



# Inquiry into hate in the pandemic: Terms of reference and background

August 18, 2021

## Introduction

B.C.'s Human Rights Commissioner is conducting an inquiry into hate incidents in B.C. during the COVID-19 pandemic (the "Inquiry"). The Inquiry arose out of the significant increase in reported hate-related incidents, including online incidents, in B.C. since the start of the pandemic in early 2020. For example:

- A [recent report](#) by the Chinese Canadian National Council, Toronto Chapter has documented over 1,000 anti-Asian racist occurrences across Canada between Mar. 10, 2020 and Feb. 28, 2021. The report found that 44 per cent of cases were in B.C. and 40 per cent were in Ontario despite Ontario's Asian population being almost three times the size of B.C.'s.
- A [national survey](#) found that during the height of the COVID-19 lockdown in Canada, gender-based violence was more severe and more frequent, with abusers' tactics becoming more violent and with a higher risk of lethality.
- A recent [Statistics Canada report](#) notes that there were 718 more hate crimes reported to Canadian police in 2020 than in 2019, representing a 37 per cent increase. British Columbia, Ontario and Alberta reported the greatest increases in police-reported hate crimes targeting race or ethnicity during the first year of the pandemic.
- In February 2021, the Vancouver Police Department reported that [hate crime incidents increased](#) 97 per cent from 142 incidents in 2019 to 280 in 2020.

BC's Office of the Human Rights Commissioner (BCOHRC) recognizes that hate—both before and during the pandemic—does not arise out of nowhere. As noted by Dr. Barbara Perry, Director of the Centre on Hate, Bias and Extremism at Ontario Tech University, these incidents "connect to historical legacies of racism, xenophobia, colonization and an array of other forms of marginalization. To understand the current rise, we must reflect on that history, and on the contemporary climate that enables hate to flourish."

## Terms of reference

The Human Rights Commissioner will inquire into, and make recommendations regarding:

- 1) What has caused the apparent rise of hate incidents in B.C. experienced during the COVID-19 pandemic?
- 2) What kinds of hate have individuals and communities in B.C. experienced during the pandemic and how have these experiences affected them?
- 3) How can we address, eliminate or prevent hate incidents during times of crisis and beyond?
  - a) How effectively have public and private institutions responded to hate during the pandemic?
  - b) How effective is our public policy and law in addressing hate?

## Scope of the Inquiry

### Definition of “hate incident”

For the purposes of this Inquiry, “hate incidents” are actions and speech rooted in prejudice that, in the view of the person who experiences or witnesses it, are:

- aimed at a person or a group of people because of their actual or perceived individual, collective or intersecting characteristics including age, disability, gender expression or identity, ethnicity, Indigenous identity, place of origin, race, immigration status, religion, sex, sexual orientation and social condition, and
- intended to, or does, significantly dehumanize, humiliate, degrade, injure, silence and/or victimize the targeted individual or group.

### What is in scope

- Research the roots of hate in B.C., hate during times of crisis and responses to hate in Indigenous legal systems
- Gain a deeper understanding of root causes of hate through the perspectives of reformed extremists
- Examine and analyze hate incidents from January 2020 to present and the impact of hate incidents
- Examine online hate speech and provincial regulation of the content of that speech
- Conduct an intersectional analysis of hate incidents to inform targeted solutions to prevent and address hate
- Document and share de-identified analysis of peoples’ lived experiences of hate incidents during the pandemic
- Test the assumption that a rise in hate incidents indicates a rise in hateful views
- Examine the adequacy and accessibility of mechanisms for reporting hate incidents, as well as existing avenues of recourse and supports
- Consider the application of hate speech law under B.C.’s *Human Rights Code*
- Examine the effectiveness of the actions of government and private institutions in response to hate incidents
- Document wise practices emerging from community-based responses to hate incidents



- Recommend ways to prevent and address hate during the pandemic, post-pandemic and in future states of public crisis

## What is out of scope

- Discrimination not captured by the definition of hate incidents above, including “adverse effects” discrimination
- Hate incidents before January 2020, except for the purposes of understanding context
- Recommendations about *Criminal Code* reform
- Investigating or making findings of fact about specific hate incidents, including incidents that are before the courts and tribunals

## Guiding principles

The Inquiry will follow BCOHRC’s [guiding principles](#) by being accessible, inclusive, fair, and centering people with lived experiences in order to effect systemic change. The Inquiry will be innovative, flexible, intersectional, trauma-informed and culturally safe. We will take a decolonizing approach to the inquiry and procedures.

## The Commissioner’s Inquiry powers

The Commissioner’s Inquiry mandate and powers are set in sections 47.14–47.22 of the [Human Rights Code](#) and in the [Human Rights Commissioner’s Inquiry Regulation](#). These powers include, but are not limited, to:

- The power to order the production of a record or other thing in the person’s custody or control
- The power to order a person to attend in person or by electronic means, before the Commissioner and answer questions on oath or solemn affirmation or in any other manner

## Inquiry process

To carry out the Inquiry, BCOHRC will:

- 1) Conduct research
- 2) Seek production of documents, data and information
- 3) Retain experts
- 4) Receive input from the public in a variety of ways including surveys, written submissions, emails and telephone calls
- 5) Hear from affected groups, experts, organizations, Indigenous leaders and communities and other stakeholders through roundtables and written submissions

BCOHRC will report publicly on the Inquiry process and will issue a report containing findings and recommendations. Before issuing a final public report, BCOHRC will provide an opportunity for parties directly affected by the Inquiry’s recommendations to respond.



The Commissioner may amend these terms of reference. Any revisions to these terms of reference will be posted publicly.

## **Privacy, confidentiality and trauma-informed processes**

BCOHRC recognizes the potential vulnerability of affected individuals and the sensitivity of information it will receive during the Inquiry. BCOHRC recognizes that supporting witnesses who participate in the Inquiry process is not only critical to the Inquiry's success but also consistent with the principles of being trauma-informed, decolonizing, accessible, fair and democratic. To this end, BCOHRC is committed to developing trauma-informed approaches to witness support and evidence gathering processes and will be seeking input from community in this regard as those approaches are developed. In order to mitigate risk to the physical and emotional safety of those providing their stories, BCOHRC will not be conducting public hearings.

BCOHRC will take all reasonable steps to conduct any surveys and interviews in a way that protects the security of the person and respects their confidentiality and dignity. BCOHRC will not disclose personal information of affected individuals in this Inquiry without receiving their informed consent. BCOHRC will take all reasonable steps to ensure that personal information that it obtains is treated confidentially and in accordance with statutory safeguards including the *Freedom of Information and Protection of Privacy Act (FIPPA)*. BCOHRC will destroy or return any personal information as soon as reasonably possible after it is no longer required.

