

# TOWN OF HERNDON POLICE DEPARTMENT



## Day Laborer Problem Solving

2006 Herman Goldstein Award for Excellence in Problem Oriented Policing

# TOWN OF HERNDON, VIRGINIA

## POLICE DEPARTMENT

### **SUMMARY**

#### Scanning

Since the 1990's, the Town of Herndon, Virginia had seen an enormous influx of foreign born residents, especially from Central and South America. Many of these immigrants found work as day laborers at a local 7-Eleven where they would gather daily and the local contractors would come to pick them up. Eventually these groups grew larger, filling the 7-Eleven parking lot and spilling over to other businesses. Business owners, residents and even passing motorists called in to complain about the large numbers of men gathered each morning to look for work. As they traversed through local neighborhoods and businesses, they wore paths through yards, damaged fences and other property, left trash and were observed urinating in public. The whole area around the convenience store became very run down in appearance and residents and business owners were frustrated. As frustration grew, so did pressure on the Police Department and the Town Council to reach a solution. The eventual plan by the Town of Herndon was to locate a site where the day laborers could gather that would not have such an impact on the businesses and residents. The Town decided that this was a problem that was not going away, so it had to be dealt with on a local level.

#### Analysis

Starting in the late 1990's, the Town of Herndon experienced a significant growth in its Hispanic population. According to the United States Census Bureau, the Town's Hispanic population increased 264% from the 1990 census to the 2000 census. In 2000, the Hispanic population was 26% of the Town's 21,655 residents. Among this growing population were many immigrants from South American countries such as El Salvador, Guatemala and Honduras. The quickly growing counties of Fairfax and Loudoun needed laborers to help build houses and commercial buildings to fill the needs of incoming residents and businesses. Many of these immigrants came to the area to fill the need for laborers at construction sites

across the Washington, DC metropolitan area. Eventually, these day laborers came to Herndon to live because of the town's location between the two counties and its proximity to Washington, DC. As these day laborers continued to come to Herndon, they started to establish unofficial gathering places at local businesses where they could be hired for the day. The main gathering place was a 7-Eleven convenience store located at the intersection of Elden Street, a main thoroughfare within the Town, and Alabama Drive, a residential area. As word got out in the area, more and more day laborers began to gather at the convenience store. Contractors would pull into the parking lot and the day laborers would swarm the vehicle, hoping for employment. This created a hazard to the day laborers as they would often run up to vehicles before they stopped. This was also a hazard for customers of the store who were just coming in to make a quick purchase. Imagine pulling into a 7-Eleven for a cup of coffee and having your vehicle swarmed by a crowd of men yelling at you for work.

As the numbers of day laborers grew, so did the competition for jobs. This forced many laborers to other parking lots where they might have a better chance of getting hired. It would not be unusual for there to be 100 day laborers at the 7-Eleven and many more gathered at the neighboring gas station, McDonalds or other businesses in the area. Complaints from residents regarding the amount of trash and destruction of property increased as well as calls for urinating in public and drunkenness.

#### Response

By September 2003, the problem had grown large enough that the Town Council realized that they needed to formally address the problem. The Council voted to approve zoning of an established day laborer site and the Town attorney began drafting an anti-solicitation law that would help contain the day laborer problem. The Town then began a search for properties to build this day laborer site.

As the search for a property went on, Herndon Police were responding for increasing calls for service in the area. Again, these calls were "quality of life" issues but consumed manpower nonetheless. Eventually, day-shift squads were assigning an officer full time to the 7-Eleven and its immediate area for most of the mornings, occupying approximately 25% of a regular, four person squad's manpower. By October 2005, a final solution still had not been reached and the Herndon Police was suffering from a shortage of

manpower. The department was forced to collapse back to four squads from six, leaving two patrol sergeants without a squad. One patrol sergeant was then assigned as a full time liaison officer to the day laborer community and the community and government organizations involved in the day laborer problem. This sergeant was already assigned to this area as his community policing district and he spoke Spanish which proved to be a valuable asset. At this time, the Town had already selected the old Herndon Police Station to use as its day laborer site and it was widely known that this site would open. The question was, would the day laborers use the facility? Through a gradual process, the Herndon Police Department, various Town of Herndon agencies and several community based groups worked together to establish the Herndon Official Worker's Center. The center now operates 7-days-per-week, from early morning hours until 11:00 a.m.

