

## **Vicarious Deliberation: How the Oregon Citizens' Initiative Review Influenced Deliberation in Mass Elections**

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The state of Oregon established the Citizens' Initiative Review (CIR) to improve the quality of public deliberation during direct elections. To better understand how a deliberative "mini-public" can influence electoral deliberation on complex ballot issues, we analyzed the 2010 CIR's *Citizens' Statements* as well as how the Oregon electorate used them. Analysis of this case shows the political feasibility of intensive deliberation and the Oregon public's appreciation of having access to neutral information developed by peers. This study also examines how the CIR *Statements* were written, their distinctive topical coverage relative to conventional voting guides, and what they left out of their policy analyses.

A novel experiment in deliberative democracy occurred in August 2010 in the United States. That month, the 2010 Oregon Citizens' Initiative Review (CIR) convened two small deliberative groups of randomly selected Oregon registered voters to help the wider state electorate make more informed and reflective judgments on two specific ballot measures in the general election. The first CIR panel deliberated from August 9 to 13 on a ballot measure that required increased minimum sentences for certain repeated felony sex crimes and for repeated drunk driving. The second panel met from August 16 to 20 on a measure that would have established a medical marijuana supply system and assistance and

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research programs and permitted the limited selling of medicinal marijuana. At the end of each week, the CIR panelists wrote a *Citizens' Statement* that detailed their analysis of the measures, and the Oregon secretary of state then distributed those statements through the official voters' pamphlet.

The Oregon CIR represents a unique design that permits new tests of the capacity for small group deliberation to help a large public make more informed and reflective judgments on ballot measures. The CIR also merits careful study because it may become a regular feature of American politics. In 2011, the Oregon legislature reaffirmed its commitment to the CIR, and the governor signed it into law as a regular part of the Oregon initiative electoral process. Civic reformers and public officials are currently exploring adapting the CIR to Arizona, Colorado, Washington, and California.<sup>2</sup>

The CIR case has tremendous relevance to a wide range of theories of political communication and deliberation. In the vitality of its small-group process and its uptake in the wider public, it addresses the question of the public's appetite for intensive deliberation (Hibbing & Theiss-Morse, 2002; Neblo, Kennedy, Lazer, Sokhey, & Esterling, 2010). It invites the mass public into a "vicarious deliberation," whereby the mass public engages in a relatively brief (and possibly private) deliberation within their own minds (Goodin, 2003) by using the fruits of an intensive "mini-public" that serves as a microcosm of the wider public (Dahl, 1989; Goodin & Dryzek, 2006).

The CIR's impact on the electorate also tests the scope of theories of political information processing, which posit an inattentive public that filters messages to reinforce preexisting biases (Kuklinski, Quirk, Schwieder, & Rich, 1998; Lupia, 1994) or that disregards corrections of mistaken beliefs (Nyhan & Reifler, 2010). Most broadly, the CIR road-tests the efficacy of citizen deliberation in a real political setting, wherein citizen panelists make decisions that could alter electoral outcomes. Such a test is essential given the optimism deliberative theorists routinely express about such processes (Chambers, 2003; Fishkin, 2009; Gastil, 2000; Gutmann & Thompson, 2004; Nabatchi, Gastil, Weiksner, & Leighninger, 2012).

Our research method amounts to a multi-method critical case study (Yin, 2013). In each of the five sections of our study, we clarify the larger theoretical stakes entailed as well as the practical questions at issue. We begin by reviewing the history of the Oregon CIR, with an eye toward the feasibility of deliberative innovation (Leighninger, 2006). We then assess its impact on the wider state electorate, which addresses the aforementioned questions of mass public reasoning and judgment. The final three sections focus on the quality of the *Citizens' Statements* that the CIR panelists produced, which complements a previous study that intensively assessed the CIR's deliberative process (Knobloch, Gastil, Reedy, & Walsh, 2013). The question underlying these sections is whether the CIR process produced a document that was uniquely valuable to Oregon voters as they attempted to understand and make choices on the issues on their ballot. In turn, we will examine the quality of the statement-writing process itself,

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<sup>2</sup> This is based on personal correspondence with Elliot Shuford at Healthy Democracy Oregon and discussions with faculty and staff at Arizona State University and the University of Arizona. The secretary of state of California visited the CIR process in 2012.

the *Citizens' Statements'* topical coverage relative to conventional sections of official voting guides, and what the *Statements* left out, for better or for worse.

### **Establishment of the Oregon CIR and the Viability of Deliberative Democracy**

The Oregon CIR is a unique democratic reform—with nothing comparable existing anywhere in the world. Nonetheless, it stands as only the latest in a series of new deliberative processes that have asked a mini-public of randomly selected citizens to deliberate on larger public issues (Goodin & Dryzek, 2006). It also resembles various trademarked processes developed by civic entrepreneurs in the United States, such as Citizens' Juries, Deliberative Polls, and 21st Century Town Meetings (Gastil & Levine, 2005). Some of these processes came into use in the 1970s or 1980s, but highly-structured deliberative processes have proliferated most rapidly and gained wider notice in the past fifteen years (Nabatchi et al., 2012).

These new modes of citizen participation connect to an even broader trend toward "deliberative democracy" (Gutmann & Thompson, 2004; Leighninger, 2006), which emphasizes the *quality* of public participation and political talk, not just the volume of it. These new processes create more opportunities for citizen deliberation on public issues, be it through special structured events like the CIR or by elevating the general levels of knowledge, consideration, and mutual respect that go into everyday conversations and periodic elections.

It was in this spirit that the Oregon CIR project was developed. The CIR was enabled by House Bill 2895, which passed with the understanding that "informed public discussion and exercise of the initiative power will be enhanced by review of statewide measures by an independent panel of Oregon voters who will then report to the electorate in the Voters' Pamphlet."<sup>3</sup> The *Citizens' Statements* would complement information found in other parts of the voting guide, such as the explanatory and fiscal impact statements, and provide a nonpartisan alternative to campaign advertisements.

The legislation establishing the CIR required that the panel consist of a representative sample of between 18 and 24 registered Oregon voters, that the panelists meet for five consecutive days, that the process be implemented by a nonprofit organization with experience implementing such panels, and that the process should result in a four-part statement for the official Oregon voters' pamphlet written by the panelists.<sup>4</sup> In practice this equated to four distinct sections of each *Citizens' Statement* that appeared in the voters' pamphlet: a Key Findings statement of relevant information that at least 14 panelists (more than a majority) considered accurate and important, statements in favor of and opposed to the measure,

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<sup>3</sup> The bill was H.B. 2895 (ch. 632) in the 2009 session of the Oregon State Legislature (2009). The bill had the short description, "Directs Secretary of State to designate organizations to establish citizen panels to review and create statements on specified number of initiated state measures." For more on the background and history of the process, see <http://www.healthydemocracyoregon.org>.

<sup>4</sup> Descriptions of the purpose and requirements of the bill are taken from the text of HB 2895 and from the legislative debate concerning the passage of the bill. The legislative history of the bill can be found at <http://gov.oregonlive.com/bill/HB2895>.

each written by the subset of panelists who supported or opposed the measure, and a Shared Agreement statement adopted by a majority of the panelists (14), which ultimately contained a brief comment on the CIR process. (In addition, the secretary of state provided a 150-word description of the CIR process itself.)

