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PANHANDLERS AND WINNIPEG'S BY-LAW: PERCEPTIONS AND REALITIES

DENISE MACDONALD



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Abstract

This exploratory qualitative research examines the impact of panhandling by-laws on panhandlers in downtown Winnipeg. Panhandlers' descriptions of their experiences make it clear that Winnipeg's *Obstructive Solicitation By-Law* and captive audience clause amendment in 2005 have affected them negatively. The by-law excludes panhandlers from the definition of community and reinforces the myth that all who beg for money in the streets are there by choice and are thus immoral and not worthwhile members of society. While attempting to protect people in Winnipeg's downtown, the by-law actually places panhandlers at further risk of violence. In addition, through the implementation mechanism of the enforcers—police, Winnipeg Cadets and Business Improvement Zone patrols—the legislation has a great impact on panhandlers' lives but this population knows little of its contents.

Introduction

Panhandlers are a feature of all cities. So are laws against them. My research examines the relationship formed by the interaction of legislation and people in public space. By examining the effect of *The City of Winnipeg Obstructive Solicitation By-Law* (henceforth “the by-law”) on panhandlers and the use of public space, this study determines that the by-law, while intending to make public space safer, criminalizes and places at risk certain low-income community members. The by-law has a great impact on the lives of panhandlers, who were not considered in its creation or its application and have inaccurate or no knowledge of its contents.

This research is founded in my hands-on experience working with the Public Interest Law Centre (PILC) and Main St. Project (MSP). From October 2011 to March 2012 I was placed at both these organizations to fulfill the practicum requirement of the University of Winnipeg’s Urban and Inner City studies program. PILC is an arms-length organization that undertakes test-case litigation with broad implications on behalf of individuals or groups who would be unable to protect their rights without such help. They focus on *Charter of Rights* violations and Aboriginal law. MSP is an emergency shelter in downtown Winnipeg that offers food services, detoxification units, counselling, transitional housing, and other services. I received guidance and tools for my research from PILC and gained first-hand experience with vulnerable populations and services available to them at MSP.

This research is important to undertake at this time because PILC is representing the National Anti-Poverty Association (NAPO) in their challenge of the constitutionality of the by-law. NAPO is arguing partly on the grounds that the by-law infringes on panhandlers’ right to freedom of expression (here, the right to express poverty). The primary research I collected may be included in PILC’s research and evidence for the case.

PILC had commissioned a study on panhandling and the by-law conducted by Dr. Tom Carter, Anita Friesen, Chesya Polevychok, and John Osborne in 2005, the year the by-law was amended to include a “captive audience” clause. Carter et al. (2007a-d) compiled an extensive literature review on legislation and services, interviewed 75 panhandlers in Winnipeg and observed and mapped their activity in the downtown and surrounding areas. It is important, now that the by-law has been in place for a few years, to re-examine the issue and mark any differences in its effectiveness and impact on panhandlers’ lives.

Finally, this research is important because it gives voice to people typically pushed to the margins. Panhandlers are the most affected by this by-law, but we seldom hear their opinion on it in the news or elsewhere. It behoves lawmakers to listen to their opinions, stories, and experiences rather than making assumptions and devaluing panhandler experiences in favour of other users of public space.

The By-Law

Winnipeg has had by-laws specifically targeting panhandling since 1947 (Stewart, 2004, 47). The *Obstructive Solicitation By-Law* first came into effect in 2000 and was amended in 2005 to its current version (see Appendix A). Its main purpose is to prevent people from "solicit[ing] in a manner that causes an obstruction" (City of Winnipeg, 2005, 2). The City defines “soliciting” as “to ask, whether by spoken, written or printed word, or gestures, for donations of money or other things of value for one's self or for any other person” (City of Winnipeg, 2005, 2). Defining what constitutes “causes an obstruction” is the bulk of the by-law’s content. In the original 2000 version, this included verbal threats, impeding pedestrian and vehicular traffic, asking again when a person has refused, and approaching a person to solicit in a group of 3 or more. These are all considered features of aggressive panhandling. Physical violence is not included in the By-

Law as it is prohibited in sections 264.1 and 265 of the Canadian Criminal Code (Department of Justice, 1985). In 2005, the City Council under Mayor Sam Katz updated the By-Law to include the captive audience clause. This prohibits soliciting those in a situation where they are unable to walk away or avoid being solicited. These include those

- using an ATM, bank, credit union
- at public phone
- transit stop or taxi stand
- in a public transit vehicle
- in an elevator
- in skywalks
- getting out of a vehicle or in a parking lot
- sitting at a patio

Literature Review

The extensive four-volume study on panhandling in Winnipeg conducted by Carter et al. (2007) is the starting point for my research. Carter, who was the Director of the Institute for Urban Studies at the University of Winnipeg at the time, led a team of researchers to examine the effectiveness of legislation and support services for panhandlers in Winnipeg. The general conclusion is that the by-law will not prevent panhandlers from panhandling and “[m]aking panhandling a criminal offence only penalizes and stigmatizes people based on their economic and social situation” (Carter et al., 2007a, 3). This is a criminalization of poverty approach that looks at the legislation from the perspective of the marginalized persons affected most by it. Cook & Whowell (2011) similarly describe legislation that targets the poor in public space as the “policing of undesirable bodies” (610).

