



Inquiry into hate in the pandemic: Hearing transcript

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Presenting organizations: Vancouver Police Department

Roundtable attendees: Valerie Spicer

BCOHRC¹ attendees: Human Rights Commissioner Kasari Govender, Sarah Khan, Emily Chan

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.]

Valerie Spicer: Thank you. All right, well, let me start by sharing my screen. And, uh, okay, and I'll go into presentation mode here. All right, so hello and thank you for this opportunity to present today at the BC Human Rights Commissioner's Inquiry into hate during the pandemic. Commissioner Govender, thank you for leading this important inquiry, and I am looking forward to your findings and recommendations moving forward. My name is Valerie Spicer, and my personal pronouns are she/her and I'm a sergeant in the Diversity, Inclusion, and Indigenous Relations at the Vancouver Police Department. I hold the PhD in criminology from Simon Fraser University, specializing in the perception and prevention of crime. I'm bringing this experience to your attention, as I also lecture at Simon Fraser University, and in the summer of 2020, developed a special topics course entitled "The Complexity of Hate, Prejudice, and Bias." I have significant experience, both in policing and academia, in the area of perception and prevention of crime.

Understanding the intersection between our social and physical worlds, and how we interact in our cities, perceive safety, and navigate our environments. Safety is paramount to the well-being, and hate, it and prejudice and bias, significantly threatens our ability to be safe in ways that completely alter how we navigate our lives. This understanding of safety is my core commitment when working in public safety.

¹ BC's Office of the Human Rights Commissioner

Sorry, I just have to figure out how to, um, advance my slide here. Today, I would like to acknowledge-- respectfully acknowledge that I'm presenting from the unceded and traditional territories of the Musqueam, Squamish, and Tsleil-Waututh people. In my presentation today, I'll provide a brief description of the Diversity, Inclusion, and Indigenous Relations Section, and I will also give you the structure of the Hate Crime Unit, its mandate within this section. I will go over the hate crime definitions that we utilize within the Vancouver Police Department and describe the hate crime pandemic trends that we observed and how we address these. We'll discuss some of the reporting barriers that we experience and the community engagement that we conducted to prove a recording of these crimes, and actually also strengthen safety within the community.

The Diversity, Inclusion, and Indigenous Relations section should be considered a strategic section focusing on community engagement. This section is small, it's comprised of seven sworn members and two civilian professionals. With this section, we have a Diversity Liaison, a 2SLGBTQ+ liaison, an Indigenous Relations Officer, an Inuit police officer that works with the Indigenous Community Policing Centre located on Franklin Street, and a Hate Crime Investigator. This section also delivers programming, such as a new Kids Academy, the Access to Recreation and Culture Program, the Pulling Together Journey and the Citizen's Police Academy are some examples of the programs that we deliver. We also engage in community events, such as Lunch with the Chief, conduct community outreach through various initiatives, and promote connections with the diverse communities within Vancouver. You will see a link here at the bottom of your screen to our Community Matters Report that details some of these initiatives and other issues occurring across our organization.

The Hate Crime Investigator does liaise regularly with all staff within the section to keep apprised of various community concerns. As such, this investigator is very aware of emerging trends pertaining to Vancouver's diverse communities. The Vancouver Police Department is actually unique in British Columbia, and we have a dedicated Hate Crime Investigator. This Investigator is solely focused on incidents that are motivated by hate, prejudice, or bias. Within their role, they liaise with other members within our section. Also, frontline officers and various units across the Police Department, such as the Criminal Intelligence Section or other investigative units. This Investigator also liaises regularly with the BC Hate Crime Team, which I believe you will be also hearing from, and the dedicated Crown Counsel. The Investigator reviews all the files that are sent to the hate crime workflow in Prime, which is the records management system that police use in British Columbia. Additionally, the Hate Crime Investigator reviews critical incidents that are reported in our overnights every single day, and monitors for hate, prejudice, or bias within these files.