#### Assessment

Since the opening of the Herndon Official Worker's Center (HOW Center) in December 2005, the Elden Street/Alabama Drive area has seen a dramatic change. The result is a decrease in calls for service in the area of the un-official center, improved appearance of the area and increased attendance at the HOW Center by day laborers. At the 7-Eleven where women were afraid to go in and make purchases before, they now arrive frequently in the mornings for a cup of coffee or breakfast. Officers do not need to spend their mornings specifically patrolling the area, and the business owners are very pleased with the results.

## **DESCRIPTION**

### **Scanning**

The Town of Herndon, Virginia is known as an internet and high tech hub in the Dulles Technology Corridor. It is also known as a location for contractors to pick up day laborers throughout the Washington, DC Metropolitan area. Before December 2005, hundreds of day laborers would gather to solicit employment in the parking lot of a local 7-Eleven convenience store, and at other neighboring businesses located at the intersection of Elden Street and Alabama Drive. Elden Street is a main thoroughfare through the town, and Alabama Drive is a residential street. Unfortunately, there is no real buffer area between the commercial properties and the residential areas, which aggravated the problem.

The main problem was that the day laborers were interfering with the orderly operations of the local businesses, they were causing property damage to local businesses and residential properties, debris and litter were constantly left behind and there were constant reports from business owners and residents of day laborers urinating in public, drinking and being intoxicated in public. In addition to these “quality of life” incidents, there was also a traffic hazard from the presence of the day laborers. Contractors were stopping on the roadway to pick up day laborers, who would then run into the street. The crowds often obstructed the views of motorists who were trying to pull out of parking lots into traffic and the day laborers would routinely walk into the roadway and force motorists to stop.

Despite the fact that the Town is confronted with numerous quality of life issues, such as overcrowding, neighborhood blight, and gang activity, the Town was under fire from residents because of the festering, day laborer issue. The issue became a heated debate for the Town Council and Mayor, and residents and business owners in the area demanded that the Town get involved. In addition, Town officials became aware of numerous incidents involving unscrupulous employment of day laborers at the site, everything from worthless checks paid for services, and even non-payment, to robberies of day laborers who were easy prey for criminals who realized that the laborers would be hesitant to contact the police.

In September of 2003, the Town Council issued the following findings in support of their anti-solicitation statute (see page 18 for complete statute):

- (a) The activity of unregulated pedestrians' soliciting employment from occupants of vehicles distracts drivers from their primary duty to watch traffic and be alert for potential hazards in the highway, to observe all traffic control signs and to be prepared to move through the town with safety.
- (b) The activity of unregulated soliciting employment by occupants of vehicles to pedestrians on highways, sidewalks, driveways, parking areas, or alleys distracts drivers from their primary duty to watch other vehicles or pedestrians and to move through the town with safety.
- (c) The practice of unregulated soliciting employment from within a highway, sidewalk, driveway, parking area, or alley constitutes a visual blight, inconvenience to workers, and a public nuisance; and subjects the solicitor, pedestrians and vehicle's driver to an unacceptable level of danger by distracting drivers from their primary duty to watch traffic; results in the delay and obstruction of the public's free flow of travel, and results in congestion and blockage of the streets, parking area, driveways, and sidewalks.
- (d) Distracted drivers are more prone to be involved in automobile accidents; and vehicular accidents constitute a substantial public safety problem.
- (e) The cumulative impact of this type of unregulated solicitation on the highways, sidewalks, driveways, parking areas, or alleys on a daily basis creates a safety hazard and a significant and substantial risk to the interest of the public in the free flow of travel.

### Analysis

The Town of Herndon is located approximately 35 miles west of Washington, DC. It has a land area of approximately four square miles with a current population of approximately 22,000 people. The Town is located on the western edge of Fairfax County, Virginia and is bordered on the west by Loudoun County, Virginia.

The Town experienced an increase in population and commerce with the internet boom and is home to several internet and technology companies. It has become a commercial hub in the area and as such experiences daytime populations increase by as many as three times the normal population levels. As this surge in business came about, so did a housing boom for the employees of these businesses. Fairfax and Loudoun Counties joined the list of the fastest growing counties in the nation and the construction business was in need of laborers.

