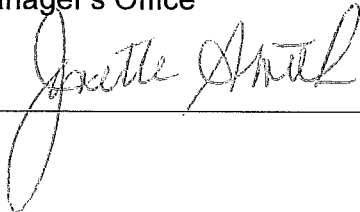


Hamilton

CITY OF HAMILTON
CITY MANAGER'S OFFICE
Digital, Innovation & Strategic Partnerships

TO:	Chair and Members General Issues Committee
COMMITTEE DATE:	September 23, 2020
SUBJECT/REPORT NO:	Hate Prevention and Mitigation Initiative Update (LS19031/PW19068(c)/CM19006(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Ariyo (905) 546-2424 Ext. 1564 Pauline Kajiura (905) 546-2424 Ext. 2567
SUBMITTED BY:	Janette Smith City Manager City Manager's Office
SIGNATURE:	

RECOMMENDATIONS

- (a) That City staff conduct further engagement with key stakeholders and equity-seeking groups, and develop specific recommendations, actions and resource requirements to advance the findings submitted by the project consultant and attached as Appendices A and B to report ((LS19031/PW19068(c)/CM19006(c)) (City Wide));
- (b) That City staff prepare a report on hate-related flags and symbols, which would enable City Council to consider options and actions that could be taken to address public display of any racist, hateful, offensive and insensitive emblems in Hamilton;
- (c) That City Council write a letter to the federal Minister of Justice, requesting that the threshold of "hate crime" as defined in the Criminal Code be consistently applied across law enforcement agencies in Canada;
- (d) That City Council request the Association of Municipalities of Ontario (AMO) to play a key role in engaging and addressing community equity issues that are increasingly common across many municipalities, such as racism, hate and discrimination.

EXECUTIVE SUMMARY

Preamble

Our Future Hamilton, approved by Council in 2017, engaged with nearly 55,000 stakeholders and outlined a 25-year community aspiration for Hamilton as a city that is more welcoming and inclusive. It's a vision that Hamiltonians have been building for many generations through hardwork, community conversations, looking out for neighbours, coming together to support good causes and displaying community pride.

The City of Hamilton has been advancing various equity-based initiatives, both internally and externally, to support diversity, inclusion and equity. Some of these initiatives include the Urban Indigenous Strategy, EDI Framework, Hamilton Anti-Racism Resource Centre, Housing & Homelessness Action Plan, just to mention a few. Many of these initiatives are part of the four-year Term of Council priorities.

However, like many communities across the country and around the world, Hamilton is also increasingly tested and challenged by incidents of hate, racism and discrimination. While these acts are perpetrated by a very few, their actions nevertheless affect all Hamiltonians by impugning the city's reputation and diminishing community sense of belonging for many equity-seeking populations.

Project Consultant and Public Engagement

As directed by Council, in November 2019 staff retained a consultant through a procurement process, Sage Solutions, to assist the City in reviewing its existing draft hate-related policies, suggest other relevant policies, conduct community engagement and develop key recommendations. Between December 2019 and July 2020, the consultant completed the following project activities:

- Best practices research from over 20 municipalities in Canada, United States, Australia and the United Kingdom.
- Community conversations with over 300 residents and equity-seeking groups, including Black, Indigenous, 2SLGBTQI+, racialized and faith-based communities. The engagement also included a citywide community survey.
- A review of the City's existing draft hate prevention and mitigation policies, procedures, bylaws and related strategies.

Summary of Key Findings

Through research, public engagement and other best practices review conducted for this project to date, the following are some of the key findings:

- Frustration felt by many equity-seeking groups:
Many Black, Indigenous, 2SLGBTQI+, racialized and faith-based communities in Hamilton who participated in community engagement expressed their frustration and decried the perceived lack of leadership to acknowledge systemic racism,

conduct significant police reforms and improve social determinants of health. Participants also called for more listening to the community, creating safe spaces, better public education, better enforcement and improved community outreaches.

Hamilton is not alone in this increasing community call for action. In Canada, several municipal governments from coast to coast, including Vancouver, Calgary, Winnipeg, Mississauga, Toronto, Kingston, Ottawa, Montreal and Halifax have acknowledged systemic racism, hate and discrimination in different shape or form.

