



To: Mayor and City Council

Agenda Item #: VIII. E.

From: Scott Neal, City Manager

Action

Discussion

Date: October 7, 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.

The HRRC discussed a draft version of the Plan at their August 4, 2014 work session with City Council. Based on the City Council's recommendations, two paragraphs in the draft Plan were rewritten. The HRRC approved the attached version of the Plan at their August 26, 2014 regular meeting.

HRRC Recommended Changes:

- a. *Section 1:* This is a change from the original language because it puts the plan into action earlier, as the Police Department would not substantiate a report before the Chief, City Manager, and HRRC Chair would meet to discuss the event and an appropriate level of response.
- b. *Section 7:* Previously, the Plan had not included any specifications related to offenses occurring on public property not owned by the City of Edina. If an offense takes place on public land or property, the new language initiates contact from Edina's City Manager to the CEO or Board Chair to give them the opportunity to (i) join in the implementation of the Plan; or (ii) join in the cooperative implementation

of the Plan with any similar plan in place or created by the owner or operator of the Other Public Property. However the City still reserves the right to implement the Plan if the owner or operator of the Other Public Property declines to participate or respond to the invitation. In the most recent version, the HRRC added the last sentence which states if the owner or operator of the Other Public Property requests the City Manager to not implement the Plan, the City Manager shall notify the Mayor, City Council, and the HRRC Chair of such request, and shall seek Council guidance on implementation. This new sentence reinforces that regardless of the will or interest of the owner or operator the City Council can direct the Plan to be implemented.

Lastly, the HRRC Bias Offense Response and Prevention Subcommittee also compiled significant data related to how internal City department handle incidents of bias offense. The HRRC has requested that staff begin a process to provide an annual update on bias offense incidents in all departments in addition to developing a “Reporting Form” to be implemented into use by these departments.

City Staff Recommendations:

Section 1: City Staff supports the original language which was presented to City Council on August 4th at the work session (now shown as struck out). The previous version activates the plan only when a substantiated report has been received. Substantiation allows the Police Department to verify that the offense occurred and ensures that the Bias Offense Response and Prevention Plan will be initiated before the case is closed.

Section 7: City Staff have concerns about the City deciding to implement the Plan without consent from the owner or operator of Other Public Property and the effect this decision might have on relationships with other entities. City Staff recommends the following language change to allow owner or operator of Other Public Property to accept or decline the invitation to implement the Plan.

In the event the “Public Property”, damaged or defaced as a result of an action that may constitute a bias offense under Minnesota law is not owned or leased or used by the City and is located within the City of Edina (Other Public Property), the Chief Executive Officer or Board Chair of the Other Public Property shall be contacted by the Edina City Manager and be given the opportunity (i) join in the implementation of the Plan; (ii) join in the cooperative implementation of the Plan with any similar plan in place or created by the owner or operator of the Other Public Property; (iii) decline to participate in the Plan, but support the implementation; or (iv) decline to participate and request the Plan not be implemented. If the owner or operator of the Other Public Property opts for (iv) the Edina City Manager will notify the Mayor, City Council, and the HRRC Chair of such response.



Bias Offense 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 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;
- To raise awareness of bias offense responses within the community;
- To establish a network of community resources that can be activated as needed.

The Edina HRRC provides or coordinates support to victims of bias offenses and provides leadership in the community to prevent such offenses through education and collaborative community action against prejudice and bigotry. However, it is not the role of the Edina HRRC to investigate bias offenses.

BIAS OFFENSE DEFINED

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

PARTNERSHIP

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

Key partners include:

- Edina Police Chief



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- Edina City Manager
- Edina Mayor and City Council, if appropriate
- Edina School 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 Government Data Practices Act, Minn. Stat. Chapter 13, the Edina Police Department will notify the City Manager and the HRRC Chair upon receipt from the Edina Police Department or other law enforcement investigatory agency of an event or incident which may constitute a bias offense under Minnesota Statutes. Together, the Edina Police Chief, City Manager and HRRC Chair will determine the appropriate level of response, including any necessary public statements.~~
- ~~1) Subject to the limitations in the Minnesota Government Data Practices Act, Minn. Stat. Chapter 13, the Edina Police Department will notify the City Manager and the HRRC Chair 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 HRRC Chair will determine the appropriate level of response, including any necessary public statements.~~
- 2) The Edina City Manager will notify the Mayor and City Council as appropriate. Upon receipt of a signed Data Practices Release Form from the victim(s), the HRRC Chair will promptly contact the victim(s) to offer support and determine any further response from the City or community. 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 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 offense and request their support and participation in the response.
 - Only where appropriate and after consultation with the initial victim(s) and the Edina City Manager, the HRRC and/or Community Network members may plan a community-wide response.
- 4) HRRC Chair or designee will initiate initial and follow up contact with the victim(s) in person or by phone.
- 5) After follow-up has occurred, the HRRC and Community Network members involved shall meet as necessary to review the response and take action or make changes.
- 6) The HRRC will send letters of appreciation to Community Network members involved.



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- 7) In the event the "Public Property", damaged or defaced as a result of an action that may constitute a bias offense under Minnesota law is not owned or leased or used by the City and is located within the City of Edina (Other Public Property), the Chief Executive Officer or Board Chair of the Other Public Property shall be contacted by the Edina City Manager and be given the opportunity (i) join in the implementation of the Plan; or (ii) join in the cooperative implementation of the Plan with any similar plan in place or created by the owner or operator of the Other Public Property. The City reserves the right to implement the Plan in the event that an owner or operator of the Other Public Property either acting through its Chief Executive Office, Board Chair, or designee (i) declines to participate; or (ii) does not respond to the City's invitation to participate in the implementation of the Plan. However, if the owner or operator of the Other Public Property requests the Edina City Manager to not implement the Plan, the City Manager shall notify the Mayor, City Council, and the HRRC Chair of such request, and shall seek Council guidance on implementation.
- ~~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 HRRC Chair will provide a summary report of the response to the Edina City Council and Police Chief.
- 9) At least annually, the HRRC will review the overall process and recommend necessary amendments to the Edina City Council and Police Chief.
- 10) The HRRC will periodically sponsor public information sessions, education and training to promote the understanding and prevention of offenses through collaborative community action.

APPENDIX A



Bias Offense Response and Prevention Plan

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



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APPENDIX B

Community Resources Network

ORGANIZATION	CONTACT	TELEPHONE
Edina Human Rights & Relations Commission	Staff Liaison	952-927-8861
Edina Police Department	Chief of Police	952-826-1610
City of Edina	City Manager	952-927-8861
Edina City Council	Mayor	952-927-8861
Edina Public School District #273	Superintendent	952-848-4000
Richfield Public School District	Superintendent	612-798-6000
Hopkins Public School District	Superintendent	952-988-4000
Edina Chamber of Commerce	Executive Director	952-806-9060
Hennepin County	County Attorney	612-348-5550
Owner/operator of "public property" if not the City of Edina	Call the Human Rights and Relations Staff Liaison for assistance	952-927-8861
Professional Mediation Organizations	Call the Human Rights and Relations Staff Liaison for resource list	952-927-8861
Minnesota Department of Human Rights	Commissioner	651-539-1100



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