

WORK SESSION AGENDA

CITY COUNCIL WORK SESSION
TUESDAY
FEBRUARY 11, 2014

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.

1. **Call to Order**

2. **Pledge of Allegiance**

3. **Roll Call**

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

4. **Public Participation**

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

5. **Preliminary Review of Draft Agenda for the February 18, 2014, City Council Meeting.***

** Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

6. **Economic Collaborative of Northern Arizona (ECoNA) annual update.**

7. **Discuss and provide direction to staff on the development of an ordinance prohibiting aggressive solicitation.**

8. **Review of Draft Agenda Items for the February 18, 2014, City Council Meeting.***

** Public comment on draft agenda items will be taken at this time, at the discretion of the Mayor.*

9. **Public Participation**

- 10. **Informational Items To/From Mayor, Council, and City Manager; and requests for future agenda items.**
- 11. **Adjournment**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2014.

Elizabeth A. Burke, MMC, City Clerk

Memorandum

6.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council
From: Stacey Button, Economic Vitality Director
Date: 02/04/2014
Meeting Date: 02/11/2014



TITLE:

Economic Collaborative of Northern Arizona (ECoNA) annual update.

DESIRED OUTCOME:

For information only.

INFORMATION:

Richard Bowen, President/CEO of the Economic Collaborative of Northern Arizona (ECoNA) will present an annual update at the Work Session on February 11, 2014. ECoNA is a membership organization supported by 16 area agencies in Northern Arizona, including the City of Flagstaff, and coordinates the regional efforts of private, public, and nonprofit organizations that are working to improve economic vitality in northern Arizona. ECoNA works to accelerate economic growth by leveraging regional economic development resources, and reinforcing the strong intention and commitment to economic excellence by collaborating with public and private sector partners. Topics to be discussed include general program updates, performance measures and outcomes since their establishment in 2010.

Attachments:

Memorandum

7.

CITY OF FLAGSTAFF



To: The Honorable Mayor and Council
From: Kevin Treadway, Police Chief
Date: 01/17/2014
Meeting Date: 02/11/2014

TITLE:

Discuss and provide direction to staff on the development of an ordinance prohibiting aggressive solicitation.

DESIRED OUTCOME:

A legal review conducted by the Flagstaff City Attorney following a lawsuit filed by the ACLU has determined a state statute under ARS 13-2905A3 prohibiting loitering to beg to be unconstitutional. The United States District Court has also declared ARS 13-2905A3 to be unconstitutional. Officers of the Flagstaff Police Department had previously agreed to cease enforcement of this statute immediately. Each year, the police department receives hundreds of calls from citizens complaining of being approached by subjects begging for assistance. Some of these contacts result in fear on the part of the reporting party, and occasionally the begging can become insistent and aggressive. Begging on private property may be mitigated if property owners choose to partner with the police department to trespass individuals involved in begging on private property. Past calls for service illustrate incidents of begging on public property will certainly cause concerns from citizens in the future. Several municipalities in the State of Arizona have enacted local ordinances to address specific behavior or conduct, as opposed to content of speech. Consideration of a similar local ordinance will enable the Flagstaff Police Department to address citizen concerns in specific scenarios including aggressive solicitation.

INFORMATION:

Last fall, a local attorney and the ACLU filed lawsuit against the Flagstaff City Attorney and Police Chief alleging the state statute prohibiting loitering to beg was unconstitutional. After legal review, it was determined in fact the statute found under ARS 13-2905.A.3 was believed to be a violation of free speech. Following recommendations by the City Attorney and Police Chief, the Flagstaff City Council approved a settlement whereby the Flagstaff Police Department would refrain immediately from taking enforcement action for loitering to beg. On October 11, 2013, the Arizona Criminal Justice Commission advised all law enforcement agencies in the state that the United States District Court had declared ARS13-2905A3 to be unconstitutional and void under the first and fourteenth amendments of the Constitution. The statute was declared unenforceable statewide.