Throughout the 1990's and early 2000's, the Town experienced a growth in its Hispanic population as day laborers came to the area. Many of these laborers came to live in Herndon due to its location and lower housing costs compared to areas closer in to Washington, DC. As the US Census Bureau reports in their 2000 Census, the Town of Herndon experienced a 26.4% growth in its Hispanic population from 1990 to 2000. This brought the Hispanic population up to 26% of the Town's residents. While many of these residents worked at regular jobs, there were still large numbers of Hispanics that were day laborers.

Initially, these day laborers gathered at a 7-Eleven located in the middle of town, at the intersection of Elden Street and Alabama Drive. By 1998, there were over 100 laborers regularly gathering in the convenience store parking lot, and management was forced to address the problem. A temporary solution was worked out when town officials met with 7-Eleven management and day laborer representatives to adopt rules of conduct for the day laborers who were permitted to wait on the 7-Eleven property during certain hours.

In July of 1999, the Neighborhood Resource Center was established across the street from the unofficial site in a shopping center. The neighborhood Resource Center (NRC) was established to offer programs to include social work, parenting classes and health screening for low income residents. The NRC was centrally located in the area of the town where many of the day laborers lived. While this site for the NRC was initially temporary, it has since become a permanent fixture in Town and the facility has since expanded to accommodate increased need for services. This center provides social service support for many of the immigrants in the area

As time passed, the police began to receive complaints with greater frequency concerning the large numbers of men gathered around the 7-Eleven and the surrounding areas. The residents of the abutting neighborhood complained of drunkenness, urinating in public, greater amounts of trash and people loitering around the neighborhood. By September of 2002, the issue had grown large enough that the Town Council was forced to address the issue and try to come up with a long term solution. The Town Council was now proposing buying a plot of land nearby the 7-Eleven to permanently house the NRC and to be used as a

staging area for day laborers. Although this plan would not come to fruition, an alternate sight was later selected. The Town was faced with a problem that was not going away but was in fact growing as time went on.

As this problem grew, the main method used to assess the problem was based on calls from citizens and observations by police officers. The first account of analysis of crime statistics in the area of the 7-Eleven was completed in 2003. It covered the months of January through July and was presented to the Town Council. It was discovered that between 6:00 AM and 12:00 PM, there was virtually no crime reported in the area. This is the time when most day laborers would gather to look for work. The prevailing theory at the time was that there was an increase in crime directly attributed to day laborers. This was very prevalent among residents and regularly voiced at Town Council meetings. However, this area accounted for only 6.6 percent of all offenses in Herndon and 11 percent of all arrests. Part of this is due to officers increasing their presence in the area. Officers self-initiated 70 percent of these calls in 2003. It was determined that the problem was not necessarily a crime issue, but more a "quality of life" issue. Many of the calls were not necessarily criminal in nature but were more along the line of "Hispanic men" hanging around a business or street corner.

It seemed the problem boiled down to a conflict between the interested parties. The day laborers wanted to work and earn money. They were resistant to regulation and had no vested interest in the area. The mere volume of people was a problem with the local business owners and residents. Grass and bushes were trampled down, litter was commonplace, traffic increased as contractors came to hire laborers and the overall appearance of the area grew worse. Homeowners expressed concerns of decreasing home values, feelings of insecurity and even illegal immigration. The day laborers chose the 7-Eleven as their gathering spot for several reasons. Most did not have vehicles or driver's licenses so its close proximity to low cost housing was convenient. There were bus stops nearby that could provide transportation if needed. The location of the 7-Eleven on the main thoroughfare made it easy for contractors to pick them up and find them. Also, the 7-Eleven provided a place to purchase food and beverages to take with them as they headed out for jobs.

