

CRIME VICTIMS UNITED

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Governor Kulongoski Paints Misleading Picture of Oregon Criminal Justice

In his June 25th [speech](#)¹ on "resetting" state government, Governor Kulongoski painted a misleading picture of criminal justice in Oregon. The picture comes from the playbook of criminal advocacy groups under the "smart on crime" slogan.

"Smart on crime" boils down to slashing sentences for large numbers of violent criminals, serious sex offenders and repeat-repeat-repeat drug and property criminals while promising to keep crime under control through "proven" treatment programs. This is a hard sell to a skeptical public but they are counting on a clever marketing plan:

- Exaggerate the degree to which Oregon relies on incarceration
- Dismiss or minimize the successes of the tough approach to crime
- Overstate the effectiveness of treatment programs
- Convince voters that more criminals on the street will not lead to more crime

Speaking of Oregon's dramatic decrease in crime rates since the beginning of the "tough-on-crime" era in 1995, the governor begrudgingly acknowledged that "*some of the reduction is due to increased enforcement and incarceration - but not all.*" The governor said, "*Public safety interest groups will argue that Oregon's falling crime rate is due solely to mandatory sentencing.*"

We don't know what public safety interest groups the governor is referring to. At Crime Victims United, we have always said that we do not claim that Measure 11 is solely responsible for Oregon's nearly 50% drop in violent crime rates since 1995 but we believe it made a substantial contribution. And we don't know of any public safety interest groups that have claimed that the decrease is solely due to increased incarceration.

We *have* said that Oregon prevents 100,000 crimes each year because of increased incarceration since 1995. We said this because that is what the governor's Criminal Justice Commission acknowledged in their May 10, 2007 [letter](#) to us.² The 100,000 figure represents crimes of all kinds.

What is the cost savings to the state from preventing 100,000 crimes a year? We don't hear about that because it does not advance the "smart on crime" initiative.

In his speech, Governor Kulongoski painted a picture of a state gone overboard on incarceration:

"There are strategies, without jeopardizing public safety, that will lower the cost of incarceration through diversion programs that send people to training and local supervision and out of prison."

The governor says this as if we are not already using alternatives to incarceration in a massive way. In Oregon in 2007, [77 percent of felony criminals received probation \(non-prison\) sentences](#).³

The small proportion of non-Measure 11 felony criminals who are actually sent to prison are eligible for 20 percent "good time". Some receive as much as 40 percent "good time" through the "alternative incarceration program." This is slated to go up to 30 and 50 percent respectively in 2011.

Even many criminals convicted of second-degree Measure 11 violent crimes receive sentences below the Measure 11 mandatory minimum and are eligible for "good time". [In 2007, 40 percent of criminals convicted of second-degree violent crimes received non-Measure 11 sentences.](#)⁴ Some received probation (non-prison) sentences and most of those that went to prison were eligible for "good time".

While many states have large numbers of drug criminals in their prisons, [in Oregon 70 percent of our prison inmates were convicted of "person" crimes](#) - (violent crimes and serious sex offenses)⁵. About 10 percent of inmates were convicted of drug crimes (nearly all manufacturing and distributing). In Oregon, [only 4 percent of people convicted of felony drug crimes are sent to prison](#)⁶. The presumptive sentence for a person's fourth heroin-dealing conviction is probation.

So why does the governor make it sound like all we know how to do is lock people up and throw away the key?

Governor Kulongoski said: "*Changes in sentencing policies since the mid-1990s, including the adoption of Measure 11, have doubled our prison population from 7,000 to more than 14,000 inmates.*"

This is mostly accurate though it ignores the 20 percent increase in Oregon's total population and the impact of the methamphetamine epidemic. Left unsaid is the fact that, even after a doubling of the prison population, [Oregon still ranks just 30th among states in incarceration rate.](#)⁷ In 1995, Oregon ranked 42nd in incarceration rate. Moving from 42nd to 30th hardly qualifies as going overboard on incarceration.

While our incarceration rate went from 42nd to 30th in the nation, our violent crime rate decreased by almost 50 percent - [more than the vast majority of other states](#)⁸. We do not claim and never have claimed that Measure 11 is solely responsible for this decrease but we do believe it made a substantial contribution. [Because of Measure 11, 4000 violent criminals and serious sex offenders are in prison instead of on our streets.](#)⁹

Whatever caused it, what is the savings to taxpayers (not to mention to victims) of a nearly 50 percent decrease in the violent crime rate? We don't hear about that because it does not advance the "smart on crime" initiative.