This Investigator further looks at local, national, and international events with the view of how these could impact our local communities within Vancouver. And with the current crisis in Ukraine, we have a very ongoing example of such an instance. This Investigator also maintains ongoing relationships with community stakeholders and liaises regularly with those in communities experiencing heightened hate, prejudice, or bias. They continuously are keeping apprised of community matters that can quickly shift the hate crime trends and they apply a culturally sensitive lens in their view of files to detect those subtleties that they indicate the presence of



hate, prejudice, or bias within offender motivation. As we know it, the hate, prejudice, or bias is not always overt, and we must be attuned to this in our monitoring of police reports.

Vancouver Police Department has adopted a broad definition of “hate crimes” to include but is being referred to as “hate incidents.” These hate incidents are non-criminal matters that can sometimes have significant impact on communities. We have shared statistics that are based on this broad definition, and it should be noted that this hate crime definition is not the same as the one utilized by Statistics Canada. This can explain why statistical reporting differs from source to source, and it is most important that the public know the geographic location being reported on, and also the definitions utilized. Comparing statistics without clearly defining these metrics is neither useful or responsible. The broad definition we utilize allow us to identify those emerging trends, identify potential suspects, and ensure file linkages.

We include the Hate Propaganda Criminal Code offences, section 318 and 319. The mischief section pertaining to religious or cultural properties and cases where we recommend the sentencing provision under the Criminal Code, covered under section 718.2(a)(i). And also, non-criminal matters involving hate, prejudice, or bias, say, for example, a suspicious circumstance at a place of worship, or a neighbour dispute that is racially motivated.

The Hate Crime Investigator utilizes the definition of an identifiable group as defined within the Criminal Code of Canada. This definition you will find within section 318(4) and also section 718.2 of the Criminal Code of Canada. Within these two sections, an identifiable group is defined by race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity or expression, or any similar factor. We apply this definition of identifiable groups to the files we review.

We are also aware that the BC Human Rights Code protected characteristics are different, and do refer to the Tribunal when appropriate, specifically when we cannot meet the criminal threshold. As I'm sure you are already aware, section 318 pertains to advocating genocide. This section applies to identifiable groups, and convictions under this section are extremely rare in Canada. We know that case laws, such as the *Mugesera* case, defines various aspects of this charge, including what constitutes genocide. We have yet to see a conviction under this charge in Vancouver, and in my tenure within this section, I have not seen such a case.

Section at 319(1) which is the public incitement of hatred. Sorry—yeah, the public incitement of hatred also applies to identifiable groups, and this is also an extremely rare charge in Canada. We are aware of case that has defined various aspects of discharge, and of the section 2 requirements under the Charter of Rights. In my five-year tenure in the Hate Crime Unit, we have not recommended this charge to Crown, and I'm not aware of a conviction of such a case within Vancouver since the inception of Prime, our private records management system. We do liaise with police departments across the country to discuss varied cases and track case law on these matters.

Section 319(2) which is the willful promotion of hatred, also applies to identifiable groups, and we see this case slightly more often. We are aware that, again, case law has defined various aspects of this charge and section 2 of the Charter of Rights needs to be considered. In my five-year



tenure in the Hate Crime Unit, I have not forwarded this charge to Crown Counsel. I am not aware of such a case receiving a conviction in Vancouver since the inception of our Prime records management system. We have investigated cases under this section and consulted with stakeholders on recommending this charge, but found that, given the evidence, the case would not meet the threshold of a criminal conviction. We did see one such case successfully prosecuted within a BC Human Rights Tribunal, where the standard of proof is different and statutory defence is not at play. We are aware of one such case that was successfully prosecuted in British Columbia and resulting in a conviction which is the Arthur Topham case that you have likely heard of from the BC Hate Crimes Team.

Section 430(4.1) which relates to the mischief to religious or cultural properties, we know that these mischiefs do cause significant community concern and prevention needs to be continuously considered in support of communities that are disproportionately targeted. So, we are very responsive to these incidents, and do implement numerous initiatives, preventive in nature, while always liaising very closely with community stakeholders. The mischief at the Chinese Cultural Centre in April of 2020 received a conviction under this section, resulting in both custodial and a probation sentence.