Robert Tier (1993), of the General Counsel for the American Alliance for Rights and Responsibilities, argues that begging can obstruct the “safety and civility in urban public spaces” and can have negative consequences on “the vitality of urban communities” (287). Thus, the government plays an important role in keeping public spaces safe and civil through law-making.

Tier looks at the discomfort and unease many feel—myself included—when confronted by poverty publicly. For him, panhandlers’ rights must be balanced with reducing panhandling’s negative effects on other people and neighbourhoods.

Robert C. Ellickson (1996) summarizes well the argument that legislating public space is necessary for freedom rather than opposed to it. Ellickson is a Professor of Property and Urban Law at Yale Law School and presents clear and engaging arguments on panhandlers as “chronic nuisances in public space.” In contrast with Carter et al., Ellickson (1996) looks at the issue from the point of view of businesses, consumers, and other users of public space. The questions arise, in a context where corporations are considered as persons in the eyes of the law, are the interests and rights of businesses equal importance to that of panhandlers?

Along the same lines, the “broken windows” thesis links public disorder—defined as “behaviour which is public and visible and poses a variety of concerns to the public at large” (Ranasinghe, 2010, 1926)—to the erosion of civility and safety. Ranasinghe examines the effect of Toronto “squeegee kids” on the public and consumerism, arguing that laws that limit such activities protect business and consumerism rather than reduce public disorder.

Lee & Farrell (2003) of Pennsylvania State University offer an interesting counter to the safety and civility argument. The authors point to the power of perception on policy. While claiming that limiting the rights and freedoms of panhandlers is justified through safety arguments, Lee & Farrell (2003) believe that their analysis of survey results “challenge the notion that panhandling constitutes an especially threatening feature of urban life” (299). They find that “[p]olitical liberals and those whose religious beliefs inform their views on homelessness are more inclined to comply with panhandlers” (314) and that support for the right

to panhandle increases with exposure with organizations that serve the poor and decreases with age (315).

The most common name in the contemporary literature on panhandling and rights is that of Nicholas Blomley, a critical legal geographer at Simon Fraser University. His 2007 article “How to Turn a Beggar into a Bus Stop” contributes greatly to my research as it reviews Canadian case law on the constitutionality of anti-panhandling legislation, pointing out the emphasis of these laws on space. He offers an insightful approach to examining laws, by first asking whose interests they serve (1701) and how laws are based on values and perspectives. For instance, Blomley argues that anti-panhandling laws reflect the law’s perception of what a street is: “The beggar, say the judges, is not a threat to commerce or safety, or a ‘broken window’. Nor is she a rightsbearing citizen engaged in expressive conduct. She is traffic. The street is not an agora, or a ‘tragic’ commons. It is a transport corridor.” (1701).

Briefly, other articles by Blomley present interesting perspectives. In 2003, he presented a paper that describes anti-panhandling legislation as a form of violence toward panhandlers (Blomley, 2003) and later theorized that this legislation and opposition to panhandling in general arises from liberal, individualistic values (Blomley, 2010). Thus, one must read laws as an expression of the idea of an ideal society and the comportment of its citizens.

Using a similar approach, University of Manitoba Professor Arthur Schafer argues that anti-panhandling by-laws, and *The City of Winnipeg Obstructive Solicitation By-Law* in particular, are not a legitimate use of power by the state. He states that when governments enact laws such as these to protect the community, we have to think about who might be excluded from the definition of community: “panhandlers should count as ‘we’, not ‘they’” (Schafer, 2007, 3). This reflects the spirit of this practicum course and my choice to spend half of my practicum in an

organization that serves panhandlers, in the hopes that I can narrow the invisible divide that lies between me and “them.”

Finally, two Canadian Master’s theses offer interesting takes on the subject of panhandling by-laws. The first, by Etoile Stewart of Ryerson University, looks at transgressive actions in public space, using Winnipeg and the panhandling by-law as a case study. Stewart (2004) argues that regulation is part of the “the urban eco-system” (8) and that it “produces” public space and influences its use. She adeptly observes that the “sharing [of public space] is not harmonious” (9), and argues that efforts to quash panhandling is often in the interest of one section of the community (business) at the expense of another section of the community (panhandlers).

