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John Henry
Regional Chair, Region of Durham
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Elaine Baxter-Trahair
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Allison Hector-Alexander,
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Sydney Marcoux,
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Sent via email to: chair@durham.ca; chair@durham.ca; Diversity@durham.ca;
victimservices@drps.ca

Re: New Community-Based Hate Reporting Program’s risk to freedom of expression

February 17, 2026

Dear John Henry, Elaine Baxter-Trahair, Allison Hector-Alexander and Sydney Marcoux,

I am Litigation Director with the Canadian Constitution Foundation, a charity dedicated to defending Canadians’ rights and freedoms including freedom of expression.

I am concerned that the recently announced [Community-Based Hate Reporting Program](#) will chill and otherwise unconstitutionally limit the freedom of expression of Durham residents.

Parliament has set a high bar for the types of expression that can warrant criminal charges, in order to protect the freedom of Canadians to speak about controversial topics. Parliament did so because the freedom of expression’s very purpose is to allow everyone to “manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream.”¹ The courts have found only limited exceptions to this general rule.

The *Criminal Code of Canada* does not, [contrary to your website](#), define “hate incidents” as “any act motivated by bias, prejudice, or hate toward an identifiable group...” In fact, the

¹ [Irwin Toy Ltd v Quebec \(Attorney General\), 1989 CanLII 87 \(SCC\)](#)

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concept of a “hate incident” is not a legal term, and police have no mandate to respond to or track non-criminal expressions that some people may experience as hateful or label “harmful”.

I am particularly concerned that “offensive jokes” are labelled on the hate reporting form as “hate-motivated acts.” As the Supreme Court reiterated in 2021, there is no right to not be offended in Canada, and making jokes that some people find offensive is not a justification for limiting expression.² It is not the job of police services to respond to or track offensive jokes.

I am also concerned that “burning or destroying religious texts” is listed as a hate-motivated act. While burning or destroying religious texts is understandably upsetting to many people, it is protected expression in free societies. As of 2018, Canada has no criminal blasphemy laws.³

What’s more, your website claims that the Community-Based Hate Reporting online form “is not a snitch line.” However, the program allows anonymous complaints related to incidents of hurt feelings such as offensive jokes or perceived discriminatory messages.

I therefore request the following information:

- Will the anonymous reports that are collected through the Community-Based Hate Reporting form be included in statistical reporting of hate incidents?
- Will reports of offensive jokes or destruction of religious texts collected through the Community-Based Hate Reporting form be included in statistical reporting of hate incidents?
- Will anyone make any efforts to confirm that incidents reported anonymously through the Community Based-Hate Reporting form *actually* occurred?
- Will police officers have access to the reports of non-criminal incidents collected through the Community-Based Hate Reporting form? If so, when will officers have access?
- Will the Community-Based Hate Reporting form be used to prosecute criminal offences?
- Will the information gathered with the Community-Based Hate Reporting form be disclosed to the individuals about whom accusations of hateful conduct are made?
- Will you commit to not tracking offensive jokes or the destruction of religious texts?

I look forward to your response. Thank you.

Josh Dehaas

A handwritten signature in black ink, appearing to read "JD", written over a horizontal line.

² [Ward v Quebec \(Commission des droits de la personne et des droits de la jeunesse\), 2021 SCC 43.](#)

³ See: [An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.](#)