

Police pursue disorderly conduct violations

JOANNE ZUHL
 STAFF WRITER

It was only a matter of days after Multnomah County Circuit Court Judge Stephen K. Bushong ruled that the city of Portland's sit-lie ordinance was unconstitutional, that the police had engaged another tool for the job: disorderly conduct.

On June 25, Portland Police Chief Rosie Sizer issued a memo to officers to cease enforcing the sit-lie law, which prohibits people from sitting or lying on downtown sidewalks, and instead apply the state's disorderly conduct law. In Bushong's ruling, released June 22, the judge says the city's ordinance oversteps its authority because the state's disorderly conduct law addresses the issue of sidewalk problems.

Reports from Street Roots vendors have already come in that police officers are informing them that police will be using the disorderly conduct law to arrest people on the streets if they get complaints. Unlike the sit-lie ordinance, which was a violation offense, disorderly conduct is a criminal misdemeanor.

"Now instead being of charged with what was merely a violation or an offense of what was a city ordinance, a person can be charged with a misdemeanor crime, punishable by jail time," says Chris O'Connor with the Metropolitan Public Defenders office.

"It leaves a lot to interpretation by the officer," O'Connor says. "The real question will be whether or not they choose to charge disorderly conduct in every situation they would have charged a sit-lie or will they use more discretion. I think they'll use more discretion, because the disorderly conduct statute requires that it's with intent or is reckless. Reckless means aware of, or consciously disregarding the risk. The sit-lie was more of a status crime. It didn't require the specific intent of annoyance or alarm. It was a strict liability offense. Just blocking the sidewalk was enough."

The sit-lie ordinance has been the bane of advocates for people experiencing homelessness who say it was just a tool for police to move homeless people from the downtown area. The vast majority of people cited under the ordinance were homeless at the time, according to the citation records.

Brendan Phillips, community organizer with Sisters Of The Road, which has battled the sit-lie ordinance for years, says he can't understand how the City Commissioners have failed to question the ramifications of Sizer's directive.

"All indications on the street are that Portland Police are going to aggressively pursue disorderly conduct in lieu of a sit-lie charge," Phillips says. "That flies in the face of the legislative intent of the disorderly conduct statute and creates the potential for more city resources to be wasted trying to prosecute people for behaviors that are not classified as disorderly conduct under the statute."

Phillips says the shift is counter productive to the dialogue around the issues of the streets and "is no way to honor the work that social services advocates, businesses and community members have put into looking at this issue."

You can read the police chief's memo on disorderly conduct enforcement, the disorderly conduct law, and more information on the judge's ruling on sit-lie at www.streetroots.wordpress.com.

'This is a bigger issue'

Commissioner Amanda Fritz talks sit-lie, and the need to talk

BY ISRAEL BAYER
 STAFF WRITER

Commissioners Amanda Fritz and Nick Fish will be leading two community discussions this month on the controversial Safe Access For Everyone (SAFE) program that supports a range of different homeless services and oversees the obstruction as nuisance law, otherwise known as sit-lie for its ban on people sitting or lying on sidewalks in downtown Portland.

In May, after much fanfare, City Hall extended the sit-lie ordinance until October pending more community discussions on what to do with the law in the long term.

In June, a Multnomah County Circuit Court Judge Stephen K. Bushong ruled the ordinance unconstitutional. Days later the police stopped enforcing the law until further notice, throwing the ordinance and the larger issue of sidewalk access into even more disarray.

Street Roots recently talked with Fritz to get her perspective on the ordinance and the community discussions later this month.

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Community meetings on the city's SAFE programs

Saturday, July 18

10 a.m. - noon

Kaiser Town Hall

3704 N Interstate Ave.

Tuesday, July 21

7-9 p.m.

First Unitarian Church

1011 SW 12th Ave.

Israel Bayer: *What are you hoping to accomplish with the community forums around the SAFE committee?*

Amanda Fritz: What they're for is a conversation, a dialogue, a listening tool. It has always been about the process and coming together so that the streets can be used by everyone. It was never only about the ordinance. It is about the big picture. What services have been created because of this process? In many ways, since the ordinance has been declared unconstitutional, the conversation is even more important.

