

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Discussion Concerning Downtown Public Safety Zone

Meeting Date: September 10, 2012
Department: Eugene Police
www.eugene-or.gov

Agenda Item Number: B
Staff Contact: Pete Kerns, Chief of Police
Contact Telephone Number: 541-682-5102

ISSUE STATEMENT

This is an opportunity for the City Council to discuss options for the Downtown Public Safety Zone, which is scheduled to sunset November 30, 2012.

BACKGROUND

The City Council adopted the Downtown Public Safety Zone (DPSZ) Ordinance No. 20419 in August 2008. Most recently, the City Council extended the ordinance until November 30, 2012. This discussion is intended to provide an opportunity to update the City Council on the status of the use of the tool since the last City Council report in February, to outline possible options moving forward, and to ascertain how the council wishes to proceed.

In December 2009, the Downtown Safety Task Team prepared a list of recommendations they believed would improve downtown safety and make the downtown a more welcoming place. Subsequently, the 12-Point Downtown Safety Improvement Plan was adopted by the City Council in January 2010. Inherent in the recommendation was the understanding that the lack of jail beds as a sanction remains a critical component to the persistent problems occurring downtown. The civil exclusion process is a tool to offset the lack of jail sanctions, to create an alternative to incarceration for chronic violators, and to improve the safety in the downtown core.

As long as there is inadequate jail bed capacity to meet the demand, the Downtown Public Safety Zone has functioned as a stop-gap measure, to hold offenders accountable, and reduce the number of re-offenders in the downtown core. Other services to support individuals in crisis like CAHOOTS, youth services are also critical to improving safety downtown.

Data Available

Since the last City Council discussion about the Downtown Public Safety Zone, staff has implemented several measures to improve timely and thorough access to data for all new cases since March. Additionally, staff is working backwards to hand-tabulate this information prior to March 2012. Currently, this additional data is available for all cases from January 2012 through August 15, 2012.

Eugene Downtown Public Safety Zone Data January 2012 through August 15, 2012

Information about Disposition

Total number of notices issued:	48
Number of notices withdrawn or never filed by EPD:	5
Number of notices dismissed:	15
Number of 90-day exclusions imposed:	22
Number of one-year exclusions imposed:	6

Information about Hearings and Advocacy

Number of hearings requested:	9
Number of those who request a hearing who appear for hearing:	7
Number of requests to meet advocate:	1

Information about People Receiving Notices

Number of people issued notices to appear:	42
Number who report no address:	25
Race (self-reported or officer-identified) - Caucasian:	37
Average number of police contacts per person:	63
Number who have violated DPSZ order:	11

During this period, there were 15 dismissals. Additionally, there were five notices that were withdrawn or never filed at the request of the Police Department because, upon review, the cases were deemed inconsistent with the new guidelines released by Operations Command (Attachment A). Of the notices dismissed, five were dismissed due to judicial discretion, four were dismissed because the underlying charge was not eligible for the noticed exclusion, two were dismissed because the defendant was sentenced to prison and four were dismissed because the appropriate paperwork was not received in a timely manner by the Municipal Court.

One of the significant concerns raised in February involved the perception that there is insufficient due process for people receiving a 90-day exclusion. Currently, upon receiving a “notice to show cause” which explains the potential of being excluded from the Downtown Public Safety Zone, a person is given court appearance date and time within three to five business days. This serves as their first opportunity for due process. However, only 13 percent of the people cited take advantage of this opportunity by requesting a hearing and appearing at the hearing. The others either do not request a hearing, or fail to appear for the hearing that has been requested. This frequently results in the exclusion being upheld by the judge after review of the reports. The result is that many individuals are excluded without taking advantage of the first opportunity for due process. Another criticism of the 90-day exclusion is that it is issued as the result of an underlying charge, which is not adjudicated when the 90-day exclusion is imposed.

A second concern raised by the City Council is the low use of the advocacy program, established to help defendants who have received a notice to appear. Providing court-appointed attorneys for eligible defendants who receive notices to appear would be expected to increase the advocacy provided to defendants. The Eugene Police Department (EPD) issues approximately 15,000 citations annually. Providing court-appointed attorneys to the estimated 100 recipients of exclusion notices who would be eligible and request an attorney would cost approximately \$15,000 per year. This would increase the perception of due process.

At the September 10 work session, staff is requesting additional guidance about the City Council's preferred options. Four options are outlined in this summary. A public hearing on this topic is tentatively scheduled for September 17.

RELATED CITY POLICIES

This topic relates to the Safe Community Vision: A community where people feel safe, valued and welcome, and increased downtown development, as well as support for small and local businesses.

COUNCIL OPTIONS

There are several options the council may pursue. Outlined below are four options:

1. Extend the existing Downtown Public Safety Zone until _____.
2. Eliminate the 90-day exclusion. This would leave the one-year exclusion, which is instituted upon conviction of the underlying charge.
3. Allow the Downtown Public Safety Zone to sunset effective November 30, 2012.
4. Provide court-appointed attorneys for all people receiving a downtown public safety zone notice to appear.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends the following changes to the current legislation:

- a. Extend the program for two years by extending the sunset date from November 30, 2012, to November 30, 2014.
- b. Retain the 90-day exclusion process
- c. Provide court-appointed attorneys for eligible defendants

SUGGESTED MOTION

No motion is proposed for the work session.

ATTACHMENTS

- A. Guidelines for Use of Downtown Public Safety Zone

FOR MORE INFORMATION

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Guidelines distributed to Eugene Police Officers

Subject: Guidelines for Application of the Downtown Public Safety Zone Exclusions

MISSION/PURPOSE

The purpose of the Downtown Public Safety Zone (DPSZ) and our application of the ordinance is to reduce crime and disorder, and the fear of crime downtown by excluding those individuals who engage in repeated and/or serious criminal behaviors in downtown.

CONDITIONS IN WHICH OFFICERS SHOULD CONSIDER THE DPSZ EXCLUSION

- 1) Persons who engage in repeated criminal behavior in the DPSZ area.
- 2) Persons with extensive and/or serious criminal histories unrelated to downtown, but who commit a serious or felony crime in the DPSZ area.
- 3) Persons who may not have any criminal history, but who engage in serious criminal acts such as; UDCS, Felony Assault, Rape, etc.

REPORT WRITING

Officers should review the ordinance prior to requesting a DPSZ exclusion. Any time a DPSZ exclusion is requested or recommended, the officer **must** include a preamble under the AI/ marginal heading. The preamble should include all pertinent facts as to why the requested exclusion is appropriate such as;

- 1) Type of crime.
- 2) Criminal history of the suspect (both inside and out of the DPSZ).
- 3) Special location or problems (chronic drug use in the parks, City sponsored event, or near a public school).
- 4) Gang affiliation.
- 5) Drug/alcohol abuse or mental health history.
- 6) Special status of victim or witness' (age or disability).
- 7) Special knowledge of suspect (threats to LE, sex offender, etc.)
- 8) Anything else that will aid the court in its decision