- Need for better recognition and support for community efforts and advocates:
There are many local community advocates, groups and residents working together on various grassroots initiatives to stand up against hate, racism and discrimination in Hamilton. One of these initiatives is “*No Hate in the Hammer*”, organized by the Hamilton Community Legal Clinic, the Hamilton Roundtable for Poverty Reduction, and the John Howard Society of Hamilton, Burlington & Area. Another one in the past was the “*Hamilton For All*” campaign, organized by the Hamilton Centre for Civic Inclusion and the Hamilton Immigration Partnership Council. Many grassroots efforts are still ongoing and are so important to foster a better community inclusion. However, feedback received indicated that there is not enough recognition and resource support for these local efforts to ensure sustainability.
- Community Action against Hate and Discrimination:
Public feedback and research showed there are many inclusion conversations and equity initiatives that have been happening in Hamilton for years. Many are led by the City, and others are led by various community organizations, groups and stakeholders. However, there is no central accountability or mandate in place to bring these strategies and actions together for better tracking and reporting. This kind of central, enabler and facilitator’s role is usually played by the local government to ensure there is proper community engagement, resource support and capacity building as required.
- Charter of Rights & Freedom as a cover for Hateful expressions:
Flags, symbols and emblems viewed as racist, hateful and discriminatory by many equity-seeking groups and community advocates continue to be displayed in Hamilton and various communities in Ontario, such as the Confederate flag. While there is the belief that the Charter of Rights and Freedom protects these expressions, many municipalities are now exploring ways to ban and reinforce their own beliefs and values of community equity, diversity and inclusion. Broader municipal associations such as the Federation of Canadian Municipalities (FCM) and the Association of Municipalities of Ontario (AMO) can play key roles in these conversations.

- Inconsistent interpretation of Criminal Code by Police departments:
Canada's Criminal Code is relatively clear in its definition of "hate crime". However, research shows there is a big disparity in how the definition is interpreted and applied by police departments across the country. This inconsistency puts some police departments that meticulously track hate crimes at a disadvantage of comparative statistics and public reputation of their municipalities.
- Hate prevention and mitigation policies:
Except for the City of Toronto, the City of Hamilton's related policies on hate prevention and mitigation far exceed other municipalities reviewed. Some of these include the City's draft Hate Related Incident Prevention Policy, draft Hate Related Incident Prevention Procedure, Corporate Security Procedure, Notification of Assembly and Trespass Bylaw. However, research shows that the solution is not about creating more policies generally seen as "enforcement" or "punitive", but rather doing more "affirmative" actions to reinforce municipal values such as community engagement, strategic partnerships, community capacity building and placemaking initiatives.

The detailed findings from public engagement and comparative research are attached as Appendices A and B to report ((LS19031/PW19068(c)/CM19006(c)) (City Wide)).

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications related to the recommendations of Report LS19031/PW19068(c)/CM19006(c)) (City Wide). However, implementing a community action plan on hate, racism and discrimination could potentially have financial implications. Staff will bring forward any potential financial implications at a later date for Council consideration.

Staffing: There are no staffing implications related to the recommendations of Report LS19031/PW19068(c)/CM19006(c)) (City Wide). However, implementing a community action plan on hate, racism and discrimination could potentially have staffing implications. Staff will bring forward any potential staffing implications at a later date for Council consideration.

Legal: Having a City bylaw that potentially aims to ban the public display of flags, symbols and emblems considered by many to be racist, hateful and offensive could run afoul of the Canadian Charter of Rights and Expressions and other related laws. Staff will advise Council of any legal implications as part of developing a report.

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HISTORICAL BACKGROUND

On December 11, 2013, Council passed a motion reinforcing the use of the City Hall Forecourt as a space for public demonstrations and protests, and that there should be no cost to do so. Council also directed that the Special Events Advisory Team (SEAT) coordinate with protest organizers, where advanced notice of a protest is given.

On March 28, 2018, Council passed a motion directing staff to investigate and report on ways to mitigate the use of City park and public spaces by "hate groups" in consultation with various groups.

On July 12, 2019, Council approved staff recommendations on the draft Hate Incident Prevention Policy and Procedures, draft Procedure for Notification of Assembly or Demonstration and Corporate Security Office report (LS19031/PW19068). Council also directed staff to retain an external consultant and conduct public engagement on these policies, procedures and other related issues.

On August 12, 2019, staff provided an information update on the staff composition and a process to retain a public engagement consultant (CM19006).

On October 16, 2019, Council received various project updates relating to the consultant procurement process and Corporate Security. Notably, Council approved a Trespass bylaw as submitted by Legal Services (LS19031/PW19068(a)/CM19006(a)).

In December 2020, staff issued two notices under the new Trespass bylaw.

On February 20, 2020, Council received an information update on the retention of a public engagement consultant (Sage Solutions) and their proposed public engagement plan (LS19031/PW19068(b)/CM19006(b)) (City Wide).

On September 23, 2020, through this current report, staff are providing Council with some recommendations along with the two reports submitted by project consultant on research and public engagement. The reports are attached as Appendices A and B to report ((LS19031/PW19068(c)/CM19006(c)) (City Wide)). The final consultant's final recommendations report is expected in December 2020.

