



# Inquiry into hate in the pandemic: Hearing transcript

Transcription prepared by National Captioning Canada

Presentation date: Feb. 24, 2022

Presenting organizations: Community Legal Assistance Society

Roundtable attendees: Laura Track

BCOHRC<sup>1</sup> attendees: Human Rights Commissioner Kasari Govender, Sarah Khan, Meghan Toal, Carly Hyman

*Please note that third-party personal information has been removed from this transcript.*

[Introductory comments by Human Rights Commissioner Kasari Govender not included in transcript.]

**Laura Track:** Thank you so much Kasari, and everyone for the warm welcome and for the opportunity to speak with you this morning. As you know my name's Laura Track, I use she/her pronouns and I'm joining you today from the unceded territories of the Musqueam, Squamish and Tsleil-Waututh Nations. I'm a human rights lawyer and the director of the BC human rights clinic, a program of the Community Legal Assistant Society or CLAS for short. The clinic assists people who have experienced discrimination in BC to pursue human rights complaints at the BC human rights tribunal. Our services include providing information, guidance, and referrals by phone, email and through our website, providing summary legal advice, as well as legal representation in tribunal proceedings. We also deliver educational workshops, seminars, and trainings to both rights holders and duty bearers to help them understand their rights and responsibilities under BC's Human Rights Code.

Other CLAS programs assist marginalized and low-income people with legal issues including tenancy, income security, detentions under the Mental Health Act, and workplace sexual harassment among other issues. This submission includes input from frontline staff and several of CLAS' program areas. I offer our perspective and recommendations in a spirit of humility,

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<sup>1</sup> BC's Office of the Human Rights Commissioner

recognizing that CLAS has not done the broad outreach and community consultation research or analysis necessary in my view to ground comprehensive recommendations for legal reform. I want to acknowledge that the human rights clinic is not a law reform organization. We're a provider of legal services and our mandate really doesn't extend to research community consultations or data analysis.

While CLAS as a whole does have law reform work as part of its broader mandate, issues of hate and the appropriate policy responses to those issues are not topics we have researched and studied. CLAS' primary law reform focuses in the area of poverty law, and the systemic legal and policy issues affecting low-income people marginalized by poverty, disability, and other intersecting sources of oppression. We're not experts in criminal law, the regulation of technology and online spaces, or civil legal responses to hate, and while we're aware of some of the good work going on in BC and across the country to provide community lead responses to the rise of hate during the pandemic, we really can't speak, particularly knowledgeably to the breadth and depth of this essential work.

What we can speak to, I hope helpfully, is our considerable direct experience assisting people who have experienced various forms of discrimination and who are searching for options for accountability, for healing, and for redress. And we're grateful for this opportunity to participate in this important conversation.

My submissions will focus on three broad topics. First, the gaps in BC's human rights laws that prevent the Human Rights system from being adequate to the task of responding to and addressing hate in our communities. Second, the systemic barriers to accessing the Human Rights system in cases that do fall within the purview of the Human Rights Code. This includes a lack of legal assistance of the drafting and filing stage of a human rights complaint, and the inordinate backlog and delays in the tribunal's complaint resolution process. Third, I'll speak to the absence of other good options for those targeted by hate to seek legal redress for the harms they have suffered.

So first, gaps in the human rights-- the application of human rights law to incidents of hate. Some months ago, I was invited by Resilience BC's anti-racism network hub to deliver a workshop to some of the people involved in setting up the hub. They asked me to speak about the Human Rights Code and its application to incidents of racism and hate, and to describe the clinic services and these types of cases. I do these sorts of workshops all the time, and I was delighted to connect with this important new service and resource.

I went through my usual workshop content, describing the characteristics that are protected by the code with a particular focus on the grounds of race, colour, ancestry and place of origin, and examples of the kinds of treatment that might constitute discrimination on these grounds. I also explained the protected areas, emphasizing the application of the code in employment, in tenancy, and in access to publicly available services. When I got to the end of my presentation. I received several questions from the participants about scenarios involving racist treatment in a wide variety of other settings.