Section 718.2(a)(i) is the sentencing provision pertaining to hate, prejudice, or bias, and this is where we would recommend additional sentencing as part of criminal incident where, um, we're recommending a charge to Crown Counsel. This provision is applied to Criminal Code offences at sentencing when we have the sufficient evidence to support that the motivation is for hate, prejudice, or bias. This can be done through words, actions, gestures made during before or after the offence. We know that this motivation needs to be directed towards an identifiable group and tracking these incidents within the court decisions are actually quite complex. For less serious offences, we often do not know the results of this recommendation, and it is usually only during high-profile cases where the public attends the hearings, that we hear about the application of this sentencing provision. If you recall, there was the Sean Woodward case who was found guilty of aggravated assault at the Fountainhead Pub. And the Michael Condola case, who was found guilty of aggravated assault in the 900 Block Bay Street. These offences occurred in 2008 and 2009, with sentencing decisions becoming public in 2010 and 2011.

The Vancouver Police Department does investigate all reported incidents that have prejudice, hate, or bias. As previous-- we mentioned, it actually includes both non-criminal matters, such as a suspicious person or mental health apprehension. We take these incidents very seriously, because we know that lesser incidents can be precursors to extremely violent instances, specifically when these occur at places or spaces where targeted identifiable groups may be located.

With regards to spaces, I do actually also include cyberspace as we are seeing an increase in hate in this space. We look at these incidents for potential suspects to determine trends or patterns and establish linkages. These incidents that come to our workflow are reviewed both by our Hate Crime Investigator, and also the sergeant, who is myself in the unit, to ensure that all aspects of the investigation are completed. A monthly report is provided and circulated within the organization. This provides us with the ability to review and track cases as an organization in order to determine trends within the community.



During the pandemic, we enacted several policies and procedures to enhance reporting. We liaised with E-comm, which is the call centre that processes our calls for service and dispatches to our frontline members. As we wanted to ensure that all calls for service that had hate, prejudice, or bias result in, first and foremost, an official call for service that would be dispatched to a police unit and that our police units were directed to complete a general occurrence report, and these reports were then flagged to our hate crime investigators. In other words, we significantly elevated the importance of this incidence through our reporting mechanisms, and this practice allowed our hate crime investigator to review incidents that were also occurring in a community.

So, to give you some statistics, and we have reported quite widely on these statistics, during the pandemic, we took the unusual approach to report on hate crime trends and encourage the public to report. Because of our liaison work, we were well aware that there was a heightened occurrence of these incidents in community, and we were also aware that quite often, this is an under-reported crime. So, we wanted to create systems and also generate awareness on the issue to increase that reporting.

So, we saw an overall increase in hate crimes, where in 2019, we had 142 reported incidents. This number grew by 97% to 278 incidents in 2020. We utilized the Statistics Canada categories for hate crime motivation, and we saw crimes towards East Asian people increase from 12 in 2019 to 98 in 2020. Most concerning, however, is that what we noticed was a shift in crime pattern from property offences to assaults. And this was very concerning to us, because we saw the number of assaults grow from 27 in 2019 to 74 in 2020. To provide you context with the distribution of Criminal Code offences versus non-criminal matters, 198 of our incidents were Criminal Code offences, with 41 incidents resulting in a report submitted to Crown Counsel and 21 of these incidents being an assault charge.

We were also tracking attacks on East Asian people, as we did note an increase in this category. However, some of these attacks did not have the necessary evidence to prove hate, prejudice, or bias. Therefore, knowing the, um, identity factor of the victim is also very important in tracking those trends and those changes. Here we have a table that outlines our aggregate data for 2020 and 2021, and as you can see by May of 2020, we had a very significant surge with most of these cases being East Asian individuals. However, our reviewing mechanisms did allow us to track and actively engage in investigations very early on, because in March and April of 2020, if you recall, we had some pretty high-profile incidents. We had the case involving the elderly East Asian male that occurred in March of 2020, which is still within the court process and the Chinese Cultural Centre mischief occurring in early April, both receiving significant attention. Now the Chinese Cultural Centre incident is the one that has received that conviction under that mischief section.

