



**To:** Mayor and City Council

**Agenda Item #:** VIII. C.

**From:** Scott Neal, City Manager

**Action**

**Discussion**

**Date:** August 4, 2014

**Information**

**Subject:** Human Rights and Relations Commission- Bias Offense Response and Prevention Plan

### **Action Requested:**

Approve the proposed amendments to the Bias Offense Response and Prevention Plan and direct the City Manager to establish periodic reporting procedures of all bias offenses that occur within city departments or are observed by city staff.

### **Information / Background:**

The Edina City Council adopted the first Bias Hate Response Plan on May 5, 1997. The City Council directed the Human Rights and Relations Commission (HRRC) to review the Plan at least once per year and provide recommended amendments as needed. The Edina City Council updated the Plan in 2003, 2008 and most recently in 2011.

The purposes of the Plan are to 1) establish a procedure for appropriate and timely local response to bias offenses thus showing strong community support for the victim and zero community tolerance for bias offenses that occur within the boundaries of the City of Edina; 2) to raise awareness of bias offense responses within the community; and 3) to establish a network of community resources that can be activated as needed.

After the August 2013 graffiti incident at SouthView Middle School, the HRRC Bias Offense Response and Prevention subcommittee met with representatives of the Police Department, Administration Department, Public Works Department, Fire Department, and Parks and Recreation Department to learn about department reporting procedures for incidents of bias offenses. In addition, the subcommittee met multiple times to discuss revisions to the current Bias Hate Response Plan. A draft of the revised plan was recommended by the full HRRC on June 24, 2014:

*RESOLVED, that the 2014 Amended Bias Offense and Response Plan be adopted by the Human Rights and Relations Commission and be transmitted to the City Council; and together with the Recommendation that it be adopted by the Council as the City's Plan and Procedural Process should Bias Offenses under Minnesota Law occur within the City or upon public property owned, leased or used by other public bodies located within the City.*

**HRRC Recommended Changes to the Current Plan:**

1. **Revise plan title and language to align language with Minnesota Statute 611A.79, Subd. 1.** The plan title and content was revised to remove the term ‘hate crime’ and was replaced with ‘bias offense’.
2. **Revise Community Resources Network List.** The previous list named specific individuals, not positions, that quickly went out of date. New relevant organizations were added to the list, including the Richfield and Hopkins Public School Districts, Hennepin County and reference to professional mediation organizations. Edina is no longer a member of the League of Minnesota Human Rights Commissions, so that organization was removed from the list.
3. **Introduction added.** To provide additional plan context and record, an introduction section was added at the beginning of the document.
4. **Language of Minnesota Statute 611A.79, Subd. 1 added as an appendix.** This language provides the definition of a ‘bias offense’ and is referenced in the document.
5. **General language clean-up.** Inconsistencies were raised and revised to allow for general document consistency.
6. **Plan Process revisions.**
  - a. **Step 1: upon receipt of a substantiated report.** The Plan commences once a report of an incident that may constitute a bias offense has been received by the Police Department and substantiated. This is a change from the original language because it puts the plan into action earlier, as the Police Department would not need to conclude an investigation before the Chief, City Manager, and HRRC Chair would meet to discuss the event and an appropriate level of response. The substantiation allows the Police Department to verify that the offense occurred (i.e. it was not a prank 9-1-1 call), and ensures that the Bias Offense Response and Prevention Plan will be initiated before the case is closed.
  - b. **Step 2: addition of a Data Practices Consent Form.** Victims’ rights are protected. To comply with Data Practices laws, the Chief of Police will not share victim information with the HRRC Chair until after a signed consent form has been received. Upon receipt of the consent form, the HRRC will contact the victim and provide support. A copy of the Community Resources Network List will be included with each consent form provided to a victim by Police so the victim has access to resources, even if they don’t want to work directly with the HRRC. In the event that the initial victim does not sign the consent form, but separate victims come forward, the HRRC will be able to support those additional victims.
  - c. **Steps 3-6: clarify process.** Changes were made to these steps based on current practices and respect for the privacy of the initial victim if additional victims come forward or if a community-wide response is planned.
  - d. **Step 7: new step – involving public property.** Previously, the plan had not included any specifications related to offenses occurring on public property. If an offense takes place on public land or property, the new language initiates the plan regardless of the will or interest

of the owning agency. There will be an opportunity for the owning agency to become part of the plan process, but that organization or agency will not be able to stop or prevent implementation of the plan. This is a major change and could potentially position the City of Edina in a precarious situation if the owning agency has strong feelings against implementation of the plan or is opposed to the possibility of public attention to the offense.

