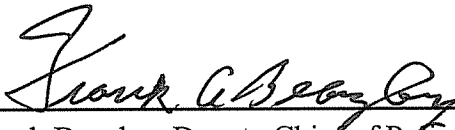

HALIFAX REGIONAL COUNCIL
October 15, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Frank Beazley, Deputy Chief of Police

DATE: October 2, 2002

SUBJECT: Panhandling

INFORMATION REPORT

ORIGIN

At the August 27, 2002, session of the Halifax Regional Council, concerns were raised regarding panhandling in HRM. Councillors were asked to forward their individual concerns directly to staff and for staff to prepare an information report. Councillor Fougere requested that the report also examine what has been done in other cities, Toronto in particular, with respect to this issue.

BACKGROUND/DISCUSSION

Panhandling complaints, although seasonal, are certainly a concern to police. For the most part, the complaints are confined to Central Division or peninsular Halifax; however, panhandlers have been observed on Wyse Road in Dartmouth. The most common definition of panhandlers is as follows:

“Panhandle” means to beg or ask, whether by spoken, written or printed word, for donations or money or other things of value for one’s self or any other person.

From 1996-2000 the complaints were mainly related to individuals begging for money in the Spring Garden Road and Downtown business districts. While some complaints are still received from those areas, in 2000 the panhandlers began to get more sophisticated and began washing windshields at intersections and now have expanded to standing on the curbs near major intersections with signs asking for money.

Intersections identified to date are:

- Quinpool Road /Robie Street
- Connaught Avenue/Bayers Road
- Windsor Street/Kempt Road
- North Street/Agricola Street
- North Park Street/Rainnie Drive
- Wyse Road/Nantucket Avenue

The Supreme Court of Canada has ruled that panhandling in general is a legal activity well within an individuals right as a means to earn a living. In Canada it is permissible for one person to ask another for money in a public place. The panhandlers in Halifax are probably no different from those in other Canadian cities and can be placed in one of three groups.

- addictions to drugs or alcohol
- suffer from disabilities and mental illnesses like schizophrenia
- drop outs from society who do not wish to follow rules or work to support themselves

Although some cities have enacted bylaws to deal specifically with this problem, it would appear that we have ample legislation to deal with the problem. As a result of enacting bylaws, other municipalities have been facing court challenges as a result of trying to control the movement of persons.

In Ontario, in an effort to promote safety, legislation was passed known as the "Safe Streets Act" prohibiting aggressive solicitation, solicitation of a person in certain places and disposal of dangerous things in certain places. In addition, the Highway Traffic Act of Ontario was amended to regulate certain activities on roadways. (See attached - Province of Ontario - Bill 8)

The problem that police continually run into is the reluctance of members of the public to formally complain and be willing to go to court. This clearly has been the case with the aggressive panhandlers on Spring Garden Road.

The presence of beat officers and the hiring of private security guards by the business association seems to have helped in reducing the number of panhandlers in the Spring Garden Road area over the past two years. In addition, HRP distributed the following proact notice to businesses and members of the public advising them of their rights and the rights of the panhandlers. (See attached Proact Notice)

Earlier this spring, members from the Problem Solving Unit were detailed to work on an operational plan dealing with the panhandlers who set up at the major intersections.

The objectives of this Operational Plan were:

1. Increase public awareness
2. Reduce the number of Calls for Service
3. Help residents and businesses regain the tranquillity of their community
4. Increase trust and confidence in HRP among the community members

The unit was involved in high profile police presence in the areas known to be where these persons attended. During the operation, which only lasted three weeks, the unit was able to identify a list of persons involved. In total 21 persons were identified as being involved in these activities. It is interesting to note that of these twenty-one (21) persons spoken to, only two (2) were from Nova Scotia. The majority of persons are from British Columbia, Alberta and Ontario.

As well, during the operation, both HRM Legal Services and the Regional Crown Attorney were contacted and it was determined that the following charges could possibly be proceeded with against panhandlers in general.

Section 44 HRM Streets Bylaw S-300	Placing Sign Within Street Without Permit Fine: \$215.00
Section 126 Motor Vehicle Act	Pedestrian Failing to Obey Traffic Signals Fine: \$117.25 (1 st , 2 nd and subsequent offence)
Section 127(2) Motor Vehicle Act	Failing to Use Sidewalk Fine: \$117.25/\$128.75/\$157.50 (1 st , 2 nd and subsequent offence)
Section 41(1) City of Halifax Ordinance 180	Creating a Nuisance - Fine: \$128.75
Section 42 City of Halifax Ordinance 180	Obstructing Use of Street While Waiting Fine: \$128.75
Section 43 City of Halifax Ordinance 180	Loitering in Public Place Opening Onto Street Fine: \$128.75

A widely used Provincial Statute "Act to Protect Property" enables persons who own property to prohibit individuals from entering upon the property. The property owner, or an agent for the

property, simply gives the individual notice, which can either be verbal or in writing, that they are prohibited from entering upon the property. Each notice is in affect for a period of time not exceeding six months. This act is widely used in shopping districts and malls. If someone violates the notice, police are called and usually a ticket will be issued which carries a fine of \$215.00.

