

Updated Measure 11 Indictments, Convictions, and Sentencing Trends: 2013-2018

March 2021



Oregon Criminal Justice Commission

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The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

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Executive Summary

This report is an update to “*Longitudinal Study of the Application of Measure 11 and Mandatory Minimums in Oregon*,” published by the Oregon Criminal Justice Commission (CJC) in 2011. Measure 11 was approved by voters through a ballot initiative in 1995 and created a mandatory minimum sentencing scheme for various violent crimes in Oregon. The 2011 report examined the implementation and impacts of Measure 11, tracking cases falling under Measure 11 from indictment through conviction. The 2011 report focuses on the characteristics of the average Measure 11 defendant, differences in the application of Measure 11 by county, and sentencing outcomes for individuals convicted of Measure 11 offenses.

This report provides updated data concerning Measure 11, extending and expanding on the research conducted in 2011, with an added focus on indictments from 2013 to 2018. The present report provides comparisons to its 2011 predecessor so that readers can identify what has changed and what has remained consistent since Measure 11’s implementation in the mid-1990s. Our primary aim is to provide legislators, policy makers, and other stakeholders with the information necessary to discuss the multiple reform proposals that are currently being discussed concerning Measure 11. This report is the first in a series of reports on Measure 11 that the CJC will release over the coming months.

This report finds that many of the trends and point estimates identified in 2011 have remained remarkably consistent over the last decade. Since implementation of Measure 11, for instance, the number of indictments per year has been relatively steady, averaging around 2,200 indictments per year. This steady trend, however, means indictments relative to the Oregon population have fallen as the Oregon population has grown steadily in recent decades. Similarly, the demographic makeup of people who commit Measure 11 offenses has remained consistent, as most Measure 11 defendants are white men, under age 30, with no felony criminal history. Further, the distribution of demographic factors, such as race/ethnicity, has also remained relatively steady. Similar to the 2011 report, disparities by race/ethnicity compared to the population of Oregon remain. The breakdown of Measure 11 indictments by specific crime has also remained consistent. For instance, as reported in 2011, this report finds that Assault II is the most commonly indicted Measure 11 crime.

This report departs from the approach taken in 2011 by focusing on data concerning convictions and sentencing by the intersection of sex, age, and race/ethnicity. This approach adheres to the spirit of the state’s Equity Framework¹, which seeks to center equity in program implementation, research, and the provision of state services to build a more equitable Oregon. To these ends, this report examines the intersection of different demographic factors and case resolutions, focusing on whether an indicted defendant was convicted of their most serious crime, a different Measure 11 crime, or a non-Measure 11 crime. The data demonstrate that men are convicted for the most serious charged crime more often than women are. In fact, the most common disposition for women indicted for Measure 11 crimes is a conviction for a non-Measure 11 crime. Case disposition varies little by age, although the data indicate that as defendants get older, they are less likely to be convicted of non-Measure 11 offenses. With regard to race/ethnicity, there is not a substantial amount of variation in case dispositions for men. For women, on the other hand, the differences are larger, particularly with regard to convictions for the most serious charged offense. Among women, Black women and Latinas are convicted of the most serious charge on their cases more often than their white counterparts. Finally, perhaps the area with the largest amount of variation is between Oregon’s 36 counties; convictions for the most serious charged crime varies from around a quarter in counties such as Multnomah and Deschutes to nearly half of all individuals indicted in Lane and Marion.

¹ The State of Oregon’s Equity Framework is detailed in this document: https://www.oregon.gov/gov/policy/Documents/EquityFrameworkCovid19_2020.pdf

The final section of the report focuses on the sentences received by individuals convicted of Measure 11 crimes both in terms of sentence type (prison, probation, local control) and sentence length. With regard to sex, women receive probation sentences just over fifty percent of the time, which is more than double the probation receipt rate for men. When sentencing outcomes are examined by both sex and race/ethnicity, some interesting patterns emerge. Across the most commonly indicted Measure 11 crimes (Assault I and II, Sex Abuse I, Robbery I and II, and Rape I), Black men are sentenced to prison more often than white men. In some instances, such as for Assault I, the gap is nearly ten percentage points. For Latino men, prison sentences are the more common result compared to white men across each of these commonly indicted crimes except Robbery II.

Different patterns emerge concerning sentence length. Indeed, while Black men serve prison sentences more often, they are often shorter in length than those imposed on white men and Latinos. Further, for several of the most commonly indicted Measure 11 crimes, prison sentence lengths for convictions of Measure 11 crimes vary substantially. For example, prison sentences for white men and Latinos indicted for Assault I and convicted of a Measure 11 crime where a mandatory minimum was imposed are 28 and 34 months longer, on average, than sentences for Black men. Prison sentences for individuals indicted for Assault I and convicted of non-Measure 11 crimes, alternately, are significantly shorter (around 40-45 months) and the gap, at least with regard to the number of months, is smaller (around five months on average).

In total, the data presented in this report demonstrate that the basic statistics surrounding Measure 11 have remained constant since 2011. Indeed, the most commonly charged crimes during the first fifteen years Measure 11 was in place remain consistent today and the basic demographic breakdown of people who have committed Measure 11 offenses has changed little. The current report, however, adds deeper analysis conducted on sentence type and sentence length. In the years since the 2011 report prison sentences for Black men occurred more often than prison sentences for Latino or white men across the most commonly indicted Measure 11 crimes. In spite of the greater frequency of prison sentences, however, sentence lengths for Black men were often shorter than those for white men or Latinos. Further, sentence lengths for the included Measure 11 crimes often varied substantially in cases where there was a conviction for the mandatory minimum Measure 11 crime, while sentences that fell outside of the Measure 11 framework were often more consistent in terms of length.

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Introduction

This report is an update of *Longitudinal Study of the Application of Measure 11 and Mandatory Minimums in Oregon* published by the CJC in March 2011². The CJC has not released a report on Measure 11 (M11) since this 2011 report. The primary aims of this update are twofold. First, this report contains data on continuing trends first reported in 2011, while also highlighting some areas that were not as prominently situated in the initial report a decade ago that are now more relevant in criminal justice stakeholder conversations. In pursuit of this aim, this report provides comparisons to its 2011 predecessor so readers can determine what has changed in the Measure 11 landscape and what has remained consistent since its passage in the mid-1990s. The second aim of this report is to provide legislators, policy makers, and other interested stakeholders with the information necessary to discuss the multiple reform proposals that are currently being discussed concerning Measure 11.

For this report, the CJC, with assistance from OJD, compiled data on all cases filed with at least one M11 crime indictment from 1991 to 2018. The CJC then combined the indictment data with other data sources to include disposition and sentencing information, as well as demographic and criminal history information for defendants during the study period. This report includes only adult cases, excluding juvenile cases waived to adult court³. Indictments for Arson I (ORS 164.325)⁴, Murder (ORS 163.115), Murder I (ORS 163.107), and Aggravated Murder (ORS 163.095)⁵ are not included in the analyses in this report.

The 2011 report examined indictments from 1995-2008 that had a status of “closed” or “on appeal;” this report, however, focuses primarily on cases that are more recent. This report starts by examining overall trends in indictments since 1995 and then proceeds with a deeper focus on indictments from 2013 through 2018. The CJC elected to end its analyses with 2018 data because a high proportion of 2019 cases were still open when analysis began.⁶ As such, Section 1 focuses on overall trends in the number of Measure 11 indictments. Section 2 investigates demographic and regional differences in indictment rates. Section 3 focuses on how Measure 11 cases resolve, and Section 4 focuses on sentencing outcomes.

Section 1. Overall Trends in Indictments

Figure 1.1 depicts the Measure 11 indictments that had a status of “closed” or “on appeal” from 1995 through 2018. The number of indictments are relatively consistent over time, varying by 4 percentage points on average from year to year. The maximum number of indictments per year was 2,522 in 1998, and the minimum was 1,821 in 2013. On average, there were 2,204 indictments per year from 1995 through 2018. This is similar to the average reported in the 2011 report, 2,211. The average is lower from 2013 to 2018, where the yearly average number of indictments is 1,959, indicating a slight decline in the number of filings in recent years. Although the number of indictments is fairly consistent, as the population of Oregon has increased, the number of indictments per 100,000 Oregon residents has decreased. The highest rate of indictments is 77 per 100,000 people in 1995, the earliest year included in this report, and the lowest is 48 per 100,000 people in 2013. Since this low point, indictment rates have

² https://www.oregon.gov/cjc/CJC%20Document%20Library/measure_11_analysis_final.pdf

³ Senate Bill 1008, passed in the 2019 Legislative Session, changes how juvenile M11 cases are waived to adult court.

⁴ Arson I is a M11 crime for a crime seriousness level 10 only, and current data do not allow for this differentiation.

⁵ Aggravated murder (ORS 163.095) is not included in M11. Murder (ORS 163.115) and Murder I (ORS 163.107) are M11 crimes, but sentencing is largely governed by ORS 163.095 and ORS 163.115, and not M11.

⁶ As of the time the data were compiled, 30 percent of 2019 Measure 11 indictments were still open, compared to only 7 percent of 2018 indictments.

been relatively steady. Overall, this is a continuation of the decreasing rate of indictments reported in the 2011 report.