**e. Steps 8-10: general language clean up.**

A copy of the full revised plan, together with appendixes and the Data Practices Consent Form, are included on pages 4- 10 of this report

As mentioned above, the HRRRC Bias Offense Response and Prevention Subcommittee also compiled significant data related to how internal City department handle incidents of bias offense. Upon review by the full HRRRC body, the following resolutions were also passed on June 24, 2014:

*RESOLVED, that the City Manager, subject if necessary to City Council approval, establish Periodic Reporting Procedures, including written formats tailored to each City Department, regarding the reporting of incidents of bias under Minnesota Law occurring within City Departments or observed by City employees while interacting with the public in the course of performing their duties.*

*RESOLVED FURTHER, that Reporting Forms substantially similar to those developed by the Parks & Recreation Department be utilized by each City Department; and that an annual tabulation of bias incidents occurring within each Department or observed in interactions with the public be provided to the City Manager for transmission to the HRRRC, Mayor and City Council on a regular basis.*

Summaries of the reports from each department visit are included on pages 11-15 of this report.



# **Bias Offense Response and Prevention Plan**

## **CITY OF EDINA BIAS/HATE CRIME RESPONSE AND PREVENTION PLAN**

### **INTRODUCTION**

The Edina Human Rights and Relations Commission (HRRC) first drafted the Bias Offense Response and Prevention Plan (the Plan) in 1994. The HRRC proposed the Plan to the Edina City Council in March 1997, and the City Council adopted the Plan with some slight revisions on May 5, 1997. The Edina City Council directed the HRRC to review the Plan at least once per year and provide recommended amendments as needed. The Edina City Council updated the Plan in 2003, 2008, and most recently in 2011, and 2014.

Minority population increases continue among the City's residents, workforce, and school population. Approximately 20% of the Edina's School District population is identified as ethnic minority, according to school district information. With increasing diversity in the City and school populations, attention is called to the Plan to ensure participants are prepared to implement its provisions should triggering incidents occur.

### **PURPOSES**

- To establish a procedure for appropriate and timely local response to bias ~~hate crimes~~ offenses thus showing strong community support for the victim and zero community tolerance for bias/~~hate crimes~~ offenses that occur within the boundaries of the City of Edina;
- To raise awareness of ~~this issue~~ bias offense responses within the community;
- To establish a network of community resources that can be activated as needed.

~~The Edina Human Rights and Relations Commission (EHRRC) provides or coordinates support to victims of bias/hate crimes offenses and provides leadership in the community in the prevention of bias/hate crimes to prevent such offenses through education and collaborative community action against prejudice and bigotry. However, it is not the role of the Edina HRRC, however, to investigate such crimes bias offenses.~~

### **HATE CRIME BIAS OFFENSE DEFINED**

~~A hate crime, or bias offense, as defined by Minnesota Statute Section 611A.79 is a criminal act committed against a person, institution or property, of which the motivation is a victim's affiliation with a protected class. Convictions resulting from hate crimes may carry enhanced penalties.~~

~~Hate crimes are different from discrimination complaints. Although discrimination is against the law, it is not a crime, but rather a civil matter.~~

A bias offense is defined by Minnesota Statute Section 611A.79, Subd. 1, a copy of which is included in Appendix A.

### **PARTNERSHIP**



# Bias Offense Response and Prevention Plan

The ~~Commission~~ Edina HRRC ~~must~~ will partner with the citizens and organizations in the community in order to provide timely, ~~and~~ meaningful support to victims of bias/hate ~~crimes~~ offenses. Local community partners are identified in Appendix B, Community Resources Network.

Key partners include:

- Edina Police Department Chief
- Edina City Manager
- ~~Edina Bias/Hate Crime Offense Response Plan Community Resources Network~~
- City Manager, Edina Mayor and City Council, if appropriate
- Edina School District Superintendent, if appropriate
- Local media, if appropriate
- Professional mediation organizations, if appropriate