Each year, the Flagstaff Police Department receives numerous calls from concerned citizens who have been approached by individuals begging for assistance. In one recent 13 month period, the police department recorded 642 calls for service where the event code was classified as loitering. The event code for loitering and "vagrancy" is the same, so not all 642 calls received were specifically for loitering to beg, however during that same 13 month period, the Flagstaff Police Department made 141 arrests for panhandling under ARS 13-2905, prior to the legal challenge of this statute. These statistics indicate a large number of citizens contact the police annually with concerns regarding this behavior. A number of

the arrests involved activity described by the victim as “aggressive” at the time the panhandling occurred. A case review indicates it is apparent many subjects who panhandle tend to target females or the elderly resulting in many of these victims describing the contact as “fearful”. In two separate cases, children under the age of ten were solicited.

In 2008, the Flagstaff Police Department issued a Special Order titled Operation 40. This directive was authorized short term, following complaints from residents and business owners on the Southside regarding criminal activity involving serial inebriants. In that Special Order, officers were encouraged to proactively address five separate crimes: trespassing, disorderly conduct, littering, loitering, and consuming alcohol from an open container. In the same 13 month period when 141 loitering to beg arrests were made, officers made 210 arrests for open container, 627 trespassing arrests, and 2007 disorderly conduct arrests. Officers on the Flagstaff Police Department continue informally to refer to directed patrol efforts addressing these offenses as “Operation 40”, however, there has not been a formal directive since 2008. It is commonplace for officers, supervisors and command personnel to develop strategies and objectives during monthly Compstat meetings to address increases in criminal activity. Many of these strategies involve increased proactive patrols and enforcement, and “OP 40” details or activities are no different. Our monthly Compstat meetings and weekly review of crime trends consistently reveal that much of our property crime (shoplifting) and violent crime (strong armed robbery and assaults) involve the serial inebriant population in Flagstaff. Additionally, many of the individuals arrested in the past for panhandling are intoxicated. To address the issue, officers of the Flagstaff Police Department occasionally conduct undercover operations, making arrests when violations of open container, disorderly conduct, urinating in public, pan handling and other crimes are observed by the officers. Arrests for these lower level misdemeanor crimes has resulted in a decline in more serious criminal activity including shoplifting, aggravated assaults and strong arm robbery.

The Flagstaff Police Department believes that citizen concerns regarding loitering to beg on private property can be addressed through a partnership with business owners. Officers can be granted authority to “trespass” subjects on private property at the business owner or managers direction. If a business owner believes loitering to beg is bad for business, this authority may be granted allowing officers to trespass individuals involved in this conduct. Notice shall be given upon first contact, warning the individual this conduct is not allowed and the officer will trespass the individual from that property. Recent changes in the state statute on trespassing now allow the officers to “trespass” individuals at the direction of the business owner. Notice of trespass will be documented in our records system, accessible to officers in the field. Future or subsequent contacts with the same individual at that location could result in an arrest for trespass. With trespassing tools in place on private property, the challenge will be in addressing certain behaviors involving aggressive solicitation on public property.

During legal review, it was determined that several municipalities in the state of Arizona have enacted local ordinances to address aggressive solicitation. These ordinances have successfully addressed citizen’s concerns by prohibiting behavior or conduct, as opposed to the content of speech.

The proposed ordinance on aggressive solicitation is attached. It contains many of the same elements of several of the ordinances reviewed from other municipalities. Several options are open for Council discussion, most notably the distances listed prohibiting certain behaviors in proximity to commercial institutions.

Key Considerations

A draft bill on Aggressive Solicitation is being proposed in the House of Representatives. A copy of that bill is attached. Much of the same prohibitions appear in this draft legislation, but it is of course unknown at this time whether this bill will gain support this legislative season. The issue of panhandling in Flagstaff is most definitely seasonal, with significant increases in calls for service and response to panhandling complaints seen with warmer weather, starting in mid to late April through October.