Another related project update is the Council direction to staff on matters of corporate security such as enhanced video technology, signage and safety enhancements on the forecourt of City Hall (Report LS19031/PW19068). Corporate Security staff will update Council through a report to the Public Works Committee in October 2020.

Similarly, the City's Equity, Diversity and Inclusion (EDI) Framework from the Human Resources Division is expected to be brought forward to Council by December 2020.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Policy implications and legislation relating to this initiative from the beginning include Canadian Charter of Rights and Freedom, Criminal Code, Ontario Human Rights Code, and others such as privacy, policing and public safety requirements. Staff will regularly review and advise Council on continued alignments with applicable policies and legislation.

However, there is also a growing recognition by local governments across the country that legal requirements should not be used as an excuse to tolerate or be seen as tolerating any act of racism, hate and discrimination in their communities. In view of this, municipalities are now increasingly looking for other ways to reinforce their values and commitments to community inclusion, even if it means challenging existing laws and legislations.

RELEVANT CONSULTATION

Internal consultations

Legal Services Division:

Regarding staff recommendation on developing a report for Council on flags, symbols and emblems considered by many equity-seeking residents to be racist, offensive and discriminatory, which are been displayed in Hamilton and other communities.

Council members:

Between December 2019 and January 2020, project consultant and staff reached out to all Council members to obtain their thoughts on the hate prevention and mitigation issues in Hamilton. Seven Council members accepted the one-on-one meeting invitations and provided their individual feedback.

External consultations

A number of public and stakeholder engagement activities have been conducted for this project to date. These include:

- Community Conversations on Hate Prevention and Mitigation:
Between June 29 and July 9, 2020, five virtual community conversations were held involving the general public and equity-seeking groups such as racialized, Indigenous, 2SLGBTQI+ and faith-based community leaders. In total, 154 residents, stakeholders and equity-seeking groups participated.
- Anti-Black Racism and Hate Conversation:
On Wednesday, August 19, 2020, an anti-Black racism and hate discussion was held virtually, in partnership with the Afro Canadian Caribbean Association. Over 40 participants attended the event.

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- Community Survey:
Between June 16 and July 15, 2020, an online community survey was launched, with 91 participants across Hamilton. The detailed survey asked various questions relating to hate experiences, perceived root causes and recommended solutions.
- Telephone and Email Exchanges:
Ten specific telephone conversations and email exchanges took place involving the lead consultant and residents who preferred to participate through these engagement methods.
- Mayor's Advisory Table on Diversity and Inclusion:
Project consultant held two conversation sessions with the members of the Mayor's Advisory Table on Diversity and Inclusion.

Details of project public engagement and findings are attached as Appendix A to Report (LS19031/PW19068(c)/CM19006(c)) (City Wide).

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Hamilton's vision is "To be the best place to raise a child and age successfully". However, as the city grows in population and becomes more diverse, so are the challenges posed by equity issues such as racism, hate and discrimination. These social problems are not unique to Hamilton but rather are a localization of global occurrences.

Based on research, public engagement and best practices reviews, staff documented three commonalities to better understand and address racism, hate and discrimination:

1. Intentional engagement is required with equity-seeking groups who are at the receiving end of these racist and hateful behaviours. These equity-seeking populations include groups such as Black, Indigenous and People of Colour (BIPOC), 2SLGBTQI+, Muslims, Sikhs, Jewish and other faith-based and racialized communities. The lived-experiences of these communities are key to understanding local issues and developing effective solutions.
2. Thorough understanding of community data relating to racism, hate and discrimination is also very important. In Hamilton, police collect and track hate-related data reported to the service – although it's a known fact that these incidents are grossly under-reported. Federal agencies such as Statistics Canada collects relevant data. There are also other local community organizations such as the Social Planning Research Council, Hamilton Centre for Civic Inclusion and researchers from local post-secondary institutions that collect data. Data is key for decision makers such as municipalities to gain broader understanding of equity-based issues and make informed decisions.

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3. Lastly, exploring best practices from other jurisdictions is also very essential. Many cities have been engaging and investing in community equity issues for years., including the City of Hamilton. Despite the efforts, there is no municipality or community that has solved all their equity problems. Solutions continue to require municipalities learning from one another, pulling necessary leverages and discussing collaborative solutions.

In view of the above background considerations, the following analyses are specific to each recommendation:

- Developing community actions with public engagement:

This project has engaged with residents and equity seeking populations to understand experiences of hate, racism and discrimination. Over the years, several projects of this kind had also been completed. Some of these include City-led projects such as the Strengthening Hamilton Community Initiative in 2002, to more recently Our Future Hamilton, Urban Indigenous Strategy and work on the Hamilton Anti-Racism Resource Centre. There are also other related inclusion conversations led by various community groups, such as the Hamilton Centre for Civic Inclusion and Gandhi Peace Project.

