

PUBLIC SAFETY COORDINATING COUNCIL

MINUTES

TUESDAY,
January 26, 2021

11:30

ZOOM VIDEO CONFERENCE

MEETING CALLED BY	Eric Guyer
ATTENDEES	Joshua Aldrich, Pamela Ames, Lee Ayers, Dave Bellamy, Meesha Blair, Stacy Brubaker, Dave Carter, Chief Scott Clauson, Johanna Costa, Dave Dotterer, Doug Engle, Deltra Ferguson, Joe Ferguson, Eric Guyer, Beth Heckert, Barbara Johnson, Tyler Lee, Jennifer Lind, Lorenzo Mejia, Gilda Montenegro-Fix, Robert Mountain, Julia Pinsky, Tina Qualls, Jazmin Ramirez, Mark Reagles, Nathan Sickler, Rita Sullivan, A. John Watson, Brittany Whitmire

- Eric Guyer opened the meeting at 11:30
- Opening Remarks: Eric Guyer welcomed everyone to the January PSCC meeting.

Agenda Topics

MINUTE ADOPTION – OCTOBER AND NOVEMBER

ERIC GUYER, CHAIR

DISCUSSION	
No suggested revisions were identified for the October and November minutes, Danny Jordan provided a motion to adopt, seconded by Lee Ayers. A roll call vote was requested, all were in favor, and none were opposed. The October and November minutes were officially adopted.	

BIAS CRIME AND BIAS INCIDENT LAWS IN OREGON

DISCUSSION	
<p><i>Johanna Costa— Hate Crimes and Bias Incidents Response Coordinator, Office of the Attorney General, Oregon Department of Justice</i></p> <p><u>About the presenter</u></p> <ul style="list-style-type: none"> • Over 15 years’ experience in victim services • Worked in community-based setting responding to sexual and domestic violence survivors for 10 years • Director of Victim Services, Washington County District Attorney office for 9 years • Started the Indian Country program working with Oregon’s tribes responding to crime that occurred on the reservations working with FBI and working with district attorney, US Attorney’s Office <p><u>Bias Crime and Incident Hotline Overview</u></p> <ul style="list-style-type: none"> • Federal Hate Crimes Act (FYI) • Oregon’s Bias Crime and Bias Incident Laws • Law Enforcement Obligation • Hotline Process • The Data • Question and Answer <p><u>Federal Hate Crimes Act (FYI)</u></p> <ul style="list-style-type: none"> • Federal Hate Crime Laws <ul style="list-style-type: none"> ○ The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249 ○ Criminal Interference with Right to Fair Housing, 42 U.S.C. § 3631 ○ Damage to Religious Property, Church Arson Prevention Act, 18 U.S.C. § 247 ○ Violent Interference with Federally Protected Right, 18 U.S.C. § 245 ○ Conspiracy Against Rights, 18 U.S.C. § 241 ○ Medical supplies ○ Coordinate with Courts and Criminal Justice System <p><u>SB 577</u></p> <ul style="list-style-type: none"> • 80th Oregon Legislative Assembly- 2019 Regular Session • Sponsored by Senators Frederick Prozanski • Representative Power, Senator Manning Jr. • Representatives Bynum, Williamson • Senators Dembrow, Fagan, Taylor, Wagner • Representatives Holvey, Keny-Guyer, Kotek, Nosse, Prusak (at the request of Attorney General Ellen Rosenblum,) (Presession filed.) 	