The Oregon State Legislature approved the bill on June 16, 2009, and on June 26, 2009, Governor Kulongoski signed the bill into law. With Oregon holding initiative elections every other year, the first CIR was then held in 2010. Afterward, the legislature reviewed its performance, because the 2009 legislation had a sunset clause that committed the state to a one-time use of the CIR. When the evenly divided legislature opted to make the CIR permanent in 2011, it passed with bipartisan support. The CIR imposes no significant cost on the state, because private donations cover the expense of its operations. Consequently, few spoke out against the measure, although its support was not universal, as a bloc of conservative Republicans voted in opposition.<sup>5</sup>

What the CIR's legislative history demonstrates unequivocally is the political feasibility of deliberative innovation. Critics of deliberative democracy have questioned whether intensive processes like these could gain political traction given the high demands they make of average citizens (Collingwood & Reedy, 2012). In implementing the CIR after an initial pilot test, then by renewing it shortly thereafter, the Oregon legislature showed that public officials can develop confidence in the public's capacity for reason and deliberative judgment. In that same spirit, officials in Canada placed faith in the public's capacity to design electoral reform (Warren & Pearse, 2008), and across Latin America, officials have adopted participatory budgeting processes with an equal measure of confidence in public competence (Wampler, 2007).

### **Impact on the Electorate**

Those who might acknowledge the efficacy of a small deliberative process still have theoretical justification to doubt the wider public's appetite for deliberation. The default model of political communication and judgment presents voters as underinformed, ideologically biased, and impervious to straightforward corrections of misperceptions (cf. Kuklinski et al., 1998; Lupia, 1994; Nyhan & Reifler, 2010; Zaller, 1992). A preponderance of evidence supports this model, but none of those studies has contended with the unique situation created by the Oregon CIR. Namely, the CIR provides voters with a brief summary of key points developed by a body of their peers. Given the public's favorable attitudes toward such lay deliberative processes (Gastil, 2000; Neblo et al., 2010; Warren & Pearse, 2008), it is conceivable that the CIR creates a distinctive communication setting in which voters might discover, read, and reflect on the messages generated by a deliberative body of their peers.

To address that possibility, a pair of large-sample telephone and online surveys provided a comprehensive portrait of the CIR's impact on the wider Oregon electorate (Gastil & Knobloch, 2010). The

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<sup>5</sup> Because Healthy Democracy Oregon had successfully conducted a pilot test of the CIR in 2008 and had helped to lobby for the bill's passage, the organization was chosen by the secretary of state to implement the 2010 project. For details, see the news archive at <http://healthydemocracyoregon.org>.

first of these was a rolling cross-sectional survey from August 30 to November 1, 2010, which obtained 1,991 responses with an RR3 of 9% and a final sample that closely approximated the Oregon electorate.<sup>6</sup> Roughly one-quarter of Oregonians reported hearing about the CIR prior to the arrival of the voters' pamphlet in October, with fewer than 1 in 10 saying they were "very aware" of the CIR in the early weeks of the initiative campaign season. Once the voters' pamphlet arrived, however, awareness of the CIR increased considerably; by the final week of the election, 42% of likely voters said they were at least somewhat aware of the CIR.

Oregon voters were just as likely to know about the CIR or not regardless of whether they were male or female, Democrat or Republican, low or high income or education level, and frequent versus infrequent news or voters' pamphlet readers. The lone clear exception was age: Nearly two-thirds (65%) of voters age 40 or younger were at least somewhat aware of the CIR, whereas 47% of those age 41 to 60 and just 27% of those over 60 had learned of the CIR by the time they voted.

Combining the results of different survey items, 29% of Oregon voters believed they were aided by the *Citizens' Statement* on mandatory minimum sentencing (Measure 73); that *Statement* provided strong arguments against the measure, with 21 out of 24 panelists siding against what had been a popular initiative to that point. Only 18% believed the *Statement* on medical marijuana (Measure 74) aided them in making up their minds, a figure that may partly reflect the close division of this panel, which voted 13–11 in favor of the measure but expressed strong reasons against supporting it. Using different questions in the same survey, roughly 31% to 44% of voters recalled getting "new arguments or information" from the CIR *Statement*, depending on the ballot measure in question.

To get a better sense for how CIR *Statement* readers used it, we asked more detailed questions about its use in our online survey of Oregon voters. This second survey included a two-wave panel (640 Wave 1–only respondents, 971 in both waves, and 509 in Wave 2 only), with subsample analyses (e.g., of *Statement* readers) yielding smaller *N*s. This survey had an RR3 of 41% and a final sample comparable to the wider electorate.

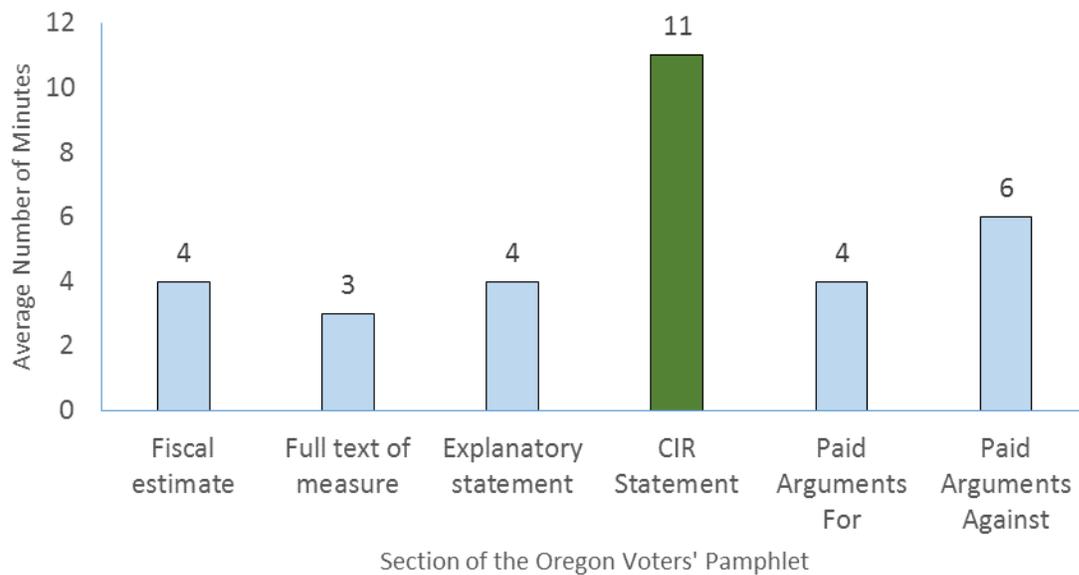
The online survey asked those who had read their voters' pamphlet how many minutes they spent reading each portion of the sections on Measures 73 and 74. The results (shown in Figure 1) are striking, with the CIR sections adding up to more time than any other two sections combined. These are the *recollections* of voters, not direct studies of voters' pamphlet use, so it is impossible to know whether these estimates are precise, but it is clear that voters who read the CIR *Statements* recalled spending considerable time with it relative to other pages in their voters' pamphlet.

The online survey also made it possible to assess the perceived utility of the *Citizens' Statements* for voters with varying views of the initiatives they addressed. The online survey was a longitudinal panel

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<sup>6</sup> RR3 estimates eligibility proportions for those respondents whose eligibility is not known (e.g., because the interviewer never got past an answering machine). See <http://www.aapor.org/Content/NavigationMenu/ResourcesforResearchers/StandardDefinitions/StandardDefinitions2009new.pdf>

that had its first round of interviews in August, with follow-ups in the final two weeks before the election. This later survey asked how important the different segments of the voters' pamphlet were in deciding how to vote on Measures 73 and 74. This allowed us to assess whether people who had strong views on the ballot measures in August would still find the CIR *Statements* to be an important resource in late October.