However, a big concern noted by the community is the amount of engagements and strategies done over the years in Hamilton, but with no specific convergent community action plan that could be tracked, measured and consistently reported on for progress. The community expects their local government to play this kind of coordinating role, so that community inclusion outcomes can have better accountability and reporting.

For this reason, staff are recommending further engagement work is needed with the community to research, consolidate and create a community action plan for Hamilton relating to racism, hate and discrimination. This action plan will be informed by past initiatives, with short to long-term priority setting informed by the community. Key consideration of such action plan will include what's within municipal authority, budgets, support considerations for local groups, advocacy needed with senior levels of government and other potential community partnerships.

- Public display of symbols considered as racist and discriminatory:

Symbols and emblems such as Confederate flag and swastikas are still been publically displayed in Hamilton and other cities in Ontario. These symbols are considered as racist, hateful and discriminatory by many racialized and equity-seeking groups. Research shows there is lack of public education and understanding of the hurt these emblems can cause, even among the people displaying them.

The public understanding in general is that Canada's Charter of Rights and Freedom is believed to protect these expressions, and that police are responsible to interpret what constitutes a hateful expression. However, research, media reports and community feedback also indicate growing frustration among many residents that certain individuals shouldn't be hiding behind perceived legal protections to exhibit hateful behaviours.

There is now increasing expectation and scrutiny on local governments to do more and denounce behaviours that don't align with their values. In Ontario, residents from several communities have been petitioning their local governments to ban emblems like Confederate flag, with support from many local politicians. Some of these cities include Toronto, Collingwood, Belleville, Norfolk County, Chatham-Kent, Sutton and Georgetown. In Hamilton, there is a need to further explore this issue, conduct research, engage with stakeholders and bring an information report to Council to inform what actions could be further taken by the City of Hamilton.

Furthermore, municipal associations such as the Federation of Canadian Municipalities (FCM) and the Association of Municipalities of Ontario (AMO) can play influential roles. Established in 1901, FCM has been the national voice of municipal governments across the country, with over 2,000 municipalities as members. Similarly, AMO has been serving Ontario municipalities since 1899, with about 444 current municipal members. Community equity issues are common across these municipalities such as racism, hate and discrimination.

- Consistency in the definition and application of hate crimes by the Police:

In 2019, Hamilton Police Service data indicated 84 police-reported hate incidents. Of the incidents reported, 42 were based on religion and mostly targeted the Jewish community. There were 38 racial incidents, with 34 of them targeting Black Hamiltonians. Also, in four cases, gender identity was the targeting factor, while eight people were targeted because of their sexual orientation.

In Canada's Criminal Code, three sections somewhat capture hate crimes. Section 318 speaks to "advocating genocide" and targeting of an "identifiable group" for destruction or killing. Section 319 talks about "public incitement of hatred". Lastly, section 430 (4.1) addresses mischief (e.g. graffiti) to cultural or religious property.

However, according to Canada's Department of Justice, "One of the difficulties surrounding the collection of hate crimes concerns the definition of what constitutes a hate-motivated incident. There is considerable variability in the definitions in use by police services across Canada. Some police forces (such as the Metropolitan Toronto Police Service) use what might be termed an exclusive definition. That is, a crime is only classified as a hate crime when, in the opinion of the investigating officer, the act was "based solely upon the victim's race, religion, nationality, ethnic origin, sexual orientation gender or disability.

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Other police agencies such as the Ottawa Police Service use a lower threshold. According to this broader definition, a hate-motivated crime is one that was motivated "in whole or in part, by a bias". The matter of definition is critical; if the exclusive definition is used, then a much smaller number of incidents are likely to be classified as hate crimes. This observation is borne out by statistics both in Canada and elsewhere: jurisdictions adhering to an exclusive definition report significantly lower rates of hate crimes".

The Hamilton Police Service use a lower threshold / broader definition of an incident motivated "in whole or in part, by a bias" to classify hate crimes. For this reason, the hate crimes recorded in Hamilton are comparatively higher than other police services that use exclusive definition.

Cities that use exclusive definition of hate crimes are often mistaken as having lower crimes compared to cities that use a lower threshold. Any city that is known for having a higher number of hate crimes often have their reputation impacted compared to others, even though police departments have an inconsistent definition across the country.

ALTERNATIVES FOR CONSIDERATION – Not applicable

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

APPENDICES AND SCHEDULES ATTACHED

Appendix A to Report (LS19031/PW19068(c)/CM19006(c)) (City Wide): Public Engagement Report prepared by Sage Solutions

Appendix B to Report (LS19031/PW19068(c)/CM19006(c)) (City Wide): Comparative Research Report prepared by Sage Solutions

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