



# Law in the Time of COVID-19

Addressing the Rise in  
Hate and Bias

## Bias Crime and Incident Overview

- ✓ Introduction
- ✓ Background and History
- ✓ Overview of the Law
- ✓ Examples of Bias Since COVID-19
- ✓ Roles and Responsibilities
- ✓ Intake Process/Hotline
  - ✓ The Data
- ✓ Practitioner Tips
- ✓ Opportunities

Fay Stetz-Waters, Senior Assistant Attorney General,  
Oregon Department of Justice...in the making



Private Waters, 1984



## 911, What is Your Emergency



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## My Alma Mater



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# 1999 - 2001

**Karelia attends my rugby match!**



**My twin walking me down the aisle**



You're Moving Where to Do What?!



## Swearing in Ceremony



## You're Moving Where to Do What?



Career Options in a Downturned Economy

# HEARINGS ALJ OFFICER

Appointed to the Bench 2017



# Oregon Department of Justice

SB 577, an update to the Intimidation Statute

## Background and History of SB 577

2016: Uptick in hate crimes leading up to the election including the murder of a black teenager, Larnell Bruce Jr. in August.

2017: Hate motivated attacks on the Max train killing two people and injuring a third person.

2018: AG Rosenblum created a task force to study hate-motivated crimes. It made proposals to the legislature to strengthen laws and our response to bias victims.

2019: The legislature passed Senate Bill 577, which updated Oregon's hate and bias crimes law for the first time in over 30 years.

2020: January, the Bias Crime and Incident Hotline became operational.

2020: June, ODOJ Launched Law Enforcement's Response Toolkit

2020: July, First Annual Report

## SB 577 Key Features



**Bias Crime:** a criminal offense committed against a person or property, which is motivated in whole or in part, by the offenders' bias against another person's race, color, religion, disability, national origin, sexual orientation, or gender identity.



**Bias Incident:** a person's hostile expression of animus toward another person related to the other person's perceived race, color, religion, disability, national origin, sexual orientation, or gender identity. Instances where criminal investigation or prosecution is impossible (lacking PC) or inappropriate.



**Hotline:** statewide, trauma-informed, culturally competent, support services



**Reporting requirements:** Oregon DOJ, District Attorneys (DA), Oregon State Police (OSP), and Criminal Justice Commission (CJC)

## ORS 166.165 Bias I – Class C Felony

- A person commits a bias crime in the first degree if the person:
  - **(a)** Intentionally, knowingly or recklessly causes physical injury to another person because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin;
  - **(b)** With criminal negligence causes physical injury to another person by means of a deadly weapon because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin; **or**
  - **(c)** Intentionally, because of the person's perception of another person's race, color, religion, gender identity, sexual orientation, disability or national origin, places another person in fear of imminent serious physical injury.



## ORS 166.155 Bias II – Class A Misdemeanor

A person commits a bias crime in the second degree if the person:

- **(a)** Tampers or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another person because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin;
- **(b)** Intentionally subjects another person to offensive physical contact because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin; **or**
- **(c)** Intentionally, because of the person's perception of race, color, religion, gender identity, sexual orientation, disability or national origin of another person or of a member of the other person's family, subjects the other person to alarm by threatening:
- **(A)** To inflict serious physical injury upon or to commit a felony affecting the other person, or a member of the other person's family; **or**
- **(B)** To cause substantial damage to the property of the other person or of a member of the other person's family.

## ORS 147.380 – Bias Incident

Bias incident means a person's hostile expression of animus toward another person, relating to the other person's perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate.

Bias incident does not include any incident in which probable cause of the commission of a crime is established by the investigating law enforcement officer.