**Figure 1. Average number of minutes spent reading the CIR Statement and other sections of the voters' pamphlet on Measures 73 and 74.**

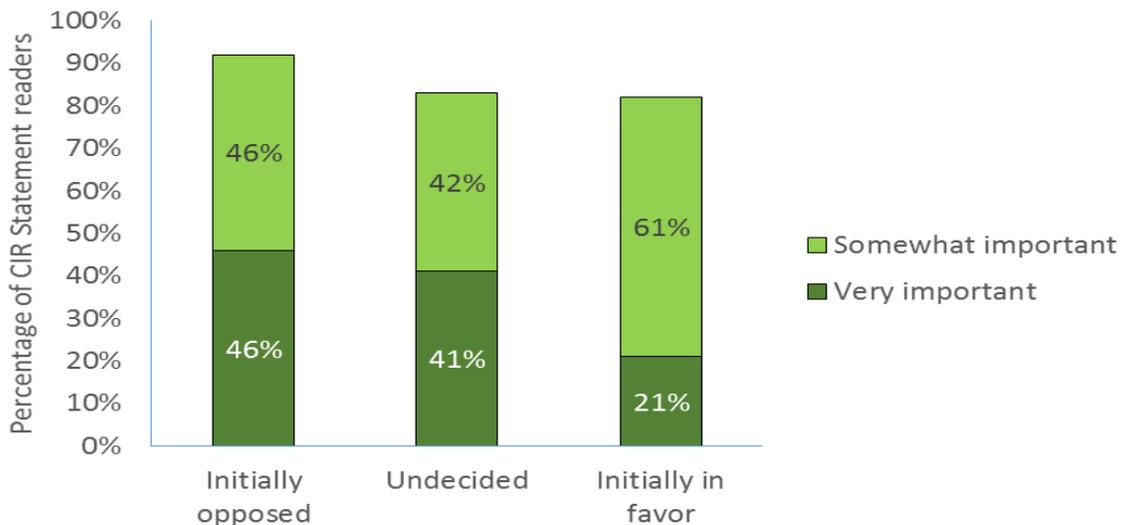
*Note.* Minimum  $N = 211$ . Figures shown are averages across the two measures. Average CIR minutes (Key Findings, plus pro and con arguments) was different from means in all other conditions.  $p < .001$ . Data from online panel survey.

Respondents in the online survey overwhelmingly reported that the CIR was at least "somewhat important" (see Figure 2). Of those CIR readers initially opposed to mandatory minimum sentences (Measure 73) back in August, 90% found the CIR *Statement* at least "somewhat important" in helping them decide how to vote, with almost half of them rating it as "very important." More than 80% of those initially undecided or in favor of Measure 73 also found it at least "somewhat important," though it was "very important" to fewer than one in four of those initially inclined to vote for the measure. The reduced importance of the *Statement* for the measure's early supporters probably reflects the fact that the CIR *Statement's* Key Findings raise serious questions about Measure 73.

By contrast, regardless of one's initial views on the medical marijuana initiative (Measure 74), three-quarters or more of each group rated the *Statement* as at least "somewhat important." Among those who initially opposed the measure, however, a much smaller percentage (11%) found the *Statement* to be "very important" than did those who were undecided or in favor (45% and 41%, respectively).

More direct approaches to measuring impact have been presented elsewhere, but briefly, a survey experiment and a cross-sectional phone survey both showed evidence of the CIR *Statements* turning many voters against both Measure 73 and 74 (Gastil & Knobloch, 2010). For instance, online respondents who had not yet voted or read the voters' pamphlet were placed in four experimental groups, and only those who were shown the *Citizens' Statement* on Measure 73 changed from support (over 60% in favor of the measure) to strong opposition (59% opposed).

The net finding of these analyses is that the Oregon CIR's *Statements* held considerable value for many Oregon voters. This demonstrated appetite and appreciation for deliberative information resonates with some recent research on public attitudes toward deliberation (Neblo et al., 2010), and it certainly sets a scope condition on conventional theories of public opinion and political communication, which have never had to confront the distinctive situation of the Oregon CIR. Even so, the proportions of voters who did not discover or utilize the *Statements* permits one to judge the deliberative glass as half empty or half full, just as Jacobs, Cook, and Delli-Carpini's (2009) inventory of "discursive participation" shows either an engaged or disengaged public depending on one's baseline expectations thereof.



**Figure 2. Perceived importance of CIR Statement Key Findings for deciding how to vote on Measure 73, broken down by voters' initial issue positions in August.**

Note.  $N = 224$  (Measure 73 CIR Statement readers). Data from online panel survey.

### The Statement-Writing Process as Informed Decision Making

With evidence that a significant subset of voters used the *Citizens' Statements*, it becomes important to evaluate their quality. Our first approach to such an evaluation judges the decision-making process rather than its product. Small-group researchers have been bedeviled for years by the difficulty of assessing the quality of all but the most mundane technical decisions (Hirokawa & Salazar, 1999). Part of the challenge is that a poor-quality decision may have more to do with a group's information deficit than with any internal failings. Even then, the question remains of what counts as a comparative basis for judgmental decisions, particularly in the arena of politics and public policy.

To take on this challenge, we take different but complementary approaches to the following three sections. In this section, we assess the deliberative quality of talk that occurred during the CIR panels as the panelists worked to craft their *Statements*. That process-based approach can at least offer insight into the soundness of the CIR's deliberative design—an important question to those who take a more procedural view of democratic deliberation (Cohen, 1996). We then use a deliberative theoretical framework (Gastil, 2008) to compare the content of the *Statements* with the conventional explanatory statement provided in the Oregon voters' pamphlet. Finally, we take a counterfactual approach by offering critical reflections based on what did *not* appear in the *Statements*. Without the latter approach, it would be possible to reach a favorable assessment of what the CIR panels produced owing to a failure to see its omissions.

We begin with the procedural evaluation, which is based on both direct observation of the CIR process by the authors as well as careful analysis of the documentary archive produced by the CIR. Examination of the structure and setup of the CIR consisted of interviews with the organizers, observation of planning meetings and a trial of the process, and review of planning materials, including discussion rules and procedures for gathering information presented to panelists. Evaluation of implementation and discussion quality involved three researchers observing CIR deliberations, rating the deliberative quality of each session according to an observation scheme devised by the first and second author, and taking extensive qualitative notes. For example, to assess whether the testimony furnished a strong base of information, identified important values, weighed advantages and disadvantages, and explored alternative solutions, the research team rated each piece of testimony in terms of its reliability, relevance, and sufficiency. Researchers evaluated panelists' understanding of this information by rating the sufficiency and relevance of panelists' questions to witnesses. To assess the quality of *Citizens' Statements*, a research assistant identified the evidentiary basis of each claim in the *Statements* in the transcripts and archival materials of the proceedings, and the researchers reviewed the transcripts for evidence of coercion. Deliberative quality was evaluated through panelists' daily self-assessment questionnaires measuring specific deliberative criteria, including equality of speaking opportunities, consideration of values, and perception of bias in the proceedings. These were supplemented by a follow-up survey—having a 79% response rate—of panelists conducted approximately two months after the CIRs, which assessed the stability of the results of the daily surveys (Knobloch et al., 2013).