So, we were already conducting very significant community outreach before the spike in May and implementing practices and policies throughout May. We were engaging in community through education and prevention. We were educating our frontline members and raising awareness throughout the organization. We implemented translated online forms in late May, and now have these forms translated into 12 languages as we recognize the language barriers to reporting. And we use the same languages that the BC Government uses in those translated forms. We were conducting door-to-door delivery of translated materials in Chinatown, where we were hearing



there were lots of issues, and in some cases, reluctance to report. Here I'm providing you with a trend line so that you can compare for yourself the difference between 2020 and previous years. We saw the trend dissipate-- the 2021 lines are the red lines-- slightly in 2021, and we continue to see similar trend lines in 2022 as we did in 2021.

Now the victim distribution has changed, and I certainly can share those aggregate tables with you through your office should you want those tables as well. As part of the East Asian hate crime trend, we implemented a Hate Crime Project Team in May of 2020. A designated Crime Analyst was assigned to track linkages and persons of interest. This Analyst continues to complete this work today. As I previously mentioned, we liaised with E-comm to enhance reporting mechanisms. We enacted those internal policies to ensure reports were generated and sent to our hate crime investigator. We enhanced our interdepartmental processes for investigations, including communication on those investigations, and created an internal training video for all members of the police department. We continue to build on these initiatives today, specifically focusing on more training for our frontline members or incoming recruits, and that is to improve the evidence we collect in order to make those determinations on cases to see whether hate, prejudice, or biases present within those files.

As part of the Hate Crime Project Team, we engaged with community through forms and educational presentations utilizing online platforms. We enacted an online reporting mechanism that I've mentioned is now translated into 12 different languages. And I do need to mention we have received some of those forms, and the majority of what's contained in those forms probably should be considered non-criminal matters. But still, it gives the opportunity for community to reach out to us with their concerns. We created a translated handout with specifications on how to call the police, in what instances to use emergency or non-emergency mechanisms, and we hand delivered those to businesses and citizens throughout Chinatown as we were hearing significant concerns from this community in particular, with regards to hate, prejudice, and bias. We wanted to encourage business owners and residents to report, as they were experiencing a disproportionately high level of hate, prejudice, or bias. We were both general and targeted in our outreach, as we did understand that this particular trend impacted other racialized individuals that may not be of East Asian descent.

I want to provide you with some context on the reporting of these crimes. In the 2019 General Social Survey, which actually is only conducted every five years through Statistics Canada, it gives us an indication of self-reporting of hate crimes. From a victimization perspective, this is really the most comprehensive report completed by Statistics Canada. And in this report, as documented in this Globe and Mail article, Canadian self-reported 223,000 incidents of bias, prejudice, or hate. That same year, and I provide you a link, Canadians reported to police 1,951 criminal incidents motivated by hate, prejudice, or bias to police. And again, this is through a Statistics Canada reporting. During the pandemic, Statistics Canada-- and this is the last link at the bottom of your page, did initiate a crowdsourcing survey. Now this was a very unusual step on the part of Statistics Canada, and this survey was across the country. And the disturbing trend that we had identified was also found within this crowdsourcing survey. We were liaising with groups from across Canada who were collecting data through their own initiatives, and also confirming the trend that we had identified. So, we triangulate our information through a number of different ways. While I believe it is important to obtain as much information as possible, we also need to be



cognizant of the potential risk of diluting reporting mechanisms. What I mean by this, with regards to hate in particular, is that what might be considered a minor offence actually a significant precursor to something much more serious. Building trust in community to report to police is of primary importance, so that these cases can be thoroughly investigated, and subsequent harm mitigated.