### Oregon Headlines

**Oregon man charged with attempted murder, hate crimes in attack on 70-year-old immigrant. 1/7**

**Portland Woman Accused of Snatching Hijab Is Charged With Hate Crimes. 1/7**

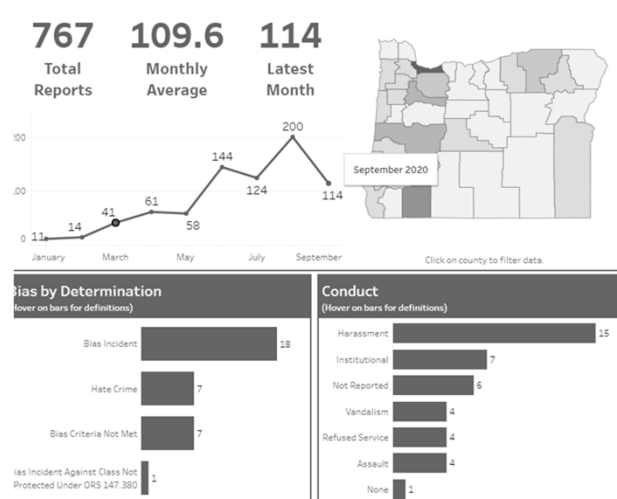
**Multnomah County DA urges Asian Americans to call cops if they're targeted with bias crimes during COVID-19 pandemic. 5/18**

**Bend Man Charged in alleged DoorDash Hate Crime Central Oregon Daily News. 8/25**

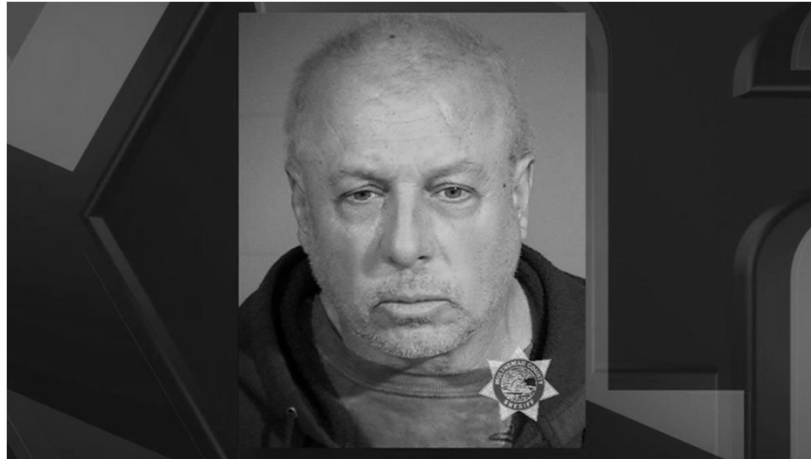
**Former Lincoln, NE man indicted in Oregon, accused of hate crime in connection to stabbing. 9/22**

**Ontario, OR man facing felony, misdemeanors for bias crimes. 10/12**

## DOJ's Data Dashboard Bias Crime and Incidents



## Convicted of Bias I and Bias II



## Data Collection & Data Reporting



Oregon DOJ Bias Response Hotline



Criminal Justice Commission



Every Law Enforcement Agency in Oregon



Every District Attorney's Office in Oregon\*

## Reports of Bias Related to COVID and Protests

- Remarks made by Mayors, City Councilors, and Law Enforcement;
- Reports of Doxing BLM activists on social media
- Reports of Swatting of farmworkers for not social distancing
- Reports of Refusal to Serve People at Treatment Facilities
- Reports of Refusal to Deliver Takeout to Casinos
- Reports of Refusal to Serve People at Restaurants
- Reports of Policies Mandating Different Treatment Regarding Masks and Race.

## Law Enforcement Tools



**Bulletins** [https://www.doj.state.or.us/wp-content/uploads/2020/05/Law Enforcement Bulletin May 2020.pdf](https://www.doj.state.or.us/wp-content/uploads/2020/05/Law%20Enforcement%20Bulletin%20May%202020.pdf)