In sum, the CIR appeared to foster a highly informed decision-making process by allowing panelists to construct high-quality key findings and arguments in favor of and opposed to the measures. During both weeks the panelists took part in democratic and analytically rigorous deliberation, enabling

them to use the information base they had established to make a well-reasoned decision. Although it is difficult to measure whether the panelists *did* take advantage of the best available information in deciding *how* to vote, the *Citizens' Statements* were well informed and contained the best available information provided to the panelists.

An analysis of the *Statements* found no factual inaccuracies, and all of the claims made in the *Statements* linked back to information that experts or advocates had provided to the panelists during their deliberations (Knobloch et al., 2013). In addition, the process encouraged panelists to repeatedly return to the claims they had constructed to check their accuracy and clarify their wording. Toward the end of the week, panelists even formed after-hours committees to spend extra time refining claims developed during the regular process.

The desire to produce factually accurate statements carried through when crafting the final *Statements*. The transcripts from the statement-writing session provide an example. Proponents of mandatory sentencing argued that a \$1 investment in incarceration ultimately saved the state \$4 but did not produce evidence to substantiate this claim. When writing the *Citizens' Statement* section in favor of the measure, the panelists supporting mandatory sentencing chose to exclude this information, even though it would support their cause, because they could not independently verify it:

Panelist 1: We didn't want to put every one dollar spent saves four dollars.

Panelist 2: It would be good if we had a way to prove, I mean but—

Panelist 1: We don't have a way of showing that.

Panelist 2: —somebody else next to those charts, then there's another one from that same group that says it's only a dollar and three cents, so we don't want to get it mixed up.

Panelist 1: We don't want to get that confused, yeah.

Because the panelists had been presented with conflicting information, they chose to exclude a piece of information rather than mislead voters, illustrating that the panelists chose the best available information when writing their statements.

Finally, after the arguments in favor and opposition were written by those who supported and opposed the measure, respectively, each group read its draft arguments to the opposing group. During this process, the pro and con advocate groups, as well as CIR staff and the research team, checked the draft *Citizens' Statements* for factual accuracy and clarity. The panelists voluntarily chose to incorporate all of these corrections, resulting in a more precise, persuasive, and easily understandable final product (Knobloch et al., 2013).

One problem did arise regarding the Shared Agreement section of the *Statements*, particularly during the first week. Throughout the first week, both panelists and staff were confused about what was supposed to be included in the Shared Agreement section. By the end of Week 1, a large majority of the panelists agreed that they would like to use that space to say that Measure 73 was double-barreled and that it improperly combined two separate issues—driving under the influence of intoxicants (DUII) and felony sex offenses. This fact was not included in either the Key Findings section or in either of the argument sections. When it came time to write the Shared Agreement section, however, CIR staff told the panelists that they could not talk about the initiative being double-barreled because HB 2895, which established the pilot CIR project, restricted that section to wording that was neither for nor against the measure. The panelists were upset at this exclusion, because they felt it was an important piece of information to pass on to the voters.

They ended up using the Shared Agreement statement to write about the CIR process itself, stating that they had received information “not readily available to voters” and had tried to “examine both sides of this measure in an unbiased manner.” Although this statement allowed readers to understand the process a bit more, by forcing the panelists to exclude a piece of information they felt important, the confusion over the Shared Agreement section damaged the informative quality of the *Citizens’ Statement*.

Despite these challenges, the CIR panelists generally reported high levels of satisfaction with the *Statements* they produced. These were measured in paper-and-pen surveys distributed at the end of the week, for which there was a 100% response rate. Three-quarters of the panelists studying mandatory minimums (Measure 73) were “very satisfied” or “satisfied” with the Key Findings statement and Statement in Opposition they had written, and even though 21 out of 24 opposed the measure, 56% were satisfied with the Statement in Favor written by the three dissenting panelists. The following week, four-fifths of those discussing medical marijuana (Measure 74) ended up satisfied or better with all three elements of the *Statement*. (No question was asked about the Shared Agreement statement, given its limited significance.)

### ***Citizens’ Statements versus Conventional Explanatory Statements***

Although many Oregon voters found the CIR *Statements* useful, and the panelists felt satisfied with their work, did they actually produce anything substantially different from the explanatory statement already provided in their state’s voters’ pamphlet? After all, the secretary of state’s office has put together information on ballot measures for many years, as is common practice in other states. Election reformers have celebrated these official pamphlets as a valuable part of initiative elections (Brien, 2002), so it is necessary to ask whether there is any qualitative difference between what a CIR produces, at considerable expense, and what is already standard fare in a voters’ pamphlet.

We combined two analytic approaches to answer this question. First, we used the deliberative framework to distinguish different elements of public deliberation. Here, we follow the definition of deliberative public meetings developed by Gastil (2008), which traces back to the functional theory in group communication (Orlitzky & Hirokawa, 2001) and earlier writings by Dewey (1910). As summarized in Table 1, a deliberative meeting involves a rigorous analytic process, with a solid information base,

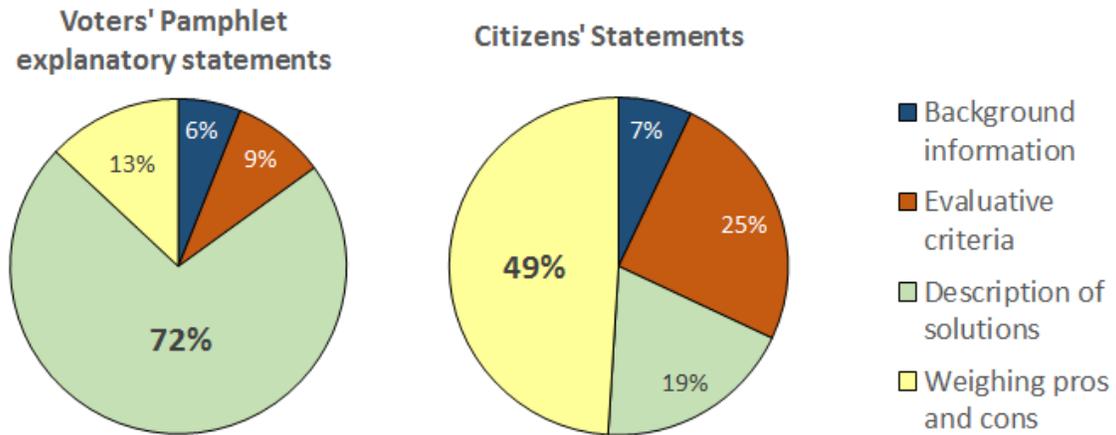
explicit prioritization of key values, an articulation of alternative solutions (sometimes preconfigured beforehand, as in the case of the CIR), and careful weighing of the pros and cons of the choices in light of the evaluative criteria and available evidence.

**Table 1. Key Features of Deliberative Analysis.**

Create a solid information base.	Combine expertise and professional research with personal experiences to better understand the problem's nature and its impact on people's lives.
Prioritize the key values at stake.	Integrate the public's articulation of its core values with technical and legal expressions and social, economic, and environmental costs and benefits.
Identify a broad range of solutions.	Identify both conventional and innovative solutions, including governmental and nongovernmental means of addressing the problem.
Weigh the pros, cons, and trade-offs among solutions.	Systematically apply the public's priorities to the alternative solutions, emphasizing the most significant trade-offs among alternatives.