Stewart (2004) presents a clear history of the panhandling by-law Winnipeg has today. Prior to the by-law developed in the early 1990s, the previous by-law was developed in 1947 and focussed on the obstruction of "free use" of streets (47). This by-law was repealed in 1992 by the provincial court which ruled that "governments cannot prohibit acts that 'have no social impropriety'" (48). New by-laws targeted "aggressive panhandling" and focussed on acts seen as unsafe, or that felt unsafe. This history is crucial to understanding the context of laws today.

Mario Berti’s thesis is based on qualitative research in Vancouver with panhandlers to discover their experiences with B.C.’s *Safe Streets Act*. Berti (2009) presents research on the fear of “street people” which lies at the core of these by-laws. His uses his data to examine the similarities and differences between the panhandlers’ takes and the rights-based arguments of those that oppose this legislation. Berti’s (2009) findings reveal a schism between these points of view. This indicates a significant gap between the marginalized on the streets and the well-meaning researchers and organizations that are fighting on their behalf.

Research Question

My research question is: How does the perceived and lived experience with *The City of Winnipeg Obstructive Solicitation By-Law* affect the lives of panhandlers and the use of public space in downtown Winnipeg? The "perceived" experience is an important distinction as laws are often not well known, and I hypothesized that panhandlers may have an inaccurate perception of the by-law.

This question is important because it gives voice to the panhandlers and looks at the unintended consequences of the legislation. It values the lives and experiences of panhandlers and attempts to include them in the definition of "community" as users of public space in Winnipeg's downtown.

This question excludes how the by-law affects other users of public space, as I believe this is better known. Newspaper articles and reports on panhandling largely speak from the perspective of those being asked and of businesses. This question also excludes how the by-law affects other types of solicitors. I use the definition provided by Carter et al. (2007) for panhandling as "the act of stopping people on the street or in public or private spaces to ask for food or money" (Carter et al., 2007a, 1), which excludes buskers and "squeegee kids".

Methodology

I used one-on-one interviews with current and past panhandlers to collect data. Anita Friesen, who was an interviewer for the Carter et al. study served as a key informant: she shared with me the best practices and lessons learned from the 2005 study and advised me on my approach. From this, I developed a largely open-ended questionnaire based on the one used by Carter et al. (2007) (See Appendix B). While some short-answer questions were necessary in the questionnaire to obtain specific data (e.g., #9 and #10 ask participants to list whether they

panhandled in specific circumstances outlined in the by-law), most are open-ended in order to reduce leading questions, interviewer bias, and allow participants to tell their story their own way. One-on-one interviews were more appropriate than focus groups because this population is seldom in the same place at the same time, many of the questions required confidentiality, and I had become aware of possible tension between panhandlers while working at MSP.

My approach was based on confidentiality, respect, ensuring the safety of the participants and myself, and reciprocity. Confidentiality was important to honour strictly. The consent form (see Appendix D) served as a means of reassuring participants that I was not affiliated with any law enforcement agencies and their answers would not be associated with their names. For the same reason, I did not record the interviews and took hand-written notes. In my past research experience, I discovered that the tape recorder can sometimes be intimidating or mistrusted, resulting in an unwillingness from participants to share openly. Based on her experience interviewing panhandlers, Anita Friesen believed this would likely be the case for most interviewees and advised against recording.

Creating a respectful environment for the duration of the interview was essential for building trust. In exchange for their time, I offered all participants \$10 in compensation for the interviews. The time they spend interviewing is time away from panhandling, thus potentially affecting their income. I offered the honorarium in cash as opposed to grocery store gift certificates, which are sometimes offered in this type of research, to avoid implying negative judgement of the participants. Panhandlers are often accused of mispending money and I wanted to display trust from the outset. In addition, I avoided asking what they do with the money they earn panhandling. Not only would this risk making the participants feel judged, but it also had no bearing on my research aims. Participants were also encouraged to refuse to answer any question

that made them uncomfortable.