What if a passenger made racist comments to someone on the bus, people wanted to know, what about a hateful comment made to someone on the street, or in a parking lot, or while they're walking along the sidewalk, these are real examples that had made the news in recent weeks and months, and people were curious about why I hadn't touched on those examples and why that I hadn't mentioned how the Human Rights Code would apply to those clear situations of hate and discrimination. I clicked back to my PowerPoint slide listing the protected areas and reminded them of how the code only applies to discrimination in those key areas mainly employment, housing, and the provision of facilities and services to the public.

"So, there's no recourse?" they asked, "Someone couldn't use BC's human rights complaints process to seek accountability and redress for these clear acts of discrimination and violations of human rights?"

They were really quite dumbfounded to learn that our human rights laws do not protect people from such egregious acts of discrimination and hate and that a human rights complaint could almost certainly not succeed in those types of cases.

These were sophisticated service providers. Imagine how confusing it must be to the general public to learn that the human rights system, the body with the express purpose of preventing and responding to incidents of discrimination is incapable of responding to and addressing such egregious examples of discrimination, racism, and harm. The need to fit one's experience of discrimination into an area of daily life that's protected by the code is likely the most significant barrier we see for people coming to CLAS seeking legal information and guidance on how to respond to instances of hateful conduct.

We lack the data collection capabilities to really capture and report on how often these types of cases are coming to us and whether they have increased since the onset of the pandemic.

While I can't provide quantitative data to you in these submissions, I can tell you that since March of 2020 CLAS has fielded numerous calls and inquiries from people who've experienced discrimination and hate that can be linked with racist attitudes about people and the pandemic. A few examples serve to illustrate. One caller who identified as Asian was in a restaurant and was verbally attacked by people sitting at the table next to her. They told her to go back to China, and to take her disease with her. She was embarrassed and she left the restaurant. She called CLAS to see what actions she could take against these individuals. Numerous other callers have also reported being told to "Go back to China" in other contexts, including while riding the SkyTrain. A second caller who identified as Asian Canadian reported that someone had thrown a can of pop at her and her partner from a moving vehicle screaming "Thanks for COVID" and using a racist slur. She called to ask what legal rights they had against the offending individuals.

A third caller who identified as half Japanese said he was waiting in line at a pharmacy when a woman who was also waiting in line and speaking to another woman about COVID turned and said to him, "We need to deport all of you people back". He said he told the store cashier who informed him, there was really nothing they could do, and he should just ignore the women. He was disappointed by the stores response and wondered whether stores and businesses have any obligation to develop policies on dealing with racist conduct. With the arguable exception perhaps



of the third incident and the pharmacies response to the racist incident, none of these incidents could ground a successful human rights complaint. The experience of racist treatment while walking down the street did not occur in an area of daily life protected by the code.

Well, the first caller experienced the discrimination at a restaurant, which would be covered by section eight of the code as a service customarily available to the public, the offending customers were not in any kind of service relationship with the caller and so could not be held individually liable under the code. And it does not appear the caller raised the issue with the restaurant staff and ask them to take any action. There would of course also be practical challenges to bringing complaints against individuals in these types of cases as well, including identifying and serving the appropriate respondents.

I raise these examples as illustrative of the wide gap in legal protections from discrimination in our daily lives. The application of the code and the areas to which it does and does not apply are poorly understood, and as I'll discuss further below there are few if any other legal alternatives for recourse and redress when a hateful incident falls outside the codes protected areas.

Shifting from protected areas to the protected characteristics in the code, there are also limited grounds of discrimination prohibited by the code. Discrimination and hate based on someone's income or socio-economic status is not prohibited by the code, leaving instances of poor bashing and discrimination against people who are homeless for example, outside the protections of the law. Such conduct we have seen in Vancouver in particular has been all too frequent during the pandemic. As seen in public and neighbor responses to encampments and other visible manifestations of failed social and economic policy to address poverty, inadequate and unsafe housing, and the deadly drug poisoning crisis.