Initially, the Town's response was to work with business owners in the effected area to see if some compromise could be reached. One assessment was that the day laborers could be moved to the shopping center where the NRC was already established. This met with resistance from the shopping center management and the attempt was thwarted two times. A compromise was then reached with management of the 7-Eleven who also felt pressure from concerned customers. Many women customers reported avoiding the 7-Eleven due to cat-calls and rude remarks made to them by the day laborers. The 7-Eleven management initially tried to prevent contractors from coming onto the property to hire day laborers but the numbers were overwhelming. So, in November of 2001, by working with police and community groups, the 7-Eleven agreed to allow the day laborers to wait for work on their property as long as they followed a code of conduct. The code of conduct included various rules that were expected to be followed and were monitored by an on-site security guard. Also, the laborers were expected to stay in an area off the side of the building marked with a blue line painted on the concrete. The rules were as follows:

- Permanent cleanliness of the area
- No alcoholic beverages while on 7-Eleven property
- Respect for clients, pedestrians and women
- Stay in the designated zone
- Do not block access to entrances
- Maintain good behavior and discipline
- Avoid crowding near contractor vehicles

It was also agreed upon that the day laborers were permitted to be in the designated area from 6:00 AM to 11:00 AM. After 11:00 AM, they were to disperse and leave the area. To assist the 7-Eleven, the Herndon Police assigned one day work officer nearly every day to monitor the day laborers and vehicular traffic in the area. This was not effective coverage though since this officer would often be pulled away to respond to calls for service in other areas of the Town. Many day laborers still gathered in neighboring parking lots though where the rules of conduct did not apply. The police department also worked with the Town's

Department of Public Works to erect temporary fencing to try to contain the day laborers but this light fencing was soon pushed down from pedestrian traffic.

### Response

The Town Council decided by September 2003 that they needed to relocate the day laborers to a location that would not have such an impact on the community. They realized that the day laborers were not moving away nor was there any effort to drive them out. The Town of Herndon sought to create a solution that would allow the day laborers to coexist with the community. The decision was made to create zoning that would allow for the Town to establish a day laborer site. This plan was enacted with the support of Reston Interfaith which is a religious based community group. They had already begun to lay groundwork for a support system of volunteers to assist with the establishment of a day laborer site. A process was begun to select a site for the day laborer center. Sites included an old lumber yard and other pieces of property in the Town that were not in use. The Town was facing intense opposition though from residents who were opposed to establishing such a site. Eventually, the Town decided to use the site of the old police station which was vacated in August 2005.

In addition to selecting a site, the Town had also been working on a tool to help encourage day laborers to use the center. Research had shown that one of the problems in establishing a center is that sometimes the day laborers will stay at their regular spot and not go to the regulated site. The Town of Herndon Attorney had been working to create an anti-solicitation ordinance that was voted into law by the Town Council on September 13, 2005. The ordinance was modeled after several examples that were already in existence in California where they had already been dealing with day laborers. (See the attached ordinance)

The main crux of this code was that the Town needed to have an established hiring center for the code to be enforceable. With a site selected, the Town worked with a group called Project Hope and Harmony that would provide staffing and management at the center. Fairfax County would provide approximately \$175,000.00 to fund the site.

In October 2005, a situation developed that allowed the Police Department to develop a new response plan to this growing problem. Due to personnel shortages, two squads were eliminated from patrol, consolidating resources. This enabled the Police Department to dedicate a sergeant full time to the day laborer problem. The sergeant that was assigned to the task was already familiar with the area since it was his assigned community policing district. The Herndon Police Department has a community policing program that divides the Town into five community policing areas or districts. Each district is headed by a sergeant and has officers assigned to that particular district. Officers are held responsible for activities in their area and are required to keep up to date on events in their district. Since this problem was occurring in his area, the sergeant assigned was already familiar with the problem.

The sergeant was also selected because he spoke Spanish which was a great asset in communicating with the day laborers. The sergeant was assigned as the liaison to the day laborers and other Town agencies and community based groups that were involved in the problem. By this time, the Town had already decided to move the day laborers to the old police station on the western edge of Town. This move was met with vocal opposition not only from some Town residents but also from residents of neighboring Loudoun County. To attempt to alleviate concerns and open a dialogue, a Community Advisory Board was formed by Project Hope and Harmony. Project Hope and Harmony is a coalition of faith based community groups that were trying to help solve the day laborer issue. They invited different agencies and organizations to join the Community Advisory Board (CAB), including the Herndon Police Department. The Police Department was only involved as a "Liaison Member" and acted only in an advisory capacity. We made it clear from the beginning that we were not supporting the day laborer center; we were only interested in ensuring compliance with the law. Starting in September 2005, the CAB worked to establish rules and conditions to facilitate the establishment of the day laborer center. The Police Department advised the CAB on issues such as pedestrian crossing violations, trespassing laws and traffic safety.

