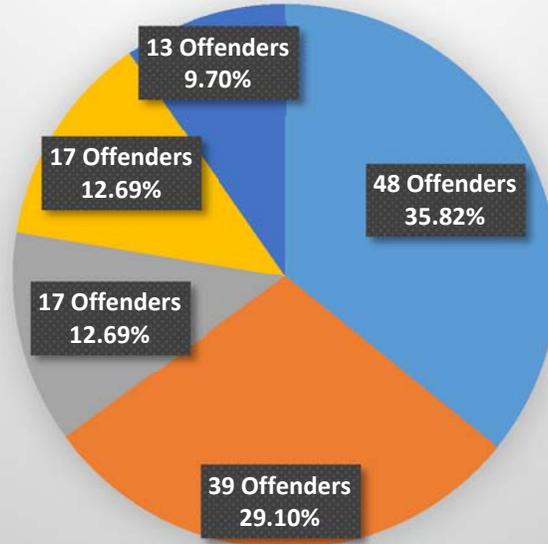


Chart: Crimes of conviction for juveniles in custody in the Oregon Youth Authority in September 2017

The next chart more closely examines those juvenile offenders incarcerated for sex crimes.

## OYA Custody Sex Offense Crime of Conviction

Sex Abuse I   Sodomy I   Rape I   Sodomy II   Rape II   Sexual Penetration

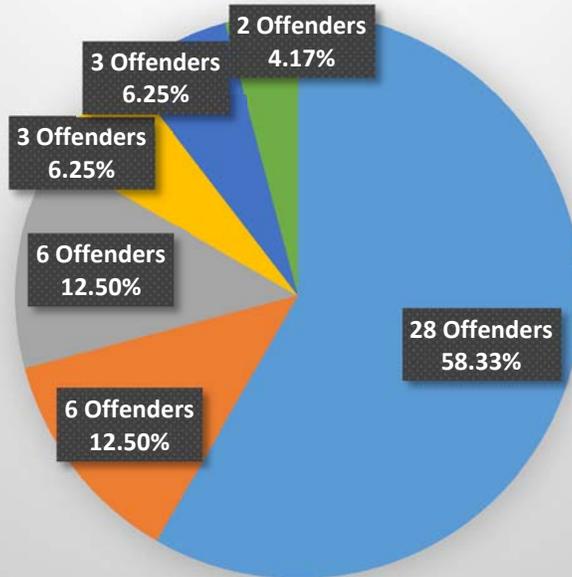


Chart: Crimes of conviction for juveniles in custody in the Oregon Youth Authority for a sex offense in September 2017

## AGE OF VICTIMS OF SEX CRIMES BY JUVENILE OFFENDERS UNDER MEASURE 11

Juvenile offenders who are sentenced for sex crimes under Measure 11 are only subject to prison sentences if they either use force to sexually assault the victims or the victims are very young. As can be seen from the graph below, more than 80% of the victims of sex crimes committed by juvenile offenders are under the age of 12 years old and many are under the age of 6.

