

**Hate and Bias Crimes: Additional
Considerations:**

Motive, Investigations,
Trial, Voir Dire, and Sentencing

Presentation by BJ Park

Proving Motive

- Intent vs. motive
- “Because of” requirement
 - State v. Hendrix, 813 Or.App. 734 (1991)
 - Affirmed by Oregon Supreme Court in 314 Or. 170 (1992)
 - “any role”
 - Not “but for” test, but a mixed motive

Tips for Law Enforcement

- When interviewing victim and witnesses, ask specifically what words defendant specifically said.
- Take into account factors such as language barriers and cultural shame of the victim.
- Asking victim whether she or he or they believe defendant committed this crime due to their race, gender identity etc. alone is not sufficient.
- Write down exactly what the victim said into the report

Important Points

- Consider an office policy of taking these cases through GJ
 - Experienced DDA's handle them.
 - GJ even misdemeanor cases
- Consider not dismissing this charge for plea negotiations

Important Points

- Trends: law enforcement as victims
- Not just for KKK and white supremacists.
- Most bias cases at our office are misdemeanors
- When not to charge: no corroboration
- Not political, but moral.
- Statement on society through charging

Trial

- Voir dire
 - Topics and questions to raise
 - My experience with defense attorneys
 - Whether hate crime should exist issue
 - Difference between bigotry and hate crime
- How to address victims
- Whether to say the slur

Sentencing

- Restorative justice possibility
- Get community groups involved
- Possible expert witnesses