Out on the street, the sergeant assigned to the task patrolled the area of the 7-Eleven and neighboring businesses, letting the day laborers see him in the area. The sergeant also met with business owners and

property managers to discuss the impending move of the day laborers to the Official Worker's Center. He educated the business community on what was coming and existing laws that could help their situation now, such as trespassing. He also interviewed the business owner's to be sure that they did not want day laborers waiting for work on their property. Soon thereafter, the sergeant met with the workers at the 7-Eleven along with a representative from Project Hope and Harmony. The sergeant informed the day laborers that he would be monitoring the area full time and would help them prepare for their move to the official day laborer center. He advised them that local businesses did not want them waiting on their property for work and they would be banned from the properties if they were caught doing so. They were also advised about the trespassing laws in Virginia and that they would be enforced. Project Hope and Harmony was handing out cards in Spanish that had the trespassing laws explained in simple language. An increased effort was also made to enforce traffic violations in the immediate area, especially stopping on the roadways. After several contractors initially received summonses for these violations, most became compliant while picking up laborers at the 7-Eleven.

By early December, 23 persons had been banned from local properties at the requests of the business owners. A book of photographs and identifying information was kept in the field to assist officers identify those that had been banned from properties. Since only one trespassing arrest was made during this time though, the warning seemed to have enough impact to motivate the day laborers to wait where they were supposed to. Most of the day laborers had been contained to the 7-Eleven by this time and they were being prepared for the move to the official day laborer site. Also during this time, the liaison sergeant was meeting with the day laborers at the NRC with Project Hope and Harmony representatives. The sergeant sat in on meetings while the day laborers created their own code of conduct that they would be held to at the new day laborer center and picked their own name for it, the Herndon Official Worker Center. While in these meetings, the sergeant was able to hold conversations in Spanish which seemed to earn the trust of the day laborers. Throughout these stages of development, the sergeant expressed again and again that the Herndon Police were not interested in their immigration status. He also expressed that the Police wanted voluntary compliance with the laws but that they would take action when necessary.

Other Town departments were involved in the build up to the opening of the Center as well. Public Works had erected fences that would discourage day laborers from cutting through resident's yards on their way to the Center. They had also adjusted traffic signals to allow a higher volume of pedestrian traffic to pass through at crosswalks. Project Hope and Harmony had organized a bicycle drive and provided free bicycles to day laborers as a means of getting to the Center. It should be noted at this point that one of the concerns regarding the location of the new center was the distance from the 7-Eleven, which was approximately one mile. Many people were concerned that since it meant a greater distance for the laborers to travel, they would not go to the center.

The Herndon Official Workers Center opened without fanfare on December 14, 2005. The opening was kept at a low key to keep it out of the media and maintain a low profile. In the months leading up to the opening of the Center, there had been very vocal groups opposing the Center. One of these groups was the Herndon Minutemen who often stationed members outside the Center to record company names through photography and video cameras. They intended to provide the names of contractors hiring at the Center to the IRS and other government agencies.

The liaison sergeant continued to patrol the area of Alabama Drive and Elden Street. Again, he kept open dialogue with the business owners and Project Hope and Harmony. Also in December, an additional officer was assigned to assist the liaison sergeant. While there were still some day laborers hanging around the area of the 7-Eleven, many went to the HOW Center. According to Project Hope and Harmony statistics, from December through February, approximately 100 day laborers attended the Center and registered for work on a daily basis. However, only approximately 30 were hired per day. This low rate of hire was attributed to the winter weather as most laborer jobs rely on warmer weather, such as landscaping and construction.

