



Office of the City Manager

INFORMATION CALENDAR
July 13, 2004

To: Honorable Mayor and
Members of the City Council
From: Phil Kamlarz, City Manager
Subject: Impact Report: Enforcement of State Prostitution Laws (Angel's Initiative)

INTRODUCTION

On April 20, 2004, the City Council referred to the City Manager the text of a proposed initiative ordinance that has qualified for the November 2004 ballot that would change the local enforcement priorities on state prostitution laws. If approved by Berkeley voters, the ordinance would: 1) declare the City opposes state laws making prostitution a crime; 2) make enforcement of prostitution laws in Berkeley a low priority; 3) and require the Berkeley Police Department to report semi-annually to the Council and the Police Review Commission regarding prostitution law enforcement activities in the City. The City Council directed the City Manager to prepare a staff analysis of the impacts of the proposed initiative ordinance pursuant to California Elections Code Section 9212.

SUMMARY

The purpose of referring the proposed initiative to staff is to provide the Council with information on the fiscal and program impacts now that the initiative petition has qualified to be placed on the ballot. Primarily, the proposed initiative would have community safety and police operational impacts as outlined below.

CURRENT SITUATION AND ITS EFFECTS

As the City Attorney's summary indicates, the proposed initiative ordinance would change the way in which local authorities enforce the state prostitution laws:

This ordinance would: 1) declare that the people of the City of Berkeley oppose California state laws making prostitution a crime; 2) direct the City Council to lobby in favor of the repeal of such laws; and 3) make enforcement of existing prostitution laws the lowest priority of the Berkeley Police Department ("BPD"). BPD would also be required to report semi-annually to the City Council and the City's Police Review Commission regarding all prostitution law enforcement activities by the department.

Police Department Operational Impact

The initiative will have the potential to increase crime and community complaints as noted below:

- To “make enforcement of prostitution a low priority” has the potential for much community concern. Berkeley could become the Bay Area prostitution destination point, attracting prostitutes and their customers.
- With an influx of prostitutes and their customers, staff anticipates an increase in robberies, sexual assaults, thefts, batteries/assaults, noise/disturbing the peace calls, litter, etc., in specific areas of South and West Berkeley, possibly expanding community problems to other areas of Berkeley.
- The City could expect additional complaints from community members and merchants who will expect staff to enforce the existing State law.
- The exploitation of women and children (i.e., teenage prostitutes) could likely increase in Berkeley.
- Local medical providers could see an attendant increase in sexually transmitted diseases (STDs), especially in vulnerable groups of people with HIV/AIDS, tuberculosis, hepatitis, and other communicable diseases.
- Citizens and businesses impacted by prostitution will expect the Police Department to enforce the law where the initiative could limit Police Department enforcement activities.

Prostitution Enforcement Activity

Most prostitution enforcement activities by Berkeley Police Department officers are complaint driven. Staff compiled the following data from Computer Aided Dispatch (CAD) database records dating from 2002 to present. These calls represent complaints from the community about prostitution related activity:

- In 2002, there were 275 calls for service pertaining to prostitution related activity, averaging 22.9 calls for service monthly. Of those calls, 264 were from the area of Berkeley west of Sacramento Street with the majority of calls along the San Pablo Avenue corridor (96% of all 2002 prostitution related calls).
- In 2003, 294 calls for service about prostitution related activity came in, with a monthly average of 24.5 calls for service. Of those calls, 289 were from the area of Berkeley west of Sacramento Street with the majority of calls along the San Pablo Avenue corridor (98.3% of all 2003 prostitution related calls).
- In the first two months of 2004, 72 calls for service about prostitution related activity, averaging 36 calls for service monthly. Seventy-one of those calls were from the area of Berkeley west of Sacramento Street with the majority of calls along the San Pablo Avenue corridor (98.6% of the first two months of 2004 prostitution related calls).

The number of calls for service regarding prostitution related activity has steadily increased over the past 26 months. From 2002 through the first two months of 2004, monthly calls for service increased by 57%. The distribution of these calls is primarily from the area west of Sacramento Street, highly concentrated in the San Pablo Avenue corridor.

The following data was compiled from the CRIMES database for 2002 and 2003, and shows actual cases generated resulting in arrests in most cases:

- CRIMES data for 2002 indicates there were 48 prostitution cases for the year. Forty cases were from the area of Berkeley west of Sacramento Street, with the majority of cases along the San Pablo Avenue corridor.
- CRIMES data for January through November 2003 indicates there were 21 prostitution cases for the year. Eighteen of these cases were from the area of Berkeley west of Sacramento Street, with most cases along the San Pablo Avenue corridor.

The CRIMES information is very similar to the CAD data. Arrests of juvenile prostitutes made during enhanced enforcement efforts are rising. Berkeley Police have arrested juvenile female prostitutes as young as thirteen years old and see this as an increasing trend.

Potential Neighborhood and Departmental Impacts

Currently, Police Department beat officers and members of the Drug Task Force suppress street level prostitution. Prostitution abatement programs are typically conducted in response to rising numbers of community complaints in a specific area. These programs provide a temporary solution maintained by daily, directed patrol to discourage repeat offenders.

If "Angel's Initiative" was passed and prostitution arrests were the City's "lowest enforcement priority," Berkeley neighborhoods and police department operations will be affected. According to police staff, street level prostitution is the "number one quality of life issue" cited by South and West Berkeley residents. Generally, the activities between a typical prostitute and client occur in the client's car on a city street, often in residential neighborhoods. Street level prostitutes are often drug addicts working to support a drug habit, purchasing their drugs in the immediate area in which they work. There are drug houses in Berkeley that specifically cater to prostitutes. Increasing prostitution activities would exacerbate this problem, likely resulting in more local blighted properties. Street level prostitutes are frequently the victims of crimes ranging from assault, battery, rape, robbery, kidnap and murder. The majority of these crimes go unreported, and increased prostitution could lead to more victimization.

Common byproducts of street level prostitution are used condoms and used hypodermic needles. Recently, the principal of a school, located at Heinz Avenue and 9th Street, forwarded complaints from parents about the frequent discovery of such items by the school's students. This health issue would increase with more prostitutes operating in the area.

Further, staff sees potential problems in neighborhoods and commercial districts challenged by crime. The potential impacts of increased prostitution and attendant criminal activity could substantially undermine the City's efforts to revitalize and upgrade struggling commercial districts (the lower Shattuck Avenue area, San Pablo Avenue, the Lorin District along Adeline Street). The erosion of the community environment, along with the clientele that this activity attracts, is not conducive to improvement or stabilization efforts, and is harmful to commercial districts.

Other Policy and Legislative Implications

Another section of the proposed initiative ordinance directs the City Council to lobby in favor of the repeal of state laws regulating prostitution. Local decriminalization brings in a host of potentially negative affects for police oprations and community safety activities as cited in the sections above. Further, City Council members are directed to undertake particular legislative activity seeking the repeal of state prostitution laws. This seems far too directive an activity for the City's elected officials to be required to implement.

Addressing issues pertaining to the safety, health and personal dignity of sex workers cannot effectively be accomplished by one jurisdiction. A more pragmatic approach would be to decriminalize prostitution at the regional or state level, with the support of many communities and legislators. Though the sentiments of the initiative's originators are laudable, implementing such an effort in only one city does not make for sensible legislative or social policy. The effort reflected in the initiative ordinance would be better pursued in a legislative and/or societal forum that could reach a much larger electorate where regulation and enforcement practices could be enacted on a more appropriate scale.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Possible increase in law enforcement costs as a result of prostitution-related crime.

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