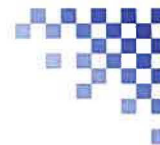




QUEENSLAND POLICE SERVICE

COMMISSIONER'S OFFICE
200 ROMA STREET BRISBANE QLD 4000 AUSTRALIA
GPO BOX 1440 BRISBANE QLD 4001 AUSTRALIA

Email: commissioner@police.qld.gov.au



Our Ref:

Your Ref:

20 May 2021

Mr Peter Russo MP
Chair
Legal Affairs and Safety Committee
lasc@parliament.qld.gov.au

Dear Mr Russo

I refer to your letter of 30 April 2021 regarding the Legal Affairs and Community Safety Committee inquiry into serious vilification and hate crimes.

Thank you for the opportunity to contribute to the Committee's inquiry. Please find **enclosed** a written briefing prepared by the Queensland Police Service (QPS). I advise the information contained in the brief is suitable for public release.

I understand you have already been advised of the members of the QPS that will attend the public briefing on Monday 24 May 2021.

[Redacted signature block]

Yours sincerely

KATARINA CARROLL APM
COMMISSIONER

Enc.

Queensland Police Service Briefing to the Legal Affairs and Safety Committee:
Inquiry into serious vilification and hate crime

Background

On 21 April 2021 the Legislative Assembly agreed to a motion that the Legal Affairs and Safety Committee (the Committee) inquire into and report on the nature and extent of hate crimes and serious vilification in Queensland and whether there is evidence on increasing instances of serious vilification in Queensland; and the effectiveness of s 131A of the *Anti-Discrimination Act 1991* (Qld) and other laws responding to hate crimes. The Committee is to report to the Legislative Assembly by 31 January 2022.

On 30 April 2021, the Committee requested the Queensland Police Service (QPS) provide a written briefing to the Committee, responding to the terms of references for the inquiry.

The QPS is committed to protecting community safety and welcomes the opportunity to provide this response to assist the Committee with its inquiry.

Reports of hate crime and vilification remains a growing concern for law enforcement. The ability for law enforcement to effectively monitor and respond to hate crimes, and early behaviours leading to them, continues to be important.

Role of the QPS in responding to hate crime and vilification

The functions of the QPS are established in section 2.3 of the *Police Service Administration Act 1990* (Qld). These include: the preservation of peace and good order, and the protection of communities and all members from unlawful disruption of peace and good order and the commission of offences against the law generally.

To achieve the QPS' vision of 'Queensland – the safest State' the QPS has placed a strong focus on maintaining positive and effective relationships with the communities we serve. This is reflected in the QPS Strategic Plan and the QPS organisational values, as well as the actions the QPS takes as an organisation.

For example, the QPS is involved the Police and Ethnic Advisory Group (PEAG) which brings together leaders from different ethnic communities. PEAG provides a regular forum for community leaders to raises issues of concern with the QPS and for the QPS to discuss emerging concerns.

In November 2020, the QPS launched the First Nations and Multicultural Affairs Unit (FNMAU), to continue to build and strengthen relationships between the QPS and First Nations and culturally diverse communities across the state. FNMAU aims to enhance the way the QPS engages and supports First Nations and multicultural people both internally and externally, providing QPS members with further capability to respond with care and understanding to all communities.

FNMAU reports to the Commissioner and Executive Leadership Team on community sentiment on a monthly basis. These sentiment reports are a collation of any tensions or unrest within First Nations and Culturally and Linguistically Diverse (CALD) communities, as well as report positive engagements the QPS has had with these communities.

The QPS also undertakes regular engagement with particular groups through various initiatives, including the LGBTI Liaison Program and cross-cultural Police Liaison Officers (PLOs).

PLOs play an important role in establishing and maintaining a positive rapport between culturally specific communities and the QPS. PLOs promote trust and understanding with communities by:

- Liaising with culturally specific communities to foster co-operation and understanding;
- Advising police officers on the cultural beliefs, needs and protocols of the community in which they work;
- Identifying potential crime or disorder problems in the community and advising and assisting in prevention strategies;
- Establishing and maintaining communication between the community and police;
- Improving community access to policing services and referrals to other services where necessary.

Indirect social cohesion style support is also provided by community organisations such as Police-Citizens Youth Clubs (PCYCs). Crime prevention and managing community relations also operates on a local basis as necessary.

QPS data on hate or vilification conduct

Serious racial, religious, sexuality or gender identity vilification is a simple offence under section 131A of the *Anti-Discrimination Act 1991* (Qld) (The Act). This offence carries a maximum penalty for individuals of 70 penalty units (i.e. \$9,341.50) or six months imprisonment. Preferring charges under the Act has a public education value and general deterrence and denunciation effect on the offending behaviour. Criminal proceedings for serious vilification under the Act require the written consent of a Crown Law Officer (Attorney-General or Director of Public Prosecutions), requiring a full brief of evidence to be prepared and submitted for consideration.