In March and April of 2006, a "compliance check" was conducted in the area of the 7-Eleven and Alabama Drive corridor to see if people were still conducting illegal hiring. The area was clearly marked with signs indicating it was illegal to hire someone in this area as a day laborer. This was partially spurred by a report

from the site manager at the HOW Center. He had advised that some of the workers at the Center were frustrated with the laborers who were seeking work illegally outside the Center. They advised that some laborers were stating it was easier to get hired outside the Center. On our first day of compliance checks, we utilized a civilian vehicle driven by an officer in plain clothes. This officer would simply drive into an area known to be frequented by day laborers and wait to be solicited for work. Initially, we also had a Hispanic officer posing as a day laborer to check for contractors or homeowners attempting to pick up day laborers as well. We soon came to realize that day laborers were still in the area of the 7-Eleven who were not using the HOW Center. On our first day of operations which was only scheduled for four hours, we charged five day laborers with violation of the ant-solicitation statute and issued three warnings. The warnings were issued to a potential employer and two day laborers as there was not substantial probable cause to charge them.

After two compliance checks, we had eight cases scheduled for court. (It should be noted that prior to these charges being placed, our Police Department held meetings with local judges and magistrates to make sure they were aware of the anti-solicitation code). Of the eight cases scheduled for court, two were not present and were found guilty in their absence. Three were present and pled guilty. Another three pled not guilty but were convicted after a trial. No jail time was requested and fines ranged from \$100.00 to \$500.00. Two more compliance checks were conducted in May resulting in six more charges being placed against day laborers. By continuing to patrol the area, two prospective employers were also charged while they were in the process of hiring day laborers illegally.

While there may be other factors involved, this enforcement effort seems to coincide with higher attendance at the HOW Center. According to Project Hope and harmony statistics, the average daily attendance at the Center in April was 116 laborers with an average daily hire rate of 43%. In May, the average daily attendance was 142 day laborers with an average daily hire rate of 29%. Under their conditional use permit for the site, they are allowed no more than 150 laborers waiting on site at any given time during hours of operation. It should also be noted that these months tend to have warmer weather which is conducive to hiring day laborers.

Another factor that helped deter laborers from loitering in the area was the movement of two bus stops. After the center opened, many laborers would hang around the bus stops. When asked whether or not they were seeking employment, they stated they were waiting on the bus. The liaison sergeant now had to monitor the bus stops to see who was actually waiting on the bus and who was waiting for work. By working with the Fairfax County Department of Transportation, and the Town's Transportation Planner, he was able to have the bus stops moved to Elden Street. This effectively removed a "haven" where the laborers could loiter.

In July 2006, the Herndon Police Department will reconfigure its efforts to continue to manage the day laborer situation. The sergeant that had served as the liaison sergeant will be reassigned to a day-shift patrol squad in July, and he and the other day-shift supervisor will provide daily coordination and liaison for the day-laborer issue. The Department continues to seek new ideas and strategies that will carry us into the future as we continue to address this situation.

### Assessment

Since the opening of the HOW Center, we have had a variety of results, some anticipated and some not. The Town Council had voted to open the Center despite vocal opposition from the community and citizen groups. As a result, when the Town held its elections on May 2, 2006 for the office of Mayor and Town Council seats, all but two Town Councilmen were voted out of office. A higher than normal percentage of voters (26%) turned out to voice their opposition to the HOW Center. The new Council and Mayor ran on the platform of opposition to the Center and have declared they will try to move it or close it all together.

The change in the area around the 7-Eleven was dramatic. Where previously there had been 150 or so people standing around, there were now only a few. A sign was posted in the now empty parking lot of the 7-Eleven which stated the Center was open and provided the address and a contact phone number. This was clearly posted in Spanish and English. A full time security guard also helped prevent laborers from gathering. The liaison sergeant and the assigned officer continued to patrol the area and other areas where unofficial sites were reported.

According to our records system, from 10/01/2005 to 12/19/2005; a little over two months, there were four trespass calls in this area, seven suspicious person calls and nine summonses issued for stopping on a highway. From 12/20/2005 to 5/11/2006; an almost six month time period, there were four trespass calls, eleven suspicious person calls and three summonses issued for stopping on a highway. The biggest change is the amount of foot patrol that was required to manage this issue. For the two month period of 10/01/2005 to 12/19/2005, there were 91 foot patrols conducted at 1111 Elden St (7-Eleven). From 12/20/2005 to 05/11/2006, this number dropped to 61 in a six month time period. It would seem from this information that with the creation of the day laborer site, the man hours required to manage loitering and associated calls has dropped. While the unofficial site required a dedicated officer and many patrol hours, the day laborer site at 1481 Sterling Road requires very little police involvement and has been operating without incident. Other than a few protests by groups opposed to the day laborer site and anti-immigrant groups, the Center has not required any particular police involvement.