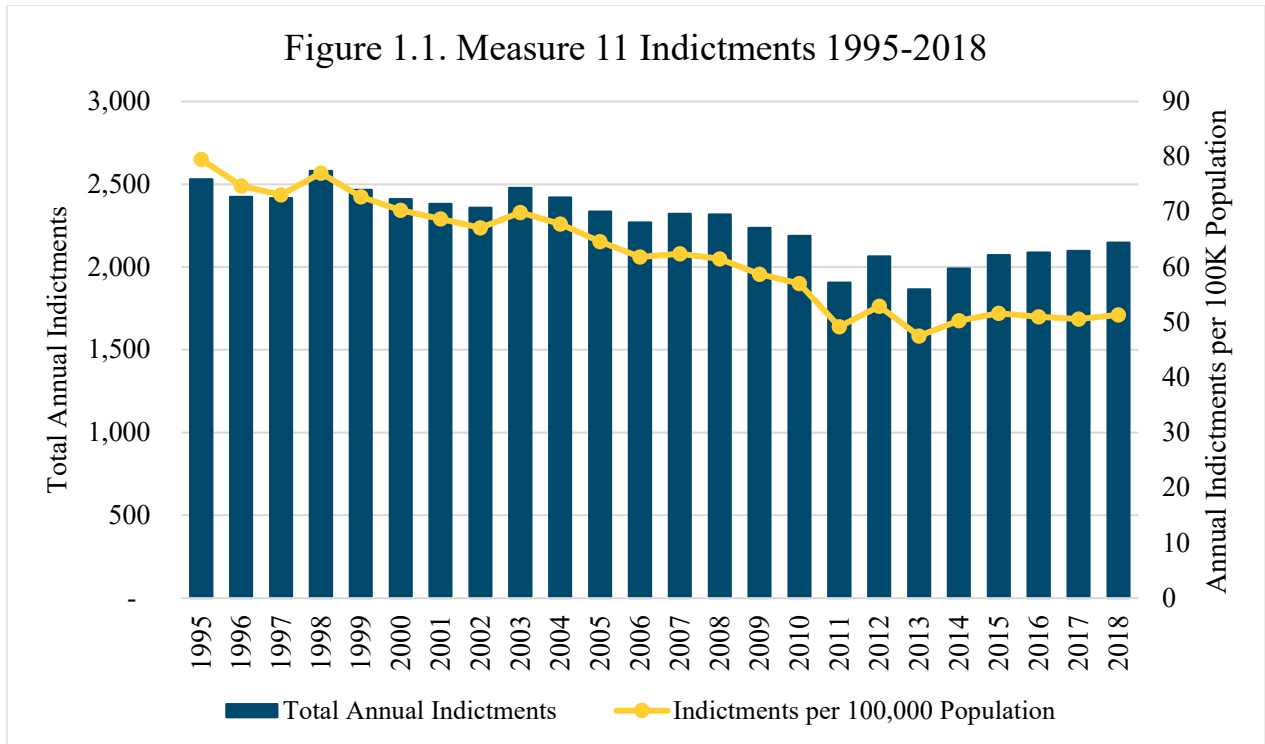


Table 1.2 displays the demographics and criminal history of individuals indicted for Measure 11 crimes from 2013 through 2018. As reported in the 2011 report, most individuals are white, 65.5 percent; male, 89.6 percent; young, 44.8 percent under 30; and have no prior felonies, 66.8 percent.

Table 1.2. Measure 11 Indictments by Demographic Group and Criminal History, 2013-2018

	Count	Percent
Race/Ethnicity		
Asian or PI	194	1.7%
Black	1,250	10.7%
Latinx	2,180	18.7%
Native American	396	3.4%
White	7,616	65.5%
Sex		
Female	1,214	10.4%
Male	10,419	89.6%
Age		
18 to 25	3,298	28.1%
26 to 30	1,962	16.7%
31 to 40	3,156	26.9%
41 to 50	1,817	15.5%
Over 50	1,498	12.8%
Criminal History		
No Felony History	7,849	66.8%
Prior Felony	1,709	14.5%
Prior Incarceration	2,194	18.7%

Table 1.3 shows the M11 indictments by crime from 2013 to 2018, ordered from most to least commonly indicted. Assault II is the most common M11 indicted crime during this period, making up nearly 29 percent of all indictments. This is higher than the 21 percent reported in the 2011 report, but Assault II was the most common in that report as well. Sex Abuse I is the next most frequent at 11 percent of indictments, followed by Assault I, 10 percent of indictments. The crimes of Assault II, Robbery II, and Sex Abuse I are commonly referred to as the Tier 2 M11 crimes. All other M11 crimes are Tier 1 crimes. Sentencing reforms for the Tier 2 crimes have been discussed in previous legislative sessions.⁷ The Tier 2 crimes combined are nearly 49 percent of M11 indictments from 2013-2018, so any changes to the sentencing of those crimes would affect almost half of all M11 indictments.

Table 1.3. Measure 11 Indictments by Crime, 2013-2018

Crime	ORS #	Count	Percent
Assault II	163.175	3,386	28.8%
Sex Abuse I	163.427	1,301	11.1%
Assault I	163.185	1,122	9.6%
Robbery I	164.415	1,095	9.3%
Rape I	163.375	1,059	9.0%
Robbery II	164.405	1,055	9.0%
Sodomy I	163.405	553	4.7%
Kidnapping II	163.225	400	3.4%
Unlawful Sexual Penetration I	163.411	390	3.3%
Use Child Display Sex Act	163.670	369	3.1%
Kidnapping I	163.235	257	2.2%
Manslaughter I	163.118	216	1.8%
Rape II	163.365	157	1.3%
Manslaughter II	163.125	115	1.0%
Murder Attempt	163.115	94	0.8%
Prostitution Compelling	167.017	90	0.8%
Sodomy II	163.395	57	0.5%
Unlawful Sexual Penetration II	163.408	31	0.3%
Murder First Degree Attempt	163.107	3	0.0%
Murder Aggravated Attempt	163.095	2	0.0%
Total		11,752	100.0%

Figures 1.4 and 1.5 present a geographic breakdown of indictment patterns by county. First, Figure 1.4 shows the counts of indictments by county from 2013-2018. During this period, Multnomah County has the highest number of M11 indictments, followed by Marion County, then Washington County. These are the same three counties with the highest number of indictments in the 2011 report, and Multnomah again accounts for just under 20 percent of all indictments. Although the number of indictments in these counties is relatively high, the counties have a low rate of indictments when accounting for their populations. The rates of indictment per 100,000 residents are reported in Figure 1.5. As shown on this map, counties with smaller populations, such as Harney, Klamath, and Jefferson, have the highest rate of indictments.

⁷ The Commission on public safety released this [report](#) in 2012 laying out reform recommendations for Tier 2 crimes on p. 16.

Figure 1.4: Counts of M11 Indictments by County, 2013-2018

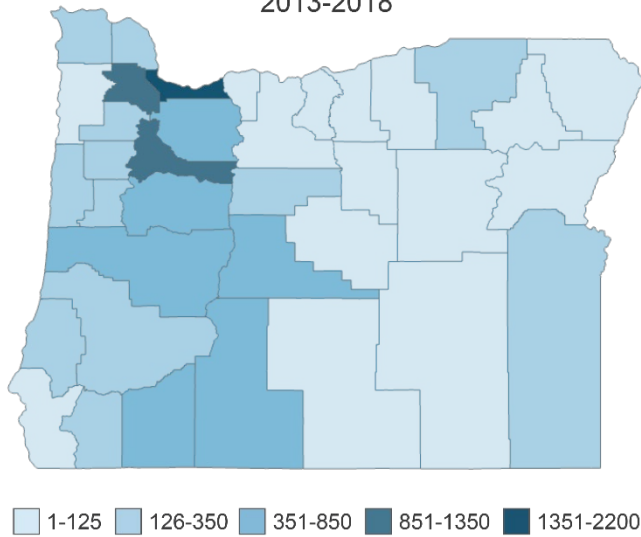
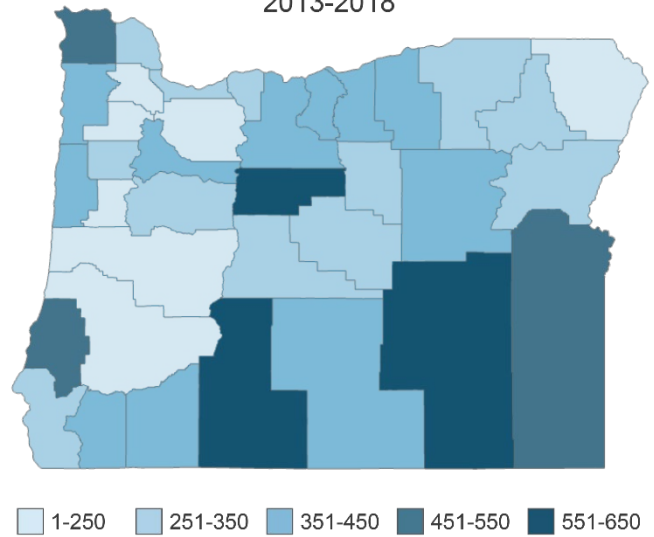


Figure 1.5: Rates of M11 Indictments by County, 2013-2018



Section 2. Demographic and Regional Differences in Indictments

In its 2011 report, the CJC wrote that most Measure 11 indicted individuals were white and male. This is also true of individuals indicted from 2013 through 2018. This, however, hides important racial disparities in multiple dimensions. In this section, therefore, we provide intersectional data using the categories reported in Section 1, combining sex with race/ethnicity, age, criminal history, and crime, while also providing some additional breakdowns by geography.

Tables 2.1 and 2.2 report race/ethnicity by sex for defendants with at least one M11 indictment from 2013 to 2018. With regard to sex, men account for almost 90 percent of Measure 11 indictments, which is consistent with the patterns found in the 2011 report, in which it was reported that men accounted for 91 percent of Measure 11 indictments. Among men, 65 percent of indictments are of white individuals, while just over 11 percent of indictments are of Black individuals. Latino men account for just over 19 percent of indictments and Native American men make up 3.2 percent, while Asian/PI men account for almost 2 percent. While white men are the largest group reported in Table 2.1, it is also important to compare the size of each group to its representation in the Oregon population. When comparing rates, the indictment rate for Black men is 4.4 times higher than the indictment rate for white men. Similarly, indictment rates for Latino and Native American men are 1.6 times higher than the rate at which white men are indicted for Measure 11 crimes.