Finally, the Criminal Code can be used in dealing with aggressive panhandlers for offences such as Causing a Disturbance, Assault, Threats and Robbery to mention only a few. When a person is issued four (4) Summary Offence Tickets, they would then be arrested under the Summary Proceedings Act for continuing the offence and brought before the courts.

During the operation, members of the Problem Solving Unit issued a total of 15 Summary Offence Tickets. Since that time members on patrol and members working the Traffic Enforcement Detail have made an effort, when time permits, to address the problem.

Following are a list of charges proceeded with for the mentioned offences:

	<u>2001</u>	<u>2002</u>
HRM Streets Bylaw S-300	1	7
Section 126 Motor Vehicle Act	4	2
Section 127(2) Motor Vehicle Act	1	25
City of Halifax Ordinance 180	25	33
Act to Protect Property	195	169

Another problem that presently exists is the inability to collect fines. For the most part the offenders are transient and a failure to show up in court on the date indicated on the ticket will result in an automatic conviction in most cases. Sanctions can be taken by the Province against a person for unpaid fines when the person goes to get a license or vehicle renewal; however, it is highly unlikely in these cases that any of the offenders have a vehicle or a license.

Public opinion of this type of activity is interesting. The Problem Solving Unit spoke with Calgary Police and their ByLaw Enforcement persons, as they have had a similar problem in their city. Apparently there was a public outcry to have the same type of offenders off the street, but once the police and/or bylaw officers started dealing with these offenders, there was another public outcry from the people stating they did not want them to charge or arrest these homeless people. Our officers have received similar feedback from members of the public when dealing with the panhandlers, everything from dirty looks and comments on their disapproval of the police action to actually passing money to the panhandlers when they are being dealt with.

The panhandlers themselves are well aware of the fact that they are not allowed to be involved in these activities, but ticketing does not deter them.

After all is said and done we, as a police service, must ask ourselves three questions:

How big is the problem?

What priority should we put on it?

What resources should we devote to it?

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating Reserves, as well as any relevant legislation.

ATTACHMENTS

1. Province of Ontario - Bill 8
2. Panhandling Proact Notice

Additional copies of this report, and information on its status, can be obtained by contacting the office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Inspector Stephen Sykes, Halifax Regional Police 490-5133

CHAPTER 8

Safe Streets Act, 1999

No Amendments.

As of September 16, 2002.

Definition

1. In sections 2 and 3,

"solicit" means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means. 1999, c. 8, s. 1.

Definition

2. (1) In this section,

"aggressive manner" means a manner that is likely to cause a reasonable person to be concerned for his or her safety or security. 1999, c. 8, s. 2 (1).

Solicitation in aggressive manner prohibited

(2) No person shall solicit in an aggressive manner. 1999, c. 8, s. 2 (2).

Examples

(3) Without limiting subsection (1) or (2), a person who engages in one or more of the following activities shall be deemed to be soliciting in an aggressive manner for the purpose of this section:

1. Threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to respond to the solicitation.
2. Obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
3. Using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation.
4. Proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
5. Soliciting while intoxicated by alcohol or drugs.
6. Continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation. 1999, c. 8, s. 2 (3).

Definitions

3. (1) In this section,

"public transit vehicle" means a vehicle operated by, for or on behalf of the Government of Ontario, a municipality in Ontario, including a regional and district municipality and the County of Oxford, or a transit commission or authority in Ontario, as part of a regular passenger transportation service; ("véhicule de transport en commun")

"roadway" has the same meaning as in the *Highway Traffic Act* ; ("chaussée")

"vehicle" includes automobile, motorcycle, van, truck, trailer, bus, mobile home, traction engine, farm tractor, road-building machine, bicycle, motor-assisted bicycle, motorized snow vehicle, streetcar and any other vehicle drawn, propelled or driven by any kind of power, including muscular power. ("véhicule") 1999, c. 8, s. 3 (1).