## **RESPONSE AND PREVENTION PLAN PROCESS:**

- 1) Subject to the limitations in the Minnesota Stat. Chapter 13, The Government Data Practices Act, Minn. Stat. Chapter 13, the Edina Police Department will notify the City Manager and the HRRC Chair of a bias/hate crime as soon as possible after a complaint has been investigated and ~~determined to be valid.~~ upon receipt of a substantiated report of an event or incident which may constitute a bias offense under Minnesota Statute. Together, the Edina Police Chief, City Manager, and Commission-HRRC Chair will determine the appropriate level of response, including any necessary public statements.
- 2) The Edina City Manager will notify the Mayor ~~or~~ and City Council as appropriate. Upon receipt of a signed Data Practices Release Form from the victim(s), the Commission-HRRC Chair will promptly contact the victim(s) to offer support and determine ~~what~~ any further response from the City or community the victim desires and ~~what may be~~ determine the appropriateness. If the Edina Police Chief informs the HRRC Chair that the initial victim(s) request privacy or if the victim(s) does not return the release form, the HRRC Chair will make no contact.
- 3) The ~~Commission-HRRC~~ Chair will call upon members of the Community Resources Network as needed, respecting the privacy of the initial victim. Community response options include:
  - Contact appropriate members of Community Resources Network to inform them of a bias/hate crime offense and request their support and participation in the response.
  - Contact the Project Coordinator of the League of Minnesota Human Rights Commissions to seek support and ensure that the Minnesota Department of Human Rights is notified.
  - Contact the neighborhood crime watch coordinator who would determine whether the affected area is participating in a watch program and would enlist the victim's neighbors, if the victim will allow, to attend the interview with the victim or offer other necessary support.
  - Only where appropriate and after consultation with the initial victim(s) and the Edina City Manager, the Commission-HRRC and/or Community Network representatives members may plan a community-wide response.
- 4) HRRC Chair or designee will initiate initial and follow up contact with the victim(s) should be made within one week in person or by phone. ~~or by telephone by the Commission Chair or~~



## **Bias Offense Response and Prevention Plan**

designated contact person. Check on any reoccurrence, other problems, and offer continued support.

- 5) ~~Commission Chair or designee will initiate follow-up contact in one month and beyond as appropriate.~~
- 5) ~~6-~~ After follow-up has occurred, the Commission-HRRC and Community Network representatives members involved shall meet as necessary to review the ~~process of response~~ and take action or make changes.
- 6) ~~7-~~ The Commission-HRRC will send letters of appreciation to Community Network representatives members involved.
- 7) In the event that public property, including any building, structure or vehicle, is damaged or defaced as a result of an action that may constitute a bias offense under Minnesota law, the provisions of this Plan shall be implemented. The term "public property" means property owned, leased, or used by the City of Edina or any other government, or its agencies, divisions, or entities. However, in the event that the public property is owned or operated by a government or its agencies, divisions, or entities other than the City of Edina, such owner or operator shall be offered the opportunity to become a part of the Plan.
- 8) The Commission-HRRC Chair will provide a summary report of the response to the Edina City Council and Police Chief.
- 9) At least annually, the Commission-HRRC will review the overall process and recommend necessary amendments to the Edina City Council and Police Chief.
- 10) The Commission-HRRC will periodically sponsor public information sessions, education and training to promote the understanding and prevention of hate/bias crimes-offenses through collaborative community action.



# **Bias Offense Response and Prevention Plan**

## **APPENDIX A**

2013 Minnesota Statutes: <https://www.revisor.mn.gov/statutes/?id=611a.79>

### **611A.79 CIVIL DAMAGES FOR BIAS OFFENSES.**

#### **Subdivision 1. Definition.**

For purposes of this section, "bias offense" means conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin.

#### **Subd. 2. Cause of action; damages and fees injunction.**

A person who is damaged by a bias offense has a civil cause of action against the person who committed the offense. The plaintiff is entitled to recover the greater of:

(1) \$500; or

(2) actual general and special damages, including damages for emotional distress.

A plaintiff also may obtain punitive damages as provided in sections 549.191 and 549.20 or an injunction or other appropriate relief.

#### **Subd. 3. Relation to criminal proceeding; burden of proof.**

A person may bring an action under this section regardless of the existence or outcome of criminal proceedings involving the bias offense that is the basis for the action. The burden of proof in an action under this section is preponderance of the evidence.

#### **Subd. 4. Parental liability.**

Section 540.18 applies to actions under this section, except that:

(1) the parent or guardian is liable for all types of damages awarded under this section in an amount not exceeding \$5,000; and

(2) the parent or guardian is not liable if the parent or guardian made reasonable efforts to exercise control over the minor's behavior.

#### **Subd. 5. Trial; limitation period.**

(a) The right to trial by jury is preserved in an action brought under this section.

(b) An action under this section must be commenced not later than six years after the cause of action arises.

