

**WEEKLY INFORMATION PACKET  
MEMORANDUM**

**To:** Mayor Ruzzin and Members of City Council

**From:** Frank W. Bruno, City Manager  
Karen Rahn, Co-Director, Department of Housing and Human Services  
Richard Johnson, Director, Division of Community Services, HHS  
Carmen Atilano, Administrator, Office of Human Rights, DCS/HHS

**Date:** February 1, 2006

**Subject:** **Information Item – Public Discussion on Anti Hate Issues**

This memorandum summarizes a public discussion on anti-hate issues hosted jointly by the Council Community Sustainability Goal Committee (CCSGC) and the Human Relations Commission (HRC). The public discussion was held January 22, 2006 at the Sacred Heart of Jesus Church, 14<sup>th</sup> and Mapleton Streets, and was attended by approximately 100 members of the public. The meeting was held in English; Spanish translation was available through an interpreter and the use of electronic interpretation devices.

**Background**

Based on community input received over the previous few years, the HRC put on its 2005 workplan a project to address issues of hate-motivated incidents in the community. This was to be in response to incidents including anti-gay graffiti spray painted on a church, anti-Arab sentiments etched in public benches, perceived acts of racism experienced in business establishments and in public, and anti-Jewish and anti-immigrant literature thrown on lawns in several neighborhoods.

A June 3, 2005 attack on a University of Colorado student of mixed race galvanized many members of the community to approach the HRC and ask the City to set up a plan for quicker responses to address and prevent hate-motivated incidents in the future.

At its June 20 meeting, the HRC voted unanimously to recommend to City Council a Resolution reaffirming goodwill and mutual respect and condemning racism, bigotry, harassment and discrimination in Boulder, which Council approved on July 19. Paragraph 2 of the Resolution commits the City to “developing mechanisms that assure rapid response to [hate-motivated] incidents as well as ongoing effective engagement of community groups.” The HRC allocated up to \$10,000 of its 2005 funds for this purpose.

Following HRC’s June meeting, HHS Community Services (DCS) staff, at HRC’s direction, assembled a committee composed of representatives of community organizations and CU student

groups involved with anti-hate or discrimination issues in the community. Two HRC members served on the committee, as did a representative from the Boulder Police Department. The committee – Community United Against Hate (CUAH) – met over the summer of 2005 with the purpose of developing recommendations to be submitted to the HRC at its September 19 meeting. Meeting bi-weekly, the CUAH completed its recommendations at its September 6 meeting and presented them to the HRC. At that time, a public hearing was held, with eight members of the public speaking in favor of the package and six speaking against.

At its October 17, 2005 meeting, the HRC held a second public hearing on the CUAH recommendations, at which eight people spoke in favor of the recommendations, three against, and one with no opinion. The CUAH recommendations included:

### Short-Term Recommendations

- 1. Hotline.** CUAH’s top, short-term priority is the development of a pilot program for a bilingual, anti-hate telephone hotline to provide support to victims of anti-hate activities; to create documentation pertaining to caller and the type of incidents reported, and to, ultimately, to serve as a basis for recommending policy changes to the City.
- 2. Policy.** CUAH also recommended to the HRC the adoption of a “Hate Crimes Policy for a Safe Community,” which enumerates several policies the CUAH feels the City should adopt to ensure an overall policy of “zero tolerance for hate crimes committed within its jurisdiction.”
- 3. Sentence Enhancement Hate Crimes Ordinance.** As part of its policy package, CUAH included a “concept paper” for a “sentence enhancement hate crimes ordinance” for Boulder, which would not create new crimes, but would be a type of municipal version of the current state law, where sentencing for crimes found to be bias-motivated could be enhanced.

See ATTACHMENT A for a staff summary of the three CUAH short-term recommendations.

### Longer-Term Recommendations

In addition to short-term, immediate actions, the CUAH also presented longer-term recommendations for changing the climate of the city. The CUAH felt it did not have time to fully explore or define these issues, but requested funding from the HRC so that it could continue to meet to develop these recommendations. Included were a series of community dialogs on racism and the possible establishment of an anti-bias advocacy fund.

### HRC Actions

At its October 17, 2005 meeting, the HRC considered the recommendations of the CUAH after holding public participation on the recommendations.

1. With regard to the community operated hotline, the HRC voted (5-0) to allocate \$8,000 of its 2005 funding to be spent for this purpose. Additionally, the HRC decided (5-0) to request that City Council fund the balance of CUAH's hotline request (\$21,740).
2. The HRC agreed (5-0) with the CUAH's policy recommendation, including the hate crimes ordinance request and the formation of a group consisting of members from the HRC, CUAH, HHS staff and the City Attorney's Office to develop specific language for the ordinance.
3. The HRC agreed (5-0) with the CUAH suggested policy changes re: the various aspects of the City's criminal justice system re: hate crimes.
4. The HRC agreed (5-0) to fund future meetings of the Community United Against Hate with \$2,000 in 2005 HRC funds.