While it appears this program has been successful, we still have problems to contend with. Day laborers are still seeking employment in the area of the 7-Eleven although now in smaller groups of three or four. We are now working with the neighborhoods in the area of the Center as they report day laborers cutting through their yards to get to the Center. The relationship between Loudoun County and the Town of Herndon has been soured as a result of the center. There is now a boundary debate between the two jurisdictions which has effectively closed off one entrance to the Center until it can be decided in court. We still have to continue to monitor the area for day laborers gathering and will most likely continue to do compliance checks. If we do not monitor the area, the day laborers will most likely return.

Our overall assessment is that so far, the HOW Center, in conjunction with officers assigned to monitor the area of the old, unofficial site, seems to be working well. As mentioned earlier, there are still some laborers who look for work outside the Center but in much smaller numbers. We still respond to calls of trespassing but on a smaller scale. The perception of the business owners and residents as reported to police officers is that the area has improved.

## AGENCY AND OFFICER INFORMATION

The Herndon Police Department is a professional and progressive organization consisting of 70 sworn and civilian personnel. Services provided to the community include patrol, traffic enforcement, criminal investigation, narcotics enforcement, evidence collection, training, bike patrol and crime prevention. The Department achieved national recognition on November 8, 1986 by becoming the 7th police agency in Virginia and the 42nd police agency in the United States to be accredited by the Commission on Accreditation for Law Enforcement Agencies. The Herndon Police Department is committed to its citizens in a very personalized way. The men and women of our department are proud of their Town and their department. Herndon Police officers are public servants in the finest tradition.

Initially, one sergeant was assigned to help solve the problem. Eventually, one patrol officer was also assigned to the project to assist this sergeant. Other officers were borrowed from patrol or other areas of the department as needed. These officers did not receive any specialized training to prepare for this project. There were no specific incentives given to officers to engage in the problem solving for this project. Officers worked on the project as assigned or were recruited on a temporary basis, often pulling them from their regular duties.

Officers used various Town and Departmental resources to manage this project. We had the Town Attorney providing legal advice, Public Works provided fencing and other barriers and the department of Community Development assisted in developing planned responses. Project Hope and Harmony was also involved to help educate the community and day laborers about the HOW Center. We did not identify any problems with the problem oriented policing model. Other than the sergeant and patrol officer assigned to this project, no specific funds or other resources were allocated

TOWN OF HERNDON

ORDINANCE

September 13, 2005

**ORDINANCE-**            **An ordinance amending the Town Code to add new Division 5, Vehicle Solicitation, Article III, Specific Street Regulations, Chapter 42, Motor Vehicles and Traffic, Herndon Town Code (2000), as amended to prohibit employment solicitation using a motor vehicle.**

**BE IT ORDAINED** by the Town Council of the Town of Herndon that:

1. The Herndon Town Code (2000), as amended is amended by adding new Division 5, Vehicle Solicitation, to Article III, Specific Street Regulations, Chapter 42, Motor Vehicles and Traffic, as follows:

**DIVISION 5. VEHICLE SOLICITATION**

**Sec. 42-134. Definitions.**

(a) Except as provided in subsection (b) below, words or phrases used in this article shall have the meanings ascribed to them by Code of Virginia §46.2-100, except where the context clearly requires a different meaning in this article.

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(b) These terms shall convey these respective meanings.

[insert in alphabetical order]

*Alley* means a narrow public thoroughfare not exceeding 20 feet in width which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

*Business* means and includes the exchange of any type of product, goods, or service; or any performance or activity which is provided or performed in exchange for money, labor, goods, or any other form of consideration.

*Curb* means an edging built in or along a roadway to form part of a gutter.

*Driveway* means a private road connecting one or more parking areas, buildings, or structures with a street or alley.

*Employment* means service, industry, or labor performed by a person for wages or other compensation or under any contract of hire written or oral, express or implied.

*Highway* means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular or pedestrian travel in the Commonwealth, including sidewalks, streets, and alleys.

*Pedestrian* means any individual who is utilizing a highway, sidewalk, driveway, parking area, or alley, while traveling or stopping without the use of a vehicle.