I.B.: *Does the ruling striking down the sit-lie ordinance affect the process and/or the outcomes?*

A.F.: It changes the dynamics and in many ways I hope it is positive. I hope the conversation doesn't become "sit-lie or no sit-lie." I think the conversation has to be bigger than that.

It also highlights a concern that Commissioner Fish raised in terms of criminalizing homelessness. What the court ruling said was, you can't do (sit-lie) this because state law says we have a disorderly conduct law that comes with a maximum of one year in prison.

We have concerns about the charge from advocates that sit-lie criminalizes homeless people, when in fact, it made it a citation rather than a misdemeanor.

I.B.: *But isn't forfeiting your right to counsel through a citation process a violation of a person's civil rights?*

A.F.: You're right, there are a lot of different twists and turns with this issue. But in my six months at City Hall I've come to realize that we all care about the homeless and having a place to go, and that the sidewalk obstruction ordinance was truly a tool meant to get people services.

I.B.: *Have the city attorney or others at City Hall inquired into why the sit-lie law was needed then, if something else was in place?*

A.F.: Obviously, we wanted something that wasn't criminalizing people and

throwing people in jail for being homeless.

I.B.: *So the police bureau and the business community have been advocating all this time to decriminalize homelessness?*

A.F.: I don't know what the motivation was because I wasn't involved at that time. What we need to look at now is what options do we have and move forward.

I.B.: *Is anyone outside of downtown engaged in this issue?*

A.F.: I have heard a lot about the constitutional concerns about the law and very little about what was being done to address the needs of people. That was one of my motivations in helping set up this process. It's a lot more complicated than it appears. It was impressive to me that a lot of people from different spectrums had stepped up to the table over the last two years and worked together for a solution.

I.B.: *If the sit-lie lives on in one form or another, is there a chance that the ordinance will be piloted in other neighborhoods outside of downtown?*

A.F.: That is a question I'm wondering about. Really, what we are talking about is the use of the sidewalk. I know from campaigning last year and seeing a lot of really crowded sidewalks where merchants, pedestrians and others use the sidewalks, they might have some interest.

I.B.: *Will the city work to fund the services being offered for people experiencing homelessness if the law doesn't stand up to a City Council vote or in the courts?*

A.F.: That's the question. It seems to me for multiple reasons everyone should recognize that the services are needed. Regardless of sit-lie, people are going to need a place to go during the day and at night. I specifically didn't ask the funders if they are willing to continue funding if we extend the ordinance or not. It's about doing the right thing for everyone involved. We need to have more discussion and information and listen to people.

This council's record on funding homeless services is amazing. We are all on

the same page with helping broaden the scope of services and helping people on the streets.

I.B.: *Why spend so much time on process? Shouldn't the city bring in a third party to determine the effectiveness and cost analysis of laws that criminalize people experiencing homelessness?*

A.F.: That's an interesting question. My counter to that is that we often spend thousands of dollars on a study and it sits on a shelf. I also know it's about what practical common sense things we can do. Let's start with those.

I.B.: *Some members of the SAFE oversight committee have felt that the city has not given the group the proper staffing and resources to be effective. Some members felt they were volunteering their time only to be beat up in the press and by the community for trying to do a good thing. At what point do volunteers continue to put themselves in that position?*

A.F.: That recognition was a huge part of my motivation for this process to raise awareness about what good and courageous things that group has done.

With the ordinance being found unconstitutional, it's an opportunity to find out what we are trying to accomplish. It's an opportunity for opponents of the law to declare victory, but that doesn't change the need or the reality that people downtown need to have access to sidewalks. Again, this is a bigger issue than one ordinance. What's the next step? We have to work together and respect one another and find a way to move forward.

I.B.: *Is there anything you would like to add?*

A.F.: It's important for me for people to show up to these community meetings. Not because we're going to be making decisions, but because we're not going to be making decisions. We're going to have a conversation. It's important to have a place where people feel comfortable to talk and listen. It will be helpful for me and hopefully for everyone that participates. Please come out and let your voice be heard.