Onto that process we grafted a legal narrative approach adapted from Bennett and Feldman (1981) and Sunwolf and Frey (2001), who sought to understand the different kinds of arguments that appear during jury deliberation. Breaking the CIR *Statements* and official explanatory statements into thought units (Weldon, Jehn, & Pradhan, 1991), we first coded them in terms of the macro-analytic categories shown in Table 1. Coding was performed by the third author using ATLAS.ti. (With one coder only, there are no intercoder statistics to report.)

Figure 3 shows the result of this analysis. The conventional explanatory statements in the official voters' pamphlet consisted largely of information describing Measures 73 and 74. In sharp contrast, the CIR *Statements* consisted of a complex mix of pros and cons (49% of all statements), evaluative criteria (25%), and more.



**Figure 3. Argument/information composition of explanatory statements and Citizens' Statements on Measures 73 and 74 in the Oregon 2010 election.**

To better see the nature of these *Statements*, which are provided in their entirety in Appendixes A and B, we performed a more refined coding to determine the legal, empirical, and values issues that populated the broader deliberative categories shown in Figure 1. Coding was again performed by the third author, who used ATLAS.ti and a coding scheme of 307 legal communication topics and functions (Richards & Gastil, 2013). The scheme consisted of 21 codes designating legal communication topics and functions identified in Richards (2010), augmented with 281 additional topics and functions as they were identified in the CIR texts. Each topic and function identified in the *Citizens' Statements* is reflected in the transcripts of the CIR panelists' deliberations, both in sessions devoted to drafting portions of the *Statements* and in other plenary and small-group discussions.

Table 2 shows these results, and one can extract many findings from it. A simple one is this: The explanatory statements provided relatively more content in only three categories: fiscal background information, review of statutes in force, and—most of all—detailed explanation of the proposed law. By contrast, the CIR *Statements* provided ample content on policy impact as well as the reasons for enacting the proposed law (or preserving the status quo). Put bluntly, the explanatory statements excelled at providing mundane information rather than more pointed analysis.

**Table 2. Frequency of Information and Argument Types in the CIR Citizens' Statements and the Explanatory Statement (ES) in the Voters' Pamphlet on Measures 73 and 74 in the 2010 Oregon Election.**

<b>Deliberative element</b>	<b>CIR Total</b>	<b>ES Total</b>	<b>CIR M73</b>	<b>CIR M74</b>	<b>ES M73</b>	<b>ES M74</b>
<b>Background information</b>						
Fiscal issues		2				2
Policy basis facts	5		4	1		
Policy issues	3	2	2	1	2	
Policy objectives	9		6	3		
<b>Evaluative criteria</b>						
Constitutional law (in force)	1		1			
Effectiveness	3		2	1		
Fiscal effects (of proposed law)	10	3	4	6	1	2
Fiscal effects (of status quo)	1		1			
Judicial discretion vs. statute	2		2			
Legal effects on laws having different topic	2	1	1	1		1
Legal effects on laws having same topic	2	1		2	1	
Other jurisdictions' budget issues (policy effects)	1		1			
Policy effects	30		20	10		
Public administration effects	8	1	7	1		1
<b>Description of solutions</b>						
Delegation of regulatory authority	6	2		6		2
Policy alternative means	1		1			
Proposed law	26	37	11	15	11	26
Regulations in force		1			1	
Rulemaking associated with the proposed Law	7			7		
Statutes in force	4	6	3	1	3	3
<b>Weighing of pros/cons (application of</b>						
Application of proposed law	4	1	3	1	1	
Application scenarios	2	1	1	1	1	
Constitutional law (in force)	1		1			
Effectiveness	3		2	1		
Fiscal effects (of proposed law)	10	3	4	6	1	2
Fiscal effects (of status quo)	1		1			
Judicial discretion vs. statute	2		2			

Legal effects on laws having different topic	2	1	1	1	1
Legal effects on laws having same topic	2	1		2	1
Other jurisdictions' budget issues (policy effects)	1		1		
Policy effects	80		44	36	
Policy reasons for choosing lawmaking	22		8	14	
Policy reasons for maintaining status quo	25		13	12	
Public administration effects	8	1	7	1	1
<b>Total</b>	<b>237</b>	<b>64</b>	<b>133</b>	<b>104</b>	<b>23 41</b>

### **The Dogs That Didn't Bark: What Was Left Out?**

This final analytic section examines those pieces of information and arguments that did *not* appear in the *Citizens' Statements* but could—or should—have been there. This is the most speculative of our analyses, but given the authors' direct observation of the process, we had opportunities to reflect on topics that came up during the weeklong CIR panels that never appeared in the final *Statement*. As much as the panelists decided to include content in their final report, they also made direct or implicit decisions about what to exclude.

#### ***Making the Case for a Law***

The medical marijuana initiative (Measure 74) won the support of 13 out of 24 panelists but yielded a *Statement* that, on balance, persuaded voters to turn against it (Gastil & Knobloch, 2010). That fact alone might give solace to those who would worry that voters might blindly follow the lone quantitative indicator in a *Citizens' Statement* (i.e., the balance of panelist votes). It raises the question, though, of whether the proponents of Measure 74 missed an opportunity to make a more persuasive case to their readers. After all, they not only had equal space to the measure's opponents, but the balance of statements in the Key Findings also pointed toward the potential efficacy of establishing medical marijuana dispensaries.

The problem may lie in the absence of any strong statement that a *problem* existed that the proposed law would remedy. If the burden of proof lies on initiative proponents, it is necessary to state clearly in a *Citizens' Statement* what harms a law would remedy, and in retrospect, the Measure 74 *Statement* does not do this. The closest it comes is the following summary statement that comes at the end of the pro arguments: "Measure 74 creates a safe, compassionate and prompt access program for Oregon medical marijuana patients." The implication is that those Oregonians currently in need of medical marijuana cannot get it safely or quickly, but the pro side raises these indirect concerns only in its final sentence—its proverbial closing arguments.

Nonetheless, the deliberation transcripts reveal that panelists had discussed directly the need addressed by the measure. For example, on Day 4 of the Measure 74 CIR deliberation, one panelist asserted, "It is what that's about. It's about the patients who need their medical marijuana and cannot get it" (Oregon Citizens' Initiative Review, 2010b, p. 249). Analysis of the pro side's deliberation during the drafting of those panelists' arguments reveals that this need also had been directly expressed in a preliminary draft, which read, "implements a dispensary system to eliminate delays in acquiring medical marijuana in a compassionate manner" (Oregon Citizens' Initiative Review, 2010c, p. 117). This language, however, was subsequently omitted during a rapid revision session in which panelists substituted the phrase "timely" for "eliminate delays" on the grounds that the former conveyed the same meaning more succinctly (Oregon Citizens' Initiative Review, 2010c, pp. 140–141):

Panelist 3: I think timely and eliminate delays are completely redundant.

Panelist 4: It doesn't have to be both. . . .

Panelist 5: It would actually save a couple words, too.

Panelist 3: So, we're taking out [the phrase] "to eliminate delays."

Three factors may have influenced the pro-side panelists' editing decision. First, the brief duration—ten minutes—within which the panelists had to make final revisions to their arguments may have prevented reflection about the phrasing of their "access" argument. Second, the transcript reveals disagreement among pro-side panelists regarding the importance of the "access" claim; such a lack of consensus may have influenced panelists to seek compromise, resulting in the editing of the assertion and the suppression of its original meaning. Third, here and in the case of trade-offs as discussed below, their immersion in the minutiae of the deliberative process may have distracted the panelists from their obligation to render key points comprehensible to voters who lacked the rich contextual knowledge that the panelists possessed.