Similar patterns are present for women. As reported in Table 2.2, Black women account for nearly 9 percent of female M11 indictments, but account for just over 2.5 percent of the total Oregon female population, which means that the indictment rate of Black women is 3.5 times higher than the white indictment rate. Similarly, Latina and Native American women are indicted at rates that are higher than their shares of the Oregon population. Unlike the patterns reported for men, however, the overrepresentation for Latina women is relatively small, while the disparity for Native American women is higher, closer to that of Black women.

Table 2.1. Male Measure 11 Indictments by Race, 2013-2018

Race/Ethnicity	Indictments		Male Population	Ratio to White
	Count	Percent		
Asian or PI	171	1.7%	6.4%	0.3
Black	1,147	11.1%	3.0%	4.4
Latino	1,994	19.3%	13.8%	1.6
Native American	334	3.2%	2.4%	1.6
White	6,696	64.7%	75.0%	1.0
Total	10,342			

Table 2.2. Female Measure 11 Indictments by Race, 2013-2018

Race/Ethnicity	Indictments		Female Population	Ratio to White
	Count	Percent		
Asian or PI	23	1.9%	7.0%	0.3
Black	103	8.6%	2.6%	3.5
Latina	156	13.0%	12.7%	1.1
Native American	62	7.2%	2.4%	2.3
White	859	71.4%	75.9%	1.0
Total	1,203			

Table 2.3 shows the age for M11 indicted men by race/ethnicity from 2013 to 2018. Of all men, 28 percent are aged 18 to 25 at case filing. However non-white men tend to skew younger, with 30 percent of indicted Native American men aged 18 to 25, 35 percent of Latino men, and 47 percent of Black men. 92 percent of all non-white indicted men are under 50, and 16 percent of indicted white men are over 50. Women exhibit similar patterns to men by age and race (Table A1 in appendix).

Table 2.3. Male Measure 11 Indictments by Race and Age, 2013-2018

Race/ Ethnicity	Age 18-25		Age 26-30		Age 31-40		Age 41-50		Age 50+		Total
	Count	%	Count	%	Count	%	Count	%	Count	%	
Asian or PI	63	36.8%	29	17.0%	41	24.0%	29	17.0%	9	5.3%	171
Black	534	46.6%	170	14.8%	229	20.0%	137	11.9%	77	6.7%	1,147
Latino	694	34.8%	350	17.6%	524	26.3%	281	14.1%	143	7.2%	1,992
Native American	101	30.2%	65	19.5%	99	29.6%	39	11.7%	30	9.0%	334
White	1,522	22.8%	1,087	16.3%	1,867	27.9%	1,116	16.7%	1,096	16.4%	6,688
Total	2,914	28.2%	1,701	16.5%	2,760	26.7%	1,602	15.5%	1,355	13.1%	10,332

As in the 2011 report, most people who commit Measure 11 offenses have limited criminal histories. Tables 2.4 and 2.5 show the criminal history for M11 indicted defendants by sex and race/ethnicity from 2013 to 2018. As shown in Table 2.4, just over 65 percent of men indicted for a M11 crime have no felony criminal history before their M11 indictment and only 20 percent have been previously incarcerated. The share of individuals with no felony criminal history varies by race/ethnicity. More Black and Native American men have prior felony history at the time of indictment than white men. It is important to note, however, that across all groups, half or more of Measure 11 defendants do not have a serious criminal background.

As shown in Table 2.5, women exhibit the same general pattern as men, although at a greater rate. Three quarters of women from 2013-2018 have no felony history at the time of indictment, and while there are, again, different patterns when broken down by race and ethnicity, even at the lowest level, two thirds of

women indicted for Measure 11 crimes do not have a felony criminal history.⁸ Only 8 percent of women indicted for Measure 11 have been previously incarcerated, which is less than half the rate of men.

Table 2.4. Male Measure 11 Indictments by Criminal History, 2013-2018

Race/Ethnicity	No Felony History		Prior Felony		Prior Incarceration		Total
	Count	%	Count	%	Count	%	
Asian or PI	129	75.4%	17	9.9%	25	14.6%	171
Black	667	58.2%	148	12.9%	332	28.9%	1,147
Latino	1,501	75.3%	213	10.7%	280	14.0%	1,994
Native American	164	49.1%	54	16.2%	116	34.7%	334
White	4,283	64.0%	1,068	15.9%	1,345	20.1%	6,696
Total	6,744	65.2%	1,500	14.5%	2,098	20.3%	10,342

Table 2.5. Female Measure 11 Indictments by Criminal History, 2013-2018

Race/Ethnicity	No Felony History		Prior Felony		Prior Incarceration		Total
	Count	%	Count	%	Count	%	
Asian or PI	18	78.3%	4	17.4%	1	4.3%	23
Black	74	71.8%	15	14.6%	14	13.6%	103
Latina	120	76.9%	24	15.4%	12	7.7%	156
Native American	42	67.7%	11	17.7%	9	14.5%	62
White	644	75.0%	155	18.0%	60	7.0%	859
Total	898	74.6%	209	17.4%	96	8.0%	1,203

Table 2.6 displays the six most commonly indicted Measure 11 crimes broken down by race. Indictments by race/ethnicity for certain crimes varies substantially. Black individuals, for instance, make up 11 percent of all indicted defendants for Measure 11 crimes. When indictments for Black individuals are examined by crime, however, Black individuals do not consistently make up 11 percent of specific crime indictments. Black individuals make up only 4 percent of indictments for Sex Abuse I, but 19 percent of indictments for Robbery I, and 17 percent of indictments for Robbery II. Similarly, while Latinx individuals represent 19 percent of all Measure 11 indictments from 2013 through 2018, 23.5 percent of indictments for Sex Abuse I and 27 percent of Rape 1 indictments are of Latinx individuals.

Table 2.6. Top Six Measure 11 Indicted Crimes by Race, 2013-2018

Crime	Asian or PI		Black		Latinx		Native American		White		Total
	Count	%	Count	%	Count	%	Count	%	Count	%	
Assault II	56	1.7%	317	9.5%	538	16.1%	152	4.5%	2,289	68.3%	3,352
Sex Abuse I	20	1.6%	43	3.4%	300	23.5%	11	0.9%	903	70.7%	1,277
Assault I	18	1.6%	167	15.1%	194	17.5%	65	5.9%	666	60.0%	1,110
Robbery I	26	2.4%	207	19.0%	160	14.7%	50	4.6%	648	59.4%	1,091
Robbery II	20	1.9%	177	16.9%	166	15.8%	38	3.6%	649	61.8%	1,050
Rape I	10	1.0%	102	9.8%	280	26.9%	20	1.9%	630	60.5%	1,042
All Measure 11	194	1.7%	1,250	10.7%	2,180	18.7%	396	3.4%	7,616	65.5%	11,636

Table 2.7 shows the six most frequently indicted Measure 11 crimes by sex. While there are some similarities between men and women, there are also some differences. The most common crime for either group is Assault II. This crime accounts for nearly one-quarter of indictments for men and nearly half of all indictments for women. Similarly, Assault I, Robbery I, and Robbery II are common crimes for both groups. Alternatively, Sex Abuse I is the second most common crime among men—12 percent of all indictments, but is the eleventh most commonly indicted among females—only one percent of all female

⁸ Since fewer women are indicted for Measure 11 crime than men, a small number of women can skew the rates high. For example only 23 Asian women are indicted for M11 crimes compared to 171 Asian men.

indictments. Finally, all but 11 percent of female indictments are one of the six most frequently indicted M11 crimes among women. Tables including the frequency of all Measure 11 crimes by sex can be found in Appendix Tables A2 and A3.

Table 2.7. Measure 11 Indictments by Crime and Sex, 2013-2018

Sex	Crime	Count	Percent
Men	Assault II	2,783	26.7%
	Sex Abuse I	1,267	12.2%
	Rape I	1,040	10.0%
	Robbery I	966	9.3%
	Assault I	954	9.2%
	Robbery II	878	8.4%
	Other Crimes	2,531	24.3%
Women	Assault II	567	46.7%
	Robbery II	172	14.2%
	Assault I	154	12.7%
	Robbery I	125	10.3%
	Manslaughter I	33	2.7%
	Kidnapping II	30	2.5%
	Other Crimes	133	11.0%

Finally, Table 2.8 displays the number of indictments by county and racial group ordered high to low by number of indictments. Multnomah County indicts the highest proportion of Black individuals of any county, 33 percent. The county with the second highest proportion is Benton County, where 11 percent of, but only 21 total, individuals who are indicted are Black. Washington, Marion, and Malheur Counties indict the highest proportion of Latinx individuals, at 35, 37, and 40 percent respectively. In Malheur County, however, 40 percent represents a small number of individuals, 58 out of 145 indicted. Jefferson, Harney, and Klamath Counties indict the highest proportion of Native Americans. 27 percent (38 individuals) of indictments in Jefferson County, 26 percent (11 individuals) of indictments in Harney County, and 19 percent (86 individuals) of indictments in Klamath County are of Native American individuals.