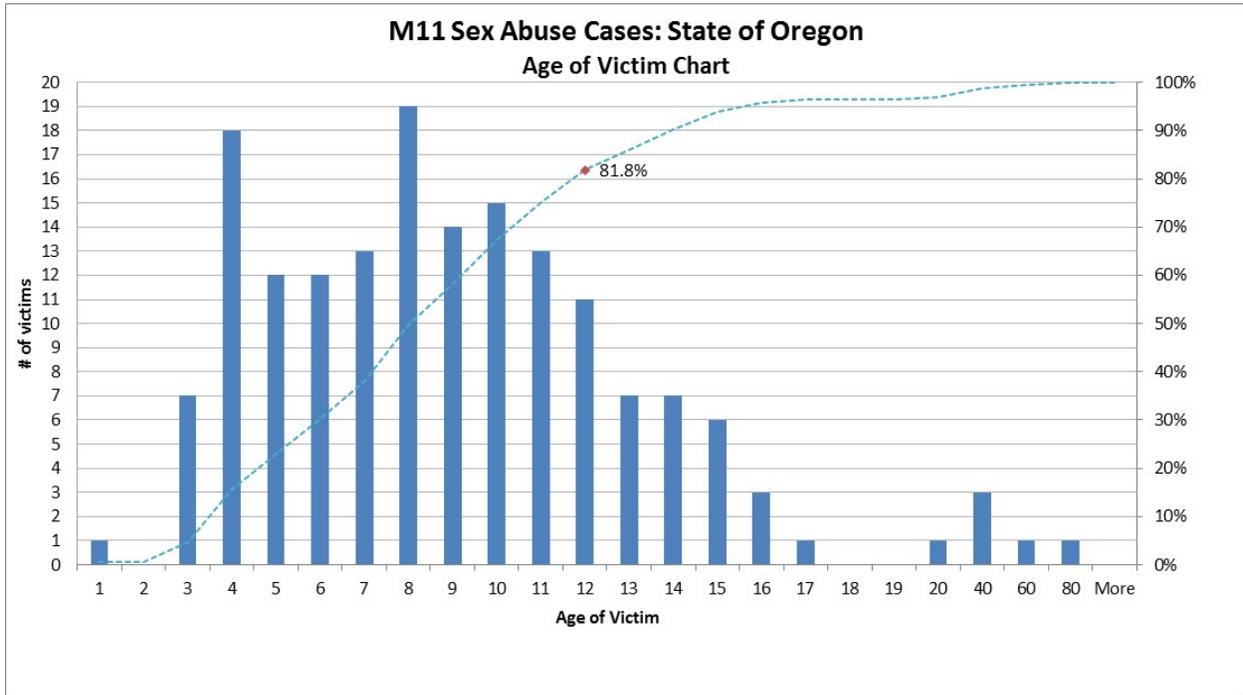


Chart: Case information provided by county District Attorney offices in previous report in 2016. Analysis provided for only those cases that listed age of the victim(s)

The next two charts show the breakdown in the convictions for aggravated murder and murder and then attempted aggravated murder and attempted murder.



Chart: Crimes of conviction for juveniles in custody in the Oregon Youth Authority for a Homicide offense in September 2017