A sense of safety was essential to foster for myself and the participants. My initial plan had been to approach people panhandling and invite them to sit with me at a coffee shop so that we would be in a public place. I would ask a friend to be nearby as I recruited and interviewed people in case anything happened that made me feel unsafe. This is not to say that I feared panhandlers, but as a female interviewing strangers who would mostly be male and may have substance abuse problems, I would not have been comfortable without some safeguards in place. The confidentiality and non-invasive approach described above aimed at providing the participants with a sense of safety. In the end, I was unable to find and approach anyone on the street during the winter months and ended up recruiting most participants at the Bell Hotel. The Bell is a supported permanent housing complex for people who have been homeless. Here, I put up posters (see Appendix F) with set times for interviews and staff at the Bell assisted me in finding current and past panhandlers to interview and provided me with a safe space in the administrative wing. This space was also ideal because I was interviewing people in their own home, a space where they are likely to feel comfortable and safe.

Reciprocity was important to avoid swooping in to gather information that identifies a problem without participating in addressing some of the issues. Based on my hypothesis that panhandlers are largely unaware of the by-law, I made sure to provide a copy of it to each participant and went through its contents with them. It is also important to give back to the agencies that helped me collect this data, thus a copy of this report will be provided to MSP and the Bell Hotel. This will allow the agencies to gain a greater understanding of some of the clients they serve and allow the participants to access the report once complete.

Sample

I interviewed eleven panhandlers: nine at the Bell Hotel, one in the Exchange District, and one at MSP. Table 1 presents the demographics of the sample.

Table 1: Demographics

	Number	% of total
Gender		
Male	10	90.9
Female	1	9.1
Ethnicity		
Aboriginal	8	72.8
Non-Aboriginal	3	27.2
Age		
30-39	3	27.2
40-49	4	36.4
50-59	4	36.4
Disabilities		
Identified disability/ies	10	90.9
No disability identified	1	9.1
Education		
Grade 8 or less	3	27.2
Some high school	4	36.4
Grade 12	1	9.1
Some post-secondary	1	9.1
Completed post-secondary	2	18.1
Housing		
Housed	10	90.9
Homeless	1	9.1
Employment		
Employed	0	0
Unemployed	11	100

I also had the opportunity to interview the Executive Director of the Exchange District Business Improvement Zone (BIZ), Brian Timmerman. His interview gave me a sense of how

the by-law and panhandlers are perceived by enforcers and businesses. The questionnaire and consent form I used for this interview are attached in Appendices C and E.

Limitations

The small number of participants means my results are only exploratory and sweeping conclusions are impossible to make. I recruited most (9) participants from within the Bell Hotel and thus my sample is largely limited to housed participants and won't capture other types of panhandlers, such as those who are homeless, in transitional housing, or from other parts of town. In addition, while I spoke to a representative from the Exchange BIZ, I did not collect data from other by-law enforcers or users of downtown public space. In retrospect, I would have adjusted the questionnaire to include more questions on the interactions with the BIZ than on what they think about a law they know so little about. I had to skip over many of the questions on the by-law for most interviews. The study would have benefitted from interviews with police, cadets, and the downtown BIZ in order to gain a greater understanding of the intent of the by-law in their eyes.

Findings

In analyzing the data of the eleven interviews, four themes emerged: 1) Panhandling is not a choice; 2) It is work that requires skill and intelligence; 3) Panhandlers' daily lives are characterized by violence and aggression; and 4) The by-law is poorly known but has a great impact on panhandlers' lives and has changed the "art" of panhandling. These findings are detailed below with direct quotes from the interviews. No names are attached to the quotes, but every participant's voice is represented.

Panhandling Is Not a Choice

While participants spoke of several different motivators for panhandling, the common denominator was clearly poverty.

"I'm just stuck"

All were living on social assistance and panhandled to supplement this. Several participants told me that they would only panhandle if they were in dire need. In general, it was not something they wanted to be doing.

"I only panhandle when I'm really, really in need"

"I only do it when I really, really need it"

Many spoke of how services in the city are "not enough" to compensate for inadequate social assistance and panhandled for several hours most days.

"The [services] they say they have for us are full"

"When you go to Siloam, it's not a big breakfast"

"Sometimes my cheque doesn't come in on time"

Panhandling is also not lucrative enough to make a decent living. There were stories of the one person who once received several hundred dollars in an hour, but generally the participants were making no more than \$40 a day. It is hard work and difficult to maintain for a long time:

"If I could have [panhandled] 8 hours a day, I could have made enough to live on"

Many participants did panhandle 8 hours a day and still did not make enough to live on.

Many panhandled to get money to pay for addictions. There were some for whom this was alcohol, whereas others were addicted to gambling and solvents.

“For my habit... mostly I do it ‘cause of drinking”

“[disability cheques] should be enough. But being a compulsive gambler...”

“I was homeless and on a lot of [prescription] narcotics”

All faced barriers that prevented them from being employed. Two stated that they enjoyed panhandling and would not choose to take a job if they were able, but all the others expressed a desire not to panhandle and to have a well-paying job.