These recommendations were forwarded to City Council in an October 27, 2005 Weekly Information Packet (WIP) (<http://www.ci.boulder.co.us/clerk/WIP/2005/10-27-05/3c.pdf>).

### **City Council Meeting, November 15, 2005**

At City Council's November 15, 2005 meeting, Council expressed some concern that issues were moving without Council being fully informed and further expressed concern that the entire community had not been heard from regarding input into the HRC recommendations presented in the October 27, 2005 WIP. At Council member Bohannan's suggestion, the issue was referred to the Council Community Sustainability Goal Committee to move the issue forward involving Council. City Attorney Ariel Calonne asked for and was given direction to help with the effort.

### **January 22, 2006 Public Discussion (Summary)**

The Council Community Sustainability Goal Committee met November 17 and December 1 to discuss a possible public forum for these issues and decided to involve a subcommittee of the HRC in planning the event.

It was decided to hold the public discussion at the Sacred Heart of Jesus Church, immediately following mass on January 22. It was felt that this date and locale would facilitate participation by Boulder's Spanish speaking immigrant community, which: (1) is usually underrepresented in its input into city policies and programs; and (2) may have special insights into this particular issue.

At the public discussion, attended by approximately 100 people, Mayor Ruzzin stressed that the issues of hate are ones that we all should be active on, every day, and that the issues surrounding hate-motivated actions are very important to the City Council and the community. Mayor Ruzzin also emphasized that Boulder has a long history of taking issues of discrimination and exclusion very seriously, pointing to Boulder's Human Rights Ordinance as an example of this. City Manger Frank Bruno also stated the importance of these issues to the City.

Boulder Office of Human Rights Administrator Carmen Atilano presented a background on the HRC/CUAH recommendations. Ms. Atilano's comments are summarized in the **Background** section, above.

Community United Against Hate members Ray Stewart and Bill Cohen presented an overview of the deliberations of the CUAH, and the recommendations that group provided to the Human Relations Commission. Ray Stewart commented that, though the issues of hate had long been prevalent in the Boulder community, that the City assemblage of members of organizations working on these issues was the first time that they had come together to address these issues.

Mr. Stewart stressed the need for a rapid response, to ensure that the community knows that City Council is taking these concerns and ideas seriously. Speaking specifically to the Hotline recommendation, Mr. Stewart emphasized that it would not be used to spy on people, intimidate people or businesses, not be city-run, nor serve as an arm of the city government. Its goals would be to provide assistance to those who feel they are a victim of anti-bias, and to document how often this occurs.

Mr. Cohen spoke about the policy recommendations of CUAH and urged Council to be a leader in the County toward making these type of policy. He noted that the type of enhanced sentencing ordinance called for by CUAH has been supported by the US Supreme Court, and that a similar law has already been adopted by the Colorado Legislature.

Mr. Stewart spoke briefly concerning longer term actions. In his comments, he noted:

- 1) The Community United Against Hate (CUAH) was formed by the City to develop both long and short term recommendations for adoption. In the brief time available, CUAH was able to develop short-term recommendations in response to hate motivated-incidents, but needed more time to develop recommendations to change the climate in the community to prevent such incidents in the future. To that end, the CUAH saw a value in continuing their work together beyond delivering recommendations to the HRC, and continued to meet to discuss longer-range actions. The group has also expanded its membership and mission, and has renamed itself Boulder Community United (BCU). Future recommendations of the group may include suggestions for not only the City of Boulder, but Boulder County, the Boulder Valley School District, the University of Colorado, the community at large, and other institutions as the committee sees fit.
- 2) In the longer-term, BCU wants to examine the concept of community dialogs on racism and whether they could be beneficial to prevent covert and overt acts of bias. Additionally, BCU wants to examine institutional racism and, perhaps, the establishment of a legal action fund.

For the public discussion portion of the meeting, attendees were asked to focus their comments on three issue areas: (1) city role; (2) the CUAH/HRC recommendations; and/or (3) any additional ideas to prevent or respond to hate motivated incidents. Thirty-two individuals addressed the Council and HRC during this portion of the meeting. Following is a summary of public comments, divided into the three issue areas.