Governor Kulongoski said: "*But there is no debating that if we change nothing, Oregon's prison population will continue to increase substantially over the next ten years.*"

But this *is* debatable. Over the past several years our prison population growth has leveled off. [In 2009, Oregon's prison population grew by 1.7 percent](#)¹⁰, not much more than the [general population growth of 0.9 percent](#).¹¹ The [forecast average annual increase in prison population from 2011 to 2021 is less than 2 percent](#)¹². You would think with all of our "proven" programs, we could eliminate that 2 percent growth through treatment.

If prison costs are growing unsustainably, it is not because the incarceration rate is growing unsustainably.

The governor implies that we have all kinds of treatment programs that can make criminals go straight. Claims are routinely made that these "proven" programs save us \$2 or \$3 or \$4, [as high as \\$7](#)¹³, for every dollar we spend on the program. If that is the case then what possible reason could the governor and the legislature have for not implementing these programs? If they more than pay for themselves then funding can not possibly be the reason.

Governor Kulongoski said: "*This has led to a 250-percent increase in the Department of Corrections budget – a number that is expected to grow at an unsustainable rate if we continue the policies in place today. Now let me ask you this: Have we more than doubled our investment in students over that same time period? Not even close.*"

No, we have not doubled our funding for schools. But we didn't neglect our schools for decades like we neglected our prisons. [From 1960 through 1985, violent crime in Oregon increase by 690 percent and the state responded by building one new prison with a capacity of 400 beds.](#)¹⁴

[During this period the population of Oregon increased by 51 percent](#), from 1,768,687 to 2,676,800¹⁵.

The means that while our per-capita violent crime rate grew by 690 percent, the absolute number of reported violent crimes grew by over 1,000 percent!

The violent crime rate remained near historic highs for the next 10 years.

The growth in prison population from 1995 to the present reflects Oregon playing catch-up for decades of irresponsible public safety policies that allowed violent crime to skyrocket unchecked.

While our prison population doubled, our violent crime rate decreased by nearly 50 percent. We do not claim, and never have claimed that this is solely due to increased incarceration but we do believe it made a substantial contribution.

And by the way, [our expenditure for schools dwarfs our expenditure for Measure 11.](#)¹⁶

Governor Kulongoski said: "*So we have a real dichotomy, which I would summarize as: Locking up more people verses [sic] providing our children with a better education.*"

"Locking up more people" makes it sound like we chose people at random to be locked up. What we did is we locked up more violent criminals, more serious sex offenders and more repeat-repeat-repeat drug and property criminals.

The governor presents a choice as if there were no alternatives. What we never hear about is cost effectiveness. How do our prison costs compare with other states? If they are significantly higher, why? And what can be done about it? If saving money is the issue, these are questions the governor should have addressed.

In fact, our prison costs *are* significantly higher than other states. [Oregon spends \\$84 dollars per prisoner per day](#), exclusive of debt service.¹⁷ By contrast, [Florida spends \\$52 dollars per day](#)¹⁸ and [Idaho spends \\$58 per day](#)¹⁹.

So we have a real dichotomy, which we would summarize as: Spending far more than other states per prisoner versus providing our children with a better education.

The governor said that the prison population has doubled since 1995. That is a 100% increase. In the next breath he said that the Department of Corrections budget has increased 250%. [Inflation from 1995 to 2010 was 44 percent](#)²⁰. That leaves a 106% increase in the corrections budget beyond prison population growth and inflation. And yet the governor speaks as if all of the increase were due to Measure 11.

Governor Kulongoski writes: "*There is a great imbalance between how we invest in incarceration – and how we invest in education. And right now children are trapped on the losing end of that imbalance. It's not right. It's not fair. And most of all – it's not smart.*"

What's not smart is putting violent criminals, serious sex offenders and repeat-repeat-repeat drug and property offenders on the streets. What's not right and not fair is allowing criminals to continue to prey on our children. The first priority must be to get the child safely to school and safely home.

The governor has adopted a tactic long used by the advocates for criminals and their allies in the legislature - pitting public safety against education.

Why is it that only prisons are pitted against schools? When the legislature, with the governor's support, wrote a [blank check for subsidizing windmills](#)²¹, wasn't that money taken from schools?

When [state labor costs rise by 13 percent](#)²² (while private sector pay is dwindling for those who can keep their jobs) isn't that money taken from schools?

The governor asks, "*Do we really want to continue on this path of a blank check for corrections?*"

It is the governor himself who has allowed our per-prisoner costs to grow far beyond inflation and far beyond costs of other states year after year after year.