#### **Subd. 6. Other rights preserved.**

The remedies under this section do not affect any rights or remedies of the plaintiff under other law.

#### **History:**

*1996 c 468 s 1*



# Bias Offense Response and Prevention Plan

## **APPENDIX B**

CITY OF EDINA BIAS/HATE CRIME  
RESPONSE PLAN COMMUNITY  
RESOURCES NETWORK

### Community Resources Network

<b>ORGANIZATION</b>	<b>CONTACT</b>	<b>TELEPHONE</b>
<u>Edina Human Rights &amp; Relations Commission</u>	Jessi Kingston, Chair Staff Liaison	952-594-4943 <u>952-927-8861</u>
Edina Police Department	<u>Chief of Police</u> Chief, Jeff Long & Public Information Officer, Molly Anderson	952-826-1610
City of Edina	Scott Neal, City Manager	<del>952-826-0401</del> 952-927-8861
Edina City Council	Jim Howland, Mayor	612-874-8550 952-927-8861
Edina Ministerial Association	or victim(s) minister	
Edina Public School District #273	Gwen Jackson, Ph.D. Dir. Of Human Resources and Operations Superintendent	<del>952-848-4946</del> <u>952-848-4000</u>
<u>Richfield Public School District</u>	<u>Superintendent</u>	<u>612-798-6000</u>
<u>Hopkins Public School District</u>	<u>Superintendent</u>	<u>952-988-4000</u>
<del>League of Minnesota Human Rights Commissions</del>	Anne Dykstra	612-920-0256
Edina Chamber of Commerce	Arrie Larsen Manti Executive Director	952-806-9060
<u>Hennepin County</u>	<u>County Attorney</u>	<u>612-348-5550</u>
<u>Owner/operator of "public property" if not the City of Edina</u>	<u>Call the Human Rights and Relations Staff Liaison for assistance</u>	<u>952-927-8861</u>



## Bias Offense Response and Prevention Plan

<u>Professional Mediation Organizations</u>	<u>Call the Human Rights and Relations Staff Liaison for resource list</u>	<u>952-927-8861</u>
<del>State Minnesota</del> Department of Human Rights	<u>Commissioner</u>	<del>651-297-5091</del> 651-539-1100

## Resolutions of the Edina HRRC

### Re: Bias Offenses Response Plan

**RESOLVED,** That the 2014 Amended Bias Offense and Response Plan be adopted by the Human Rights and Relations Commission and be transmitted to the City Council; and together with the Recommendation that it be adopted by the Council as the City's Plan and Procedural Process should Bias Offenses under Minnesota Law occur within the City or upon public property owned, leased or used by other public bodies located within the City.

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### Re: Reporting of Bias by City Departments

**RESOLVED,** That the City Manager, subject if necessary to City Council approval, establish Periodic Reporting Procedures, including written formats tailored to each City Department, regarding the reporting of incidents of bias under Minnesota Law occurring within City Departments or observed by City employees while interacting with the public in the course of performing their duties.

**RESOLVED FURTHER,** That Reporting Forms substantially similar to those developed by the Parks & Recreation Department be utilized by each City Department; and that an annual tabulation of bias incidents occurring within each Department or observed in interactions with the public be provided to the City Manager for transmission to the HRRC, Mayor and City Council on a regular basis.

[Motions approved by HRRC on June 24, 2014](#)

Deleted: May 27, 2014



Informed Consent to Release Private Information

Pursuant To Minnesota Statute § 13.05, Subd. 4

Government Data Practices Act

On (DATE) the Edina Police Department responded to a (type of call) at (address or location) (incident). After an investigation, it was determined that this incident could be considered a bias offense. The Edina Human Rights and Relations Commission (HRRC) provides support to victims of bias offenses and maintains a zero-tolerance for bias offenses within the City of Edina. You are a victim of this incident, but victim information is considered private data. The Edina Police Department has not, and will not, release your contact information to the HRRC without your informed consent.

The Edina Human Rights and Relations Commission (HRRC) would like to offer its services to you regarding the above incident.

Please indicate below whether you would like to be contacted by the HRRC to receive information on the support and services the HRRC provides, and return this form in the enclosed self-addressed envelope within 10 days.

\_\_\_\_\_ No, I do not want to be contacted by the HRRC regarding support services.

\_\_\_\_\_ Yes, I would like to be contacted by the HRRC for support services. I authorize the Edina Police Department to release my name, address, and telephone number, to the HRRC.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Date

Attachment: Community Resource Network Contact Information