

Agenda Report

TO: CITY COUNCIL
THROUGH: PUBLIC SAFETY COMMITTEE

DATE: MAY 19, 2003

FROM: CITY ATTORNEY/CITY PROSECUTOR

SUBJECT: PROPOSED AMENDMENTS TO THE CHARITABLE SOLICITATION
ORDINANCE

Recommendation:

It is recommended that the City Council direct the City Attorney to review the Charitable Solicitation section of the Pasadena Municipal Code beginning at 5.34.010 for its validity and applicability. Specifically, draft an ordinance amending PMC section 5.34.025 to allow prosecution for adults aiding or abetting a minor in violation of subsection B. The ordinance should also provide for a system of permit "stickers" that would identify those youngsters who are properly permitted to sell goods for charity. Further, the ordinance should be amended as necessary in other respects to ensure compliance with applicable Constitutional requirements.

Background:

Currently, the Pasadena Municipal Code regulates charitable solicitation by minors under section 5.34.025. Among the limitations are no door-to-door selling after dark and no unsupervised selling in commercial areas.

Several complaints were reported last summer in regard to unsupervised children, some as young as 6, selling in front of grocery stores in the area. In addition, citizens reported occurrences of "aggressive selling" by children characterized by rude and sometimes intimidating behavior. Enforcement was made difficult because often by the time the police could respond, the sellers were no longer in that neighborhood or at the commercial location.

In August of 2002, police responded to a grocery store where complaints had been made that unsupervised children were selling candy. Officers made contact with the juveniles and when the adult who had dropped them off returned three hours later, officers cited him. Officers referred the matter for criminal filing and the city prosecutor's office charged two counts of child endangering under Penal Code section 273a(b) and one count of selling goods without a business license under PMC 5.10.010.

The more specific count *should have been* a violation of PMC 5.34.025 but that section currently allows for prosecution of the juveniles *only*. There is no provision for punishing an adult who leaves children unattended to sell candy or other items. In this particular case, the children were 12 years old and were brought to Pasadena by the defendant from their homes in Pomona. As is typical in these cases, the children were unfamiliar with their surroundings, untrained in any safety procedures and unaware of the name of the driver who dropped them off three hours before. Once in court, the defendant driver was convicted and sentenced.

General Review of City's Charitable Solicitation Ordinance:

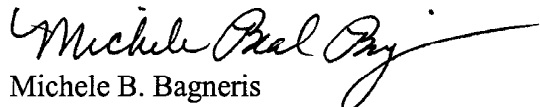
The City's "Charitable Solicitation Ordinance" was enacted in 1955 and, with the exception of amendment of one section in 1981, has not been amended. There have been court rulings over the years that have addressed the validity of such ordinances, including a recent United States Supreme Court decision in 2002. (WatchTower Bible & Tract Society v. Village of Stratton). Accordingly, it is recommended that our current ordinance be reviewed and revised as necessary to ensure our compliance with Constitutional requirements.

Public Safety Recommendation:

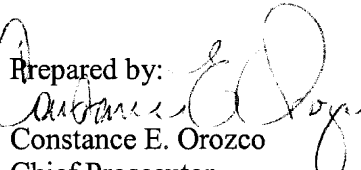
At the request of the public safety committee, prosecutors reported on the state of the law and current efforts to curb juveniles from selling for charity without adult supervision. The committee expressed interest in implementing a permitting system where colorful stickers would be carried by the solicitor giving police, retailers and customers instant information about the "authorized use" of the city's permit to sell items for charity. This sticker would supplement the charitable solicitation procedure in place in the business license division.

The committee also recommended that the City Attorney draft an ordinance to amend the current ordinance amending the Municipal Code to properly allow prosecution of adults who abandon juveniles to sell goods without supervision.

Respectfully Submitted,



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CITY ATTORNEY/
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Prepared by:

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