As well, governments need to improve victimization surveys in order to track trends and develop proper prevention programs as there needs to be a continuum of response, so that those incidents that do not meet the criminal threshold can be addressed in different manners. Within human rights tribunals, for example, or other transformative justice initiatives for those non-criminal matters that have such harmful impact on community. So, the Vancouver Police Department does recognize that hate crimes are under-reported, and that these crimes specifically impact equity deserving groups who often are overrepresented as victims in these crimes.

At the onset of the pandemic, we were aware of significant fear in community, and that people were, in fact, altering their daily patterns and activities because of the racism they were experiencing. Hate crimes were occurring both throughout the city and within specific neighborhoods. Through our liaison work, we were able to conduct community forms, provide crime prevention materials, and continuously monitor the trends that were occurring. This work was completed in conjunction with key stakeholders in community who were able to access those communities most at risk.

I do want to address the legal framework for hate crimes. This is, in fact, a very complex area of investigation that requires expertise in specific sections and also the ability for investigators to understand how section 2 of the Charter impacts their investigations. Investigators need to be cognizant and aware of case law and understand the impact of this case law on their investigation.

Both Canadian and BC Human Rights Code do provide alternative approaches, and we have seen success in these areas. There is also growing hate online, and this has a very negative and impactful, um, impact on communities and does require further consideration. The online cases do cross international borders. And as with other online crimes, the investigative process becomes very complex when we go across borders. The criminal justice system is limited in its ability to address hatred, and the pandemic has certainly exposed the extreme prevalence of hate, prejudice, and bias in our Canadian society.

The Vancouver Police Department continues to engage community on this crime problem and conducts ongoing assessment for potential new hate crime trends to emerge. With the growing arrival of refugees from Afghanistan, we were certainly aware of the potential issues and liaised with our community agencies. Similarly with the current crisis in Ukraine, we are very sensitive to how this is impacting communities here in Vancouver. We hold formal and informal roundtables and dialogue to further our actions and strategies, and we welcome community cooperation and standing against hate, as we know the trends can shift quickly and expose ongoing societal issues that exist here in Canada. Commissioner Govender, thank you very much for this opportunity to present today, and I also want to take this opportunity to thank you for advancing this important issue, to seek improved ways to deal with hatred in British Columbia.



Commissioner Kasari Govender: Thank you so much for that presentation, it was incredibly informative. I-- we have a number of questions, so we will do our best to get through some of those, and then I'm not sure if you're planning on doing written submissions. But if you are, we would love to send you any questions that we don't get to in the hopes that you might be able to tell us more in that context. I'm wondering, in your view, you know, given you've talked about the unique role that you play in the province in terms of the-- have at the unit you do, do you work-- or do you have a view to how Vancouver compares across Canada, but also in other places in the world that might have similar patterns as you just talked about in that last slide? Similar immigration patterns. How do we compare in terms of the levels of hate, the kinds of hate that we see here?

Valerie Spicer: The only comparison that I would want to make is what's found within Statistics Canada reporting across police agencies, because I would suggest that we have similar collection mechanisms across the country. So, comparing those trends would be one way to compare what we've seen across the country, and the trends that we saw with regards to the East Asian population was similar across the country. And certainly, whenever there's an extensive spike like we saw in 2020, we do enter into consultation with Statistics Canada on that spike, and so they do a significant amount of fact checking across the country. Now with regards to the structure of our unit, yes, we are unique, and we are supplementing our unit with another hate crime investigator. So we would be, you know, we'd be higher staffed, and I am currently in contact with police agencies across the country. And a similar model to ours could be found with Edmonton police. And then they have just initiated a provincial Hate Crime Team. And so, Anthony over at the RCMP, kind of is that BC Hate Crime Team and that's who we work closely with, so they have somewhat of a similar model in Alberta.