“I wish I could land a full-time job”

“I could do dishes, but you’re just getting by there too”

Disabilities, including injuries sustained at work, and a lack of education and credentials were the major factors preventing employment.

“[my disabilities] made it difficult to work”

Thus, for the most part, panhandling is not a choice and while many people the participants asked for money told them to get a job or access services, these are not always options for them.

This Work Requires Skills

The fact that panhandling is a job that requires skill was emphasized by Brian Timmerman at the Exchange BIZ. He stated several examples of the resourcefulness, cunning, and skills that he observed among panhandlers in the Exchange. It became clear that one participant's remark of “You gotta think a little” was quite the understatement. All the panhandlers I interviewed spoke of thought-out strategies to stay safe and earn money.

First of all, panhandlers have to learn *who* to ask. There was a consensus that targeted soliciting was more effective than asking all who walk by. The strategies varied for each participant for the most part. Some spoke of picking people based on age, style of dress, and/or

gender. The one tactic common to most, however, was picking out people that did not look like they would be aggressive.

“Friendly people. Not someone that will beat you up.”

This seemed to be largely left up to instinct. Identifying "friendly faces" is something one has to learn quickly in order to avoid the risk of violence and humiliation.

There were also many different tactics for the best times of day and locations to ask. While most stated they panhandled most of the day, rush hour was stated by many as the best time if you only had a few hours. Some like to go out in the evenings, while one spoke of a strategy of going after lunch:

“they have a full belly....they think you don't“

An interesting finding that emerged from three participant interviews was that sometimes good corners were panhandled in coordinated “crews.” Here, a group of three or four panhandlers would split up to each take a corner or spot around a good area. Afterwards, the group would get together to pool resources.

The method of panhandling revealed a diversity of tactics that typically varied by individual. Some walked around, some sat against walls on the sidewalk, some asked out loud, while others would just hold out a hand or a cup or a hat. Some commented on how sometimes asking honestly for money for substances elicited a positive response, but others spoke of lying as a better technique to incite people to give. While techniques for soliciting varied, there was a general acknowledgement that aggressiveness was not a smart strategy. Being nice and polite was the most common "trick" for successful panhandling.

“If you’re kind to people ... they’ll probably give money”

One important question for my study that did not get asked by Carter et al. was how the participants learned these skills. I was curious to know whether knowledge of laws and panhandling tactics was passed from panhandler to panhandler. Some stated they were taught by friends or family members, but most replied that they watched others and learned by doing. This is an important finding when thinking about how knowledge of laws is transmitted.

Violence & Aggression

One participant left me with a striking comment when I asked for any additional comments at the end of the interview:

“It gets rough out there... You get fed up quite a bit”

All the participants I interviewed relayed stories of violence, aggression, risk and worry in their lives that came from several sources. The two most commonly cited sources of aggression came from other panhandlers and from enforcers, which include the Winnipeg police, the Winnipeg Cadets (referred to usually as the "blue coats"), and the Downtown BIZ patrols (referred to usually as the "red coats").

“I've been here my whole life and it isn't friendly Manitoba”

Counter to the cooperative panhandling described above, conflict with panhandlers was very common. Aggression typically resulted from territoriality and the most severe incidents of violence were because of this:

"You don't want to be on someone else's corner"

“[I get] kicked, spit on, hit, and jumped by other panhandlers & gangs”

Two participants had visible scars and marks from such encounters.

Interactions with police, cadets, and the BIZ occasionally involved violence and aggression. There were clear differences in the chances of aggression from each type of enforcer, with the cadets being the most aggressive and the BIZ being the least.

“Red coats treat me well, but not the cadets”

*"[Blue coats] are f***ing a*****"*

“Red coats and cops tell me to move along, but also treat me well.”

The people they asked for money were only described to be occasionally verbally abusive and only seldom physically violent. Businesses were similar to the BIZ— they would tell panhandlers to move along, but not use any force. Though, one participant did say that sometimes they had “cranky days.”

The By-Law

There was clearly little or incomplete awareness of the by-law. Some were under the impression that panhandling generally or certain legal methods were illegal.

“You’re not supposed to panhandle”

"You're not supposed to ask [out loud]"

There was a demonstrated understanding from most that the intent of the law was to restrict aggressive panhandling. Almost everyone told me that physical and verbal aggression was prohibited.

"If you got aggressive, you could be arrested“

However, most focused on physical aggression and assault, which is not included in the by-law because it is covered by the Criminal Code.

Those who had heard of laws, or knew more accurate details, were told by the downtown BIZ, which supports Brian Timmerman's explanation that the patrols were instructed to tell

panhandlers what they were doing that infringed upon the by-law rather than simply telling them to move along or fining them.