REFERENCE TITLE: aggressive solicitation; offense

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2024

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTION 13-2905, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2914; RELATING TO OFFENSES AGAINST PUBLIC ORDER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-2905, Arizona Revised Statutes, is amended to
3 read:
4 13-2905. Loitering; classification
5 A. A person commits loitering if such person intentionally:
6 1. Is present in a public place and in an offensive manner or in a
7 manner likely to disturb the public peace solicits another person to engage
8 in any sexual offense.
9 2. Is present in a transportation facility and after a reasonable
10 request to cease or unless specifically authorized to do so solicits or
11 engages in any business, trade or commercial transactions involving the sale
12 of merchandise or services.
13 ~~3. Is present in a public place to beg, unless specifically authorized~~
14 ~~by law.~~
15 ~~4.~~ 3. Is present in a public place, unless specifically authorized by
16 law, to gamble with any cards, dice or other similar gambling devices.
17 ~~5.~~ 4. Is present in or about a school, college or university building
18 or grounds after a reasonable request to leave and either does not have any
19 reason or relationship involving custody of or responsibility for a pupil or
20 student or any other specific legitimate reason for being there or does not
21 have written permission to be there from anyone authorized to grant
22 permission.
23 ~~6.~~ 5. Except as provided in section 13-3969, subsection A, solicits
24 bail bond business inside a court building or immediately around or near the
25 entrance of a county or city jail. For the purposes of this paragraph,
26 "solicit" includes handing out business cards or any printed material or
27 displaying any electronic devices related to bail bonds, verbally asking a
28 person if the person needs a bail bond and recruiting another person to
29 solicit bail bond business.
30 B. Loitering under subsection A, paragraph ~~5~~ 4 is a class 1
31 misdemeanor. Loitering under subsection A, paragraphs 1, 2, ~~3~~, ~~4~~ and ~~6~~ 5 is
32 a class 3 misdemeanor.
33 Sec. 2. Title 13, chapter 29, Arizona Revised Statutes, is amended by
34 adding section 13-2914, to read:
35 13-2914. Aggressive solicitation; classification; definitions
36 A. IT IS UNLAWFUL FOR A PERSON TO SOLICIT ANY MONEY OR OTHER THING OF
37 VALUE OR SOLICIT THE SALE OF GOODS OR SERVICES:
38 1. WITHIN FIFTEEN FEET OF ANY BANK ENTRANCE OR EXIT OR ANY AUTOMATED
39 TELLER MACHINE.
40 2. IN ANY PUBLIC TRANSPORTATION VEHICLE OR FROM ANY PERSON WHO IS
41 WAITING WITHIN TEN FEET OF A SIGN DESIGNATING A BUS STOP. THIS PARAGRAPH
42 DOES NOT APPLY TO THE OPERATOR OF A PUBLIC TRANSPORTATION VEHICLE WHO
43 REQUESTS OR ACCEPTS PAYMENT OF A FARE.
44 3. IN A PUBLIC AREA BY:

1 (a) INTENTIONALLY, KNOWINGLY OR RECKLESSLY MAKING ANY PHYSICAL CONTACT
2 WITH OR TOUCHING ANOTHER PERSON IN THE COURSE OF THE SOLICITATION WITHOUT THE
3 PERSON'S CONSENT.

4 (b) APPROACHING OR FOLLOWING THE PERSON BEING SOLICITED IN A MANNER
5 THAT IS INTENDED OR IS LIKELY TO CAUSE A REASONABLE PERSON TO FEAR IMMINENT
6 BODILY HARM TO ONESELF OR ANOTHER OR DAMAGE TO OR LOSS OF PROPERTY OR THAT IS
7 REASONABLY LIKELY TO INTIMIDATE THE PERSON BEING SOLICITED INTO RESPONDING
8 AFFIRMATIVELY TO THE SOLICITATION.

9 (c) CONTINUING TO SOLICIT THE PERSON AFTER THE PERSON BEING SOLICITED
10 HAS CLEARLY COMMUNICATED A REQUEST THAT THE SOLICITATION STOP.