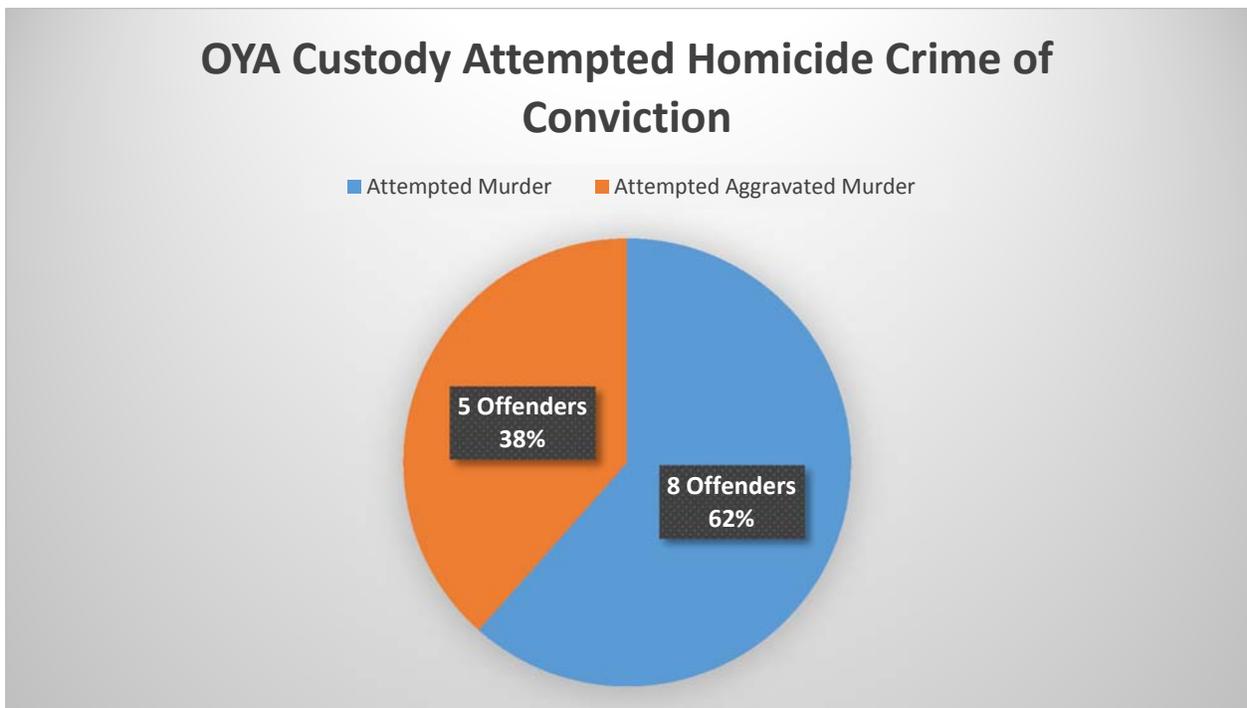


Chart: Crimes of conviction for juveniles in custody in the Oregon Youth Authority for Attempted Homicide in September 2017

## COMPARISON BETWEEN CRIMES COMMITTED BY FORMER JUVENILE OFFENDERS IN DOC AND JUVENILE OFFENDERS IN OYA

As noted earlier, juvenile offenders with longer sentences (because their crimes are more serious) begin their sentences in OYA and finish their sentences in DOC after they turn 25. As the chart below demonstrates, there are three times as many homicide convictions and more than twice as many sex crime convictions in the DOC group as compared to the OYA group.