We at CLAS see other potential gaps in the characteristics protected from hate and discrimination by the code, for example fat shaming and hateful conduct targeting someone's body size is outside of the codes scope. Discrimination based on the language someone speaks, or their immigration, or citizenship status may not be captured unless it can be linked to a person's race or place of origin, which of course are protected. Until recently hate that targeted someone's Indigenous identity was not explicitly protected by the code, though we're happy to see that this gap was addressed with the recent edition of this ground to the code's protections.

We would recommend that the characteristics protected by the code should be expanded to include at the very least, social condition, a ground that has been studied and advocated for by many groups including I know the commission for many years. We would encourage the commission to also lead research into and make recommendations for additional grounds that could be added to the protections of the code such as body size, citizenship status, and potentially other grounds.

Turning to a third area of the code, section seven of the code prohibits a person from publishing, issuing, or displaying any statement, publication, notice, sign, symbol, emblem, or other representation that's likely to expose a person or a group or CLAS of persons to hatred or contempt. This is something I actually can provide a little bit of quantitative data on in the clinic's fiscal year of 2020 to 2021. We received, zero applications for legal assistance with a Section



seven complaint in 2019 and 20 we had one, which was based on gender identity and expression in 2018-19 the number was zero, and in 2017 and 18 it was again, one.

I think review of the tribunal's annual reports and breakdown of their cases reveals that the section seven cases comprise similarly miniscule proportion of their work. The bar for what constitutes a publication likely to expose a person or group to hatred or contempt is extraordinarily high. Moreover, the types of communications the section applies to such as posters pamphlets and other types of physical printed statements have, in my view, limited relevance to our modern world in which so many of our communications happen online.

Until 2013 section 13 of the Canadian Human Rights Act prohibited communication of hate speech by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament. In other words, the Canadian Human Rights Act prohibited online expressions of hate. When the federal Conservative government repealed that section of the act in June of 2013, it left a glaring gap in the Canadian legal landscape with respect to providing a mechanism of accountability and redress for hate speech communicated online.

While the BC Human Rights Tribunal has recently indicated that it may retain some jurisdiction over hate published on social media and online news sites.

This jurisdiction is far from clear and remains to be conclusively determined. I believe the commission is intervening in the case I'm speaking of the Chilliwack teachers and Neufeld complaint, and I'm very heartened to see this and trust the commission will continue to look for opportunities to advance the law on this important issue.

Much gender-based discrimination and harassment in particular occurs in online spaces. Numerous researchers from across the country have concluded that existing legislation does not hold internet companies and online platforms sufficiently accountable for permitting and facilitating the dissemination of hate. Internal procedures for requesting the removal of hateful posts are slow difficult to navigate and often ineffective. While CLAS is not well placed to provide concrete recommendations on these difficult topics we commend to the commissioner the good work that has been done on this topic by many women's groups, organizations such as the Canadian Anti-Hate Network, and scholars including Dr Chris Tenove, Dr Heidi Tworek, and Dr Fenwick McKelvey here in BC, as well as many others across the country.

In conclusion, with respect to gaps in existing human rights law, I've spoken about the ways in which BC's Human Rights Code does not protect people from discrimination happening between individuals, and in more sort of private interactions, one on one interactions, how it fails to protect people from discrimination and hate on the basis of many of the personal characteristics that we know are often targeted for hate, and the ways in which the law does not adequately respond to online hate.