An offence against section 131A requires police to substantiate the vilification was:

- a public act, including any proof to negate the proposition that the person did not or could not reasonably be expected to know the content of the message;
- knowingly or recklessly threatening or inciting conduct against a person, or group of persons, or property of a person or group of persons;
- the conduct is based on hatred, serious contempt for, or severe ridicule of a person towards that person/group on the grounds of race, religion, sexuality or gender identity of the person or group of persons; and
- the conduct was done in a way that was provocative.

From 2015 to 2020, QPS data shows of eight offences recorded against offence code 23007, which is an offence against section 131A of the Act. In this period, one offence was recorded against the offence code per calendar year for all years except for 2017, when three offences were recorded. The data does not show the outcome and is not an indication of the number of offenders.

There are other criminal offences that may include hate or vilification type behaviour. For example, common assault (Criminal Code s 335), wilful damage (Criminal Code s 469), threatening violence (Criminal Code s 75) or public nuisance (*Summary Offences Act 2005* (Qld) s 6). When determining the appropriate charge, police will consider all the available and admissible evidence.

As a result, other criminal offences may be applied to conduct with characteristics of vilification behaviour. The QPS cannot identify such cases as there is no wholly reliable data extraction method of determining whether a crime reported to police involved characteristics of hate or vilification for the purposes of statistical analysis without looking at cases individually.

The QPS database QPRIME allows an officer to record within an incident if there were characteristics of hate or vilification involved. The categories that may be recorded are: age, disability, ethnicity (cultural), gender identity, language, political/union/activist groups, racial, religion, sexuality, skin colour, social background, and other. The number of reported offences where one of these hate or vilification characteristics was recorded is provided at Table 1 below. The limitations with this data are also discussed below.

Table 1 below provides an overview of the number of reported offences¹ where a characteristic of hate or vilification was inputted. These categorisations are based on an officer's individual assessment and are not subject to any quality assurance checking. Verifying their accuracy would require manual review of each individual occurrence to examine the context of the offending. This is particularly relevant with respect to the broad category of 'other.' The QPS notes the potential for officers, out of human error, to incorrectly select 'other' instead of 'not hate crime'.

The categorisation also does not allow police to record where a person has been the subject of more than one characteristic of vilification or hate. Like all data, it has its limitations, requiring the figures to be treated with caution.

Table 1: Number of reported offences with hate or vilification characteristic, Queensland, 1 January 2015 to 31 December 2020						
Characteristic	2015	2016	2017	2018	2019	2020
Age	1	1	1	6	9	16
Disability	-	2	1	2	2	3
Ethnicity (cultural)	9	3	5	8	10	19
Gender identity	-	-	4	-	3	2
Language	-	8	1	4	13	4
Political/union/activist groups	-	-	-	7	44	16
Racial	33	61	50	105	114	158
Religion	12	8	6	15	12	4
Sexuality	-	2	4	12	12	12
Skin colour	-	2	6	6	11	3
Social background	1	-	1	1	1	8
Total	56	87	79	166	231	245
Other ¹	6	3	13	81	114	305
Overall Total	62	90	92	247	345	550
Note 1. May include no hate or vilification conduct.						

The QPS data likely does not provide the full picture of the frequency of hate and vilification conduct occurring in the community. However, when looked at generally, it reflects the trend reflected in public commentary which reports a rise in the instances of hate crime.

¹ Reported offences refers to all established offences reported to or becoming known to the police within the relevant reference period.

When investigating matters, the QPS also notes summary offences do not meet the legislative thresholds for most covert police strategies, including applications for stored communication warrants (which allow police to access data that an offender may have deleted off their electronic device) and telecommunications interception warrants.

Chapter 6 of the QPS Operational Procedures Manual (OPM) provides various policies concerning the QPS response to persons with a disability, who are vulnerable, or have cultural needs. This chapter also links to the *Practical Reference to Religious and Spiritual Diversity for Operational Police*, prepared by the Australia New Zealand Policing Advisory Agency.

Section 13.26 of the OPM sets out QPS policy with respect to discrimination under the ADA. It provides a broad overview of the operation of the difference between sections 124A and 131A of the ADA. It requires police who receive a complaint that may constitute a breach of section 124A but is not sufficient to constitute an offence against 131A, to advise the complainant of the avenues available via the Queensland Human Rights Commission (QHRC). Where an offence against section 131A is investigated, it requires an officer to seek the complainant's consent advise the QHRC of the matter.