11 (d) INTENTIONALLY, KNOWINGLY OR RECKLESSLY OBSTRUCTING THE SAFE OR
12 FREE PASSAGE OF THE PERSON BEING SOLICITED OR REQUIRING THE PERSON TO TAKE
13 EVASIVE ACTION TO AVOID PHYSICAL CONTACT WITH THE PERSON MAKING THE
14 SOLICITATION. THIS SUBDIVISION DOES NOT APPLY TO ACTS THAT ARE AUTHORIZED AS
15 AN EXERCISE OF ONE'S CONSTITUTIONAL RIGHT TO PICKET OR PROTEST.

16 (e) INTENTIONALLY, KNOWINGLY OR RECKLESSLY USING OBSCENE OR ABUSIVE
17 LANGUAGE OR GESTURES THAT ARE INTENDED OR LIKELY TO CAUSE A REASONABLE PERSON
18 TO FEAR IMMINENT BODILY HARM OR THAT ARE REASONABLY LIKELY TO INTIMIDATE THE
19 PERSON BEING SOLICITED INTO RESPONDING AFFIRMATIVELY TO THE SOLICITATION.

20 B. A VIOLATION OF THIS SECTION IS A PETTY OFFENSE, EXCEPT THAT A
21 SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR.

22 C. FOR THE PURPOSES OF THIS SECTION:

23 1. "AUTOMATED TELLER MACHINE" HAS THE SAME MEANING PRESCRIBED IN
24 SECTION 6-101.

25 2. "BANK" MEANS A BANK, CREDIT UNION OR OTHER SIMILAR FINANCIAL
26 INSTITUTION.

27 3. "PUBLIC AREA" MEANS AN AREA THAT THE PUBLIC OR A SUBSTANTIAL GROUP
28 OF PERSONS HAS ACCESS TO AND INCLUDES ALLEYS, BRIDGES, BUILDINGS, DRIVEWAYS,
29 PARKING LOTS, PARKS, PLAYGROUNDS, PLAZAS, SIDEWALKS AND STREETS OPEN TO THE
30 GENERAL PUBLIC, AND THE DOORWAYS AND ENTRANCES TO BUILDINGS AND DWELLINGS AND
31 THE GROUNDS ENCLOSING THEM.

32 4. "PUBLIC TRANSPORTATION VEHICLE" MEANS ANY VEHICLE THAT IS USED FOR
33 THE TRANSPORTATION OF PASSENGERS ON SCHEDULED ROUTES ON AN INDIVIDUAL
34 PASSENGER FARE-PAYING BASIS.

35 5. "SOLICIT" MEANS USING ANY MEANS OF COMMUNICATION, INCLUDING BY
36 SPOKEN, WRITTEN OR PRINTED WORD, TO REQUEST AN IMMEDIATE DONATION OR EXCHANGE
37 OF MONEY OR OTHER THING OF VALUE FROM ANOTHER PERSON REGARDLESS OF THE
38 SOLICITOR'S PURPOSE OR INTENDED USE OF THE MONEY OR OTHER THING OF VALUE.

6-01-001-0001

(A) For the purposes of this Chapter the following terms shall mean:

(1) **AGGRESSIVE MANNER:** Means and includes either individually or as a group:

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or

(b) Approaching or following the person being solicited, if the conduct is:

1) intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or the commission of a criminal act upon the person or property in the person's possession; or

2) is intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or

(c) Continuing to solicit from a person within five feet (5') of that person being solicited after the person has made a negative response to such solicitation; or

(d) Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the City, shall not constitute obstruction of pedestrian or vehicular traffic; or

(e) Intentionally or recklessly using obscene or abusive language or gestures:

(1) intended to or likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or

(2) intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.

(2) **AUTOMATED TELLER MACHINE FACILITY:** The area comprised of one or more automatic or automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(3) **PUBLIC AREA:** An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

(4) **SOLICIT:** To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other

thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

(5) PUBLIC TRANSPORTATION VEHICLE: Any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.