Additional recommendations here are challenging. While we might advocate for a broader application of the code to cover hateful incidents occurring outside the currently protected areas, and perhaps a broader remit for the BC Human Rights Tribunal to respond to and adjudicate these cases, or possibly even to have some investigative function to assist complainants to identify and



name perpetrators. As will be discussed further below, or soon, the tribunal is hugely under-resourced to meet even its existing mandate, adding to its scope and work, without a massive investment in resources would be completely untenable. And frankly would only make matters worse by providing an illusion of responsiveness, without the actual capacity and ability to deliver timely justice.

It's also not clear to me that an adjudicate of body is the appropriate place to undertake this work. We certainly don't advocate for reinstatement of any type of gate keeping body that would investigate complaints before referring them to the tribunal for adjudication as BC used to have in which many provinces continue to have. It's also not clear that an adversarial dispute resolution process is really even desired by those impacted by hate in many cases, my mind does go to the community-based responses to anti-Asian violence that sprung up in Vancouver and across North America in response to the spike in anti-Asian violence that occurred during the pandemic. I'm also thinking of the restorative justice practices that are applied in some criminal cases and have been practiced by communities and cultures indigenous to this land since time immemorial.

I don't claim to have the knowledge or expertise to speak to the effectiveness of these strategies in cases of hateful conduct or how they ought to be designed to be most effective educational and perhaps even healing for all involved, but I do know that many of our clients in all sorts of cases are less interested in proving a case of discrimination and winning a monetary remedy before a tribunal and are much more interested in having the person or institution that harmed them take responsibility for their conduct, acknowledge the harm they have caused and make meaningful amends. I expect this is also true in many incidents of hate.

The Human Rights Tribunal certainly has an excellent track record of supporting and assisting parties to reach a resolution of human rights complaints outside of formal adjudicative setting, and has also, I understand, been working to incorporate indigenous approaches to dispute resolution into their work, including healing circles, and other restorative practices. Involving the body with the greatest expertise in mediating situations of discriminatory conduct in also responding to hate incidents would seem to me to make good sense. However, as I've mentioned the tribunal would need substantial additional resources to take on this work. And as I'll now turn to describing, even for incidents of discrimination and hate that do fall within the current parameters of the code, people face inordinate delays and other barriers to accessing justice through the tribunals processes. These issues cannot be addressed without also addressing the critical lack of funding and support for the body tasked with preventing discrimination in our province.

Even when situations do fall within the limited parameters of the code, there are numerous systemic barriers to accessing that system and using it to effectively hold perpetrators accountable for the harms caused by discrimination and hate. The first are the massive delays due to due to the overtaxed and under-resourced human rights complaint system, as I'm sure you all know the tribunal is experiencing an unprecedented surge in the number of cases filed and struggling to keep up with the demand given its limited resources. This is a huge challenge for the human rights system as a whole.



It's unfortunate that when the government finally, an overdue reinstated the Human Rights Commission and charged it with advocating and educating British Columbians on their human rights, it did not think to provide commensurate additional resources to the dispute resolution body tasked with responding to and dealing with the increased cases it should have anticipated would follow.

It's somewhat trite to say that justice delayed is justice denied, but we see the truth of this statement every day at the Human Rights clinic. We feel it's our responsibility to advise the people we serve, who are considering making a complaint, that the complaints process can take many years to resolve their issue.

Once they have this knowledge, we see many people simply walk away from the process either without ever filing a complaint or at some point during the process when it becomes simply too much for them to continue to pursue. Delays exist throughout the tribunals process including at the very front end in terms of screening and service of complaints, it can take up to a year these days for a complaint to be served on the opposing party after filing, which often results in additional delays when parties have moved, employees have left their employment over the course of that year, and people with knowledge of the events giving rise to the complaint have become more difficult to reach. Many human rights cases are appropriate for mediation and resolution through an early settlement, but when accessing even this process takes over a year after the filing of a complaint the prospects of settlement can be undermined by the passage of time.