Commissioner Kasari Govender: Okay, thank you. You mentioned at the beginning something along the lines of this would be an irresponsible way to use the statistics, and I just-- you cut out a little bit at that point, and I wanted to make sure we captured your point there. It was when you were talking about the difference between VPD and Statistics Canada in terms of collection.

Valerie Spicer: Right, so I—right there, I would probably be referring to the Bloomberg report that gathered statistics and compared us to American, you know, situations. And so right then and there, we're comparing apples to oranges. If you look at Statistics Canada, our reports—our increases are mirrored across the country, so we're not very different in British Columbia in those numbers. But then, to start comparing us to American has a completely different collection. To say that, you know, we have the most hateful environment was-- that's what I mean by irresponsible. And the reason I cautioned people to do that is the—certainly, we don't want to create moral panic and further alter people's behaviours, right? Because during the pandemic, people were going to different stores. We had questions from community like, "Should I go to a store where Asian people shop?" And so that becomes very concerning. Certainly, when people alter their daily routines, from a prevention and fear perspective, we need to be very concerned about those things. So, I would never want to overly frighten people with those kinds of reports. I would simply want to caution people. And so, there's a balance in that with regards to public safety, so that's what I was meaning more that Bloomberg, and people certainly drum that up



quite a bit when that report came out. And that's what I mean is we're comparing apples and oranges in that report.

Commissioner Kasari Govender: Thank you, that's helpful. Can you—we're—like, we know we've made some information request to the VPD so I'm not asking you in this question to give me detailed numbers, but from what I hear, you have, um, sorry, I know you had a slide on this, but. So, you had 280 reported hate related incidents in 2020, but from what I heard when you went through each charge or each way it can enter through the criminal code in terms of including sentencing, it sounded like the numbers were very, very small. So, I'm hearing kind of a large number per year funneled down to perhaps just a couple of charges that proceed in the year. And maybe you could help me understand that first of all. Is that-- am I thinking of those numbers in an incorrect way? And second of all, can you help explain why there's such a funneling down, if I'm getting that correct.

Valerie Spicer: Right, so, you know, there were 190 incidents that were criminal in nature with 41 of those going to charge.

Commissioner Kasari Govender: Okay.

Valerie Spicer: So, you know, that's a fairly high clearance rate with regards to criminal offending, and I can certainly kind of get those more detailed statistics to you if you want to see overall generally to those clearances. Now, many of our cases are mischiefs and mischiefs are extremely difficult, you know, to clear to charge when the video surveillance isn't very good. And with regards to the Chinese Cultural Centre with regards to that case, there was a picture of the offender that was captured. There was good CCTV at that location. And it was through that identification that that charge could go forward. So, we don't always get that kind of video in mischief cases. Specifically, if it's, for example, in a park where there's no video, or perhaps in an enclosed area where some of these offenders might select to make these statements of hate, so those ones can be quite difficult to actually clear to charge.

Commissioner Kasari Govender: Now that makes sense. Just looking-- we're out of time, but I'm just looking to see if there's anything that I can slip in here quickly. Sarah, is there any quick question that is really urgent? I've got a number that I really would love to know more about, but.

Valerie Spicer: You could just, if you want, send me those questions.

Commissioner Kasari Govender: That'd be great.

Valerie Spicer: And I can include that-- and I can include in my speaking notes for you as well if that's helpful.

Commissioner Kasari Govender: That would be very helpful. Yes, and the PowerPoint.

Valerie Spicer: And the transcript. Yeah, okay. Yeah, if you just send me over your questions, and then I can answer them. And if you want aggregate, detailed data, I can have that pulled and submitted right so that you can have that so that you can see.



Commissioner Kasari Govender: Thank you so much, Val. That is very, very helpful. And we will leave it at that. The reason we have so many questions is because of how helpful it was. And there's more that we'd love to hear from you, so Sarah and I can prepare that and send it over.

Valerie Spicer: Of course.

Commissioner Kasari Govender: With that, I will pass it over to Emily to give us some wrapping up comments.

Emily Chan: Thank you. Thanks so much for your agreement.