Table 2.8. County Indictments by Race, 2013-2018

County	Asian or PI		Black		Latinx		Native American		White		Total
	Count	%	Count	%	Count	%	Count	%	Count	%	
Multnomah	66	3.0%	736	33.4%	296	13.4%	55	2.5%	1,039	47.2%	2,203
Marion	34	2.5%	94	7.0%	493	36.7%	41	3.1%	677	50.4%	1,343
Washington	38	3.0%	102	8.10%	434	34.7%	12	1.0%	645	51.5%	1,252
Jackson	4	0.5%	62	7.5%	146	17.7%	19	2.3%	593	71.7%	827
Lane	8	0.1%	55	6.8%	103	12.8%	17	2.1%	608	75.7%	803
Clackamas	7	1.2%	50	8.9%	74	13.1%	6	1.1%	422	75.0%	563
Deschutes	2	0.4%	16	2.9%	52	9.5%	12	2.2%	457	83.4%	548
Klamath	-	0.0%	22	4.8%	52	11.3%	86	18.7%	294	64.1%	459
Linn	3	0.7%	19	4.6%	46	11.1%	6	1.5%	338	81.8%	413
Josephine	1	0.3%	9	2.8%	33	10.4%	5	1.6%	270	84.9%	318
Coos	-	0.0%	5	1.6%	30	9.7%	6	1.9%	265	85.8%	309
Yamhill	2	0.8%	5	1.9%	57	22.0%	6	2.3%	185	71.4%	259
Douglas	1	0.4%	3	1.2%	15	5.8%	3	1.2%	231	89.5%	258
Polk	6	2.6%	10	4.3%	45	19.3%	14	6.0%	155	66.5%	233
Lincoln	2	0.9%	3	1.4%	21	9.7%	15	6.9%	173	79.7%	217
Umatilla	-	0.0%	7	3.4%	57	27.5%	8	3.9%	132	63.8%	207
Clatsop	4	2.0%	7	3.5%	14	6.9%	3	1.5%	172	85.1%	202
Benton	3	1.6%	21	11.3%	26	14.0%	4	2.2%	129	69.4%	186
Malheur	-	0.0%	4	2.8%	58	40.0%	2	1.4%	70	48.3%	145
Jefferson	1	0.7%	2	1.4%	26	18.2%	38	26.6%	75	52.4%	143
Columbia	3	2.1%	2	1.4%	6	4.3%	1	0.7%	127	90.7%	140
Tillamook	1	0.9%	-	0.0%	22	19.1%	8	7.0%	82	71.3%	115
Wasco	4	4.0%	2	2.0%	14	13.9%	12	11.9%	68	67.3%	101
Union	3	3.8%	3	3.8%	7	8.9%	3	3.8%	63	79.7%	79
Crook	-	0.0%	-	0.0%	7	9.5%	1	1.4%	65	87.8%	74
Curry	-	0.0%	1	1.5%	5	7.6%	-	0.0%	59	89.4%	66
Hood River	-	0.0%	6	9.8%	16	26.2%	-	0.0%	38	62.3%	61
Baker	1	2.1%	1	2.1%	1	2.1%	1	2.1%	42	89.4%	47
Morrow	-	0.0%	3	7.1%	14	33.3%	1	2.4%	24	57.1%	42
Harney	-	0.0%	-	0.0%	2	4.8%	11	26.2%	29	69.0%	42
Lake	-	0.0%	-	0.0%	1	3.0%	-	0.0%	32	97.0%	33
Grant	-	0.0%	-	0.0%	2	6.7%	-	0.0%	28	93.3%	30
Wallowa	-	0.0%	-	0.0%	1	6.7%	-	0.0%	14	93.3%	15
Gilliam	-	0.0%	-	0.0%	1	12.5%	-	0.0%	7	87.5%	8
Sherman	-	0.0%	-	0.0%	2	28.6%	-	0.0%	5	71.4%	7
Wheeler	-	0.0%	-	0.0%	1	25.0%	-	0.0%	3	75.0%	4
Total	194	1.7%	1,250	10.6%	74	13.1%	396	3.4%	7,616	64.8%	11,752

Section 3. Dispositions

In this section, there is a shift in focus away from the population of indicted defendants toward patterns in case resolution. The following tables, therefore, display disposition information for M11 indicted cases from 2013 to 2018. Cases with incomplete disposition information are not included. The disposition information in this section is analyzed in four categories:

- (i) the “Most Serious” disposition category represents cases where the defendant is convicted of the most serious M11 indicted crime;
- (ii) the “Other Measure 11” category represents cases where the defendant is not convicted of the most serious M11 indicted crime, but is convicted of another (less serious) M11 crime (e.g., when an individual is indicted for Assault I and convicted of Assault II);

- (iii) the “Non-Measure 11” category represents when the defendant is not convicted of the most serious M11 indicted crime, but is convicted of another crime that is not a M11 crime (e.g., when an individual is indicted for Assault I and convicted of Attempted Assault I);
- (iv) the “No Conviction” category represents when there was no conviction on the case.

Among these four disposition categories, cases where a defendant is convicted of their most serious Measure 11 offense or some other Measure 11 offense are most likely to result in prison time and significantly longer sentences.⁹

Table 3.1 provides disposition data for the six most frequently indicted M11 crimes. Across all Measure 11 indicted cases, nearly 29 percent show a conviction for the most serious offense with an additional 11.6 percent resulting in a conviction for some other Measure 11 offense. Nearly 50 percent of Measure 11 indictments show a conviction for a non-M11 crime, with just over 10 percent resulting in no conviction. These patterns are consistent with the 2011 report which found that 30 percent of Measure 11 indictments resulted in convictions for the most serious charged offense while 49 percent of indictments resulted in convictions for non-M11 crimes. When examined by specific crime, there is variation in these patterns. For Assault I and Robbery I, for instance, the majority of cases are resolved with a conviction for different Measure 11 offense or a non-Measure 11 offense. Robbery II indictments, alternately, either result in a Measure 11 conviction for the most serious offense or lead to a conviction for a crime outside of the Measure 11 framework.

Table 3.1. Measure 11 Dispositions by Crime, 2013-2018

ORS #	Crime	Most Serious		Other Measure 11		Non-Measure 11		No Conviction	
		Count	%	Count	%	Count	%	Count	%
163.175	Assault II	820	23.8%	48	1.4%	2,248	65.3%	325	9.4%
163.185	Assault I	182	16.0%	235	20.7%	632	55.6%	88	7.7%
163.375	Rape I	308	28.8%	216	20.2%	359	33.6%	187	17.5%
163.427	Sex Abuse I	431	32.7%	51	3.9%	663	50.3%	173	13.1%
164.405	Robbery II	547	51.2%	2	0.2%	445	41.6%	75	7.0%
164.415	Robbery I	262	23.3%	354	31.5%	418	37.2%	90	8.0%
All Measure 11 Crimes		3,424	28.7%	1,388	11.6%	5,928	49.6%	1,209	10.1%

Tables 3.2 and 3.3 present breakdowns of case dispositions by sex and age, respectively. As shown in Table 3.2, women are slightly less likely than men to be convicted of the most serious Measure 11 offense. When it comes to convictions for non-Measure 11 offenses, however, women are nearly fourteen percentage points more likely to have this type of case resolution than men. Indeed, nearly two-thirds of cases with female defendants are resolved with convictions for non-Measure 11 offenses. In Table 3.3, few distinctive patterns emerge concerning age, other than the fact that as defendants get older, they are consistently less likely to be convicted of non-Measure 11 offenses.

Table 3.2. Measure 11 Dispositions by Sex, 2013-2018

Sex	Most Serious		Other Measure 11		Non-Measure 11		No Conviction	
	Count	%	Count	%	Count	%	Count	%
Female	278	22.4%	90	7.3%	773	62.2%	101	8.1%
Male	3,132	29.6%	1,294	12.2%	5,140	48.6%	1,021	9.6%
Other/Unknown	14	11.7%	4	3.3%	15	12.5%	87	72.5%
Total	3,424	28.7%	1,388	11.6%	5,928	49.6%	1,209	10.1%

⁹ More detail concerning sentence types can be found in Section 4.

Table 3.3. Measure 11 Dispositions by Age, 2013-2018

Age	Most Serious		Other Measure 11		Non-Measure 11		No Conviction	
	Count	%	Count	%	Count	%	Count	%
18 to 25	924	27.5%	398	11.9%	1796	53.5%	241	7.2%
26 to 30	563	28.2%	220	11.0%	1030	51.5%	187	9.4%
31 to 40	934	29.2%	370	11.6%	1546	48.3%	348	10.9%
41 to 50	561	30.4%	230	12.5%	854	46.2%	202	10.9%
Over 50	440	28.9%	168	11.0%	698	45.8%	218	14.3%
Total	3,424	28.7%	1,388	11.6%	5,928	49.6%	1,209	10.1%

Tables 3.4 and 3.5 report data on case dispositions by race/ethnicity from 2013 to 2018. Table 3.4 provides disposition data by race/ethnicity for men and shows that there are only small differences in case resolution across different racial or ethnic groups. For instance, nearly 30 percent of men indicted for Measure 11 crimes, regardless of race or ethnicity, are convicted of the most serious offense. When broken down by race, there is a small amount of variation around this average, with white men slightly less likely to be convicted of the most serious crime and Latino men being slightly above the average.

Table 3.4. Male Measure 11 Dispositions 2013-2018

Race/ Ethnicity	Most Serious		Other Measure 11		Non-Measure 11		No Conviction	
	Count	%	Count	%	Count	%	Count	%
Asian or PI	54	30.7%	27	15.3%	87	49.4%	8	4.5%
Black	346	29.3%	169	14.3%	562	47.5%	105	8.9%
Latino	660	32.7%	288	14.3%	910	45.1%	161	8.0%
Native	102	30.1%	41	12.1%	169	49.9%	27	8.0%
White	1,966	29.0%	768	11.3%	3,386	49.9%	671	9.9%
Total	3,128	29.8%	1,293	12.3%	5,144	48.7%	972	9.3%

Table 3.5 reports disposition data for women between 2013 and 2018. While the counts for female M11 dispositions are lower, as shown previously, women are less likely overall to be convicted of the most serious M11 offense. When broken down by race/ethnicity, the differences appear to be somewhat larger than those found for men. While around 21.5 percent of white women are convicted for the most serious offense, approximately 24 percent of Black women and nearly 30 percent of Latina women are convicted of the most serious offenses on their cases.