The governor said: "*The time is now to find more effective and sustainable ways to use the hundreds of millions of dollars we spend on incarceration. This does not mean that we stop holding criminals accountable – or shorten sentences of violent offenders. I won't tolerate that.*"

The governor's "smart on crime" rhetoric is straight out of the playbook of the people who have been trying to dismantle Measure 11 since 1995 - the people who [tried to completely repeal Measure 11 in 2000](#)²³ - a repeal that would have slashed the sentences of 3,300 violent criminals and serious sex offenders, including more than 100 murderers. They try to convince people that we can put more criminals on the street without getting more crime.

If the governor won't tolerate shortening the sentences of violent criminals, why is he attacking mandatory minimum sentences for violent criminals?

If he wants to shorten sentences for violent criminals, serious sex offenders and repeat-repeat-repeat drug and property criminals, he should have the courage to level with the voters - there will be more crime and more victims.

According to the Pew Center on the States, [Oregon leads all states in terms of percent of general fund dollars spent on corrections](#).²⁴ [We doubt the validity of this claim](#)²⁵ but it is frequently repeated by the advocates for criminals whose "smart on crime" marketing Governor Kulongoski has adopted.

The Pew study also shows that Alabama spends less than one-quarter of what Oregon spends in terms of percent of general fund dollars spent on corrections. And yet [Alabama has 70 percent more prisoners than Oregon on a per-capita basis](#).²⁶ If the widely-quoted Pew statistic is correct, if Oregon ranks number 1 in spending while ranking number 30 in incarceration rate, we do indeed have a problem.

But it's not an incarceration problem. It is a spending problem, and one that Governor Kulongoski has allowed to fester for 8 years.

Crime Victims United has supported significant modifications to Measure 11 in the past. [We were among the chief proponents of Senate Bill 1049²⁷](#) in 1997 - the bill that allowed sentencing below the Measure 11 mandatory minimum for second degree assault, robbery and kidnapping under certain circumstances. [We were among the chief proponents of House Bill 2379²⁸](#) in 2001 - the bill that allowed sentencing below the Measure 11 mandatory minimum for non-forcible second-degree sex crimes under certain circumstances.

We support responsible modifications to Measure 11 when they are needed to bring Oregon's sentencing in line with the sense of justice of Oregon voters and have the consensus support of law enforcement and other victims' groups.

Since 1995, advocates for criminals have tried to dismantle Measure 11 in many different ways, from [completely repealing it²⁹](#) to [taking it apart a piece at a time³⁰](#). While pursuing their goal, they have repeatedly misrepresented Measure 11³¹ and other aspects of criminal justice in Oregon.

Hearing Governor Kulongoski adopt their rhetoric and paint a misleading picture of criminal justice in Oregon leaves us with a deep concern that the progress in combating crime that Oregon has seen in the last 15 years is about to be undermined. While state government may save some money, the cost will be born by the law-abiding people of the state in more ways than one.

¹ Governor Kulongoski's June 25, 2010 speech on resetting state government.
http://www.governor.state.or.us/Gov/speech/2010_0625_resetreport.shtml

² Oregon prevents 100,000 crimes per year because of increased incarceration since 1995.
Source: Oregon Criminal Justice Commission
<http://www.crimevictimsunited.org/issues/corrections/doc/crimesprevented.pdf>

³ 77 percent of criminals convicted of felonies received non-prison sentences.
Source: Oregon Criminal Justice Commission
<http://www.crimevictimsunited.org/issues/corrections/doc/dispositions2007.pdf>

⁴ In 2007, 40 percent of criminals convicted of second-degree Measure 11 crimes received sentences below the Measure 11 mandatory minimum.
Source: Oregon Criminal Justice Commission
<http://www.crimevictimsunited.org/issues/corrections/doc/sb1049adult2007.pdf>

⁵ 70 percent of Oregon prison inmates were convicted of "person" crimes.
Source: <http://www.doc.state.or.us/DOC/RESRCH/docs/POPREP.pdf>

⁶ Only 4 percent of Oregon drug criminals are sent to prison.
Source: Oregon Criminal Justice Commission 2007 Report to Legislature
<http://www.oregon.gov/CJC/docs/2007cjcreport.pdf>, page 5

⁷ Oregon ranks 30th in incarceration rate.
Source: <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1763>, page 30, Appendix Table 10

⁸ Oregon's violent crime rate dropped more than the vast majority of other states.
See http://www.crimevictimsunited.org/measure11/presentation/pdf/states_rates_1995_to_2006.pdf