SB 577 Sections:

- 1 – Bias in the 2nd Degree Class A Misdemeanor
- 2 – Bias in the 1st Degree Class C Felony
- 3 – Amends ORS 181A.225 OSP reports include GI
- 4 – CJC sentencing departures incl GI as aggravating
- 5 – CJC works with OSP and Da to develop/implement standardized data collection system
- 6 – CJC is charged with recording and analyzing DA 's charges, cases, indictments, sentence enhancement requests, sentence imposed, conditions, pleas, trial outcomes. 8 - Bias Response Coordinator, hotline, victim support
- 9 – CJC analyzes bias crime and incident data collected from DOJ, DA, OSP
- 11 – Amends ORS 90.396 – LL/T 24 notice includes Bias Crime
- 12 – Amends ORS 137.225 Defendants can set aside conviction
- 13 - Amends ORS 137.712 dispositional departure findings required includes bias crimes
- 14 – Amends ORS 163.707 drive by shootings while committing or attempting to commit a bias crime – mv subject to in rem forfeiture
- 15 – Amends ORS 166.715 includes bias crimes as pattern of racketeering activity
- 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
- 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
- 18 – Section 4's effective date
- 19 – Operative date for the BRC and hotline
- 20 – SB577 effective upon passage

ORS 166.155 and 166.165: Bias Crime 1° and 2

- ORS 166.165- Bias Crime in the first degree
- ORS 166.155- Bias Crime in the second degree
- No longer "Intimidation"
- Bias crimes include:
 - Threats to victim, family, or property
 - Offensive physical contact
 - Damaging or tampering with property
 - Assault
 - Protected classes, (perception of):
 - Race
 - Color
 - National Origin
 - Religion
 - Gender Identity
 - Sexual Orientation
 - Disability

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.

Bias Crime "Formulas"

- Theft + Force = Robbery
- Menacing + Weapon = UUW
- Bias + Harassment = Bias II
- Bias + Menacing = Bias II (minimally; could be Bias I)
- Bias + Vandalism/Criminal Mischief = Bias II
- Bias + Assault 4 = Bias I
- Bias + UUW = Bias I

ORS 147.380: Bias Incidents and the Hotline

- ORS 147.380- Service referral for bias incidents
 - Telephone hotline
 - Response coordinator
 - Rules
- Creates a new legal term ***bias incident***
 - (b) "Bias incident" means a person's hostile expression of animus toward another person relating to the other person's perceived race, color, religious, 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 office.
- Creates the Oregon Hate Crimes and Bias Incidents Response Program with hotline, coordinator
- LE ***shall*** refer victims of bias incidents to qualifying local victim services or the hotline

Law Enforcement Tools

- Bulletin
- Referral and Resource Cards
- Toolkit and Training

Law Enforcement Bias Response Toolkit

- <https://www.doj.state.or.us/oregon-department-of-justice/biascrimes/law-enforcement-toolkit/>
- Issued June 2020
- Letter from AG Ellen Rosenblum
- Law Enforcement Bulletin
- Link to the law
- Law Enforcement Supplemental Report Form
- Bias Victim Referral Pocket Card
- Bias Response Law Enforcement Pocket Card
- Suggested Language for Law Enforcement Responding to Bias Incidents and Crimes
- Bias Victim Referral Pocket Card

Bias Crime and Incidents Report, Support, Refer.

ORS 147.380 requires all law enforcement officers assisting bias crime and bias incident victims to make a referral:



To Qualifying Local Victim Services (see our website) or to the Bias Hotline



Call the Bias Hotline at 844-924-BIAS (2427)
For Hearing Impaired Dial 711 for Oregon Relay



To report a bias crime or incident online go to:
StandAgainstHate.oregon.gov

- Law Enforcement Supplemental Report Form

Bias Hotline Process

- Informed consent
- Date, Time, Location
- What Occurred
- Identity Markers
- Safety Planning
- Support Option
- Survivor's Perception of Intent and Impact of the Offense

Oregon DOJ's Bias Response Hotline

- 1-844-924-BIAS (2427)
- 711: Oregon Relay
- Interpreters in 240+ languages
- Website: StandAgainstHate.Oregon.gov

The Web Portal

Data Collection and Data Reporting

- Oregon DOJ Bias Response Hotline
- Every Law Enforcement Agency in Oregon
- Every District Attorney's Office in Oregon
- Criminal Justice Commission