*Person* means any individual, company, corporation, partnership, unincorporated association, business, or other legal entity.

*Parking area* means privately or publicly owned property which is designed or used primarily for the parking of vehicles and which adjoins one or more commercial establishments or residential buildings; and includes but is not limited to parking spaces, driveways, setbacks, and landscaped areas.

*Sidewalk* means that portion of the highway, other than the roadway, set apart by curbs, barriers, markings or other delineation and which is used principally for pedestrian travel.

*Solicitation* means or includes the act of requesting or announcing by any means the availability for or of employment; or any action which seeks to offer, contract for, purchase, sell, or procure employment. The following acts, among others, may indicate a solicitation when accomplished in the context of securing employment at a location frequented for employment: approach between or among individuals; departing the place of approach together; utilization of a vehicle in the approach or departure. A solicitation is complete when made, whether or not an employment relationship is created. Solicitation does not include any lawful activity conducted at a temporary assembly site for day workers, approved by conditional use permit under the town's zoning ordinance.

*Traveling* means to go, move, or be upon any highway, sidewalk, driveway, parking area, or alley.

*Vehicle* means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of this article bicycles, electric personal assistive mobility devices, electric power assisted bicycles, and mopeds shall be vehicles while operated on a highway.

**Sec. 42-135. Findings.**

The town council makes the following findings:

- (a) The activity of unregulated pedestrians' soliciting employment from occupants of vehicles distracts drivers from their primary duty to watch traffic and be alert for potential hazards in the highway, to observe all traffic control signs and to be prepared to move through the town with safety.
- (b) The activity of unregulated soliciting employment by occupants of vehicles to pedestrians on highways, sidewalks, driveways, parking areas, or alleys distracts drivers from their primary duty to watch other vehicles or pedestrians and to move through the town with safety.
- (c) The practice of unregulated soliciting employment from within a highway, sidewalk, driveway, parking area, or alley constitutes a visual blight, inconvenience to workers, and a public nuisance; and subjects the solicitor, pedestrians and vehicles driver to an unacceptable level of danger by distracting drivers from their primary duty to watch traffic; results in the delay and obstruction of the public's free flow of travel, and results in congestion and blockage of the streets, parking area, driveways, and sidewalks.
- (d) Distracted drivers are more prone to be involved in automobile accidents; and vehicular accidents constitute a substantial public safety problem.
- (e) The cumulative impact of this type of unregulated solicitation on the highways, sidewalks, driveways, parking areas, or alleys on a daily basis creates a safety hazard and a significant and substantial risk to the interest of the public in the free flow of travel.

**Sec. 42-136. Vehicle Solicitation.**

- (a) It is unlawful for any person, while occupying as a pedestrian any portion of a highway, sidewalk, driveway, parking area, or alley to solicit or attempt to solicit employment from any pedestrian who temporarily exits a vehicle or person traveling in a vehicle on a highway, sidewalk, driveway, parking area, or alley.

(b) It is unlawful for any person occupying or traveling in any vehicle, or who temporarily exits a vehicle to solicit, or attempt to solicit, employment from a person who is pedestrian on a highway, sidewalk, driveway, parking area, or alley.

**Sec. 42-137. Penalty.**

Any person violating the provisions of this article shall be guilty of a class 2 misdemeanor, punishable as set forth in Section 1-14 of this code. Any such person shall be deemed guilty of a separate offense for each act of solicitation which is a violation of this article.

2. This ordinance shall be effective on and after the date of its adoption for offenses committed on and after that date.
3. The provisions of this ordinance are severable. If any part is declared legally unenforceable, the other parts shall remain in effect.

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PHOTOGRAPH OF “UNOFFICIAL DAY LABOR SITE” AT THE 7-11

TAKEN NOVEMBER 29, 2005



PHOTOGRAPH OF “UNOFFICIAL DAY LABOR SITE” AT THE 7-11  
TAKEN DECEMBER 18, 2005

PHOTOGRAPH OF HERNDON OFFICIAL WORKER'S CENTER



PHOTOGRAPH OF HERNDON OFFICIAL WORKER'S CENTER



PHOTOGRAPH OF HERNDON OFFICIAL WORKER'S CENTER