Those who had testified in favor of the measure made clear the challenges current users can face, but the authors of the *Statement* did not speak so plainly. This may have left readers confused as to what purpose the measure served, and Measure 74's critics directly spoke to this omission in their own closing summary: "Measure 74, a thinly veiled attempt to legalize marijuana, has a high probability of being abused!" This statement resonates with those voters who might suspect a hidden drug legalization agenda; with no alternative narrative for the law's genesis, this may help explain the net effect the Measure 74 *Statement* had on Oregon voters.

### ***Explanation/Information versus Advocacy/Values***

Another notable omission may have reflected the problem that arises at the CIR when too few people end up on one or the other side of an issue. On Measure 73, only three people ended up in favor of mandatory minimum sentences, with none of those having proven forceful advocates during deliberation. The lack of rhetorical facility in this threesome may have explained the absence of strong advocacy in the pro section of the *Statement*, but we believe a deeper problem may be at work.

The opening pro argument on Measure 73 states, "This is a public safety measure." Considering that the proponents of this law had brought forward dramatic accounts of victimization from both drunk drivers and sexual criminals (the two targets of the law), this weak opening is something of a surprise. Alternative phrasings of a similar sentiment would have made salient the underlying values of public safety rather than merely using it as a category, as authors like us might do in an article of this sort. The proponents could have led, for instance, with "Measure 73 is designed to keep our streets safe from drunk drivers and our homes safe from sexual predators." One reason for this omission relates to the space afforded these sections of the *Statement*. Panelists were given a 150-word limit for both the pro and con arguments (300 words total). Interested in conserving space, during the statement-writing session the panelists in favor of the measure discussed addressing safety in relation to DUIIs and sex offenses, but ultimately decided that explaining the safety implications for the multiple crimes listed in the measure would take up too much space.

The statements that follow in the pro ledger confirm that the proponents missed an opportunity to *argue* for their position. Instead, they provided the kind of language that our earlier analysis revealed to be prototypical of an explanatory statement. The proponents wrote: "This measure will take minimum mandatory sentences (70–100 months) on four major sex crimes to mandatory 300 months (25 years)"; "this measure changes a third conviction DUII from a misdemeanor to a Class C felony"; and "Measure 73 specifically targets only repeat serious sex offenders and repeat (third conviction) intoxicated drivers." This may be due to confusion over the panelists' ability to format that section of the statement. Panelists from the pro group used an example statement provided by Healthy Democracy as a model for their own. Because the pro and con arguments section of the sample statement contained bulleted facts followed by a summary argument, members of the pro side were under the assumption that their statement should follow the same format.

Toward the end of their statements, though, the pro side brought forward something closer to an argument by pointing out what they believe to be the low cost of the measure (although the measure's critics had reframed the cost in a way that made it seem much higher). A more forceful argument might have said, as one often does with such laws, that the net improvement in public safety merits the expenditure of law enforcement dollars. This could have dovetailed with the pro side's claim that mandatory minimums reduce crime, though that point also lacked a more direct explanation that it was the incarceration per se that reduced crime, since the Measure 73 *Statement* also noted that such minimum sentences lack a deterrent effect. Here, the panelists' more thorough knowledge of the measure may have stymied their ability to communicate effectively with the voters. When crafting this section, the pro side assumed that the factual statements regarding the increase in sentencing and the change of third-time DUIIs to a felony would signal to voters the severity of the crimes and the importance of increasing public safety over saving money. Without such direct claims in the *Statement* itself, however, voters unfamiliar with the measure and the arguments underlying its purpose may have been unlikely to draw such conclusions on their own.

The weakness of the Measure 73's advocacy may have reflected a more general bias in favor of providing *information* versus articulating relevant *values*. That said, the critics of the same measure

passed up opportunities to critique the law on the grounds of justice or fairness—a point raised by those who spoke at the CIR in opposition to the measure. The fact that, for instance, such laws disproportionately affect the lives of African Americans and those with low socioeconomic status would have added a new dimension to the con critique, but it would have required moving from the more commonplace values of cost and effectiveness into questions of equity, race, and class. This privileging of statistical information over deeper values concerns may have even deeper roots in the rhetorical imperialism of economic values in public policy debate (Smith, 2007).

### ***Room for Complexity and Doubt***

It is with ambivalence that we note one more element missing from the *Citizens' Statements*. Recall from the preceding discussion that the critics of Measure 73 cited the measure's lack of deterrent power, whereas proponents said it would reduce crime. Could there have been a way to juxtapose those two points to ensure that the reader could understand that mandatory minimums can reduce crime (via raw incarceration) even while failing to deter criminals from committing crimes? Such a point could have appeared in the Key Findings, but it seems too subtle a point to fall under that heading.

More generally, important points of technical detail fell by the wayside when it came time to write *Statements*. The proponents of medical marijuana dispensaries could have written about how only *some* patients—those with greater health difficulties, remote residences, and lesser economic means—face profound challenges obtaining medical marijuana. The critics of Measure 73 could have presented the surprising fact that the overwhelming majority of deaths resulting from DUII collisions involve first-time offenders, and they could have pointed out that a single incident with multiple offenses qualifies one as a repeat sex crime offender (contrary to the idea of long-term recidivism encouraged by the measure's proponents).

When CIR panelists consider raising such points, they must confront the very problem the CIR is designed to address—the bewildering complexity of any proposed law. After a full week of study, the panelists can come to the point where they have resolved paradoxes, absorbed surprising facts, and managed complexities that initially confused them. But can they share those with voters effectively? In some cases, they attempted to do so, but in many others, like those reviewed above, they opted to steer clear of such issues. When they stepped aside from such questions owing to the advocates and critics canceling out each other's arguments, doing so was likely prudent, but in those cases where they arrived at what they believed was a complex truth, it appears they did not always find the language necessary to convey that insight in a handful of words.

A final consideration along these lines are those cases where panelists took a position for or against a measure even while recognizing the trade-offs their position entailed. The transcripts of the CIR deliberations reveal that panelists considered such trade-offs during their deliberations, often through the language of costs and benefits. Our coding of the Measure 73 transcripts reveals 24 instances of panelists' use of cost-benefit terminology to evaluate the initiative. To give just one example, on Day 3 in a discussion of the fiscal costs of the mandatory minimum measure and the likelihood that the measure would reduce the number of DUII offenses in Oregon, one panelist said, "We're looking at 6% [projected

reduction in DUII offenses as a result of the measure], you know, is 6% worth \$29 million a year?" (Oregon Citizens' Initiative Review, 2010a, p. 111).

Such recognition of trade-offs comes only implicitly in the Key Findings, however, where a reader might notice large majorities acknowledging important facts that augur for and then against the same measure. It was unclear where in the *Statement* one could write a sentence that says, in effect, "This proposed law would reduce crime but at too high a cost in dollars and fairness." Or, "This law would bring helpful medicine to people who need it, but the risk that it would create open-air drug markets is too great." Such trade-offs could appear in a pro or con statement, but the writers of such sections might not wish to temper their advocacy with the recognition of ambivalence. Our analysis of the 2010 CIR transcripts revealed that some panelists did feel this sense of ambivalence but felt it inappropriate to include such ambivalence when drafting the pro and con statements. For example, panelists in favor of Measure 73 considered addressing the fact that the mandatory minimum sentences could be applied to 15- to 17-year-olds. These panelists were concerned that the law applied to minors but felt that it was justified because it only applied to repeat offenders. Ultimately, they decided to exclude this information from the pro argument because it was both difficult to convey and may cause people to oppose the measure. Perhaps this question will be resolved in time, as there may come a year in which one or another CIR panel hits an issue on which panelists never arrive at either position with strong convictions.