Many were much more aware of public intoxication rules and the Intoxicated Persons Detention Act, and some had experienced repercussions for public intoxication. None said they were fined, ticketed or arrested for violating the *Obstructive Solicitation By-Law*.

Most told me they panhandled in ways that infringed the by-law. The most common infringements were around the captive audience clause (see Table 2). Soliciting to people at bus stops was most common, with parking lots and in traffic also often cited spots of infringement. No one said they had been ticketed, fined or arrested for infringing the law.

Table 2: By-Law Infringements

By-law rule	# who infringed
Captive audience at ATM machine, bank, credit union	0
Captive audience at a public phone	2
Captive audience at transit stop	7
Captive audience at a taxi stand	0
Captive audience on public transit	0
Captive audience in an elevator	0
Captive audience in skywalk	1
Captive audience getting out a vehicle or in parking lot	5
Captive audience sitting at a patio	1
Ask again after they say no	2
Approach in a group of 3 or more	0
Block pedestrian traffic	0
Block vehicular traffic	3
Verbally threaten or insult pedestrian	1

The idea that it is just "common sense" not to conduct oneself in a way prohibited by the by-law was often brought up by the participants. This was most commonly the reaction when I asked if they ever asked again after receiving a negative response:

"If it's no, it's no, so what's the use of asking again?"

This was also the case for other acts of aggressive panhandling. Many were of the view that being aggressive could jeopardize the likelihood that a person will give you money.

"aggressive panhandling is a bad way of earning something"

"I don't harass, I just ask"

That said, there were a few that spoke of times they were aggressive or times where they felt the desire to be aggressive.

"I used to do a lot of out-of-control panhandling because I was intoxicated"

"Sometimes I get mad or angry"

One thing that was clear, however, was that "The art [of panhandling] has changed." Panhandlers are facing a new reality with the presence of the BIZ patrols and their ability to use the by-law.

"downtown is harder because of red coats"

Interestingly, many were in support of some form of panhandling by-law. While one spoke of the current by-law being just—"I think the policy is fair, I think it's a good idea"—most focused on the need to control acts of aggression, including "fighting and drinking."

"The aggressive stuff is not right"

But many saw the captive audience clause or the law in general as too restrictive. One participant spoke of the constitutional rights of panhandlers to ask for money and found the by-law infringed upon this.

"I think you should have the right to sit there and have a sign or hat or cup or something"

"There should be no laws on anything, but that's my opinion, not theirs or yours"

"Panhandling [is] a constitutional right"

When asked if they would keep panhandling if it was illegal, every participant said they would keep panhandling if they needed to.

"[I would] try and find a way around it"

Analysis

The findings of this exploratory study support many of the conclusions of the Carter et al. report conducted in 2005. The demographics of my participants are similar—predominantly male and Aboriginal—but my sample is older and better educated, which may be linked to my sample also being mostly housed. Disability rates were strikingly different in my sample. While 37% in Carter et al.'s study identified disabilities as barriers to employment, 91% of my participants did. The question remains whether there is an actual difference in disability, or whether my participants had better access to diagnosis services.

Carter et al. (2007) linked lack of housing to unemployment, but my study reveals a much more complex picture. While all but one of my participants were housed, all were unemployed. Barriers to employment were disabilities, lack of education and training, and addictions. This demonstrates the interconnectedness of factors that can marginalize a population, indicating that programs must address this state of multiple jeopardy to effectively reduce barriers for individuals.

The interviews conducted by Carter et al. also revealed that panhandling is typically not a choice. My interview data lead me to the same conclusion—that services that address the reasons people find themselves in a position where they need to panhandle are more effective than

legislation. Thus, the by-law is to a certain extent criminalizing poverty and dehumanizing panhandlers, similar to Blomley's argument that laws turn panhandlers into objects that cause a nuisance rather than human beings who have rights. As Cook and Whowell stated, panhandlers are seen as undesirable bodies that can and should be policed and controlled. I believe my participants defied the stereotype that panhandlers are lazy and immoral. For many, panhandling is their full-time job and it takes a lot of skill, endurance, thick skin, and courage. Limiting panhandlers' ability to do this work is essentially impacting their ability to make money and/or to do their work in places they feel safe. The enforcement of the by-law is focused on the downtown, especially in the zones patrolled by the downtown BIZ and Exchange District BIZ. As such, it seems that panhandlers are being pushed out of downtown. Some participants spoke of panhandling further and further north on Main St., into areas they described as unsafe.