Table 3.5. Female Measure 11 Dispositions 2013-2018

Race/ Ethnicity	Most Serious		Other Measure 11		Non-Measure 11		No Conviction	
	Count	%	Count	%	Count	%	Count	%
Asian or PI	6	24.0%	6	24.0%	12	48.0%	1	4.0%
Black	26	24.1%	5	4.6%	70	64.8%	7	6.5%
Latina	46	29.3%	14	8.9%	86	54.8%	11	7.0%
Native	11	17.5%	4	6.4%	46	73.0%	2	3.2%
White	189	21.5%	61	7.0%	553	63.0%	75	8.5%
Total	278	22.6%	90	7.3%	767	62.3%	96	7.8%

Finally, with regard to case dispositions, there is substantial variation by county. Table 3.6 shows that Marion County has the highest rate of cases that resolve with a conviction for the most serious M11 indictment at 45 percent, while the statewide rate is 29 percent. Conversely Multnomah and Deschutes Counties show the highest rate of cases that resolve with convictions for a non-M11 crime at nearly 54 percent and 66 percent, compared to nearly 50 percent statewide. These results are fairly consistent with the 2011 report, except for the addition of Jackson and Deschutes Counties to the table specifically.

Table 3.6. Measure 11 Dispositions by County 2013-2018

County	Most Serious		Other Measure 11		Non-Measure 11		No Conviction		Total
	Count	%	Count	%	Count	%	Count	%	
Multnomah	579	25.4%	318	13.9%	1,229	53.8%	158	6.9%	2,284
Marion	625	45.3%	169	12.3%	457	33.1%	129	9.4%	1,380
Washington	418	33.2%	147	11.7%	573	45.4%	123	9.8%	1,261
Jackson	202	24.3%	135	16.2%	420	50.5%	75	9.0%	832
Lane	324	40.2%	88	10.9%	333	41.3%	62	7.7%	807
Clackamas	214	37.8%	88	15.6%	218	38.5%	46	8.1%	566
Deschutes	74	13.4%	44	8.0%	363	65.9%	70	12.7%	551
Other Counties	988	23.1%	399	9.3%	2,335	54.7%	546	12.8%	4,268
Total	3,424	28.7%	1,388	11.6%	5,928	49.6%	1,209	10.1%	11,949

While these disposition comparisons do not account for all the criteria that impact the case resolution process, it is clear there is variation across county, sex, age, race, and specific Measure 11 crime. In total, 29 percent of Measure 11 indicted cases resolve with a conviction for the most serious Measure 11 crime and 10 percent are closed with no conviction. The remaining 61 percent of cases resolve with a conviction for a less serious crime, and presumably a lower level sentence than the mandatory minimum of the most serious M11 indicted crime charged in the case. To further examine the impacts of these case resolution patterns, the following section examines Measure 11 indicated case sentencing outcomes in more detail.

Section 4. Sentences

This section turns to sentence types (e.g., prison, probation) and average length of stay (LOS) for Measure 11 indicted cases. For greater simplicity, this section includes cases that result in a felony conviction, and the cases of “No Conviction” disposition have been removed. The sentence types are displayed in several categories.

- (i) The “Measure 11” sentence category are Measure 11 indicted cases that resulted in a Measure 11 mandatory minimum sentence. For tier one offenses this could be the most serious offense, or a sentence for a less serious Measure 11 crime.
- (ii) The “Non-Measure 11” category consists of Measure 11 indicted cases that resulted in a non-mandatory minimum prison sentence. This includes M11 crime convictions with an “opt-out” sentence under SB 1049,¹⁰ or a conviction for a non-M11 crime.
- (iii) The “Probation” category consists of Measure 11 indicted cases that resulted in a felony probation sentence.
- (iv) The “Other” category consists of felony local control or jail sentences.

Using the categorization described in the previous paragraph, Table 4.1 reports the sentencing outcomes for all of the Measure 11 indicted cases from 2013 to 2018. On the whole, the Measure 11 indicted cases with a conviction resulted in a prison sentence in approximately two-thirds of cases, with around half--nearly 34 percent--resulting in a Measure 11 mandatory minimum prison sentence while the other half were for non-Measure 11 mandatory minimum sentences. The major difference between these two sentence types was the sentence length, with an average LOS of nearly 139 months or 11.5 years for Measure 11 mandatory minimum sentence versus nearly 39 months, or just over three years, for non-mandatory minimum sentences. Of the remaining cases, most resulted in a probation sentence (28 percent of the total indictments) and a small number, just over 4 percent, were resolved with other sentences.

¹⁰ ORS 137.712 allows for exceptions to the mandatory minimum sentence for Assault II, Robbery II, Kidnapping II, Sex Abuse I, Rape II, Sodomy II, and Unlawful Sexual Penetration II if certain conditions are met.

These patterns are fairly consistent with the 2011 report where 68 percent of indictments resulted in a prison sentence, 29 percent with a probation sentence, and 3 percent with other sentence types.¹¹

Table 4.1. Measure 11 Indicted Cases, 2013-2018

Sentence Types	Count	%	LOS
Measure 11	3,632	33.8%	138.8
Non-Measure 11	3,621	33.7%	38.2
Probation	3,029	28.2%	
Other	458	4.3%	
Total	10,740	100.0%	

Table 4.2 examines sentence types and lengths by sex. Consistent with the finding reported in the previous section that women are more likely to have their cases resolved with a non-Measure 11 disposition, Table 4.2 demonstrates that women are more likely to be sentenced to felony probation. Indeed, more than half of all convictions for women resulting from Measure 11 indicted cases lead to probation sentences and only 14.5 percent resulted in a Measure 11 mandatory minimum prison sentence. Concerning sentence length, women also receive shorter prison sentences on average, although this is likely due to sex-based indictment differences.

Table 4.2. Measure 11 Indicted Cases by Sex, 2013-2018

Sentence Types	Male			Female		
	Count	%	LOS	Count	%	LOS
Measure 11	3,467	36.2%	140.6	165	14.5%	101.8
Non-Measure 11	3,302	34.5%	39.2	319	28.0%	28.8
Probation	2,437	25.5%		592	51.9%	
Other	360	3.8%		65	5.7%	
Total	9,566	100.0%		1,141	100.0%	

As indicated by the sex-based sentence length differences briefly discussed above, there are several important criteria that impact the eventual sentencing outcome that are not accounted for in these comparisons. This includes factual elements of the crime, victim impact, and criminal history, among others. In an effort to more adequately isolate comparisons in similar cases, Table 4.3 reports the sentencing outcomes for men indicted for Assault I during the study period. White men receive a prison sentence a little over 70 percent of the time, while Latino and Black men receive prison sentences nearly 82 and 88 percent of the time, respectively. This gap is also evident in the breakdown between Measure 11 mandatory minimum and non-Measure 11 prison sentences, as the share of Latino men receiving mandatory minimum prison sentences are nearly six percentage points higher than their white counterparts while the share of Black men is nearly ten percentage points higher. Concerning sentence length, different patterns emerge. For Measure 11 prison sentences, white and Latino men serve sentences that are 28 to 34 months longer than those served by Black men. Prison sentences for non-Measure 11 crimes, alternately, are both significantly shorter and the gap, at least with regard to the number of months, is smaller.

¹¹ The 2011 Report percentages are recalculated after removing the “None” category, which excludes cases with no conviction.

Table 4.3. Sentencing Outcomes – Assault I Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	61	41.2%	95.3	61	37.7%	130.0	164	31.9%	123.6
Non-Measure 11	69	46.6%	44.4	71	43.8%	45.2	198	38.5%	40.2
Probation	16	10.8%		27	16.7%		115	22.4%	
Other	2	1.4%		3	1.9%		37	7.2%	
Total	148	100.0%		162	100.0%		514	100.0%	

The five tables that follow report similar statistics for the most commonly indicted Measure 11 crimes, Assault II, Sex Abuse I, Robbery II, Robbery I, and Rape I. Prison sentences result more often for Black men across all of the top indicted Measure 11 crimes. For Latino men, prison sentences are the more common result compared to white men across each of these crimes except Robbery II. When considered by Measure 11 prison sentences Black men receive these sentences more than Latino and white men for Assault II and Robbery I. Further, for both of these crimes, the average sentence for a mandatory minimum Measure 11 sentence for Black men is longer compared to both Latino and white men, ranging from a few additional months for Assault II to a year or more for Robbery I.

For Robbery II, Sex Abuse I, and Rape I, the patterns change. As shown in Tables 4.4 through 4.8, Black men are less likely to serve a mandatory minimum sentence than Latino or white men. For Rape I, the share of men serving a Measure 11 prison sentence is roughly equal across racial and ethnic groups. With regard to sentence lengths, Black men serve the shortest average sentences for Robbery II and Sex Abuse I. Indeed, for Sex Abuse I, Latino and white men serve sentences that are nearly five years longer than Black men, on average. Finally, sentence lengths for Rape I for Black and white men are similar, at around 260 months, while the average sentence for Latino men is 236, a difference of 24 months, or two years (see Table A.13 in the Appendix).