I'm going to just in the interest of time, skip over a little bit of what I had planned to say about other sources of delay in the process, including in the application to dismiss stage, which we say should be significantly curtailed and perhaps even abolished by legislation, particularly in cases of hate where issues of credibility are so central to the resolution of the dispute. Do you want to just speak briefly though, to a barrier that we see for some of our clients and callers, which is the limitation period in the Human Rights Code, though recently extended from six months, many of the clients and callers to our clinic as well as the sharp workplaces program at CLAS which provides legal advice to people who have experienced workplace sexual harassment, still find the one year limitation period much too short to allow them to learn and understand their legal rights, and to in some cases recover enough from the discriminatory events to consider and pursue their legal options, to seek legal assistance and to prepare and file a complaint.

A review of the tribunals case law shows that many complaints are being dismissed because they were filed beyond the one-year time limit. Important issues of discrimination and hate may be going unaddressed by the tribunal because complainants are unable to file their complaints in time. Feeding into this problem is the lack of legal representation and assistance for people at the complaint drafting stage. The clinics mandate and contract stipulate that our services, become available after a person has filed a complaint and had that complaint accepted for filing by the tribunal. It's at that time they can apply for legal representation from our clinic and while we provide some limited assistance for complainants prior to filing through our weekly short service clinics, these are half hour appointments that, one, are rarely sufficient to complete the lengthy complaint form, and two, are in very high demand and almost always booked up very quickly.



We've done what we can to adapt our services to meet this gap within our sort of mandate and contract and to be creative and how we can address this unmet need. And we also know there are some other options for people at the drafting stage which provide excellent services mainly through law students, and volunteer paralegals, but they're not experts in human rights, and I realize this may sound self-serving, but I can't help think it's unfortunate that our clinic, the most visible and widely known source of legal advice and support for human rights cases, is not resourced to provide this valuable service of assistance at the drafting stage which I would note has important downstream effects in that poorly drafted complaints add additional burdens to the tribunal process that clog up the screening stage and result in further delays.

There's one further barrier to accessing the tribunals processes in cases of hate that I want-- and other forms of discrimination that I want to speak to. Many people who access our legal services or who attend our workshops are deeply skeptical of the tribunals ability or willingness to understand the nuances of their experience and make findings in their favor. I cannot count the number of people who have told me they wouldn't bother to file a complaint about an experience of discrimination because there were no witnesses, they had no corroborating documentary evidence, or they otherwise doubted that they could persuade the tribunal that they're experience constituted discrimination. People perceive the system is stacked against them. Moreover, when they see that the tribunals decision makers have historically been largely white, and do not reflect the diversity of BC's population. They're even less likely to raise issues of racial discrimination with this body and have expressed concern and wonder whether a white decision maker will be able to understand the experiences of everyday racism that impact them.

In addition to advocating for more funding and resources for the tribunal to meet its current demand, we hope the commission will also advocate for continued efforts on the part of the tribunal to diversify its members, which I want to acknowledge has made some considerable strides on by adding several indigenous members to its team. We'd also like to see the commission advocate for ongoing training and support to the tribunal to help ensure its decision makers are equipped to understand and recognize racist conduct and its impacts, including at the screening stage, at the application to dismiss stage, and in determinations of complaints after hearing.

The last broad topic I'd like to cover in my submissions is the lack of good options for people targeted with discrimination and hate. Returning to my experience delivering the Human Rights workshop to the folks that resilience BC, as I mentioned those participants were quite shocked and surprised to learn that the Human Rights Code would not apply to hateful and racist conduct by one shopper to another, from one person to their neighbor, or to the hateful conduct of a stranger targeting someone while they were walking down the street. They were even more distressed to learn that there are very few legal options available to people targeted and impacted by these types of events. Of course, there is the Criminal Code, which prohibits assault, criminal harassment, and uttering threats among other offenses that may be relevant to this topic. The code also prohibits public incitement or willful promotion of hate. Hate can also be an aggravating factor in criminal sentencing. However, much of what most people understand as a "hate crime", the hurling of racial epithets from a moving vehicle for example, is unlikely to violate the Criminal Code. The charters protection of freedom of expression means that many racist, demeaning,



offensive, and harmful statements will not be investigated by police nor pursued by prosecutors as a criminal offense.