While one participant observed that people being drunk on the streets negatively affects Winnipeg's image and should be controlled, supporting the safety and civility arguments by Tier and Ellickson, most responses show that panhandlers are likely more often the victims than the aggressors in public space and urban neighbourhoods. However, the findings on inter-panhandler competition do indicate that violence is often perpetrated by panhandlers and intoxication can lead to behaviour that affects the safety of others. While arguing that panhandlers can make other users of public space uncomfortable and act as "broken windows," Tier and Ellickson ignore how these others users—and now the by-law—has clearly made *panhandlers* uncomfortable in *their* use of public space.

These conclusions support Blomley's call to examine whose interests are served by panhandling laws and what values they reveal. Indeed, we see quite clearly that the law limits the use of "public" space by one group in the interest of its use by another. Brian Timmerman of the

Exchange District BIZ explained that the by-law is in place to “ensure the public at large is able to do their regular business [working or visiting] without being harassed or in places where they would feel uncomfortable being approached [by strangers asking for money].” This puts into question the publicness of public space. To borrow from Schaffer, not only are panhandlers excluded from "community," but they are also excluded from “public” and thus feared (Berti, 2009). This is evident in the violence, aggression, and constant attention panhandlers face from the enforcers of the by-law. They are clearly treated as a nuisance and not members of the community that the enforcers have a duty to protect. It remains to be seen whether sections of the *Obstructive Solicitation By-law* that do not pertain to aggressive panhandling could be seen as "hav[ing] no social impropriety" (Stewart, 2004, 48) and might be thus outside the purview of governments' legislative rights.

Few participants knew about the by-law, but all are affected by it; a finding similar to Carter et al. (2007). None of my participants spoke of their income or relations with the public being worse, but their encounters with enforcers were definitely on the rise. Brian Timmerman explained how the by-law, while not effective at deterring panhandling, it was a powerful and effective tool that empowered the BIZ patrols to use the “move along” tactic and get panhandlers out of their zones. In essence, the by-law allows enforcers to get rid of a “chronic nuisance” not just because it’s a nuisance, but because it’s now in violation of the by-law. The downtown is full of bus stops and pay phones and parking lots, making it easy for panhandlers to be caught violating a law they know little about.

The by-law is not a deterrent. All participants would keep panhandling even if it was completely illegal, which some thought it was. Brian Timmerman reinforced this finding: “I don’t think you could change anything [in the by-law] to make it more effective.” This takes us

back to the initial finding that panhandling is not a choice and usually undertaken when a person is in great need. Thus, limiting panhandling without improving services is a tactic that makes a vulnerable population even more so.

The responses from every one of the participants paint the street as a dangerous and complex society where a great deal of the time is spent avoiding situations that put them at risk of violence, humiliation, and further poverty. The fact that there is little violence and aggression felt by those who are asked may be because panhandlers pick and choose who they ask. Not only does the by-law not protect the most vulnerable from violence, but may be making the work more dangerous by pushing people out of highly-populated areas they feel safe in.

The person who told me “you get fed up sometimes” revealed the risky position panhandlers are in. They are excluded, legislated against, treated poorly by many and at the same time expected to be on their best behaviour. It is not my intent to justify aggression or violence, but when violence is a daily experience for people and the rest of society labels them as aggressors rather than trying to help them, it is not surprising that many get frustrated and express this frustration. In reality, panhandlers are victims of systemic circumstances that pushed them to the street and this work in the first place.

Future Research

This research brings up several questions that would be important to study. On a practical level, I think there is an urgent need to find ways to keep panhandlers informed of the law, their rights, and listen to their stories and experiences. The by-law was created for the protection of certain users of downtown, but places other users (i.e., panhandlers) at greater risk, which goes against the intent of law-making and enforcement. Research that includes panhandlers in the definition of community will oblige an examination of how to protect them from violence.

Based on the finding that panhandling in the downtown has become more difficult, it would be interesting to study where panhandling activity has moved. As the participants in this study stated that panhandling was necessary for them to meet their daily needs, it is likely that most panhandlers are finding places to panhandle outside the highly patrolled areas of downtown. Carter et al. noted instances of panhandling moving out further from the core and it would be important to know where it is moving and how this affects the safety and income of panhandlers and how it is affecting perceptions of panhandlers and the enforcement of the by-law.

Along these lines, I think there is a lot of work to be done in order to learn from panhandlers and re-humanize them. Research that looks at where perceptions of panhandlers originate and how to dispel myths, especially of laziness and racial prejudice, could result in the inclusion of panhandlers in the common conception of "community" and encourage compassion for an activity that results largely from systematic barriers that create poverty and marginalization rather than from immorality and malice.