Table 4.4. Sentencing Outcomes – Assault II Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	44	17.7%	82.6	63	14.4%	78.2	203	11.8%	81.0
Non-Measure 11	121	48.8%	35.3	176	40.3%	32.2	641	37.3%	32.7
Probation	77	31.0%		176	40.3%		741	43.1%	
Other	6	2.4%		22	5.0%		134	7.8%	
Total	248	100.0%		437	100.0%		1,719	100.0%	

Table 4.5. Sentencing Outcomes – Robbery I Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	103	53.9%	109.7	61	45.2%	91.0	234	45.0%	101.9
Non-Measure 11	70	36.6%	38.1	60	44.4%	43.3	206	39.6%	41.4
Probation	15	7.9%		12	8.9%		67	12.9%	
Other	3	1.6%		2	1.5%		13	2.5%	
Total	191	100.0%		135	100.0%		520	100.0%	

Table 4.6. Sentencing Outcomes – Robbery II Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	36	24.0%	77.0	44	33.8%	77.4	153	30.4%	87.9
Non-Measure 11	74	49.3%	32.6	42	32.3%	38.5	200	39.7%	35.3
Probation	38	25.3%		43	33.1%		136	27.0%	
Other	2	1.3%		1	0.8%		15	3.0%	
Total	150	100.0%		130	100.0%		504	100.0%	

Table 4.7. Sentencing Outcomes – Sex Abuse I Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	13	30.2%	76.4	116	44.1%	138.6	315	39.7%	129.3
Non-Measure 11	21	48.8%	33.1	87	33.1%	33.9	255	32.1%	42.0
Probation	8	18.6%		56	21.3%		206	25.9%	
Other	1	2.3%		4	1.5%		18	2.3%	
Total	43	100.0%		263	100.0%		794	100.0%	

Table 4.8. Sentencing Outcomes – Rape I Indicted Cases, Males 2013-2018

Sentence Types	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11	48	52.7%	226.8	145	59.7%	209.3	296	57.7%	219.4
Non-Measure 11	32	35.2%	63.8	63	25.9%	45.1	118	23.0%	45.3
Probation	11	12.1%		32	13.2%		88	17.2%	
Other	0	0.0%		3	1.2%		11	2.1%	
Total	91	100.0%		243	100.0%		513	100.0%	

The differences in sentence type as well as sentence length between different races/ethnicities in the preceding tables requires additional attention. To explore these patterns further, Table 4.9 provides additional detail for the sentencing outcomes for Assault I indicted cases, with additional crime tables available in the appendix. The most common outcome for Black men indicted for Assault I is a conviction for the most serious crime and a mandatory minimum prison sentence (30 percent of cases are resolved in this way). For both Latino and white men, the most common outcome is a non-Measure 11 prison sentence for an Assault I attempt. White men also receive probation sentences at higher rates than Black men for Assault II, Assault I attempts, Weapon Use, and Other felonies. Additionally, white men are more likely to receive local control sentences than either Black or Latino men.

Table 4.9. Detailed Sentencing Outcomes – Assault I Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Assault I	44	29.7%	100.8	42	25.9%	124.7	100	19.5%	117.1
Assault II	13	8.8%	70.8	9	5.6%	72.5	34	6.6%	75.7
Other Measure 11	4	2.7%	114.8	10	6.2%	212.5	30	5.8%	162.3
Non-Measure 11									
Assault II	5	3.4%	43.0	7	4.3%	37.9	9	1.8%	23.9
Assault I Attempt	29	19.6%	48.5	48	29.6%	49.6	113	22.0%	41.4
Weapon Use	21	14.2%	46.4	10	6.2%	30.4	21	4.1%	33.9
Assault III	2	1.4%	22.3	4	2.5%	28.1	11	2.1%	21.9
Other Felony	12	8.1%	35.2	2	1.2%	64.0	44	8.6%	48.5
Probation									
Assault II	0	0.0%		1	0.6%		10	1.9%	
Assault I Attempt	5	3.4%		10	6.2%		34	6.6%	
Weapon Use	4	2.7%		11	6.8%		30	5.8%	
Assault III	2	1.4%		3	1.9%		6	1.2%	
Other Felony	5	3.4%		2	1.2%		35	6.8%	
Other	2	1.4%		3	1.9%		37	7.2%	
Total	148	100.0%		162	100.0%		514	100.0%	

Section 5. Conclusion

This report provides updated data concerning Measure 11, extending and expanding on the research conducted in 2011. Much of the findings demonstrate that the basic statistics surrounding Measure 11 have changed very little since 2011. Indeed, the most commonly charged crimes during the first fifteen years Measure 11 was in place remain consistent today and the basic demographic breakdown of people who commit Measure 11 offenses is largely the same. Assault II was the most commonly indicted crime in the 2011 report (21 percent of indictments), and that finding is asserted in this report as well (29 percent of indictments). Most M11 indicted individuals are white, male, young, and have limited criminal history, as reported in 2011. This overall statistic hides differences found at the convergence of these groups, as described in Section 2, 3, and 4 of this 2021 report.

This report builds on the 2011 report by examining the intersection of race/ethnicity, sex, and age. In the years since the 2011 report, prison sentences for Black men occurred more often than prison sentences for white men or Latinos across the most commonly indicted Measure 11 crimes. In spite of the greater frequency of prison sentences, however, sentence lengths from 2013-2018 were often shorter for Black men than those for white men or Latinos. Further, sentence lengths for the included Measure 11 crimes often varied substantially in cases where there was a conviction for the mandatory minimum Measure 11 crime. Sentences that fall outside of the Measure 11 framework in recent years were often more consistent in terms of length. Across the most commonly indicted Measure 11 crimes (Assault I and II, Sex Abuse I, Robbery I and II, and Rape 1), Black men are sentenced to prison more often than white men. In some instances, such as for Assault I, the gap is nearly ten percentage points. For Latinos, prison sentences are the more common result compared to white men across each of these commonly indicted crimes except Robbery II.

Concerning sentence length, different patterns emerge. Indeed, while Black men serve prison sentences more often, they are often shorter in length than those imposed on Latino and white men. Further, for several of the most commonly indicted Measure 11 crimes, prison sentence lengths for convictions of Measure 11 crimes vary substantially. For example, prison sentences for white and Latino men indicted for Assault I and convicted of a Measure 11 crime where a mandatory minimum was imposed are 28 and

34 months longer, on average, than sentences for Black men. Prison sentences for individuals indicted for Assault I and convicted of non-Measure 11 crimes, alternately, are significantly shorter (around 40-45 months) and the gap, at least with regards to the number of months, is smaller (around five months on average).

Later in 2021, the CJC will be releasing additional reports with different perspectives of Measure 11 in Oregon, building on this report that considers indictments, convictions, and sentencing trends for people who commit Measure 11 offenses.

Appendix

CJC, with assistance OJD, compiled cases filed with at least one M11 indictment from 1991 to 2018. This is a similar effort as the data compiled for the M11 Report released by the CJC in March 2011, which included data on cases filed with at least one M11 indictment from 1991 to 2008. Additionally, CJC compiled the disposition information from the Odyssey or Oregon eCourt data and merged that with the cases filed information. CJC merged these data with sentencing data from the DOC to compile the sentence type and length of stay information. Finally, CJC compiled missing SID numbers from the cases filed data with other criminal justice sources to fill in missing sex, race, and date of birth information. For cases that resolved with a felony conviction, sex is missing for 0.3% of cases and race is missing for 0.4%. Administrative criminal justice data sources have started to include the non-binary gender classification, however the count was too low to include in this analysis. Throughout this report, CJC uses the term “sex”, because this accurately reflects the data collection practice over the time period of data which is used. The race categories presented in this report have a racial correction algorithm applied to mitigate race/ethnicity reporting issues within criminal justice data sources.¹²

Table A.1. Mandatory Minimum Sentences

Crime	ORS #	Mandatory Minimum (Months)
Assault I	163.185	90
Assault II	163.175	70
Use Child Display Sex Act	163.670	70
Prostitution Compelling	167.017	70
Kidnapping I*	163.235	90, 300
Kidnapping II	163.225	70
Manslaughter I	163.118	120
Manslaughter II	163.125	75
Aggravated Murder Attempt	163.095	120
Murder I Attempt	163.107	90
Murder Attempt	163.115	90
Rape I*	163.375	100, 300
Rape II	163.365	75
Robbery I	164.415	90
Robbery II	164.405	70
Unlawful Sexual Penetration I*	163.411	100, 300
Unlawful Sexual Penetration II	163.408	75
Sex Abuse I	163.427	75
Sodomy I*	163.405	100, 300
Sodomy II	163.395	75

*Under ORS 137.700, 300 month mandatory minimums apply in certain circumstances and for crimes committed on or after April 24, 2006

¹² The CJC has developed a racial correction algorithm based on Bayesian Improved Surname Geocoding (BISG), an approach that is widely used in studies and litigation evaluating mortgage and non-mortgage lending patterns, in academic research, and by financial institutions (see Elliott et al. 2009).

<https://www.oregon.gov/cjc/CJC%20Document%20Library/RaceCorrectionTechDocFinal-8-6-18.pdf>

Table A.2. Female Measure 11 Indictments by Race and Age, 2013-2018

Race/ Ethnicity	Age 18-25		Age 26-30		Age 31-40		Age 41-50		Age 50+		Total
	Count	%	Count	%	Count	%	Count	%	Count	%	
Asian or PI	3	13.0%	5	21.7%	12	52.2%	1	4.3%	2	8.7%	23
Black	46	44.7%	12	11.7%	26	25.2%	11	10.7%	8	7.8%	103
Latina	60	38.5%	43	27.6%	28	17.9%	18	11.5%	7	4.5%	156
Native American	18	29.0%	11	17.7%	18	29.0%	9	14.5%	6	9.7%	62
White	206	24.0%	150	17.5%	257	30.0%	151	17.6%	94	11.0%	858
Total	333	27.7%	221	18.4%	341	28.4%	190	15.8%	117	9.7	1,202

Table A.3. Measure 11 Indictments by Crime, Men 2013-2018

Crime	ORS #	Count	Percent
Assault II	163.175	2,783	26.7%
Sex Abuse I	163.427	1,267	12.2%
Rape I	163.375	1,040	10.0%
Robbery I	164.415	966	9.3%
Assault I	163.185	954	9.2%
Robbery II	164.405	878	8.4%
Sodomy I	163.405	538	5.2%
Unlawful Sexual Penetration I	163.411	379	3.6%
Kidnapping II	163.225	366	3.5%
Use Child Display Sex Act	163.670	350	3.4%
Kidnapping I	163.235	233	2.2%
Manslaughter I	163.118	182	1.8%
Rape II	163.365	145	1.4%
Manslaughter II	163.125	90	0.9%
Murder Attempt	163.115	86	0.8%
Prostitution Compelling	167.017	73	0.7%
Sodomy II	163.395	55	0.5%
Unlawful Sexual Penetration II	163.408	30	0.3%
Murder Aggravated Attempt	163.095	2	0.0%
Murder First Degree Attempt	163.107	2	0.0%
Total		10,419	