That said, cases the clinic has worked on do make clear to us that police would benefit from greater training on what may constitute the willful promotion of hate, for example, as well as greater training on responding to victims of such behavior in a sensitive and trauma informed manner, even when the conduct does not constitute a crime. In any event, and pretty universally the workshop participants I was engaging with reported that the people they serve would be highly unlikely to call the police regarding an experience of racist discrimination or hate that impacted them. The same is true for the callers to CLAS that I mentioned earlier, sometimes that's due to a lack of evidence and a sense there would be nothing to police could do. The couple targeted by the racist taunts by the passengers in the passing vehicle for example, told us they didn't get a license plate number for the vehicle and felt that therefore there'd be little utility and reporting the event to the police.

Even more often though, we hear from marginalized individuals that they would simply not feel comfortable or safe in reporting their experience to the police, and they do not trust the police enough to report a hateful incident perpetrated against them, and sometimes that lack of trust is due to a previous negative experience they've had with the police themselves. These more marginalized members of our society, including indigenous and racialized people, people living in poverty, trans folks and people with precarious immigration status are both extremely likely, or more likely to experience hate and least likely to feel safe enough to report it to the police.

The access without fear campaigns led by groups like sanctuary health for example, have demonstrated the barriers, people without official immigration status have in accessing police assistance for crimes committed against them due to fears of detention, and even deportation if their status is discovered. In terms of legal options there are some potential civil options victims of hate can consider, including an action and defamation, or a suit under the civil rights protection act.

I'm not terribly well versed in these types of legal claims, but we just note that there are some obvious and significant barriers to advancing a civil claim, including the lack of legal aid to support such litigation, difficult and technical processes to navigate in BC Supreme Court and the potential of an adverse cost award against an unsuccessful plaintiff. I'd also note that the Civil Rights Protection Act, which creates a tort for conduct or communications promoting hatred or contempt of a person or class of persons or promoting the superiority or inferiority of a person or class of persons only applies in respect of a person's or class', color, race, religion, ethnic origin, or place of origin.

Promotion of hatred contempt or notions of inferiority based on someone's gender, gender identity or expression, sexuality, disability, immigration status, social condition, and many other aspects of identity are not covered by this act.

I'd also add that the act appears to be poorly understood, infrequently used, and as far as I can tell has never resulted in a successful action to obtain compensation or other remedies for the breach.



In conclusion, I want to acknowledge an inherent challenge in using a colonial legal system to address incidents of hate resting as it does on a foundation of white supremacy and the dispossession and subjugation of indigenous peoples. Moreover, Canada's colonial legal system is mainly concerned with individual rights, while hatred is a collective problem, and systemic racism and other forms of discrimination are baked into our very laws, policies, and institutions.

One criminal conviction. One successful human rights complaint or civil suit does not undo history, it does not grapple with deeply entrenched societal attitudes and it will not, without more, prevent hate from continuing to rear its ugly head. The legal system is not adequately equipped to address and prevent hate on its own, it will never be up to this crucial, but exceedingly difficult task. Education aimed at promoting racial understanding and preventing prejudice must start early. Children deserve to learn this country's true history to confront uncomfortable truths and to be exposed to diverse perspectives as they learn and grow in our schools. More and better resources are needed so teachers are equipped and supported to facilitate this essential learning from kindergarten through to graduation.

Instances of hate are the sharp and pointy tip of a huge iceberg of systemic discrimination and structural racism impacting black, indigenous, and other racialized communities, as well as other disadvantaged groups. We will not successfully address instances of hate without confronting these larger systems of oppression.

CLAS commends the Human Rights Commissioner and her team for taking on this urgent work, and we thank you so much for listening to our submission.