### **Conclusion**

The Oregon CIR case should inform how we theorize political communication and deliberation, and it has practical lessons for the use of mini-publics. Thus, we conclude with broader theoretical observations, practical recommendations for future implementation of the CIR and related processes, and suggestions for future research.

### ***Theoretical Insights***

As a unique experiment in linking small-group public deliberation to a full electorate, the CIR and its *Citizens' Statements* have done much to demonstrate the power of intensive deliberation to reshape a large-scale election. The first iteration of the CIR failed to reach most voters, and, thus, only a minority believed it influenced their vote. However, it was clear not only that the legislature endorsed the process, by renewing it in 2011 after its initial trial run, but that most of those who used the CIR *Statements* found them valuable. For those conceiving of more deliberative means of structuring democratic processes, such as elections, this counts as strong evidence of the potential value of establishing "mini-publics" (Gastil, 2000; Goodin & Dryzek, 2006).

In relation to conventional theories of public opinion and political communication, perhaps the most useful way to think of the CIR case is that it provides a scope condition on those models of how publics think and act. Those conceptions were developed to account for common situations in which voters hear campaign messages and news stories, filter those through weakly structured ideological filters, and yield patterned judgments (Zaller, 1992). The public may be said to be "rational" on this account, to the extent that society itself has "learned" when elites reach a new consensus on, say, the need to adjust defense budgets after the end of the Cold War (Page & Shapiro, 1992).

The CIR panelists experience an altogether different public space—one in which the force of argument and the quality of evidence can trump ideological preconceptions, as dramatically demonstrated in the case of its rejecting the popular mandatory minimums initiative. What is more remarkable is the evidence of the wider public's appetite for "vicarious deliberation" by reading the CIR *Statements*. Some have argued that the public would rather leave the business of governance to its government (Hibbing & Theiss-Morse, 2002; and see Collingwood & Reedy, 2012), but the CIR suggests that, at least in the case of direct democracy, which forces citizens to take on policy questions directly, many citizens find it helpful to turn to their deliberative peers for guidance. In the long run, such willingness to deliberate vicariously could give deliberative democracy the scale necessary to counter the alienation emanating from more conventional electoral processes (Cappella & Jamieson, 1997; Knobloch, 2011).

If the use of mini-publics becomes widespread, we can only hope that the quality of the reference materials the CIR and similar processes yield will meet a high standard. Our analyses revealed three findings in relation to the 2010 *Statements*. First, the CIR panels used a sound decision-making process to craft their final *Statements*. Second, whereas more conventional voters' pamphlet materials describe the proposed law, the CIR *Statements* give more relevant insight about the purposes and potential effects of the initiative. Third, the *Statements* operate under informational and procedural constraints that may, among other things, cause them to downplay values relative to information. For the most part, however, we found the existing structural design and *Statements* produced by the CIR to be appropriate and effective.

### ***Practical Recommendations***

The CIR appears to be a carefully crafted process, and we do not suggest tinkering with it casually, because each element of its complex design interlocks with others. Even minor adjustments could have unintended and unforeseen negative consequences. Even with that in mind, we find ourselves eager to think through the suggestions this analysis might offer as the CIR staff gear up for a new round of panels in 2014 in Oregon as well as potential spin-off CIRs in other states. Thus, we conclude with three practical recommendations.

The key findings are a critical part of the CIR process, as they reflect the judgment of a majority of panelists, regardless of how the panelists vote on the measure itself. We believe these findings can be improved with the following rule change: The threshold for key findings should be raised from 14 to 18 out of 24 panelists. In observing the 2010 CIR, we saw two problems. First, the current threshold of 14 votes makes it possible that panelists could insert a finding over the objection of a substantial minority. The kinds of findings that belong in this portion of the statement need a broader level of agreement, lest they really reflect a more subjective, partial perspective on the kinds of empirical issues addressed by the CIR. Second, as it happened, the panelists left the 14-person requirement behind and strived to get as close to consensus as they could, usually getting 21 or more panelists to agree with a given finding. We think it would be better to set an explicit threshold at 18 and remind the panel that they *do not* need to water down statements that 18 or more find to be clear and accurate. It is useful to hear critical feedback from

any panelist who can improve a potential key finding, but setting the bar at 18 should make it clearer what constitutes a “large enough” supermajority.

When it comes time to write pro and con arguments, we offer this suggestion: Panelists should be reassured that it is okay if one or another side on an issue ultimately has just one—or even no—panelists. It is unclear whether, for instance, there were truly three panelists who favored Measure 73 by the fifth day of CIR deliberations. What was clear was that panelists felt some anxiety about there being so few people on one side, as that subgroup lacked the critical mass of views and ideas that the panel had become accustomed to as a 24-person body. It will be essential to remind panelists that their vote at that juncture should reflect their personal viewpoint. At some point in the future, there will even be a CIR panel with just one person—or no one at all—on one side of an issue; that is not a process breakdown, but simply the way a deliberation works out.

Finally, the CIR process must always ensure sufficient time in the schedule for open discussion of each other’s pro and con statements. When one side has just one, two, or three people, it’s particularly important that they benefit from the feedback of those on the other side. In 2010, however, it was the closely divided vote on Measure 74 that yielded particularly insightful feedback between the pro and con sides. This stage is critical, because it helps to ensure that the arguments made on both sides are viewed as sound—and even potentially persuasive—to those taking the other side of the issue. It makes the CIR *Statement*, in the end, both more credible and effective.

### ***Recommendations for Future Research***

This analysis of the 2010 Oregon CIR suggests a number of avenues for further research. First, this study should be replicated using data from the 2012 Oregon CIR as well as from CIRs in other jurisdictions, with particular emphasis on voters’ judgments of the novelty and value of *Citizens’ Statement* content, the effect of reading the *Statements* on voters’ attitudes toward ballot measures, and the deliberative quality of CIR proceedings from the perspective of panelists and researchers. Second, to explore problems concerning CIR panelists’ framing of persuasive arguments, silence regarding values, and expression of nuance in *Citizens’ Statements*, in future CIRs content analysis of such statements could be complemented by analysis of panelists’ own commentary on their thought processes—obtained via video-stimulated recall (Bonito, Ruppel, DeCamp, & Garreaud de Mainvilliers, 2011)—during the drafting of pro and con arguments. Third, to determine whether official voter guide explanatory statements produced by states other than Oregon lack the analytic content that the CIR *Citizens’ Statements* supply, content analysis could be conducted on a sample of those explanatory statements using the coding scheme employed in this study. Finally, experiments can be designed to measure differences between CIR *Citizens’ Statements* and outputs of other deliberative processes, such as deliberative polls, respecting their effects on voters’ knowledge of and attitudes toward initiatives, as well as to identify the distinctive features of *Citizens’ Statements*, if any, that account for such differences.

Beyond these particular projects, we wish to underscore the importance of continuing to examine carefully the dynamics and impacts of deliberative experiments like the Oregon CIR. Every new democratic institution is subject to error, and even the most conscientiously designed process may inadvertently

disempower or distort rather than simply achieve the deliberative and democratic purposes in whose name it was created. Such research will advance our knowledge most rapidly if it can simultaneously meet the practical need for evaluation and the broader need for systematic theory. Thus, future research on the CIR and similar designs should continue to explore the precise circumstances and mechanisms that lead to more reflective public judgment, because those insights will lead to the refinement of not only social scientific theory but deliberative institutions themselves.