Specialist policing capabilities

The work undertaken by the Security and Counter-Terrorism Command (SCTC) supports the Queensland Counter-Terrorism Strategy, the objectives of which include working to promote harmony and social cohesion to support community resilience and reduce the risk of violent extremism. The QPS works with Australia-New Zealand Counter-Terrorism Committee (ANZCTC), the Department of Home Affairs and law enforcement and security partners to undertake work relevant to countering hate crime and serious vilification type conduct in the community, to counter violent extremism and to promote harmony and social cohesion

SCTC also maintains multiple specialist capabilities to help keep the community safe and to address both ideologically and religiously motivated violent extremism. Some extremism behaviour may be motivated by attributes such as race or ethnicity, religion, gender identity and sexual orientation. SCTC apply, as appropriate, specialist capabilities including intelligence, investigations, case management, online, behavioural analysis and human source management for the investigation of suspected offences and to prevent offences, to protect the community. However, it should be noted that violent extremism type conduct is considered a relatively small subset of reported conduct that may amount to hate crime or vilification type conduct in the community.

As identified by the Director-General for the Australian Security Intelligence Organisation recently in an address to the Parliamentary Joint Committee for Intelligence and Security, ideologically and religiously motivated violent extremism presents a risk to the safety of Australian community, and that their case load relating to ideologically motivated violent extremism has grown over the previous twelve months.

The SCTC operates two specific programs that can proactively and/or reactively respond to individuals radicalising towards violent extremism and with mental health issues. These programs are the Engagement and Diversion Program (EDP) and the Queensland Fixated Threat Assessment Centre (QFTAC).

The EDP supports people to disengage from behaviour that may lead to violent extremism by offering them and their family tailored support. The program works with families and vulnerable people by connecting them to appropriate support services that can help with employment, education/training, mental health and general health and wellbeing, family and welfare

support, and social and community support. The EDP can provide support to those who may be motivated by either ideologically motivated violent extremism or religiously motivated violent extremism.

The QFTAC is a joint initiative between the QPS and Queensland Forensic Mental Health Service. In addition to its focus on protecting certain public office holders, it also operates a project to identify, facilitate and assess interventions for persons with indicators of mental illness who could be at risk of committing targeted, communal violence (i.e. lone-actor grievance fuelled violence, which includes hate killings).

The Cyber Reporting Unit (CRU), Financial and Cybercrime Group, receives and triages reports of alleged cybercrime via the national Report Cyber Application Platform (RCAP), owned by the Australian Cyber Security Centre. RCAP commenced on 14 September 2019, replacing the previous Australian Cyber Online Reporting Network. All national law enforcement agencies collaboratively receive, triage and action reports including reports of online vilification and hate crimes.

QPS State Intelligence Group may also produce assessments focussed on issues that have the potential to increase community tensions. These include intelligence assessments for QPS investigations where community tension concerns have been identified following incidents. Threat assessments may also be undertaken to assist to protect the safety of those attending public events, including community events.

Impact of COVID-19

COVID-19 has had a serious and lasting impact on the lives of Queenslanders. The QPS is aware indirectly through public commentary, and directly through requests for assistance, of increased experiences of hate crime and vilification during the COVID-19 pandemic.

The QPS has noted racially based vilification occurring in the context of COVID-19, through police engagement with culturally and linguistically diverse (CALD) communities, business as usual policing and policing as part of the public health response and representations made to the QPS by stakeholder bodies.

During the COVID-19 response, QPS has recognised that particular groups may be disproportionately impacted by COVID-19 and public health measures implemented to respond to and contain the spread of COVID-19 in Queensland. To this end, QPS prioritised engagement with CALD communities to understand concerns of these communities and respond appropriately, including the incorporation of CALD considerations in QPS planning to the COVID-19 response, timely and culturally appropriate liaison and information dissemination via key CALD representative bodies and community leaders, ensured coordinated multi-agency responses through existing disaster management arrangements, appointment of dedicated QPS liaison officers to CALD communities, targeted public safety responses to protect CALD communities and particular CALD individuals at risk and other activities. QPS has also continued to encourage reporting of hate crimes to police for investigation and enforcement action where appropriate and to deter similar offending of this nature.

The QPS also notes online vilification was a serious problem prior to the pandemic. A recent report from the eSafety Commissioner provides insight into the online hate speech landscape in Australia prior to the onset of COVID-19. Key findings include:

- Around 1 in 7 (14%) of Australian adults were estimated to have been the target of online hate speech in the 12 months to August 2019;

OFFICIAL

- People identifying as LGBTQI or as Aboriginal or Torres Strait Islander experience online hate speech at more than double the national average;
- Online hate speech is most likely to occur between strangers; and
- 7 in 10 adult Australians believe that online hate speech is spreading.²

[end]

² eSafety Commissioner (2020) <https://www.esafety.gov.au/sites/default/files/2020-01/Hate%20speech-Report.pdf>