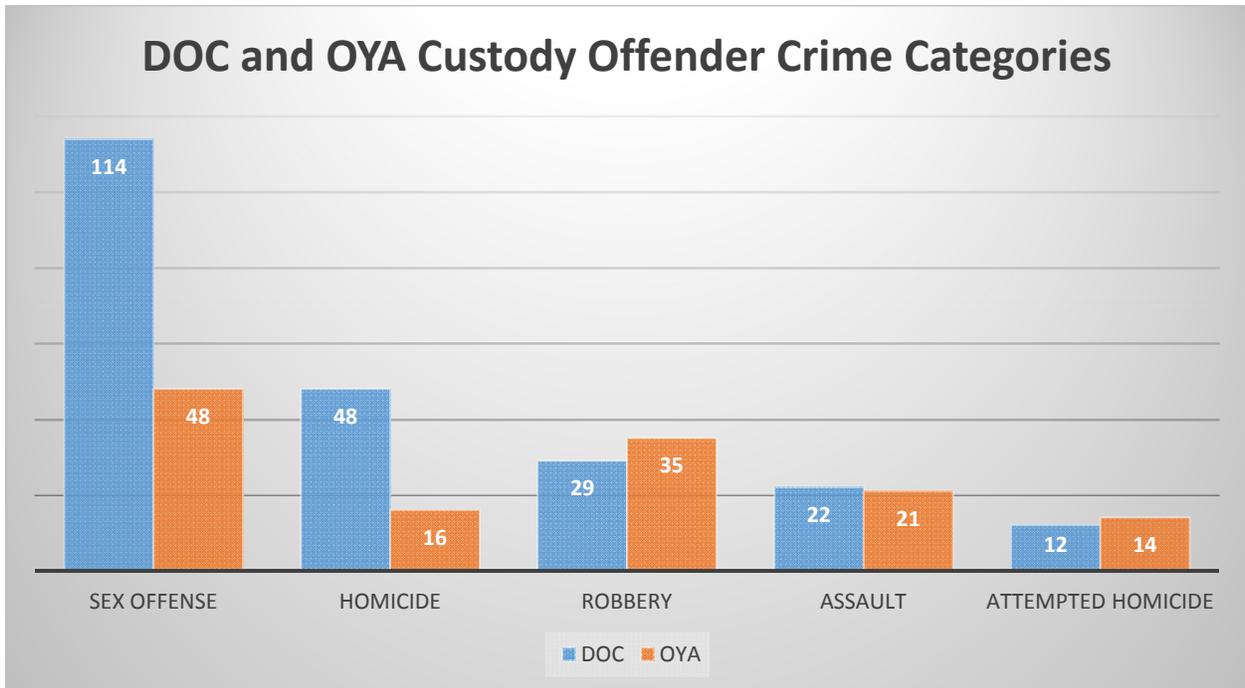


Chart: Crimes of conviction for offenders in Oregon Youth Authority and Department of Corrections custody in September 2017

## CRIME RATES AND MEASURE 11

Violent crime has dropped more than 50% since Measure 11 was passed by the voters in 1994 and took effect in 1995.

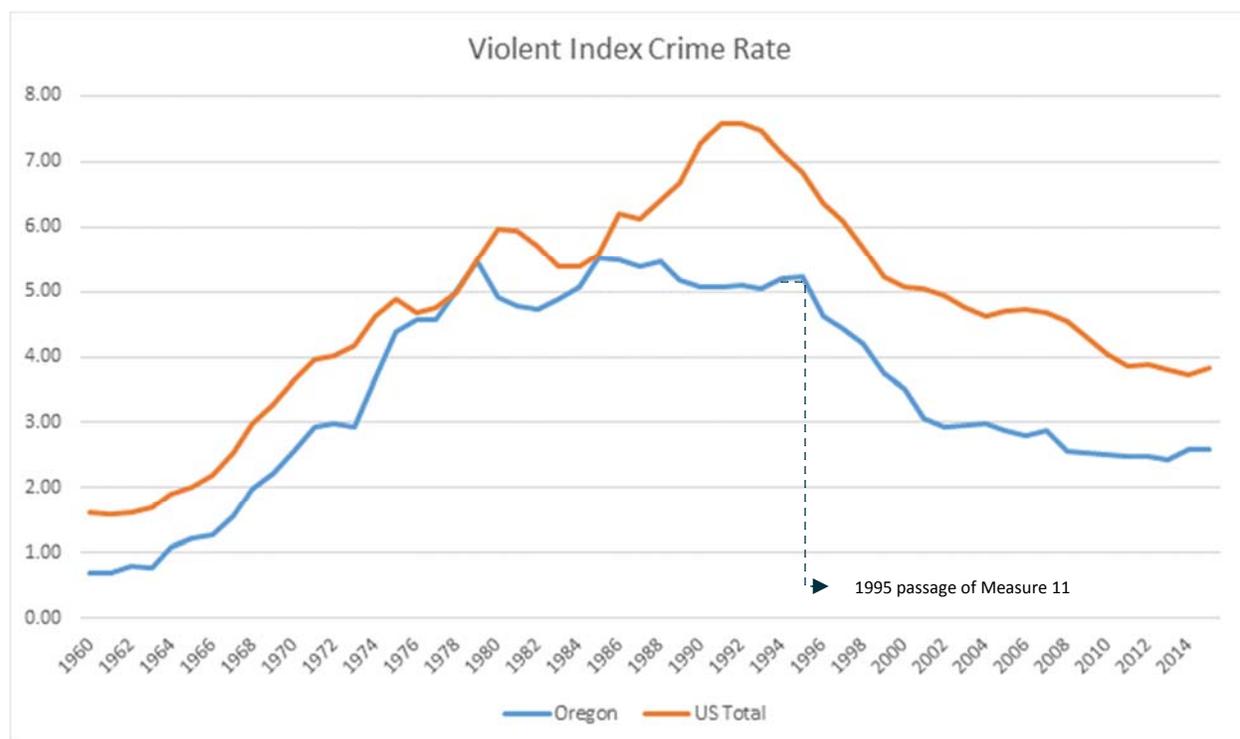


Chart: Source is the Oregon Criminal Justice Commission (2016)

## JUVENILE VIOLENT, PROPERTY AND DRUG CRIME CHARTS

The most recently available crime rate data shows that Oregon's juvenile crime rate is well below the national average and its juvenile property crime and juvenile drug crime rates are well above the national average. This is evident in the charts below.