(6) BANK: A bank Credit Union or other similar financial institution.

(B) It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area; or

(2) In any public transportation vehicle or from any persons within fifteen feet (15') of any transit stop, bus stop, taxi stand, train station platform or the inside of the train station; or

Options: 10 Feet, 5 Feet

(3) Within fifteen feet (15') of any entrance or exit of any bank, financial institution, automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or

Options: 10 Feet, 5 Feet

(4) Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance; or

(5) From persons engaging in any financial transaction; or

(6) Within fifteen feet (15') from persons inside a business, including a patio area, except with the consent of the business owner; or

Options: 10 Feet, 5 Feet

(7) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

(8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.

(C) Penalty: A first violation of this is a section is a petty offense a second or subsequent violation of this section shall be a class three (3) misdemeanor.

Aggressive Solicitation

Kevin Treadway
Deputy Chief
Flagstaff Police Department
928-556-2304

We will...

- Discuss elements of the crime of loitering
- Review FPD Crime Prevention philosophy
- OP40 Definition and Initiatives
- Overview of Loitering calls for service and arrests April 2012-2013
- Discuss our mission and culture on FPD
- Look at alternatives
- Proposed Ordinance on Aggressive Solicitation

Loitering Statute

■ ARS 13-2905-If a person intentionally:

1.) Is present in a public place in an offensive manner or a manner likely to disturb the peace solicits another person to engage in any sexual offense

2.) Is present in a transportation facility and after request to cease or unless authorized to do so engages in business, trade or commercial transactions involving sale of merchandise or services

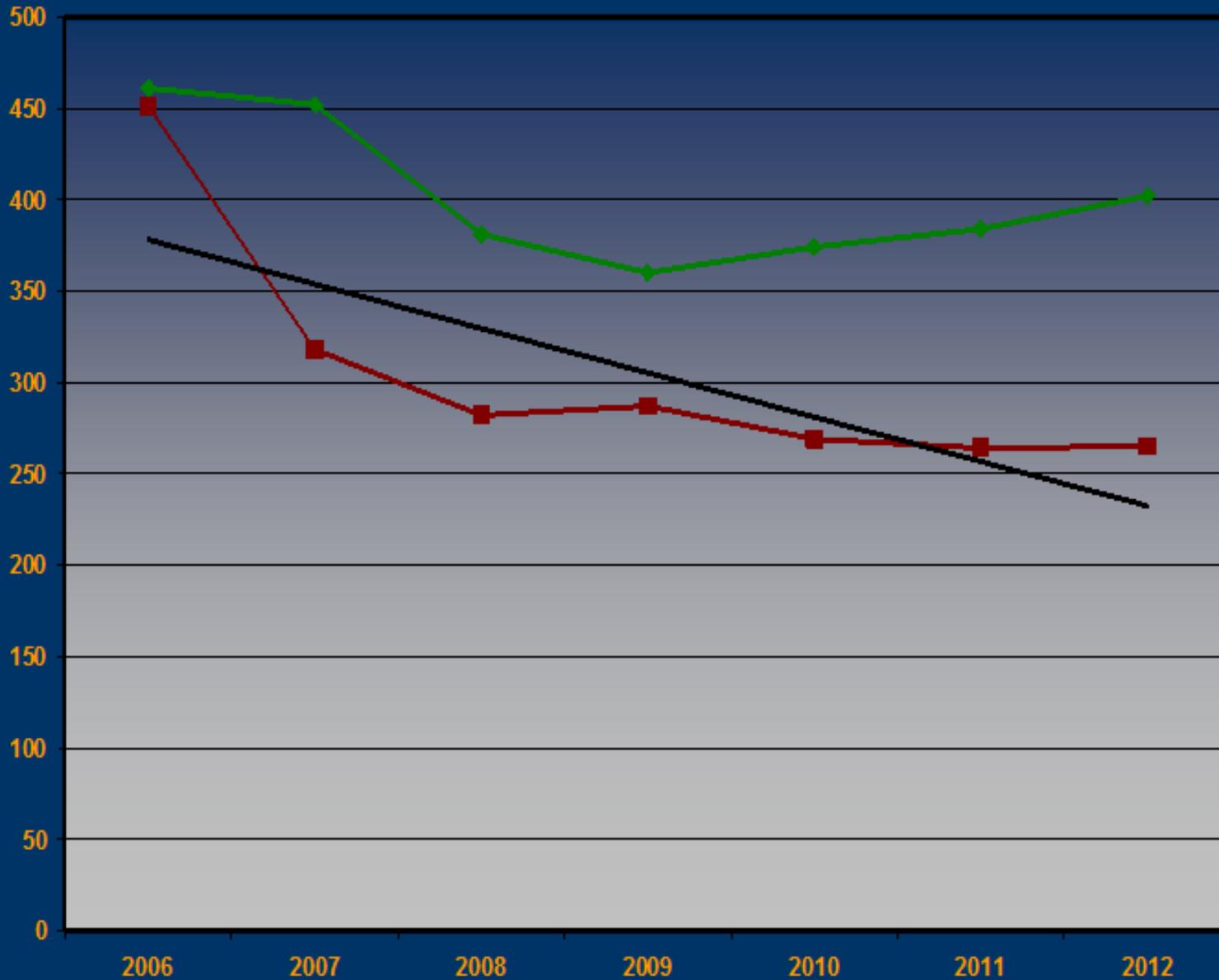
Loitering Statute (cont.)