ORS 147.380 and 181A.225: CJC Annual Report

- July 1, 2020 report:
 - <https://www.oregon.gov/cjc/CJC%20Document%20Library/SB577ReportJuly2020.pdf>
- Monthly data dashboard:
 - <https://www.doj.state.or.us/oregon-department-of-justice/biascrimes/hotline-data/>
- Executive Summary
 - "During the 2019 legislative session, the legislature passes and the Governor signed Senate Bill 577. Section 9 of this bill requires the Oregon Criminal Justice Commission (CJC) to review all data pertaining to bias crimes and non-criminal bias incidents and to report the results annually on July 1."

Challenges and Opportunities

- Recognition and classification
 - Language
 - Document it!
- Referrals
 - LE pocket card, QR codes
 - Online portal x2
- Investigations
 - Bias indicators
 - FBI interest/involvement
- Charging decisions
 - Formulas
 - Believe in your jury pool
- Negotiations
 - Victim voice
- Victim experiences
 - Procedural justice
- No complaints
 - Referrals

Practitioner Tips

- Acknowledge and validate that bias is harmful.
- Messages are sent and received in every interaction you have with victims.
 - Language
 - Materials
 - Signage
 - Pronouns
 - Name pronunciation
 - Cultural norms
- Take a look at your agency through another lens.
- Familiarize yourself with the bias indicators law enforcement should be looking for in cases.
- Representation
 - Bilingual and bicultural
 - People with disabilities
 - LGBTQIA2S+
 - Gender diversity
- Culturally- and gender-reflective interpreters
- Inquire about:
 - Language
 - Access
 - Accommodations
- Be prepared!

- LE Toolkit
- Be aware of your power and your interactions with victims
- Don't assume literacy
- Don't assume dominant culture
- Cultural considerations
- Empathy
- Procedural justice
- Referral to support
- When you witness bias, you can refer victims to report it, and you can report it.
- Document it!

Questions/Discussion

Eric asked Johanna if there are differences in the way people who have been victimized experience this in rural communities versus urban communities. Johanna responded that there absolutely are differences. Especially thinking back to the concept of inter-generational trauma and experiences folks have had in families. One of the things we are trying to do with the hotline is establish a cadre of referrals. Often folks in rural areas have fewer folks where they share identity and recognizing that dynamic is very important.

Danny Jordan asked to what degree does the law interpret that. If someone is very well trained on implicit bias, they may be displaying prejudices, stereotypes or beliefs that they are not aware of, and acting out in a way that could be described as either violating the law or reportable/referable. What kind of guidance does DOJ offer on those types of issues? Johanna replied it depends on the context as well as the relationship. She encourages people to "call someone in" and provide education, rather than "call someone out". Danny followed asking if the standard for the law contemplates that it is intentional or targeted. Johanna responded that the statute for the criminal conduct talks about intentionality, but this question is best handled by prosecutors that handle these cases, BJ Park will be presenting next month and can field this question.

Gilda Montenegro-Fix stated that she met Johanna through the listening sessions that the DOJ did a few months ago, she thanked Johanna. Gilda commented on the limitations that medical interpreters have depending on their training and their own identity, and also wanted to point out that medical interpreters have to function within the context of the office where they are brought in to provide those services. Often medical interpreters would love to be more of cultural advocates and oftentimes that is really restrictive. Gilda stated that it is important we think about how the dominant culture impacts encounters when we interact with victims, and Gilda wanted to raise awareness as to how we can make things better from our side. Johanna recognizes interpreters have that ethical obligation in their role, they are not there as advocates but they are there to provide precise interpretations. Johanna commented on the importance of asking how those in the dominant culture can change what is being done to give to space for the best experience and most accurate communication to occur.

Next Scheduled PSCC Meeting: February 23, 2020
Meeting Adjourned: 12:45 pm