

To: Mayor and Councilors
From: Steve Powers, City Manager
Subject: Homelessness In Salem
Date: December 9, 2016

Summary

City staff have been responding to the behaviors and activities caused by homeless individuals, panhandlers, campers, and loiterers throughout the city. Salem's parks and parking garage facilities are impacted. Perceptions of safety are critical for the continued use of these facilities. Staff has been contacted regarding increasing issues with the homeless. The City responds to the behavior and activities. The responses are immediate and coordinated with providers of services.

City staff have been discussing potential actions the City could take to assist those who experience homelessness, lessen the impacts of undesirable behaviors, and increase the effectiveness of the City's response. Some of the recommendations may complement the findings of the Mid-Willamette Homeless Initiative and are intended to be priorities from a City staff perspective; some are distinct from the region-wide, longer-term, comprehensive approach the Initiative is taking. The more challenging recommendation will require work with non-profit organizations and Marion County.

Recommendations

- Work with community partners to establish a sobering station with availability of mental health and medical support and access to detox.
- With community partners, increase number of shelter beds with link to transitional housing.
- Work with community partners to create one-stop resource centers with centralized and coordinated case management.
- Prohibit food and goods distribution on city property and work with community partners to establish sanitary meal sites with access to other needed services.
- Install fencing under Marion and Center Street bridges in January/February.
- Increase options and flexibility for Police in response to undesirable behaviors by identifying enforcement areas, such as parkades, and post "No Trespassing" signs so that officers can make arrests, where warranted. (*Underway*)
- Add cleaning services for parking garages and downtown and continue funding city's Clean Team after funding expires June 30, 2017, increase the number of times per week stairwells in the parkades are washed. (*Underway*)
- Add lighting to the stairwells of parking facilities and the plaza behind Marion Parkade. (*Underway*)

Homelessness in Salem

The Mid-Willamette Valley Community Action Agency estimates that more than 1,600 people are homeless in Marion and Polk Counties. Men, women, youth, and families with

children are among the homeless in our communities. In the organization's 2015 homeless count, 346 people out of the 1,660 counted qualified as chronically homeless¹.

The diversity within the homeless population has led to a broad community response—individuals, charitable organizations, and non-profit service providers work to provide temporary shelter or emergency housing, affordable housing, emergency food, mental health services, drug or alcohol addiction counseling, job skills training, and other case management services. When individuals are chronically homeless, they may also face other health issues and, as a result of some of their behaviors, may have a history of criminal charges and face multiple court fines.

Homelessness is not a crime. Some of the behaviors exhibited by those experiencing homelessness are criminal.

Criminal Behaviors

- SRC 95.125 Urinating, Defecating in Public
- SRC 90.020 Consumption of Alcohol in Certain Places
- SRC 94.195 Possession of Alcohol in Parks
- SRC 94.190 Overnight Use of Parks (Illegal Camping)
- SRC 95.550/ORS164.245 Trespass
- SRC 95.120/ORS 166.025 Disorderly Conduct
- Various narcotics possession offenses

Non-Criminal Behaviors

Behaviors people may find offensive and unsightly, such as panhandling, sitting or sleeping on sidewalks, and sleeping in parks are not illegal.

The Oregon Supreme Court has ruled that panhandling is a Constitutional Freedom of Speech. As such, we cannot pass laws prohibiting it, nor can officers enforce laws that would infringe upon that right. Many municipalities have attempted to curb the practice, without success and, in some cases, have faced legal challenge. Unless, a panhandler is truly being disorderly or assaultive there is little legal recourse to the practice.

The 9th Circuit Court of Appeals has also ruled that sleeping is a basic human function and is also protected by the Constitution. Although the government can, to a degree, control in what manner and where people sleep, we cannot arrest people for sleeping. They can be arrested for trespassing if they are sleeping on private property, on closed public property (parks after hours) or in vehicles. But a homeless person sleeping in a public park with their belongings is not illegal.

Loitering on sidewalks is another frequent complaint. Generally this behavior is not illegal, especially on public right-of-ways. To violate SRC 95.700 Pedestrian

¹ "Chronically Homeless" as defined by the Mid-Willamette Valley Community Action Agency (MWVCAA) is: "An individual who 1) is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and 2) has been homeless (in one of the above mentioned locations) for at least one year or on at least four separate occasions in the last 3 years; and 3) can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability."

Interference, the subject has to impede a specific person and have the intent to do so. Typically, someone sitting or loitering on the sidewalk does not have the intent to block another person from passing. Just inconveniencing another person would not be enough for probable cause for arrest.

City Response

Police attempt to modify behavior through issuing citations or taking people to jail. Many of the crimes listed above are not lodgable offenses, meaning if officers arrest a subject for the crime, the Marion County Jail will not accept them into their custody. These types of arrests without incarceration typically begin a cycle of arrest, failure to appear for court, warrant issued, arrest on warrant, release, fail to appear, warrant issued.

Many of these crimes can result in a Downtown Exclusion, in which an individual arrested for these offenses is barred from being downtown for 30 days under penalty of arrest. There are variances to the exclusion for services such as medical care, worship, legal counsel, and food and shelter. Many of these reasons exist only in downtown, so people are routinely granted variances if requested.

