

Daniel Kuhlen – Proposed Bylaw to Address Street Harassment

ISSUE

Should the City consider implementing a bylaw to address street harassment or are there alternative measures that could be taken?

BACKGROUND

At its meeting held on [December 6, 2022](#), the Standing Policy Committee on Planning, Development and Community Services (“SPC-PDCS”) resolved:

That the information be referred to the Administration for a report back to the Standing Policy Committee on Planning, Development and Community Services, in collaboration with the Saskatoon Police Service.

CURRENT STATUS

A bylaw with respect to street harassment would be similar to an anti-bullying bylaw. The language used is similar in both types of bylaws.

The City has previously considered having an anti-bullying bylaw. On [April 8, 2013](#), City Council asked for the Administration to report back regarding options for an anti-bullying bylaw. At its [February 10, 2014](#) meeting, City Council considered a report from the City Solicitor’s Office regarding the options around an anti-bullying bylaw. Prior to bringing this report, the Saskatoon Police Service was engaged and expressed support for a bylaw. City Council resolved:

- 1) that City Council proclaim April 7 – 12, 2014, as Pink Revolution – Bully Prevention Week in Saskatoon and that the City Clerk be authorized to sign the proclamation, in the standard form, on behalf of City Council; and
- 2) that the request for a flag raising in conjunction with Pink Revolution – Bully Prevention Week be approved, subject to any administrative conditions.
- 3) that the City Solicitor be instructed to draft an anti-bullying bylaw for Council’s consideration;
- 4) that Saskatoon be declared a Bully-Free Zone; and
- 5) that in addition to a draft bylaw, City Council be provided with options with respect to education and awareness programs, drafted in consultation with community partners.

Between 2014 and 2016 consultation occurred with a variety of stakeholders including the school boards regarding a possible bylaw.

On [March 21, 2016](#), City Council considered a report from the City Solicitor's Office. Attached to the report were two versions of the bylaw; one that included schools in the definition of public place and one that did not. City Council ultimately did not pass either bylaw at that meeting and the bylaw was defeated. City Council instead resolved:

That the school divisions' Boards of Trustees that fall under the purview of the City of Saskatoon be invited to participate in discussions with the Administration and/or City Council with a report back to the Governance and Priorities Committee.

In May of 2016 the City Clerk wrote to the school boards inviting them to meet with the Governance and Priorities Committee. The issue of a bylaw was not revisited again.

The request heard by SPC-PDCS on December 6, 2022 for a street harassment bylaw requested a bylaw similar to the City of Edmonton which has an anti-bullying provision within a larger bylaw.

DISCUSSION/ANALYSIS

Saskatoon Police Service

In considering the options available to the City under this initiative, the input of the Saskatoon Police Service ("SPS") was sought as was directed by the Committee.

Street harassment can be a component of a hate/bias motivated crime or a hate/bias motivated incident. In January of 2022 the SPS created the Hate Crimes Unit.

Information on this initiative can be found on their website at:

<https://saskatoonpolice.ca/hatecrime/>. Their website provides the following information:

The Hate Crimes Unit is responsible for a number of portfolios including:

- Reviewing and investigating complaints that have been reported as being motivated by hate, bias or prejudice. This includes assisting other units in their investigations by providing specific hate/bias based knowledge if deemed necessary.
- Collecting and collating data regarding hate/bias incidents and occurrences in order to be able to develop proactive strategies aimed at reducing hate/bias motivated crime.
- Providing certain data that has been collected and collated to intelligence units in order to monitor and target persons or groups involved with extremist ideologies and or hatred that may lead to criminality.
- Internal and external consultation on issues involving situations that are aggravated by hate bias or prejudice.

- Education and relationship building both within the Service and in the community in order to help build trust between marginalized and diverse persons within the community and the police service.

The SPS has a multi-layered approach to Hate Crime investigations including: investigative, community outreach, intelligence gathering and analysis, and education. This approach utilizes the expertise of many sections within the SPS to ensure that a proper response is given to any reported incident.

The SPS have created an online tool to report all forms of incidents that may be hate or bias motivated. A protocol with respect to hate/bias motivated graffiti has also been established with the City of Saskatoon so that these incidents can be appropriately tracked.

At this time, the SPS do not think a street harassment bylaw would be useful. While every incident is perhaps not enough to warrant criminal charges, all incidents are being collated and analyzed. Incidents can sometimes be grouped to show a pattern that may warrant a *Criminal Code* charge.

Further, the nature of the incident means that often perpetrators of these types of crime have long left the scene of any incident before SPS arrives. Often, the complainant has also left the scene of any incident. As a result, any bylaw charge is difficult. A gap that would be served by a bylaw has not currently been identified by SPS.

The Hate Crimes Unit was established in January of 2022 and has only recently completed its inaugural year of service. SPS is in the process of evaluating administrative and operational aspects of the unit as they determine the most appropriate path for the future.

SPS encourages everyone to report any incident of this nature to the SPS using their online tool to be found at: <https://saskatoonpolice.ca/onlinereporting/hatecrime/>.

Adoption of a Bylaw

Section 8 of *The Cities Act* provides the City with broad authority to regulate by bylaw. In particular, clause 8(1)(b) provides the City with the authority to pass bylaws for City purposes respecting “the safety, health and welfare and the protection of people and property”, and clause 8(1)(c) grants the City a general power to pass bylaws respecting “people, activities and things in, on or near a public place or place that is open to the public.” Broadly speaking, the City would have jurisdiction to pass an anti-bullying bylaw pursuant to these provisions. However, this jurisdiction is not without limitation and City bylaws may be open to challenge for any number of reasons.

We are aware that some other jurisdictions have passed anti-bullying bylaws. Some of those bylaws have since been updated to encompass additional behaviour related to street harassment. To our knowledge, none of these bylaws have been subject to any

legal or constitutional challenge. Therefore, it remains to be seen whether any of these bylaws, as drafted, would survive challenge. Many other municipalities have chosen not to pass bylaws in this area.

Any bylaw drafted would need to be carefully worded to support a valid municipal purpose, such as health and safety, and to ensure that the targeted behaviours are clearly defined. Such a bylaw would be extremely limited in scope so as not to offend the *Constitution*, the *Canadian Charter of Rights and Freedoms* or *The Cities Act*.

Street harassment or any hate/bias motivated crime or incident is clearly abhorrent, but it is uncertain whether a bylaw offence would discourage this behaviour. Instead, a focus on assisting the SPS with their initiatives and undertaking other educational initiatives might be a better course of action with more benefit.

FINANCIAL IMPLICATIONS

There are no financial implications.

OTHER IMPLICATIONS

No other implications have been noted at this time.

NEXT STEPS

The Administration is not planning additional work in this area at this time. When opportunities arise, the City will reach out to the SPS to coordinate future activities with respect to education. If a bylaw is still desired, a motion would be required recommending that City Council direct the City Solicitor's Office to draft the appropriate bylaw.

APPENDICES

1. Solicitor/Client Privilege

Report Approval

Written & Approved by: Cindy Yelland, City Solicitor

Reviewed by: Lynne Lacroix, General Manager, Community Services
Celene Anger, Chief Strategy and Transformation Officer
Jeff Jorgenson, City Manager