

L.A. TIMES EDITORIAL

Arcata vs. panhandlers

The city's frustration with beggars is understandable, but its remedy is too broad and too punitive.

August 8, 2012

The city of Arcata, just north of Eureka in Humboldt County, has long been a mecca for homeless and transient young people who gather in its public square, often soliciting food or money. But after years of allowing their public begging, the city passed an ordinance in 2010 that forbids not only "aggressive panhandling" — touching or blocking a person, repeatedly asking for money, using abusive language, approaching an occupied vehicle — but all soliciting within 20 feet of ATMs, supermarkets, retail stores, restaurants, bus shelters and stops, and any intersection. It also prohibits soliciting on a bus, inside public parking lots and on pedestrian foot bridges. The city defines panhandling as asking for money or goods or even holding up a sign requesting a handout. The result is effectively a ban on begging in the commercial area of Arcata.

The city's frustration is understandable, but its remedy is too broad and too punitive, emblematic of the excesses that many municipalities succumb to in confronting the unsightly but all too human problems associated with panhandling.

A lawsuit filed last year [*]— which is expected to be ruled on soon — argues that the ordinance violates 1st Amendment rights because it is "constitutionally overbroad." It is so vague that it prohibits displaying a sign asking for money, and so broad that Girl Scouts couldn't set up a table outside a supermarket to sell cookies.

Aggressive panhandling is another matter. When asking for money becomes intimidating, speech drifts into conduct, and governments have the right to rein it in. The lawsuit takes no issue with that portion of the ordinance.

The city is also, arguably, acting in the interest of protecting public safety when it forbids panhandling within 20 feet of an ATM or in semi-confined spaces such as a pedestrian bridge or a parking structure. In these cases, there is a possibility that those who are hit up for money will feel trapped or vulnerable. People should not be forced to walk a gantlet of panhandlers when they must use a bridge. Although this part of the Arcata ordinance may not pass the so-called captive audience rule (courts have recognized that public transit vehicles are not free-speech forums), it seems reasonable.

The ordinance goes too far when it forbids panhandling of any kind outside of restaurants, stores and eateries. The court should strike down these provisions. Yes, it can be irritating to be confronted by poverty while exiting a store, but the tender sensibilities of shoppers cannot be allowed to outweigh the rights of Americans

* <http://humboldtherald.wordpress.com/2012/05/16/arcata-panhandling-trial-set-for-may-23rd/> & <http://kiem-tv.com/node/3372>

articles.latimes.com/2012/aug/06/local/la-me-arcata-panhandling-20120806

Panhandling in Arcata tests the city's tolerance Arcata traditionally has welcomed the downtrodden. But balancing the comfort of the haves with tolerance for the have-nots has come down to a question of just who is worthy of help.

By Lee Romney, Los Angeles Times

August 6, 2012

PHOTOS: Panhandling in Arcata: www.latimes.com/news/local/la-me-arcata-pictures-20120804,0,7767798.photogallery

ARCATA, Calif. — Over the years, Patrick Steff has installed vinyl siding, repaired Volkswagens and worked in a pizza parlor. On a recent day, the homeless father of two sat disheveled in this North Coast town's central plaza, citations spread around him.

He has been ticketed for camping in the park and smoking on the square. That morning, a police officer caught him on a downtown sidewalk holding a sign that read: "I could use a little help today."

That's illegal here too if you're within 20 feet of a retail store, intersection, bus stop or bank machine.

"It's like an everyday thing," Steff, 37, said of the reprimands.

Long known as the "Berkeley of the North," Arcata traditionally has welcomed the downtrodden, embraced the leftist fringe and fostered a live-and-let-live ethos. But these days, the square is strangely mainstream.

While one quadrant is still dotted with homeless nappers, the immaculate lawn is populated by families with toddlers and its benches have become a prime lunch spot for working folks.

Behind the transformation is a host of factors that send itinerants a new message: Don't come here.

In addition to the anti-panhandling measure — which is facing a constitutional challenge — a sales tax hike paid for two rangers whose job is to roust campers from the city's parks and forestland, as well as enforce behavior on the plaza: No smoking. No skateboarding. No drinking. No dogs.

A homeless resource center that had provided daily meals was closed, along with the recycling center that for many was a source of income. And Arcata cracked down on the unofficial stoner holiday of April 20, closing off its Redwood Park to dissuade the stream of pilgrims who in past years celebrated there.

"We're changing our image," Councilwoman Alexandra Stillman said.

But balancing the comfort of the haves with tolerance for the have-nots has come down to a complex question of just who is worthy of help: The chronic homeless or the recently down-and-out? What about the in-your-face drifters who take handouts with little gratitude?

"How do you make a judgment of the deserving poor?" asked Michael Twombly of the Humboldt All Faith Partnership, which operates a shelter here and last month opened a lunch truck to fill the gap in services.

The New England-style plaza is the heart of Arcata, a town of 17,000 that is dotted with Victorian homes and surrounded by redwood forests.

Mixed in among families who have lived here for decades are Humboldt State University students, environmentalists, marijuana proponents and Grateful Dead devotees, who flocked here in 1995 after band leader Jerry Garcia died.