**Commissioner Kasari Govender:** Thank you so much, Laura that was incredibly helpful. I have a few questions that I'll just jump right in on, I think answered some of them along the way. But I'm curious what you, if anything, if you have any recommendations around how section seven should be reformed to address some of the problems or the obstacles that you talked about.

**Laura Track:** Well, I think the jurisdictional issue needs to be resolved. I spoke to the limited purview of section seven in terms of applying to things like pamphlets and posters and other printed material, I don't think that that adequately captures the nature of hateful publications that occur in the year 2022. But I'm also mindful of the federal government's jurisdiction over online communications and what seems to be a murky and gray distinction, and where the BC Human Rights Tribunal may retain some jurisdiction, they've made some what I thought were very sensible statements and conclusions about the fact that, you know, people use the internet in the course of provincial regulated endeavors all the time and there's also I believe a federal court decision saying that you know just because of business is selling things online doesn't make it a federal undertaking, so I think that there are some useful precedents for supporting the notion that our provincial code could have application to some online communications and in some circumstances and I feel like that's a really important piece to get clear on jurisdictionally and perhaps amend the code to speak to those online forms of communication.

**Commissioner Kasari Govender:** Thank you and is your-- in your view does section seven not apply to oral statements as well?



**Laura Track:** I don't believe it applies to oral statements, I don't have a case for you to support my view of that, but it speaks to publications, and I don't know, perhaps if an oral statement was streamed on video, and made public in that way, perhaps it could apply. But I'm not aware of any cases--well, I'm not aware of any cases, speaking to that specifically, I'd be interested to know if that's been grappled with by the tribunal in the past.

**Commissioner Kasari Govender:** Thank you. I want to turn to a tribunal related issue actually in terms of applications to dismiss. If you had given the current context of applications to dismiss some potential changes at the tribunal, if you think legislative change is required, or do you believe that the tribunal can make amendments to its own process to deal with some of the delay issues that you've highlighted.

**Laura Track:** Really good question, and I think there's a divergence of perspectives amongst the Bar. My view is that section 27 exists to give the tribunal the power to gatekeep its own procedures and to dismiss cases in certain circumstances, I don't see it as conferring a right on respondents in every case to apply for and seek dismissal of human rights complaints. So, my view is that the law as it stands, could be interpreted and applied by the tribunal to allow for applications to be made in some cases and not allow applications to be made in other cases, and you know the tribunal is a public body, its intention is to serve public goals and the purposes of the code that are enshrined in section three and applications to dismiss are undermining its ability to deliver effective justice to the public and are undermining the purposes of the code and I think that there's another legal basis for limiting those applications, just by virtue of the fact that it is-- they are clogging up the system and preventing other complainants from accessing the timely justice they deserve and are entitled to.

**Commissioner Kasari Govender:** Right, thank you. I may have just missed what you said here so forgive me if I'm asking you to repeat yourself, but you talked about the one-year time limit and the-- despite the extension of that, there's still problems. Did you give us a time that you think would be appropriate?

**Laura Track:** I did not. I did not. I have heard other organizations and groups float the notion of a two year time limit, I am mindful that in previous submissions that CLAS has made on the reinstatement of the commission actually, we advocated for a return to the one year time limit and so I--you know I risk contradicting our submissions from not that long ago by advocating for a longer timeline but what we are seeing is that many cases continue to be excluded and many particularly vulnerable complainants, complainants traumatized by the discrimination they experience, still unable to access the system within that one year time limit. My anecdotal sense is that complainants living in remote and rural communities with limited access--even more limited access to legal support and advocacy are particularly impacted by the short time limit and face even higher barriers to filing their complaints in time, and so, you know, at the risk of contradicting myself I think it's worth exploring whether a longer time limit, two years brings it in line with the limitation period in most civil proceedings and BC Supreme Court for example, whether that's tenable, but I would also note that you know, I think the extension of the time limit from six months to one year is at least a contributing factor to the surge in cases at the tribunal and the resulting delays it's experiencing, so extending the time limit by another year



would also require a commensurate increase in resources for the tribunal to meet the needs of this increased pool of potential complainants in cases.