Table A.4. Measure 11 Indictments by Crime, Women 2013-2018

Crime	ORS #	Count	Percent
Assault II	163.175	567	46.7%
Robbery II	164.405	172	14.2%
Assault I	163.185	154	12.7%
Robbery I	164.415	125	10.3%
Manslaughter I	163.118	33	2.7%
Kidnapping II	163.225	30	2.5%
Manslaughter II	163.125	25	2.1%
Kidnapping I	163.235	23	1.9%
Use Child Display Sex Act	163.670	18	1.5%
Prostitution Compelling	167.017	15	1.2%
Sex Abuse I	163.427	14	1.2%
Rape II	163.365	9	0.7%
Murder Attempt	163.115	7	0.6%
Sodomy I	163.405	7	0.6%
Unlawful Sexual Penetration I	163.411	7	0.6%
Rape I	163.375	5	0.4%
Sodomy II	163.395	2	0.2%
Murder First Degree Attempt	163.107	1	0.1%
Total		1,214	

Table A.5. Measure 11 Dispositions by County, 2013-2018

County	Most Serious		Other Measure 11		Non-Measure 11		No Conviction		Total
	Count	%	Count	%	Count	%	Count	%	
Baker	7	14.0	4	8.0	32	64.0	7	14.0	50
Benton	29	15.4	8	4.3	138	73.4	13	6.9	188
Clackamas	214	37.8	88	15.6	218	38.5	46	8.1	566
Clatsop	45	22.1	17	8.3	122	59.8	20	9.8	204
Columbia	23	16.0	12	8.3	94	65.3	15	10.4	144
Coos	56	17.6	34	10.7	167	52.5	61	19.2	318
Crook	11	14.5	13	17.1	42	55.3	10	13.2	76
Curry	11	16.2	3	4.4	43	63.3	11	16.2	68
Deschutes	74	13.4	44	8.0	363	65.9	70	12.7	551
Douglas	95	36.1	26	9.9	111	42.2	31	11.8	263
Gilliam	3	37.5	2	25.0	3	37.5	0	0.0	8
Grant	0	0.0	1	3.3	26	86.7	3	10.0	30
Harney	2	4.8	3	7.1	32	76.2	5	11.9	42
Hood River	12	19.4	2	3.2	42	67.7	6	9.7	62
Jackson	202	24.3	135	16.2	420	50.5	75	9.0	832
Jefferson	26	18.2	12	8.4	93	65.0	12	8.4	143
Josephine	133	41.2	43	13.3	131	40.6	16	5.0	323
Klamath	108	23.3	37	8.0	242	52.2	77	16.6	464
Lake	4	12.1	0	0.0	16	48.5	13	39.4	33
Lane	324	40.2	88	10.9	333	41.3	62	7.7	807
Lincoln	43	19.5	29	13.1	118	53.4	31	14.0	221
Linn	94	22.8	53	12.9	239	58.0	26	6.3	412
Malheur	21	14.2	9	6.1	93	62.8	25	16.9	148
Marion	625	45.3	169	12.3	457	33.1	129	9.4	1,380
Morrow	14	33.3	5	11.9	14	33.3	9	21.4	42
Multnomah	579	25.4	318	13.9	1,229	53.8	158	6.9	2,284
Polk	45	19.3	24	10.3	121	51.9	43	18.5	233
Sherman	3	42.9	0	0.0	4	57.1	0	0.0	7
Tillamook	14	12.1	11	9.5	56	48.3	35	30.2	116
Umatilla	65	31.1	16	7.7	104	49.8	24	11.5	209
Union	15	19.0	6	7.6	49	62.0	9	11.4	79
Wallowa	1	6.3	1	6.3	12	75.0	2	12.5	16
Wasco	21	20.2	5	4.8	69	66.4	9	8.7	104
Washington	418	33.2	147	11.7	573	45.4	123	9.8	1,261
Wheeler	1	25.0	0	0.0	3	75.0	0	0.0	4
Yamhill	86	33.0	23	8.8	119	45.6	33	12.6	261
Total	3,424	28.7	1,388	11.6	5,928	49.6	1,209	10.1	11,949

Table A.6. Measure 11 Dispositions by Crime, 2013-2018

ORS #	Crime	Most Serious		Other Measure 11		Non-Measure 11		No Conviction		Total
		Count	%	Count	%	Count	%	Count	%	
163.175	Assault II	820	23.8%	48	1.4%	2,248	65.3%	325	9.4%	3,441
163.427	Sex Abuse 1	431	32.7%	51	3.9%	663	50.3%	173	13.1%	1,318
163.185	Assault I	182	16.0%	235	20.7%	632	55.6%	88	7.7%	1,137
164.415	Robbery I	262	23.3%	354	31.5%	418	37.2%	90	8.0%	1,124
163.375	Rape I	308	28.8%	216	20.2%	359	33.6%	187	17.5%	1,070
164.405	Robbery II	547	51.7%	2	0.2%	445	41.6%	75	7.0%	1,069
163.405	Sodomy I	186	33.0%	157	27.9%	145	25.8%	75	13.3%	563
163.225	Kidnapping II	71	17.4%	20	4.9%	279	68.4%	38	9.3%	408
163.411	Unlawful Sexual Penetration I	89	22.4%	157	39.5%	108	27.1%	44	11.1%	398
163.670	Use Child Display Sex Act	120	31.6%	21	5.5%	209	55.0%	30	7.9%	380
163.235	Kidnapping I	45	17.2%	53	20.3%	130	49.8%	33	12.6%	261
163.118	Manslaughter 1	165	74.7%	22	10.0%	30	13.6%	4	1.8%	221
163.365	Rape II	69	43.1%	16	10.0%	64	40.0%	11	6.9%	160
163.125	Manslaughter II	73	62.4%	0	0.0%	40	34.2%	4	3.4%	117
163.115	Murder II Attempt	15	16.0%	0	0.0%	72	76.6%	7	7.5%	94
167.017	Prostitution Compelling	25	27.2%	1	1.1%	51	55.4%	15	16.3%	92
163.395	Sodomy II	13	22.0%	18	30.5%	22	37.3%	6	10.2%	59
163.408	Unlawful Sexual Penetration II	3	9.7%	11	35.5%	13	41.9%	4	12.9%	31
163.107	Murder I Attempt	0	0.0%	4	100.0%	0	0.0%	0	0.0%	4
163.095	Murder Aggravated Attempt	0	0.0%	2	100.0%	0	0.0%	0	0.0%	2
All Measure 11 Crimes		3,424	28.7%	1,388	11.6%	5,928	49.6%	1,209	10.1%	11,949

Table A.7. Measure 11 Cases 2013-2018, Sentencing Outcomes by Measure 11 Crime

ORS #	Crime	Measure 11			Non-Measure 11			Probation		Other		Total
		Count	%	LOS	Count	%	LOS	Count	%	Count	%	
163.175	Assault II	375	12.0%	80.7	1,094	35.1%	32.1	1,411	45.3%	236	7.6%	3,116
163.427	Sex Abuse I	453	39.6%	128.6	383	33.4%	38.1	282	24.6%	27	2.4%	1,145
163.185	Assault I	334	31.8%	112.8	419	39.9%	40.3	234	22.3%	62	5.9%	1,049
164.415	Robbery I	448	43.3%	100.1	420	40.6%	40.0	140	13.5%	26	2.5%	1,034
164.405	Robbery II	266	26.8%	85.5	393	39.5%	34.4	311	31.3%	24	2.4%	994
163.375	Rape I	506	57.3%	216.0	222	25.1%	47.2	139	15.7%	16	1.8%	883
163.405	Sodomy I	330	67.6%	208.5	92	18.9%	58.3	56	11.5%	10	2.0%	488
163.225	Kidnapping II	43	11.6%	89.2	128	34.6%	33.9	169	45.7%	30	8.1%	370
163.411	Unlawful Sexual Penetration I	234	66.1%	178.9	71	20.1%	50.6	45	12.7%	4	1.1%	354
163.670	Use Child Display Sex Act	135	38.6%	157.3	121	34.6%	57.4	93	26.6%	1	0.3%	350
163.235	Kidnapping I	80	35.1%	122.2	82	36.0%	35.4	52	22.8%	14	6.1%	228
163.118	Manslaughter 1	185	85.3%	154.1	28	12.9%	44.9	3	1.4%	1	0.5%	217
163.365	Rape II	80	53.7%	120.5	45	30.2%	37.4	23	15.4%	1	0.7%	149
163.125	Manslaughter II	74	65.5%	84.4	23	20.4%	29.4	16	14.2%	0	0.0%	113
163.115	Murder II Attempt	17	19.5%	141.8	44	50.6%	39.6	23	26.4%	3	3.4%	87
167.017	Prostitution Compelling	24	31.2%	92.6	35	45.5%	49.3	17	22.1%	1	1.3%	77
163.395	Sodomy II	29	54.7%	145.0	11	20.8%	38.8	12	22.6%	1	1.9%	53
163.408	Unlawful Sexual Penetration II	13	48.1%	106.0	10	37.0%	49.4	3	11.1%	1	3.7%	27
163.107	Murder I Attempt	4	100.0%	122.7	0	0.0%	0.0	0	0.0%	0	0.0%	4
163.095	Murder Aggravated Attempt	2	100.0%	216.2	0	0.0%	0.0	0	0.0%	0	0.0%	2
All Crimes		3,632	33.8%	138.8	3,621	33.7%	38.2	3,029	28.2%	458	4.3%	10,740