### Comments on the Appropriate City Role

Many of the participants stressed the need for the City to act quickly on the recommendations regarding anti-hate issues. Other comments included:

- The City should be a funder, not a service provider. The City should fund a community group to provide the hotline; the City itself should not provide the service itself.
- The City staff should reflect the racial and ethnic makeup of the city.
- The City needs to do something to address the people who are not aware that their comments are racist, or who don't care. Education for the broader public is needed.
- The City system for Boards and Commissions is racist; the City needs more people of color on its Boards and Commissions. Also, Board meetings need to be held in Spanish as well as English so that all residents can understand proceedings.
- Discrimination within the Boulder Police Department needs to be addressed; Latino drivers are pulled over just to check their driver's licenses.
- The City should listen to "the people" and not to agencies who say they "represent" the people.
- The City should work more closely with community groups on a number of issues.
- The City should help Latino single mothers.
- The big question is how institutional racism will be addressed. Today's meeting is a good first step.
- The main thing the City's leaders can do is provide leadership in this area.

### Comments on the CUAH/HRC Recommendations

All but two of the people who provided an opinion on the CUAH/HRC recommendations supported their adoption by Council. Of those who disagreed, the following points were made:

- Racism is a much bigger problem than these recommendations recognize. Having a hotline will not solve the issue. The HRC has come up with a band-aid approach. You have to look beyond the hotline.
- There is not really a problem with racism in Boulder – this is all puffed up and out of control. These recommendations violate the 1<sup>st</sup> and 14<sup>th</sup> Amendments.

In addition to general support, the following comments were made:

- The hotline would be useful for University students as well. Well trained counselors, independent of the University, would be very helpful.
- Boulder Pride supports these recommendations.
- The Anti-Defamation League supports these recommendations.
- The idea of a hotline didn't begin with CUAH; the need for this has been talked about for years.
- The hotline is not intended to be a solution to the whole problem, but it is a first step and it is important to validate people in the community.
- The work of the committee needs to continue and be supported by the City.

*Comments on Other Ideas*

- The City needs more diversity on its Boards and Commissions.
- All City agencies need to be more inclusive.
- The DREAM Act needs to be supported with stronger language by the City.
- When the City holds public meetings, it needs to make child care available.
- The City needs to be open to a variety of approaches addressing hate-motivated incidents.
- The Anti-Defamation League provides diversity training to police personnel in other cities and could support the City of Boulder in this way.
- Medical discrimination is a problem.
- Build social and emotional bonds within the community – take time to feel what minorities feel and experience.
- Safehouse is conducting a survey to document racist acts. All people of color are invited to participate and tell their stories.
- City Council should consider providing funding to buy publicity on these topics.
- Question: why are there places where I, as an undocumented worker, can work, and places where I cannot?
- I support both the HRC/CUAH recommendations and what Safehouse is doing. I want to see all of the work continue. I'd like to see the divisiveness end. This should bring us all together.

## **Next Steps**

The Council Community Sustainability Goal Committee will meet on February 2, at which time the next steps in the process will be determined. Questions for consideration include:

- Based on public input, are there adjustments to be made to the HRC recommendations before proceeding further?
- Should staff develop an Agenda Item on these issues for future consideration by City Council?
- If so, should the three recommendations of the HRC be considered separately or jointly?

# ATTACHMENT A

## Human Relations Commission Community United Against Hate

### **Anti-Hate Recommendations**

In the spring of 2005, the Boulder Human Relations Commission (HRC) directed staff to assemble a committee composed of representatives of organizations and CU student groups involved with anti-hate or discrimination issues in the community. The mission of this committee was:

*To develop a set of short- and longer-term recommendations for action that can be taken by the City of Boulder to ensure rapid response to acts of discrimination, ethnic or racial intimidation, harassment and violence, and to ensure ongoing effective engagement with community groups.*

The committee, Community United Against Hate (CUAH), met throughout the summer and presented their recommendations to the HRC at its September 19 meeting. The HRC held public hearings on the recommendations on September 19 and October 17.

The recommendations were approved by the HRC and forwarded to City Council for consideration. The purpose of today's public discussion is to garner public feedback and input regarding possible roles and actions the City might take with regard to hate-motivated incidents. City Council encourages discussion on all ideas, not limited to those presented by CUAH/HRC.

Following are summaries of the short-term recommendations of the CUAH and the HRC.

## **Hotline Pilot Proposal**

A confidential, bilingual hotline is envisioned which would serve residents of Boulder and Boulder County, including the University of Colorado at Boulder and the Boulder Valley School District.

This hotline would be operated by a local non-profit organization, but needs some city funding to help the hotline get established. This would not be a city program.

The HRC has recommended that \$8,000 of its 2005 funds be spent for this purpose and has requested an additional \$21,740 from the City Council.