When law enforcement is the primary governmental contact with the homeless, law enforcement are seen as responsible for handling many non-criminal aspects of homelessness. Law enforcement is ill-equipped, both statutorily and resource-wise, to deal with the bigger issues of homelessness. Salem Police has a multi-faceted approach to the problem of homelessness throughout the city. Officers respond to calls for service and take action as necessary and lawful. The Downtown Enforcement Team (DET) officers are intimately aware of the challenges of policing the homeless population. They routinely arrest and cite people in the downtown area and exclude them. Many times they have to arrest a subject multiple times before they gain the behavior modification necessary for an individual to conform to acceptable social behaviors. Those that are creating non-illegal issues are typically contacted and informed of what they can and cannot do.

Impacts on City Parks

Transients have destroyed sprinkler heads at Marion Square Park so they do not get wet during the night when they are sleeping on the ground. Due to significant and continuing damage, the restroom at Marion Square Park is closed. The City has continued to maintain the portable toilet located by the skateboard park. Unfortunately, the people using the park have begun knocking over the portable toilet, vandalizing it, and making it so messy as to be difficult to clean. We are spending large amounts of staff time keeping it usable each day.

Staff have reported that it is becoming increasingly more difficult to remove garbage, pick-up litter, mow the grass and perform other general maintenance tasks at Marion Square Park due to interference from transients, including verbal abuse, people refusing to move or move their belongings.

The impact of homelessness is not just impacting Marion Square Park. Woodmansee Park, the 12th Street Promenade (near Safeway), Pringle Park, Bush's Pasture Park, Claggett Creek Nature Park, and Cascades Gateway Park have had recent complaints

of behavior. Transient activity continues at Wallace Marine Park, Minto-Brown Island Park, and River Road North Park.

Police officers work closely with Parks to find and post illegal camps. When large encampments are located, officers coordinate social service providers. Police and service providers go to the camps. This allows service providers the ability to reach out to clients in the field and Police are able to strike a balance between enforcement and outreach. During the outreach clean-ups, people have been enrolled in the Oregon Health Plan, received housing vouchers and been relocated to shelters. The camps are then cleaned up by City staff with the help of inmate crews. DET officers and the Crime Prevention Unit do not limit enforcement and outreach to downtown and parks. They have gone out to the 12th Street Promenade and under various neighborhood bridges to take enforcement action.

DET officers also work closely with service providers to get people off of the street. In 2016 the Salem Housing Authority has placed 40 homeless individuals in housing. A recent success occurred when an elderly homeless man was placed into housing with the help of the Salem Housing Authority. Once housed, officers took donated furniture (from the UGM store) to his apartment and helped him set it up. Although a single example, this can be duplicated with more coordinated and available resources.

Challenges

Based on experience and daily interactions with the homeless population in Salem, staff have identified the following challenges priority needs:

Shelter Beds and Temporary Housing

There are not enough shelter beds to provide emergency or temporary housing to the homeless in our community. Union Gospel Mission (UGM) has sheltered up to 300 men each night. Fire and life safety codes limit the building's capacity to 180. The Salvation Army (families and individuals), Simonka House (women), HOST (juveniles) and the Inter-Faith Hospitality Network (families) are the other main shelters in Salem. Those shelters have an estimated total capacity of up to 300. MWVCAA estimates over 1,600 homeless people in Polk and Marion Counties. We know there are other shelters in both counties, but we can assume none house as many as the ones in the Salem area, so there are hundreds of homeless people in the area that cannot find shelter on a regular basis.

The UGM provides overnight shelter, meals, counseling, job training and other services. UGM programs and dorm-style shelter discourages some from staying. UGM is not the community's day shelter. Recently, the UGM closed their dayroom where people could stay during the day. Since closing the dayroom, a noticeable increase in homeless people have been gathering at other places throughout downtown, Marion Square Park, downtown benches, various sidewalks and the pedestrian pathway on 12th Street. If, or when, nonprofit providers change requirements for shelter, some individuals may leave, further straining warming shelters and de facto day centers such as the Salem Public Library.

Services and Coordination

Another issue is the lack of centralized or coordinated resources. The homeless that stay at the UGM may receive services from other service providers at HOAP and ARCHES, both of which are blocks and miles away. Law enforcement has a difficult time assisting the homeless in getting them connected with resources because one agency deals with their addiction, another with their housing, and yet another deals with their mental illness. These providers rarely overlap and none are in the same office. There is no one location for people to get help.

The Salem area does not have a sobering or detox facility. Marion County Jail will not accept intoxicated individuals who are committing livability crimes.

Emergency Food

Food distribution and handouts under the Marion Street Bridge have a number of issues. It is trespassing to loiter under either bridge. The handouts make the bridge areas and Marion Square Park places for informal gathering and queuing. Park cleanup duties from hundreds of meals fall on City staff. Conducting food distribution in a place that people routinely use for a restroom also contributes to the possible unsanitary conditions.

The food distribution is uncoordinated with other services and duplicates meals that are available through providers such as the Union Gospel Mission.

The City has little information on who is providing the meals. Different groups provide the meals on different days and at different times. We do not know how or where the food was prepared or if anyone has a food handlers license. If the handouts cause an outbreak of food poisoning, no public entity knows who to contact about the outbreak. Not knowing who is conducting the handouts makes it difficult for the City to hold these groups accountable for the trash. The food distributors and organizations have no requirement.

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