

# Hollywood P.D. Deals Proactively with Street Vendors

By Capt. Tom Sanchez

Are street vendors posing a public safety risk in your jurisdiction?

After cracking down, the City of Hollywood, Fla., has eliminated the problem. Previously, as many as six vendors could be seen conducting business within lanes of traffic at the same heavily traveled intersection. One circulation director advised he had 21 vendors deployed at 12 different intersections within the City.

In March 2003, Hollywood Police Chief James Scarberry decided to proactively address the public safety hazard posed by street vendors soliciting business in the roadways.

"If we are going to be serious about our priority of promoting public safety," Chief Scarberry said, "then we must address the issue of business activities being conducted in between lanes of traffic."

The department's legal adviser, Joel Cantor, Esq. researched the legal options available and recommended enforcing



Florida Statute 316.130(5) – an existing but seldom enforced law.

It reads: "No person shall stand in the portion of a roadway paved for vehicular traffic for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle."

Mr. Cantor notified businesses that employed street vendors of the planned enforcement initiative. After receiving official notification of the enforcement initiative, the three main organizations that

employed street vendors – the *Sun-Sentinel* (Fort Lauderdale), *Miami Herald* and *Homeless Voice* – vowed to challenge the enforcement effort in court.

They argued that the distribution of the newspapers enjoyed the same First Amendment protection as the publication of the newspaper itself.

The organizations further argued that streets are public and have been held in trust for the use of the public for the purposes of assembly, communicating thoughts between citizens, and discussing public questions. The businesses that did not collect money and merely provided literature or pamphlets argued that the statute did not apply to them.

In preparation for the enforcement phase of the initiative, the police department assigned detectives to videotape the vendors' actions in the roadways.

These videotapes were later used as evidence to support the department's arguments in the legal depositions that

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followed. The actions caught on tape proved convincing of the traffic congestion and the risk of vehicular and pedestrian accidents caused by the vendors.

The department's Motor Unit was assigned primary responsibility for the successful results of the initiative. Motor officers, who had received prior training in the appropriate application of the applicable statute, patrolled vendor-occupied intersections and educated the individual vendors on the state statute prohibiting their activity.

Following this educational phase, the enforcement phase of the initiative was implemented. Officers provided verbal warnings and followed by issuing citations. In cases of repeat violations and non-compliance, officers made physical arrests. A database was developed to track the issuance of warnings, citations and arrests.

On July 25, 2003, U.S. District Court Judge Patricia Seitz denied an emergency motion for preliminary injunction filed by the newspaper companies that employed street vendors.

She further ruled the Hollywood Police Department had a significant interest in enforcing a constitutional Florida statute to promote public safety and the free-flow of traffic and the public also shared those interests.

Judge Seitz's ruling supported the department's position by confirming that vendors could not enter the roadway to sell newspapers. However, they can sell the newspapers to stopped automobile drivers and passengers so long as they remain on the sidewalk or median and do not enter the paved roadway. The judge's ruling was not appealed, and the newspaper companies removed from their circulation routes the intersections located in Hollywood.

Although the initiative's primary goal was eliminating vehicle vs. pedestrian accidents involving street vendors, other benefits also were realized. One such benefit was the reduction in maintenance requirements of city medians and landscape where vendors congregated and stored their belongings and wares.

Decorative plants and shrubbery required frequent replacement at substantial expense to the city because of unplanned foot traffic. Discarded newspapers and garbage created additional work for Public Works employees.

Additional benefits included reductions in calls for service caused by aggressive panhandlers and road-rage type incidents between motorists arising from vehicles being delayed by motorists interacting with vendors.

The Hollywood Police Department's efforts have proven extremely successful. Neighboring cities, having witnessed the

beneficial results of the initiative and the public support it garnered have followed Hollywood's lead and are now pursuing identical solutions. ☐

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