### *Problem*

It is the belief of CUAH and the HRC that many hate-motivated or bias-motivated acts that occur in Boulder are not reported. This may be due to uncertainty about what constitutes a reportable hate crime; uncertainty about how seriously a reported hate crime would be taken; uncertainty about what constitutes discrimination in the areas of housing, employment or public accommodations; or a lack of place to report bias- or hate-motivated incidents that do not reach the formal level of hate crimes or illegal discrimination.

Based on testimony received by the HRC over the past few years, the Commission believes that there are a greater number of these incidents that occur in Boulder than the general population acknowledges. Other than Boulder Police Department reports of alleged hate crimes and Office of Human Rights reports on alleged discrimination complaints, quantifiable data regarding bias- and hate-motivated incidents are non-existent.

### *Purposes*

The purposes of the hotline are to:

- 1) Receive phone calls from people in Boulder and Boulder County who feel themselves to be a victim of a bias-motivated or hate-motivated incident.
- 2) Provide counseling, guidance and referral to the caller (e.g., in the case of an alleged hate crime, to report the incident to the appropriate law enforcement agency).
- 3) Create and maintain documentation of the types and frequency of bias- and hate-motivated incidents.
- 4) Work on policy and practice changes that may be indicated by the incidents that are occurring.
- 5) Coordinating with other community human rights and social change groups to create avenues and strategies for effective social change so that the need for such a hotline will lessen over time.

An Administrator would be hired to implement the program; the hotline would be staffed by trained volunteers.

## **Proposed Hate Crimes Policy for a Safe Community**

The Community United Against Hate and the Human Relations Commission believe that hate crimes violate the fundamental human and civil rights of targeted victims and that such crimes affect not only the immediate victim but the entire class of people who share the characteristic for which the hatred was directed at the victim. The CUAH and the HRC request the City of Boulder to adopt a policy of zero tolerance for hate crimes and to develop, in conjunction with other jurisdictions, a county-wide comprehensive plan for combating hate crimes.

For the city of Boulder, such a policy would include:

- 1) Special education and training among appropriate city staff in the investigation, prosecution, trial and sentencing alternatives relating to hate crime.
- 2) Specially trained police detectives on every shift.
- 3) Enactment of a hate crimes ordinance based on a sentencing enhancement concept.
- 4) Development of a program for providing assistance and protection to all victims and witnesses of hate crimes.
- 5) Creation of a staff position in the City Manager's Office to implement this policy.
- 6) Development of a county-wide, comprehensive plan for zero tolerance of hate crimes, involving:
  - a. Law enforcement agencies
  - b. Prosecutors
  - c. Courts
  - d. School Districts
  - e. Non-Governmental Organizations
  - f. Restorative justice programs
  - g. Post secondary educational institutions

## **Proposed Sentence Enhancement Ordinance Concept**

As part of a comprehensive anti-hate policy for the city, the CUAH and the HRC recommend adoption of a anti-hate sentence enhancement ordinance. Because hate crimes also affect the entire class of people who share the characteristic for which hatred was directed at the victim, the CUAH and the HRC believe that the concept of sentence enhancement would allow for more appropriate sentencing, and could serve as a deterrent to future hate crimes.

It is important to note that the concept would add no new crimes to the Boulder Municipal Criminal Code. Adoption would simply allow for enhancement of the penalty for already defined criminal behavior that is committed with specifically defined hateful motives.

Following are attributes of CUAH/HRC's concept for a hate-motivated sentence enhancement ordinance:

- 1) Alleged perpetrators of hate crimes must be charged with one or much existing crimes under the Boulder Municipal Code.
- 2) Defendants cannot be charged with mere expressions of hate speech, as there is no such criminal code violation for such speech, with the exception of "fighting words" situations.
- 3) The burden of proof is on the prosecution to establish guilt of the underlying crime beyond a reasonable doubt.
- 4) Defendants charged under the hate crime sentence enhancement ordinance are entitled to all constitutional and procedural protections, including the right to counsel and the right to a jury trial.
- 5) Defendants cannot be charged with mere expressions of hate speech as there is no such criminal code violation for such speech, with the exception of "fighting words" situations.
- 6) Once found guilty of conduct in violation of one or more criminal codes, the defendant's sentence for that crime can be "enhanced" if s/he is also found guilty of committing that crime for an ordinance-defined hateful motive aimed at the victim.
- 7) At a minimum, the hate crimes sentence enhancement ordinance should include "Ancestry, Color, Creed, Gender Variance, Mental or Physical Disability, National Origin, Race, Religion, Sex, and Sexual Orientation."