It was about that time, said Kevin Hoover, editor and publisher of the weekly Arcata Eye, that getting panhandled multiple times during the course of a block-long walk became "the new normal."

Ordinances followed.

Aimed at bongo drumming on the plaza, one 1996 measure prohibited sounds that were "boisterous, penetrating, repetitive of unusual rhythmic or tonal character." Another outlawed glass containers. Bans on smoking, dogs and skateboarding came soon after.

But in 1999, when the city leased a building one block from the plaza to the homeless resource center, matters intensified.

"You could watch the change," Stillman said. Word got out to young adults traveling a circuit from Santa Barbara to Eugene, Ore. "It became a magnet," the councilwoman said. "They served lunch every day. You didn't have to do anything — just come eat."

By 2001, the city took aim at the whole downtown district, making it illegal to sit or lie on the sidewalk.

But five years later, city workers still were cleaning up dirty syringes, rotten food and human feces, according to a report. The bus station's ventilation system "seemed to suck in the outside cigarette and marijuana smoke." Restaurant take-out orders dried up at dusk because customers dreaded being hit up for food.

By 2009, then-Mayor Mark Wheatley was pondering an ordinance that would ban aggressive solicitation and place broad geographic restrictions on all panhandling. Although some residents welcomed the idea, most called it a blow to the vulnerable.

Wheatley, Stillman and current Mayor Michael Winkler embraced the measure when it came to a vote in March 2010. Councilman Shane Brinton opposed, calling the restriction on non-aggressive behavior a likely infringement on constitutionally protected speech.

Councilwoman Susan Ornelas reflected the community's torn conscience: "While we're a progressive town and we're very open-hearted," she said, "we have limits on our tolerance." In the end, she was swayed to vote against the measure by Nicole Barchilon Frank, an observant Jew who practices tzedakah, the spiritual obligation of giving.

Standing before the council, Barchilon Frank recounted the day she and her son approached a stop sign and saw a panhandler: She gave the man \$2. As they drove off, 9-year-old Ethan said it didn't seem like enough. He suggested "at least \$6." They returned, and when she explained that her son "felt you needed a bit more," the man burst into tears.

When the act of charity is removed from the streets by law, she continued, "you are impacting more than just our civic reality.... This ordinance ... a violation of my spiritual teachings, my morals and my child's right to learn from compassion and understanding. "

A report last fall by the National Law Center on Homelessness & Poverty found that slightly more than half of 234 cities surveyed had bans on aggressive panhandling, the same proportion had outlawed it in specific areas, and one-fourth forbade begging citywide.

Tom Chapman, Arcata's police chief, said that officers responding to complaints have issued just two panhandling citations. Mostly they give out warnings. Public feedback, he added, has been "nothing but positive."

That is, if you don't include Richard Salzman, who carries a pocket version of the Constitution in his tweed sport coat. Last year he filed a challenge to the law in Humboldt County Superior Court.

Salzman has no complaint over restrictions on aggressive begging, but he was outraged by the ban on "the most passive form of panhandling."

To stress his point, he had a friend snap a photo of a man at an intersection holding a sign advertising a \$5 pizza special, while Salzman stood next to him with his own message: "Please buy me a pizza before I am arrested for holding this sign!"

Panhandling measures have had mixed results in court, as restrictions on speech cannot be content-based and must narrowly address a government interest. The U.S. Interagency Council on Homelessness also has questioned ordinances that criminalize sleeping, sitting and lying on sidewalks — noting in an April report that such laws "further marginalize men and women who are experiencing homelessness, fuel inflammatory attitudes, and may even unduly restrict constitutionally protected liberties."

The attorney representing Arcata emphasizes that panhandling is still permitted in some parts of town. A judge heard arguments in the case in May and is expected to rule this month. But even with the panhandling ordinance removed from the equation, life for the homeless here has been harsh, some said.

"Arcata acts like they're the only town that has homeless people. They harass 'em," said Big Al, a burly 58-year-old with fading blond curls who arrived from Austin, Texas, a dozen years ago.

Big Al received one of the panhandling citations after a gas station owner was unable to run him off with sprinklers. He has since modified his sign — it simply reads "Have a nice day" — and settled with his dog, Sophia, into a spot under a pedestrian bridge. But state workers recently cleared the branches protecting his sleeping alcove, leaving him exposed.

"If you're poor or on food stamps, the message is, 'Go to Eureka or McKinleyville,'" he said.

As for the plaza, said Tom Clapp, whose Rookery Books has fronted it for 14 years, conditions were "vastly improved" now that Arcata was "coming around to not being tolerant to a fault."

Others fear the approach has taken a toll.

"I have noticed a marked difference, and I'm not sure I like that," said Humboldt State student Roger Tuan, 28. "It feels morally wrong."

Ornelas said she has come to believe the ordinance was fair, but is pressing to restore some generosity to the mix.

The city is moving forward on opening a public bathroom, an idea once vigorously opposed by some council members. One design proposal includes a plant wall that will resist defacing.

"It will be prickly and beautiful," Ornelas said. "I do try to work on middle ground."

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