



**Testimony of Ricardo Lujan-Valerio, Policy Associate
In Support of SB 577 with the -1 Amendment
Senate Committee on Judiciary
March 12, 2019**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports SB 577 with the -1 proposed amendments from the Attorney General’s Hate Crimes Task Force. SB 577-1 improves our state’s response to victims of bias crimes and incidents, requires Oregon’s law enforcement agencies to collect data pertaining to bias crimes and bias incidents across the state, recognizes gender identity as a protected class under our bias crime laws, and reforms our intimidation statutes (renamed to be “bias crime” statutes) to more proportionately address the degree of harm caused by bias crimes. Most importantly, SB 577-1 is the product of a collective effort from a broad range of stakeholders that centered victims and their experiences throughout the policy-development process.

SB 577-1 promotes a victim-centered approach to providing community services for people who experience hate crimes and incidents in Oregon. Many victims of bias crimes and incidents feel dissatisfied with the response they currently receive from law enforcement. Oregonians subjected to such traumatic experiences are also often left without resources if a police officer does not believe a criminal act has taken place. SB 577-1 will help to remedy this problem by investing in a more holistic, trauma-informed, and culturally competent response to all victims of hate incidents, even if the incident doesn’t constitute a crime. Rather than responding to this problem by increasing criminal penalties and expecting prosecution and incarceration to be the solution, SB 577-1 will focus on the victim’s needs, similar to policies in the City of Eugene which are focused on local trauma-informed responses to community members impacted by bias incidents.

Oregon’s data collection and reports must accurately depict the impact and reality of those affected by bias crimes. Under current statute, Oregon State Police is required to report on bias incidents occurring statewide.² However, our current data collection

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonprofit organization with more than 43,000 members in the State of Oregon.

² ORS 181A.225.

methodology has made it difficult for law enforcement agencies to effectively comply with the reporting requirement. SB 577-1 would require the Oregon Department of Justice, in partnership with the Criminal Justice Commission, to create a new method of data collection and reporting for law enforcement agencies and district attorneys. By modernizing our method of data collection, Oregonians across the state will have a better picture of how bias crimes impact their communities and state leadership will have the information they need to shape sound policy to address bias incidents.

The state must recognize Oregonians within the LGBTQ community as a protected class under our bias crime laws. Recent reports have exposed how transgender Oregonians have been targeted and physically attacked because of their gender identity.³ Despite such behavior reaching a criminal threshold, the structure of our current law means this behavior falls outside of our current “intimidation” statutes. By including “gender expression” as a protected class, Oregon would make clear that transgender Oregonians deserve protections in our law that are currently extended to other protected classes, which is something that many other states have already correctly recognized.⁴

SB 577-1 will re-focus our bias crime statutes on the gravity of the act rather than the number of individuals involved. ORS 166.155 (Intimidation in the Second Degree, a Class A misdemeanor) and ORS 166.165 (Intimidation in the first Degree, a Class C Felony) are structured in a complicated way that fails to impose penalties based on the severity of the behavior at issue and its resulting harm. To illustrate, a single person could commit a serious hate crime alone (such as the infliction of severe physical injury) and not fall under either intimidation statute. At the same time, two people acting in concert could commit a much less severe act based on bias (such as offensive graffiti on a person’s house), and be convicted of a Class C Felony. Under the restructured law, less severe behavior will be a Class A misdemeanor, and more severe behavior will be a Class C felony, regardless of the number of persons committing the act.

The ACLU of Oregon commends the efforts of the Hate Crimes Task Force and thanks the Attorney General for inviting our participation in the crafting of this important policy. As we move forward, we will continue to advocate for a restorative justice approach,

³ Blair Stenvick. “Queer Portlanders Shaken By Reports of Anti-LGBTQ Violence.” *Portland Mercury*, February 18, 2019.

<https://www.portlandmercury.com/blogtown/2019/02/18/25935639/queer-portlanders-shaken-by-reports-of-anti-lgbtq-violence>

⁴ States Covering Gender Identity (2017): California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Missouri, Nevada, New Jersey, New Mexico, Rhode Island, Vermont, and Washington.

especially for youth offenders, as an alternative to punitive consequences. We would also support an expansion of protected classes to include those most vulnerable in our community, such as houseless Oregonians. We are confident that the stakeholders presenting SB 577-1 before you will continue to advance comprehensive reforms to the state's response on hate crimes.

For these reasons, the ACLU of Oregon urges you to support SB 577 with the -1 amendments. Please feel free to contact me if you have any questions, comments, or concerns.