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### **Appendix A. Citizens' Review Statement on Measure 73**

This Citizens' Statement was developed by an independent panel of 24 Oregon voters that chose to participate in the Citizens' Initiative Review process. The panelists were selected at random from the entire voting population of Oregon, and balanced to fairly reflect the state's voting population based upon location of residence, age, gender, party affiliation, education, ethnicity, and likelihood of voting. The panel has issued this statement after five days of hearings and deliberation. This statement has not been edited nor has the content been altered.

The opinions expressed in this statement are those of the members of a citizens panel and were developed through the Citizens' Initiative Review process as adopted by the Oregon State Legislature. They are NOT official opinions or positions endorsed by the State of Oregon or any government agency. A citizens panel is not a judge of the constitutionality or legality of any ballot measure, and any statements about such matters are not binding on a court of law.

#### **CITIZEN STATEMENT OF A MAJORITY OF THE PANEL:**

Key Findings—The following are statements about the measure and the number of panelists who agree with each statement:

- M73 shifts the balance of power in court proceedings, giving the prosecution additional leverage in plea bargaining and limiting the judge's discretion in sentencing individual cases. (21 out of 24 agree)
- Passed in 1994, Measure 11 (ORS 137.700) provides mandatory minimum sentencing of 70–300 months for the major felony sex crimes defined in Measure 73. (24 out of 24 agree)
- Mandatory minimum sentencing has not proven a significant deterrent to future DUII or sex crimes. (21 out of 24 agree)
- An unintended consequence of M73 is that juveniles aged 15 to 17 are subjected to 25 year mandatory minimum sentences. (20 out of 24 agree)
- Oregon spends over 10.9% of its general funds on corrections—a greater percentage than any other state. (19 out of 24 agree)

#### **CITIZEN STATEMENT OPPOSED TO THE MEASURE:**

POSITION TAKEN BY **21 OF 24** PANELISTS

We, 21 members of the Citizens' Initiative Review, oppose Ballot Measure 73 for the following reasons:

- Longer mandatory sentencing has little or no effect as a deterrent and has not been proved to increase public safety. Furthermore mandatory sentences are already in effect under Measure 11.

- Measure 73 takes discretion and power away from judges giving leverage to the prosecution. People charged under this measure may be forced to plea bargain whether they are guilty or not, depriving them of their right to trial by jury.
- Measure 73 requires projected expenditures of \$238 million over the next 10 years which must come from cuts in other programs or new taxes.
- This initiative leads to unintended consequences. Sexting falls under the definition of explicit material. No one convicted for felony sex offenses would receive the opportunity for treatment.

**CITIZEN STATEMENT IN FAVOR OF THE MEASURE:**

POSITION TAKEN BY **3 OF 24** PANELISTS

We, 3 members of the Citizens' Initiative Review, support Ballot Measure 73 for the following reasons:

- This is a public safety measure.
- This measure will take minimum mandatory sentences (70–100 months) on four major sex crimes to mandatory 300 months (25 years).
- This measure changes a third conviction DUII from a misdemeanor to a Class C felony.
- Measure 73 specifically targets only repeat serious sex offenders and repeat (third conviction) intoxicated drivers.
- Statistics support that mandatory sentencing is effective on reduction of violent crime rate.
- Measure 73 will cost only 1/5 of 1% of the General Fund.

Summary: Measure 73 is carefully targeted at repeat violent sex offenders and third DUII convictions. If passed it would make all Oregonians safer.

**SHARED AGREEMENT STATEMENT:**

Public policy impacts all citizens—we have had the opportunity to closely review material not readily available to voters—and have tried to examine both sides of this measure in an unbiased manner.

### **Appendix B. Citizens' Review Statement on Measure 74**

This Citizens' Statement was developed by an independent panel of 24 Oregon voters that chose to participate in the Citizens' Initiative Review process. The panelists were selected at random from the entire voting population of Oregon, and balanced to fairly reflect the state's voting population based upon location of residence, age, gender, party affiliation, education, ethnicity, and likelihood of voting. The panel has issued this statement, after five days of hearings and deliberation. This statement has not been edited nor has the content been altered.

The opinions expressed in this statement are those of the members of a citizens panel and were developed through the Citizens' Initiative Review process as adopted by the Oregon State Legislature. They are NOT official opinions or positions endorsed by the State of Oregon or any government agency. A citizens panel is not a judge of the constitutionality or legality of any ballot measure, and any statements about such matters are not binding on a court of law.

#### **CITIZEN STATEMENT OF A MAJORITY OF THE PANEL:**

Key Findings—The following are statements about the measure and the number of panelists who agree with each statement:

- The language of the measure lacks clarity on regulation, operation, and enforcement. (23 of 24 agree)
- Medical marijuana provides recognized benefits for many serious conditions, some of which may not respond to other treatments. (21 of 24 agree)
- Dispensaries are non-profit entities licensed to possess, produce, sell, transport, and supply medical marijuana to cardholders and other dispensaries. (23 of 24 agree)
- Oregon Health Authority, with input from an advisory committee and public hearings, shall develop administrative rules. (21 of 24 agree)
- The program is financially self-sustaining and may provide funds for research. (22 of 24 agree)
- The measure shall provide an assistance program for low income cardholding patients to obtain medical marijuana. (21 of 24 agree)

#### **CITIZEN STATEMENT IN FAVOR OF THE MEASURE:**

POSITION TAKEN BY 13 OF 24 PANELISTS

We, 13 members of the Citizens' Initiative Review, support Ballot Measure 74 for the following reasons:

- Implements a dispensary system for patients to acquire medical marijuana in a timely manner
- Provides improved access to safe, alternative treatment of serious medical conditions while reducing harmful side effects and addiction from opiates

- Generates jobs for residents providing a boost to Oregon's economy
- Self-sustaining program with potential to increase state revenue without imposing new taxes
- Introduces additional regulations and control to an existing program previously approved by Oregon voters
- Statewide public hearings allow for actual voter input in the rule making process

Summary: Measure 74 creates a safe, compassionate and prompt access program for Oregon medical marijuana patients, introduces regulation, and is financially sound.

**CITIZEN STATEMENT OPPOSED TO THE MEASURE:**

POSITION TAKEN BY *11 OF 24* PANELISTS

We, 11 members of the Citizens' Initiative Review, oppose Ballot Measure 74 for the following reasons:

- Proponents are saying "trust us" before rules are made.
- Oregonians will not have a vote on such critical details as: maximum number of dispensaries, purchase limit for individuals in a given time period, penalties for infractions, and statewide recordkeeping for cardholders.
- Convicted felons can become dispensary directors or employees five years after conviction.
- Dispensary directors and their employees are exempt from prosecution for marijuana related activities when in "substantial compliance."
- "Substantial compliance" is not defined or enforceable according to district attorneys and law enforcement.
- Availability of marijuana will increase, inviting illegal activity.

Summary: Measure 74, a thinly veiled attempt to legalize marijuana, has a high probability of being abused!

**SHARED AGREEMENT STATEMENT:**

Public policy impacts all citizens—we have had the opportunity to closely review material not readily available to voters—and have tried to examine both sides of this measure in an unbiased manner.