- 3.) Is present in a public place to beg, unless specifically authorized by law (class 3 misd)
- 4.) Present in public place to gamble
- 5.) Present in or about a school, college or University after request to leave and doesn't have any legitimate reason to be there or relationship with pupil

Crime in Flagstaff

- 7 year downward trend in crime locally
- Both violent and property crime
- We share in this success. Due in part to many initiatives from our partners. We believe it is also attributed in part to Compstat, allocating our limited resources wisely, and directed patrol efforts aimed at when and where crime is occurring

Trends for Flagstaff Police Department 2006 - 2012

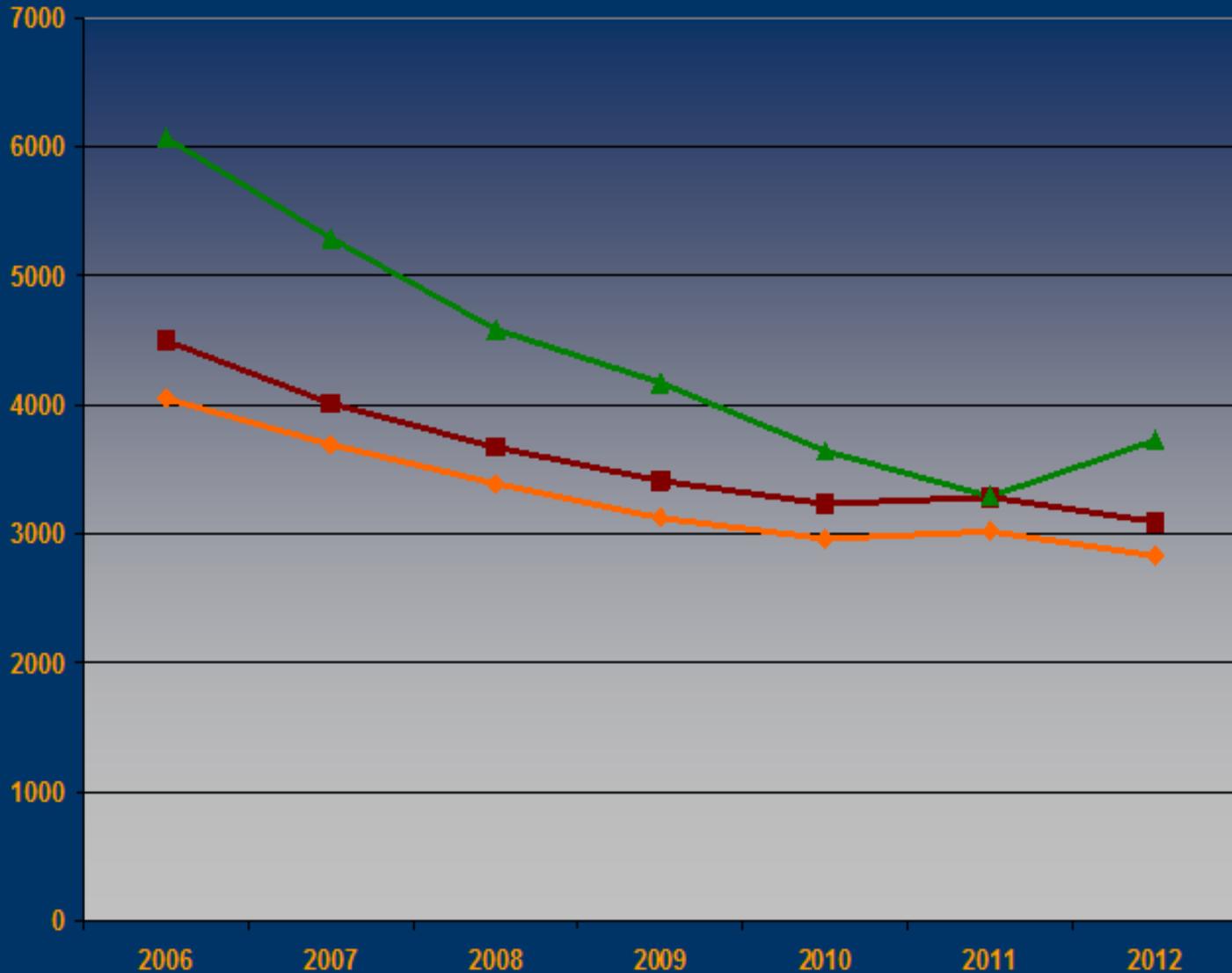


- Vehicle Accidents-Injury
- Violent Crime
- Linear (Violent Crime)

-13% Reduction

-41% Reduction

Trends for Flagstaff Police Department 2006 - 2012



- Property Crime
- Part 1 Crimes
- Cases Assigned

-30% Reduction
-36% Reduction
-48% Reduction

Compstat

- All command staff and supervisors meet monthly to review crime and accidents
- Weekly newsletter disseminated to all personnel reflecting crime trends
- Develop throughout the month and again at end of each month, specific directed patrol efforts to address crime

Violent and Property Crime

- Two broad categories that are tracked
- Violent crime in Flagstaff is predominately aggravated assaults (70% of all violent crime). National benchmark is 3.61/1000. Flagstaff is 3.7/1000.
- Property crime consists mainly of three broad categories-vehicle burglaries, shoplifting (33%), and all other larceny. National benchmark is 33/1000, Flagstaff is 43/1000.

Violent Crime

- After years of study, here locally, we know aggravated assaults occur mainly in the downtown bar area when the University is in session, and among our serial inebriant population—who are both perpetrators and victims of this crime. Robbery, is also a violent crime, and largely consists of strong arm attempts involving the serial inebriant population.

Property Crime

- Years of study reveal that there are three broad categories that make up most of the property crime in Flagstaff. Our focus in preventing and reducing property crime centers on vehicle burglary prevention and shoplifting prevention. We had 928 shoplifts in 2012. The most common item stolen during our shoplifting incidents is alcohol (40% of all shoplifts), and the serial inebriant population is the predominant perpetrator in these cases.

Directed Patrol Efforts/OP 40

- Because we receive so many calls for service, and because our serial inebriant population is so closely connected to aggravated assaults, robberies and shoplifting, we routinely develop directed patrol efforts especially during the summer months to address crime with this population.