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- ⁹ Because of Measure 11, 4000 violent criminals and serious sex offenders are in prison.
Source: Oregon Corrections Forecast, April, 2008.
<http://www.oregon.gov/DAS/OEA/docs/prison/prison0408.pdf>, page 6, table 6
- ¹⁰ In 2009, Oregon's prison population grew by 1.7 percent.
Source: <http://bjs.ojp.usdoj.gov/content/pub/pdf/py09ac.pdf>
- ¹¹ In 2009, Oregon's population grew by 0.9 percent.
Source: Portland State Population Research Center
http://www.pdx.edu/sites/www.pdx.edu.prc/files/media_assets/PopRpt09b.pdf
- ¹² The average growth in prison population from 2011 to 2021 is forecast to be less than 2 percent per year. Source: April 2010 Corrections Population Forecast
<http://www.oregon.gov/DAS/OEA/docs/prison/DOCForecast201004.pdf>
- ¹³ Treatment programs are claimed to save up to \$7 for every \$1 spent.
Source: Governor's Council on Alcohol and Drug Abuse Program 2007-2009 report, page 1
<http://www.oregon.gov/DHS/addiction/publications/07-09businessplan.pdf>
- ¹⁴ See http://www.crimevictimsunited.org/measure11/presentation/pdf/violent_crime_and_prisons.pdf
- ¹⁵ Oregon's population grew by 51 percent from 1960 to 1985.
Source: Portland State Population Research Center
2007 Oregon Population Report, page 5
http://www.pdx.edu/sites/www.pdx.edu.prc/files/media_assets/PRC_2007_Population_Report2_rev.pdf
- ¹⁶ See http://www.crimevictimsunited.org/measure11/presentation/pdf/OR_budget.pdf
- ¹⁷ Oregon spends \$84 dollars per day per inmate exclusive of debt service.
Source: "Final Report Governor's Reset Cabinet", page 10.
http://governor.oregon.gov/Gov/docs/rc_fullreport.pdf
- ¹⁸ Florida spends \$52 per day per inmate.
Source: <http://www.fcsep.org/attachments/20100409--Private%20Prisons>, page 2.
- ¹⁹ Idaho spends \$58 per day per inmate.
Source: <http://www.idoc.idaho.gov/facts/annual/AnnualReportFY09.pdf>.
- ²⁰ Inflation from 1995 to 2010 was 44 percent.
Source: http://www.inflationdata.com/inflation/inflation_rate/historicalinflation.aspx
- ²¹ Governor Kulongoski backed a plan to spend hundreds of millions of taxpayer dollars to subsidize windmills and other "green energy" projects.
Source: KATU - <http://www.katu.com/news/politics/84198712.html>
Source: The Oregonian -
http://www.oregonlive.com/opinion/index.ssf/2009/08/tax_dollars_blowin_in_the_wind.html
- ²² Oregon state government labor costs are projected to increase by 13 percent in the 2011-2013 biennium.

Source: <http://www.statesmanjournal.com/article/20100620/STATE/6200360/Kulongoski-to-address-labor-costs-state-budget>

- ²³ Advocates for criminals, criminal defense attorneys, friends and relatives of criminals and sympathetic legislators tried to completely repeal Measure 11 in 2000.
See <http://www.crimevictimsunited.org/measure94/index.htm>
- ²⁴ According to Pew, Oregon leads all states in terms of percent of general fund dollars spent on corrections.
Source: http://www.pewcenteronthestates.org/report_detail.aspx?id=35904, page 14.
- ²⁵ We doubt the validity of Pew's claim.
See <http://www.crimevictimsunited.org/issues/corrections/spendingchallenge.htm>
- ²⁶ Alabama has 70 percent more prisoners than Oregon on a per capita basis.
Source: <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1763>, page 30, Appendix Table 10
- ²⁷ Senate Bill 1049 in 2007 permitted sentences below the mandatory minimum for many second-degree Measure 11 crimes under certain circumstances.
See <http://www.crimevictimsunited.org/measure11/crimes/sb1049.htm>
- ²⁸ House Bill 2379 in 2001 permitted sentences below the mandatory minimum for second-degree Measure 11 sex crimes and Sex Abuse I under certain circumstances.
See <http://www.crimevictimsunited.org/measure11/crimes/hb2379.htm>
- ²⁹ Measure 94 attempted to completely repeal Measure 11. It was defeated by a nearly three-quarters majority of Oregon voters.
See <http://www.crimevictimsunited.org/measure94/index.htm>
- ³⁰ Governor Kitzhaber's attempt to undermine Measure 11.
See <http://www.crimevictimsunited.org/measure11/hb3934.htm>
- ³¹ Opponents of Measure 11 have repeatedly misrepresented it.
See <http://www.crimevictimsunited.org/measure11/misrepresentations.htm>