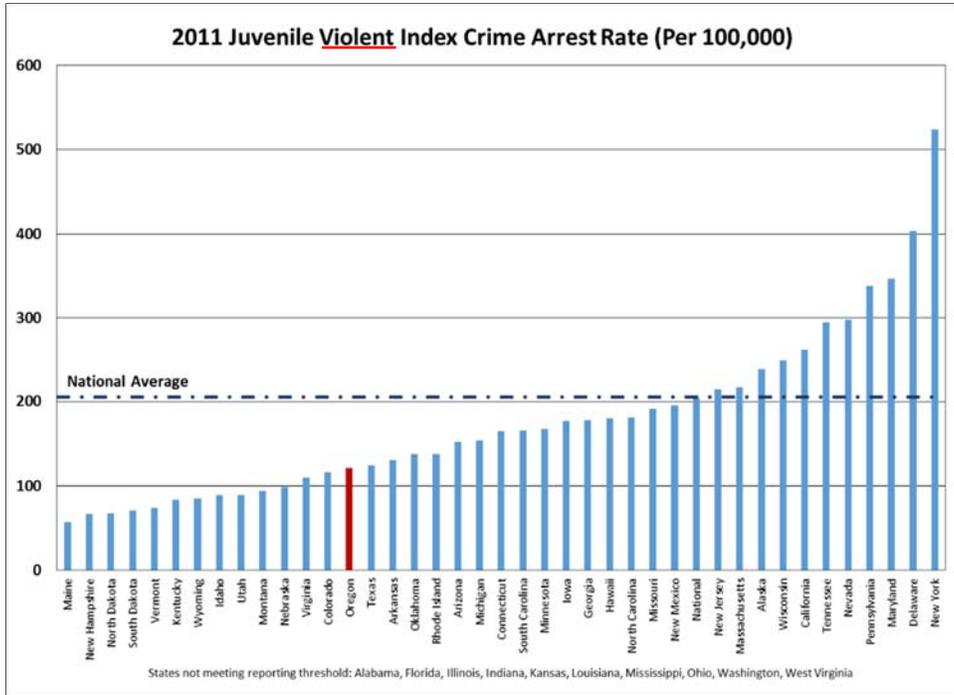


Chart: Juvenile Violent Index Crime Arrest Rate

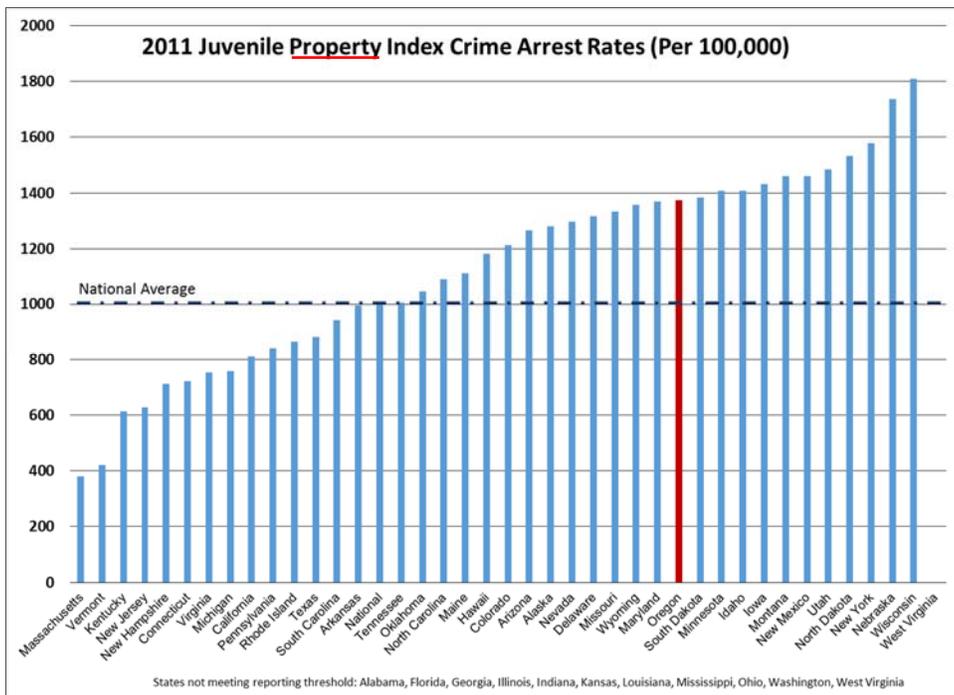


Chart: Juvenile Property Index Crime Arrest Rates

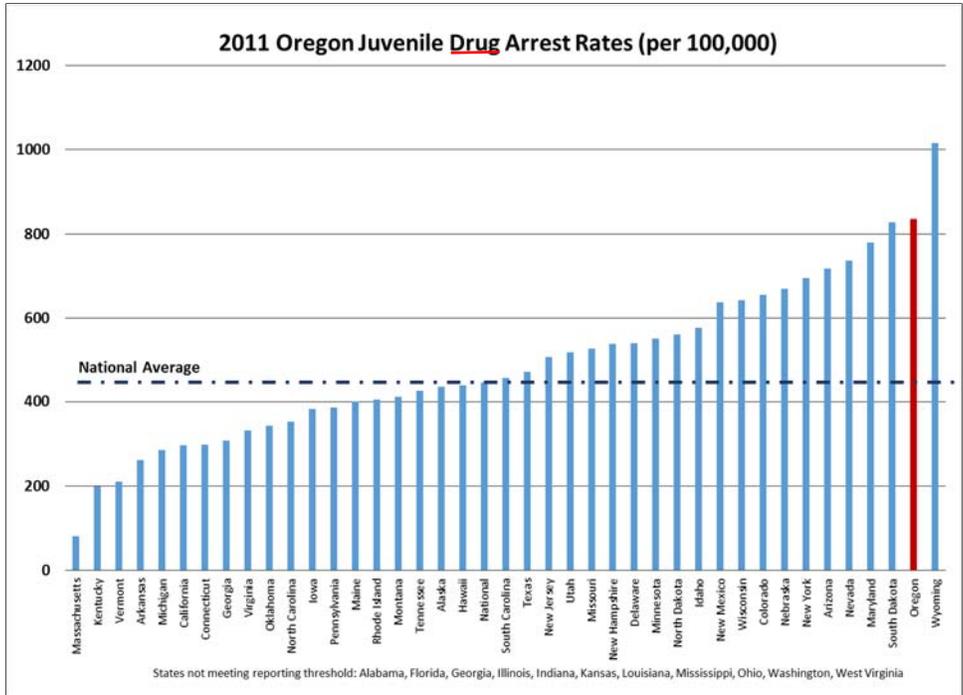


Chart: Oregon Juvenile Drug Arrest Rates

**CONCLUSION**

With the ongoing campaign to repeal Measure 11 (particularly for juveniles), it is fair to ask why so much emphasis is being placed on a law that has brought so much safety and justice to crime victims and Oregon’s communities. Violent crime has decreased by more than 50% and violent crime sentences are now proportional to the criminal conduct of the offenders providing a sense of justice to victims and communities. It is important to remember that prior to 1995 without Measure 11, virtually all of these offenders would have remained in the juvenile system with no significant consequences for their behavior and a glaring lack of justice for the victims of these terrible crimes.

Rather than focusing on the tiny number of serious violent juvenile offenders in Measure 11, perhaps our state would be better served by focusing on the 99% of the juvenile justice system that needs to improve its performance.