Table A.8. Measure 11 Indicted Cases 2013-2018, Sentencing Outcomes by County

County	Measure 11			Non-Measure 11			Probation		Other		Total
	Count	%	LOS	Count	%	LOS	Count	%	Count	%	
Baker	11	25.6%	163.4	9	20.9%	37.9	19	44.2%	4	9.3%	43
Benton	33	18.9%	153.7	62	35.4%	25.7	59	33.7%	21	12.0%	175
Clackamas	247	47.5%	151.1	186	35.8%	39.2	77	14.8%	10	1.9%	520
Clatsop	35	19.0%	156.2	44	23.9%	34.5	99	53.8%	6	3.3%	184
Columbia	32	24.8%	124.5	40	31.0%	33.7	42	32.6%	15	11.6%	129
Coos	80	31.1%	132.0	70	27.2%	33.2	77	30.0%	30	11.7%	257
Crook	22	33.3%	194.8	20	30.3%	33.2	22	33.3%	2	3.0%	66
Curry	12	21.1%	146.4	12	21.1%	30.8	22	38.6%	11	19.3%	57
Deschutes	96	20.0%	155.5	169	35.1%	32.5	183	38.0%	33	6.9%	481
Douglas	92	39.7%	121.4	53	22.8%	33.2	73	31.5%	14	6.0%	232
Gilliam	5	62.5%	395.5	1	12.5%	105.6	1	12.5%	1	12.5%	8
Grant	1	3.7%	72.07	10	37.0%	41.3	13	48.1%	3	11.1%	27
Harney	4	10.8%	126.2	14	37.8%	43.7	17	45.9%	2	5.4%	37
Hood River	9	16.1%	147.9	18	32.1%	23.4	24	42.9%	5	8.9%	56
Jackson	178	23.5%	102.2	275	36.3%	33.1	265	35.0%	39	5.2%	757
Jefferson	31	23.7%	138.8	48	36.6%	37.1	48	36.6%	4	3.1%	131
Josephine	116	37.8%	112.9	115	37.5%	37.1	67	21.8%	9	2.9%	307
Klamath	104	26.9%	130.0	118	30.5%	41.3	139	35.9%	26	6.7%	387
Lake	4	20.0%	180.1	3	15.0%	15.6	13	65.0%	0	0.0%	20
Lane	299	40.1%	155.2	248	33.3%	41.6	171	23.0%	27	3.6%	745
Lincoln	64	33.7%	134.8	47	24.7%	44.3	57	30.0%	22	11.6%	190
Linn	126	32.6%	142.8	157	40.7%	44.7	88	22.8%	15	3.9%	386
Malheur	22	17.9%	159.6	50	40.7%	51.4	36	29.3%	15	12.2%	123
Marion	567	45.3%	143.8	337	26.9%	48.3	314	25.1%	33	2.6%	1,251
Morrow	12	36.4%	88.5	14	42.4%	22.8	5	15.2%	2	6.1%	33
Multnomah	719	33.8%	124.9	814	38.3%	35.1	534	25.1%	59	2.8%	2,126
Polk	51	26.8%	127.6	67	35.3%	34.5	65	34.2%	7	3.7%	190
Sherman	3	42.9%	105.2	2	28.6%	9.6	2	28.6%	0	0.0%	7
Tillamook	9	11.1%	80.5	26	32.1%	31.5	45	55.6%	1	1.2%	81
Umatilla	56	30.3%	140.8	76	41.1%	49.1	39	21.1%	14	7.6%	185
Union	16	22.9%	185.3	22	31.4%	52.4	27	38.6%	5	7.1%	70
Wallowa	0	0.0%	0.0	9	64.3%	45.8	4	28.6%	1	7.1%	14
Wasco	23	24.2%	120.1	41	43.2%	34.3	30	31.6%	1	1.1%	95
Washington	472	41.5%	149.5	379	33.3%	37.6	271	23.8%	16	1.4%	1,138
Wheeler	1	25.0%	500.0	1	25.0%	13.4	2	50.0%	0	0.0%	4
Yamhill	80	35.1%	161.8	64	28.1%	45.5	79	34.6%	5	2.2%	228
Total	3,632	33.8%	138.8	3,621	33.7%	38.2	3,029	28.2%	458	4.3%	10,740

Table A.9. Detailed Sentencing Outcomes – Assault II Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Assault II	44	17.7%	82.6	63	14.4%	78.2	203	11.8%	81.0
Non-Measure 11									
Assault II	12	4.8%	38.7	43	9.8%	35.7	114	6.6%	38.8
Assault II Attempt	63	25.4%	22.5	76	17.4%	29.8	287	16.7%	31.1
Weapon Use	10	4.0%	30.0	16	3.7%	33.7	47	2.7%	21.6
Assault III	6	2.4%	28.4	16	3.7%	36.5	54	3.1%	26.2
Other Felony	30	12.1%	62.9	25	5.7%	30.1	139	8.1%	37.2
Probation									
Assault II	12	4.8%		36	8.2%		133	7.7%	
Assault II Attempt	29	11.7%		52	11.9%		232	13.5%	
Weapon Use	6	2.4%		20	4.6%		106	6.2%	
Assault III	9	3.6%		14	3.2%		77	4.5%	
Other Felony	21	8.5%		54	12.4%		193	11.2%	
Other	6	2.4%		22	5.0%		134	7.8%	
Total	248	100.0%		437	100.0%		1,719	100.0%	

Table A.10. Detailed Sentencing Outcomes – Robbery I Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Robbery I	62	32.5%	130.0	36	26.7%	103.0	125	24.0%	120.7
Robbery II	36	18.9%	67.1	21	15.6%	74.7	82	15.8%	76.5
Other Measure 11	5	2.6%	152.8	4	3.0%	68.0	27	5.2%	91.7
Non-Measure 11									
Robbery II	18	9.4%	33.7	11	8.2%	37.1	45	8.7%	37.5
Robbery I Attempt	30	15.7%	44.0	20	14.8%	41.6	98	18.9%	45.1
Burglary I	4	2.1%	49.6	10	7.4%	45.8	24	4.6%	45.0
Weapon Use	5	2.6%	32.0	8	5.9%	44.2	9	1.7%	44.3
Other Felony	13	6.8%	29.9	11	8.2%	50.4	30	5.8%	31.0
Probation									
Robbery II	2	1.1%		4	3.0%		11	2.1%	
Robbery I Attempt	3	1.6%		1	0.7%		8	1.5%	
Burglary I	1	0.5%		1	0.7%		9	1.7%	
Weapon Use	0	0.0%		2	1.5%		7	1.4%	
Other Felony	9	4.7%		4	3.0%		32	6.2%	
Other	3	1.6%		2	1.5%		13	2.5%	
Total	191	100.0%		135	100.0%		520	100.0%	

Table A.11. Detailed Sentencing Outcomes – Robbery II Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Robbery II	36	24.0%	77.0	44	33.9%	77.4	153	30.4%	87.9
Non-Measure 11									
Robbery II	26	17.3%	37.8	17	13.1%	34.3	87	17.3%	38.1
Robbery II Attempt	33	22.0%	30.4	12	9.2%	39.2	63	12.5%	31.0
Robbery III	3	2.0%	22.5	3	2.3%	21.4	10	2.0%	16.6
Burglary I	4	2.7%	28.8	2	1.5%	40.7	18	3.6%	48.2
Other Felony	8	5.3%	30.6	8	6.2%	46.2	22	4.4%	34.9
Probation									
Robbery II	15	10.0%		12	9.2%		41	8.1%	
Robbery II Attempt	8	5.3%		12	9.2%		38	7.5%	
Robbery III	6	4.0%		4	3.1%		17	3.4%	
Burglary I	0	0.0%		1	0.8%		9	1.8%	
Other Felony	9	6.0%		14	10.8%		31	6.2%	
Other	2	1.3%		1	0.8%		15	3.0%	
Total	150	100.0%		130	100.0%		504	100.0%	

Table A.12. Detailed Sentencing Outcomes – Sex Abuse I Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Sex Abuse I	13	30.2%	76.4	116	44.1%	138.6	315	39.7%	129.3
Non-Measure 11									
Sex Abuse I	0	0.0%	.	4	1.5%	44.7	19	2.4%	41.4
Sex Abuse I Attempt	13	30.2%	38.3	73	27.8%	32.8	203	25.6%	38.1
Sex Abuse II	2	4.7%	18.5	3	1.1%	21.2	18	2.3%	67.0
Other Felony	6	14.0%	26.7	7	2.7%	45.2	15	1.9%	42.4
Probation									
Sex Abuse I	0	0.0%		2	0.8%		15	1.9%	
Sex Abuse I Attempt	3	7.0%		39	14.8%		125	15.7%	
Sex Abuse II	1	2.3%		1	0.4%		6	0.8%	
Other Felony	4	9.3%		14	5.3%		60	7.6%	
Other	1	2.3%		4	1.5%		18	2.3%	
Total	43	100.0%		263	100.0%		794	100.0%	

Table A.13. Detailed Sentencing Outcomes – Rape I Indicted Cases, Males 2013-2018

	Black			Latino			White		
	Count	%	LOS	Count	%	LOS	Count	%	LOS
Measure 11									
Rape I	29	31.9%	260.5	81	33.3%	236.6	167	32.6%	255.3
Sex Abuse I	2	2.2%	133.1	33	13.6%	141.7	60	11.7%	126.0
Other Measure 11	17	18.7%	182.4	31	12.8%	211.1	69	13.5%	215.4
Non-Measure 11									
Rape I Attempt	17	18.7%	50.9	28	11.5%	43.7	38	7.4%	51.0
Sex Abuse II	4	4.4%	11.0	17	7.0%	40.6	33	6.4%	42.6
Other Felony	11	12.1%	81.8	18	7.4%	51.7	47	9.2%	42.6
Probation									
Rape I Attempt	0	0.0%		5	2.1%		10	2.0%	
Sex Abuse II	1	1.1%		7	2.9%		34	6.6%	
Other Felony	10	11.0%		20	8.2%		44	8.6%	
Other	0	0.0%		3	1.2%		11	2.1%	
Total	91	100.0%		243	100.0%		513	100.0%	