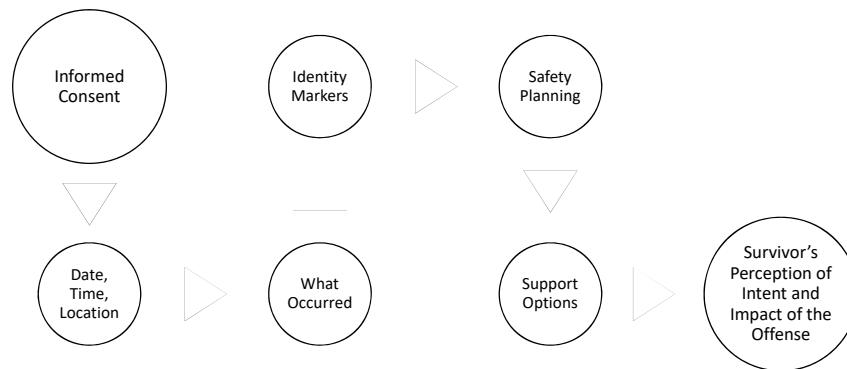


**Referral and Resource Cards**  
[https://www.doj.state.or.us/wp-content/uploads/2020/05/Bias Victim Referral Pocket Card.pdf](https://www.doj.state.or.us/wp-content/uploads/2020/05/Bias%20Victim%20Referral%20Pocket%20Card.pdf)



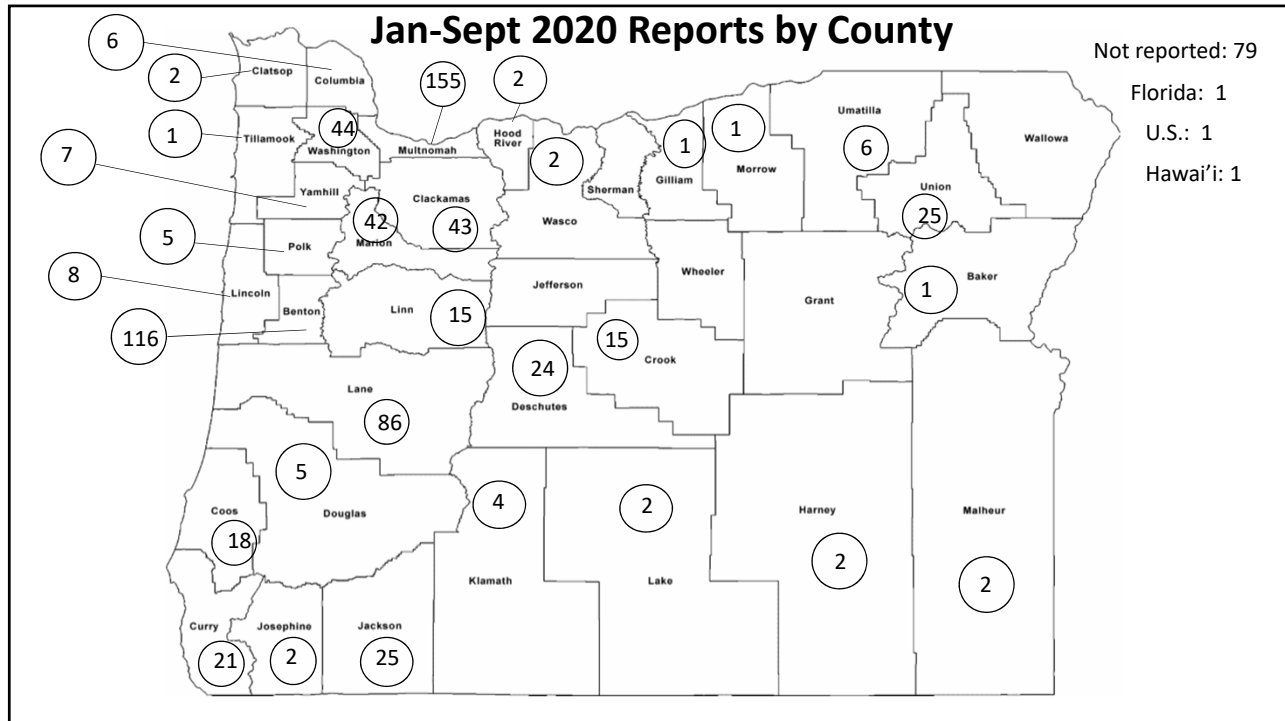
**Toolkit and Training**  
<https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/law-enforcement-toolkit/>