Solicitation of captive audience prohibited

(2) No person shall,

(a) solicit a person who is using, waiting to use, or departing from an automated teller machine;

(b) solicit a person who is using or waiting to use a pay telephone or a public toilet facility;

(c) solicit a person who is waiting at a taxi stand or a public transit stop;

(d) solicit a person who is in or on a public transit vehicle;

(e) solicit a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or

(f) while on a roadway, solicit a person who is in or on a stopped, standing or parked vehicle. 1999, c. 8, s. 3 (2).

Definition

4. (1) In this section,

"outdoor public place" means,

(a) a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, includes but is not limited to a sidewalk, street, parking lot, swimming pool, beach, conservation area, park and playground, and

(b) school grounds. 1999, c. 8, s. 4 (1).

Disposal of certain dangerous things prohibited

(2) No person shall dispose of any of the following things in an outdoor public place:

1. A used condom.

2. A new or used hypodermic needle or syringe.

3. Broken glass. 1999, c. 8, s. 4 (2).

Defence

(3) It is a defence to a charge under subsection (2) for the person who disposed of the condom, the needle or syringe or the broken glass to establish that he or she took reasonable precautions to dispose of it in a manner that would not endanger the health or safety of any person. 1999, c. 8, s. 4 (3).

Offence

5. (1) Every person who contravenes section 2, 3 or 4 is guilty of an offence and is liable,

(a) on a first conviction, to a fine of not more than \$500; and

(b) on each subsequent conviction, to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1999, c. 8, s. 5 (1).

Subsequent conviction

(2) For the purpose of determining the penalty to which a person is liable under subsection (1),

(a) a conviction of the person of a contravention of section 2 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3;

(b) a conviction of the person of a contravention of section 3 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3; and

(c) a conviction of the person of a contravention of section 4 is a subsequent conviction only if the person has previously been convicted of a contravention of section 4. 1999, c. 8, s. 5 (2).

Arrest without warrant

6. A police officer who believes on reasonable and probable grounds that a person has contravened section 2, 3 or 4 may arrest the person without warrant if,

(a) before the alleged contravention of section 2, 3 or 4, the police officer directed the person not to engage in activity that contravenes that section; or

(b) the police officer believes on reasonable and probable grounds that it is necessary to arrest the person without warrant in order to establish the identity of the person or to prevent the person from continuing or repeating the contravention. 1999, c. 8, s. 6.

7. Omitted (amends or repeals other Acts). 1999, c. 8, s. 7.

8. Omitted (provides for coming into force of provisions of this Act). 1999, c. 8, s. 8.

9. Omitted (enacts short title of this Act). 1999, c. 8, s. 9.



Panhandling Information Notice

Citizen and merchant complaints regarding “*PANHANDLING*” are always a concern to police. Seasonal complaints at various times can be problematic not only for you as citizens and merchants, but also for us as Police Officers.

The Supreme Court of Canada has ruled that, “panhandling is a legal activity well within an individuals rights as a means to earn a living.” This decision does not mean that you do not have the right to walk the streets or operate a business in our Region without being interfered with, or harassed by panhandlers. Statutes are in place to deal with this type of behaviour. Some frequently used sections are as follows.

City of Halifax Ordinance 180 Section 41 (a) makes it an offence to create a nuisance and includes obstructing any person or creating a disturbance. Section 43 of this Ordinance also makes it an offence to stand or loiter in doorways unless there for the purpose of obtaining access. The fine for violating this Ordinance is \$128.75.

The Protection of Property Act Section 3 (1) makes it an offence for any person not authorized by the occupier to enter on premises where entry is prohibited by notice or to engage in an activity which is prohibited by notice with fines not exceeding \$500.00.

The Liquor Control Act, Section 87(1) governs intoxication in a public place and the Criminal Code, Section 175 (1) makes it an offence “in or near a public place” to create a disturbance by fighting, swearing or using insulting or obscene language or to impede or molest other persons, and carry penalties of fines or periods of incarceration.

Please do not feel obligated to turn over money to panhandlers and if you feel that you are a victim of one of the offences mentioned or some other offence, we encourage you to call us and register a complaint. As a complainant, you should be aware that your attendance may be required in Court upon a not guilty plea being entered by the accused.

Citizens wishing to make such a complaint are asked to call the non-emergency telephone number 490-5020. In the event of an emergency call “911”.

Should you have any questions regarding this or any other matter please contact:

**Halifax Regional Police Service
Central Division Community Office
Halifax Shopping Centre
7001 Mumford Road, Suite 138C
Halifax, Nova Scotia**

Community Office Hours: 8:30 a.m. to 4:30 p.m. Monday to Friday 490-5044

“To Serve and Protect”