**Commissioner Kasari Govender:** Thank you, you talked a bit about the some of the issues in terms of both police training and being able to enforce the law and knowing what the law is and be able to do that in a trauma informed manner, also about some hesitations of many people to bring complaints to the police. How often do you either suggest that people contact the police, how often do you assist people to contact the police? How often is that an active issue with a complainant?

**Laura Track:** We don't assist people to contact the police, we see that as outside of the scope of the work that we do. We often, if not suggest it, at least flag it as an option, often because it is the only option. If somebody is looking for guidance about a legal response they might take, often the only option that we're aware of is to report it to the police. So, we are presenting that as a possibility or an option to many callers. When the story that they share indicates that there may be something there for police to respond to. And what we often hear back is "No thanks". "That's not a step that I'm interested in taking", they're not going to do anything or as I spoke to the many barriers and challenges people express in respect of that option.

**Commissioner Kasari Govender:** Okay, that's, that's useful. Just give me a sec here. I think you spoke to the fact that you probably are not well placed to speak to this, but I'll just ask it directly just in case anything else want to add. I know we're running out of time, so this probably be the last one. But do you support a centralized reporting line for hate. I know you spoke to some of the community-based responses, but don't know if you speak directly to that idea of a non-police centralized reporting line.

**Laura Track:** It's the kind of thing that I-- yeah that I was thinking about in terms of, you know I'm aware that certain groups put such things together. During the pandemic I'm not sure where they're at now, but for reporting incidents of anti-Asian racism and hate for example yeah, I do support them I'm maybe speaking just as an individual and as a human rights lawyer and just a person in the world. That I could see great value in somewhere where these instances can be documented where people have some choice about how that is how that experience is shared more broadly, and where trends can be identified that might inform avenues for law reform or avenues for police training or other steps. It seems to me like an excellent idea, I imagine there are nuances and details that would need to be worked out, and those details should obviously be informed by the people impacted by these issues but at sort of initial level I feel highly supportive of such a tool.

**Commissioner Kasari Govender:** Great. Thank you. Do you, I don't know if you'd be willing, we would be very grateful if you'd be willing to share your presentation with us, we are accepting written submissions up until the end of March, so whether that's in the form that you already have your notes or in some other more formalized form that it's up to you but we would be really grateful for it. I think that's all the time we have right now, but I did want to just end on a note of saying, first of all, huge thank you, just really really helpful. The way you structured your comments, your recommendations, and your responses to many of the questions we had.



And also, to say that there's some many of the issues that you flagged are areas that we have commissioned or giving grants for research on. And so, in the coming weeks we'll be publishing that research on our website so just if you're interested, some of the authors, some of the experts that you mentioned are folks that we have got research coming in from so I just like to you if you're interested that that will be publicly available in the coming weeks, months.

**Laura Track:** That's fantastic and I will look out for that. Thank you for the heads up, I'd be happy to share my written submissions, I imagine the email address for doing so is on the website so I can absolutely do that.

**Commissioner Kasari Govender:** Thank you. Sorry one sec Laura, just wanted to say if you do have any-- if you were planning on adding to them at all, I'd love to hear if you have any thoughts of other jurisdictions that you think have met some of the gaps that you've outlined here it's just one question that we didn't have a chance to get to today.

Is there anything else you want to add Meghan before we-- before I go?

**Meghan Toal:** No, I think you mentioned about the end of March deadline for submission-- written submission so that's great, and just if you are wanting to review the recording, please do let us know, it'll be ready shortly and we would be happy to have you review it if that's something that would make you more comfortable. Otherwise just thank you, this was so rich, and we're so grateful.