## Bias Hotline Process

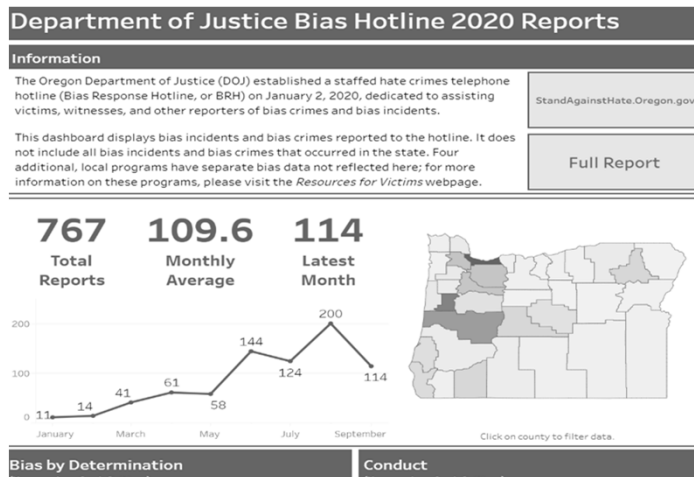


## SB 577 Sections

- |   |   |
|---|---|
| <p>1 – Bias in the 2<sup>nd</sup> Degree Class A Misdemeanor</p> <p>2 – Bias in the 1<sup>st</sup> Degree Class C Felony</p> <p>3 – Amends ORS 181A.225 OSP reports include GI</p> <p>4 – CJC sentencing departures incl GI as aggravating factor</p> <p>5 – CJC works with OSP and DA to develop/implement standardized data collection system</p> <p>6 – CJC is charged with recording and analyzing DA 's charges, cases, indictments, sentence enhancement requests, sentence imposed, conditions, pleas, trial outcomes</p> <p>8 - Bias Response Coordinator, hotline, victim support</p> <p>9 – CJC analyzes bias crime and incident data collected from DOJ, DA, OSP</p> <p>11 – Amends ORS 90.396 – LL/T 24 notice includes Bias Crime</p> <p>12 – Amends ORS 137.225 Defendants can set aside conviction</p> <p>13 - Amends ORS 137.712 dispositional departure findings required includes bias crimes</p> | <p>14 – Amends ORS 163.707 drive by shootings while committing or attempting to commit a bias crime – mv subject to in rem forfeiture</p> <p>15 – Amends ORS 166.715 includes bias crimes as pattern of racketeering activity</p> <p>16 – Amends ORS 30.198 irrespective of any criminal prosecution, any person injured by a violation of the bias statutes shall have a civil action to secure an injunction, damages, or other appropriate relief against any person whose actions are unlawful under the bias statutes. Prevailing plaintiff may recover, special, general (incl emotional distress) and punitive damages and reasonable attorney fees</p> <p>17– Any DA that has reasonable cause to believe that any person is engaged in violation of the bias statutes, the DA may bring a civil claim for relief and does not preclude any person from seeking any other remedy under law</p> <p>18 – Section 4's effective date</p> <p>19 – Operative date for the BRC and hotline</p> <p>20 – SB577 effective upon passage</p> |
|---|---|



## Data Dashboard



## Oregon DOJ's Bias Hotline Website and PSA

<https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/about-the-law/>

## Oregon DOJ's Bias Hotline Website



StandAgainstHate.Oregon.gov

## Practitioner Tips

- In Oregon, DAs can bring a claim for relief.
- Familiarize yourself with the bias indicators law enforcement should be looking for in cases.
- Be aware of your power and your interactions with victims
- Download our referral and resource cards.
- When you witness bias in the courtroom, police station, public square report it.
- When you witness bias if it's safe you can privately, let victims know you saw it too and it's not OK.

## Other Ways You Can Help

- **Pro Bono**
  - NCVLI helps crime victims
- **Represent Bias Crime and Bias Incident Victims**
  - Take civil case referrals
- **Volunteer**
  - Start a Bias Response Team in your community
  - Intern on the hotline
- **Help Spread the Word**



Let's Knock Out Hate and Bias!