OP40

- A term first coined in a Special Order written in 2008, OP40 is an initiative to address the following criminal activity:
- 1.) all alcohol violations 2.) trespassing 3.) panhandling 4.) littering 5.) disorderly conduct
- The term has continued to be used more informally to refer to any directed patrol efforts addressing this population and those crimes. It is an informal initiative

Review of Loitering calls for service April 1, 2012 to April 30, 2013

- Event code in CAD reads loitering/vagrancy, so calls are not exclusive to “loitering to beg”
- Took 642 calls for service
- 132 reports taken (for panhandling under state statute)
- 141 arrests made (for panhandling under state statute)

Quantitative Arrest data

- 141 arrests
- 12 cite and release
- 4 summons issued
- 125 booked
- 32.6% call for service, 38% UC, 29.3% on view activity by officer
- 38% (conservatively) were intoxicated, with average BA of the 12 arrestees listed a .28. All 12 were 3 times over legal limit

Quantitative Arrest Data

- 71.4% of arrests were for panhandling alone
- Of the 28.6% with multiple charges (43 cases), only 14% (6 cases) would have resulted in no arrest if there was no panhandling statute
- 4.6% (7 cases) involved a clear description of aggressive panhandling
- Victims identified in 16.6% of all arrests
- 16% involved sign only

Arrests Qualitative Data

- Many incidents describe that arrestee has been previously warned or arrested. Many had been trespassed previously
- Prey upon the weak-females, elderly. 2 separate cases, boys under 10 were solicited and in one of those, his 6 year old sister
- “Captive audiences” prevalent (filling gas, waiting at Redbox, blocked in parking lot
- Some businesses had signs prohibiting loitering present

“Op 40” arrests overall

- From April 1, 2012-April 30, 2013:
- 141 loitering to beg arrests
- 210 open container arrests
- 627 trespass arrests
- 2007 disorderly conduct arrests
- 51 obstructing public thoroughfare arrests

Mission and Culture FPD

- We are tough on crime, committed to preventing crime rather than investigating it
- Mission is to protect life, property, public order and the rights of the individual.
- We will police Compassionately, Consistently, Constitutionally, Correctly.
- Nothing is more important in policing today than our role in preserving the Constitutional rights of others

Options

- Look at adoption of city ordinance to address “conduct” rather than “content” of this action
- Property owners may address the problem under the trespass statute on private property (if willing)
- Utilize our CAD and RMS system for records keeping for previous trespass info

Options (cont.)

- Continue to utilize the suite of other statutes that might apply –open container, alcohol violations, disorderly conduct, trespassing, littering, etc.

Proposed Ordinance

Definition of Aggressive Manner

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or

(b) Approaching or following the person being solicited, if the conduct is:

1) intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or the commission of a criminal act upon the person or property in the person's possession; or

2) is intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or

Definition of Aggressive Manner

- (c) Continuing to solicit from a person within five feet (5') of that person being solicited after the person has made a negative response to such solicitation; or
- (d) Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the City, shall not constitute obstruction of pedestrian or vehicular traffic; or
- (e) Intentionally or recklessly using obscene or abusive language or gestures:
 - (1) intended to or likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or
 - (2) intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.

Other Definitions

- AUTOMATED TELLER MACHINE FACILITY
- PUBLIC AREA
- SOLICIT: To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.
- PUBLIC TRANSPORTATION VEHICLE
- BANK

Prohibited Acts

It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area; or
- (2) In any public transportation vehicle or from any persons within fifteen feet (15') of any transit stop, bus stop, taxi stand, train station or the inside of the train station; or
- (3) Within fifteen feet (15') of any entrance or exit of any bank, financial institution, automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or

[Options: 10 Feet, 5 Feet]

Prohibited Acts

- (4) Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance; or
 - (5) From persons engaging in any financial transaction; or
 - (6) Within fifteen feet (15') from persons inside a business, including a patio area, except with the consent of the business owner; or
- [Options: 10 Feet, 5 Feet]**
- (7) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
 - (8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.

Questions