Conclusions

The findings of this exploratory study shed light on the further marginalization of an already marginalized population. The *Obstructive Solicitation By-Law* and its captive audience amendment provide the enforcers—police, cadets, and BIZ patrols—with a legitimized tool to rid the downtown of a “nuisance” by turning the nuisance into illegal activity. Panhandlers are being “moved along” further out of downtown which limits their opportunities for receiving money and being in spaces they feel are safe.

The fact that few of the participants knew about the by-law coupled with the by-law’s effect on their lives places panhandlers in a precarious situation. Brian Timmerman spoke of the work being done by the Exchange District BIZ patrols in letting people know about the specific reason

they are being asked to move along, but this is just a start and is not enough. There is a dearth in the literature on raising awareness of laws for vulnerable and often criminalized populations. None of the participants asked could think of where they would go to get information on laws. Work is needed to educate panhandlers about laws and, in-turn, educate law-makers about panhandlers.

Based on my findings, I would urge the city to focus on services that address why there are people in the street begging for money instead of legislating against panhandlers. I also believe the police, cadets, and BIZ patrols must approach panhandlers with respect and compassion. Aggression and violence only exacerbate their frustration and if work was done on building trust between panhandlers and enforcers, the former may feel able to call on the latter for protection and safety or feel safe in their presence. Work like this is crucial to re-include panhandlers into the community.

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Appendix A: The By-Law

CONSOLIDATION UPDATE: JUNE 29, 2005

THE CITY OF WINNIPEG

THE OBSTRUCTIVE SOLICITATION BY-LAW NO. 7700/2000

**A By-law of THE CITY OF WINNIPEG to control
obstructive solicitation for donations.**

WHEREAS people need a safe and civil environment in public places within the City of Winnipeg where residents and visitors may freely engage in the usual activities and enjoyments of the urban milieu;

AND WHEREAS residents and visitors in the City are entitled not to be obstructed while enjoying public places;

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:
amended 8162/2002

1. This by-law may be cited as "**The Obstructive Solicitation By-law**".

2. In this by-law:

"**captive audience**" means:

- a) a person who is using, waiting to use, or departing from an automated teller machine, a bank or credit union;
- b) a person who is using, waiting to use, or departing from a public pay telephone;
- c) a person who is waiting at a public transit stop or taxi stand;
- d) a person who is in or on a public transit vehicle;
- e) a person who is in an elevator;
- f) a person who is in an area of the downtown pedestrian walkway system designated in red on the map attached as Schedule "A" or in an area designated on the map as a future designated walkway once it is constructed and becomes part of the walkway system;
- g) a person who is in the process of getting in, out of, on or off a vehicle, or who is in a parking lot;
- h) a person who is seated in an outdoor area of a restaurant or bar in which food or beverages are being served.

added 128/2005

"**causes an obstruction**" means:

- a) in the course of solicitation, to obstruct or impede the convenient passage of any pedestrian **or vehicular** traffic in a street;
amended 128/2005
- b) to continue to solicit from or follow a pedestrian after that person has made a negative response to the solicitation;
amended 128/2005

- c) to verbally threaten or insult a pedestrian in the course of or following a solicitation;
amended 128/2005
- d) to physically approach and solicit from a pedestrian as a member of a group of three or more persons; or
amended 128/2005
- e) to solicit a captive audience.
amended 128/2005

"**solicit**" means to ask, whether by spoken, written or printed word, or gestures, for donations of money or other things of value for one's self or for any other person, and solicitation has a corresponding meaning;

amended 128/2005

"**street**" has the same meaning as in The City of Winnipeg Charter.

amended 128/2005

3. No person shall solicit in a manner which causes an obstruction.

4. *repealed 8162/2002*

5. The City of Winnipeg By-law No. 6555/95 is hereby repealed.

DONE AND PASSED in Council assembled, this 20th day of September, 2000.

Appendix B: Questionnaire for Panhandlers

Note: I received permission from Anita Friesen to adapt the questionnaire used by Carter et al. and have done so. I have adapted it significantly in order to answer my particular research question and shortened it a great deal.

1. How long have you been panhandling?
2. Can you please explain why you panhandle?
3. Did anyone teach any “rules of the street” or how to panhandle?
4. Please explain how you panhandle. (Prompts: What do you ask for? How do you ask?)
5. How often do you panhandle? (# of times or frequency)
6. When do you usually panhandle? Time of day? Month? Events?
7. How much do you usually make in a day (or hour)?
8. Where do you usually panhandle? (specific location and/or area of city)
9. Do you ever panhandle in any of these places:

<input type="checkbox"/> At a bank machine or bank entrance	<input type="checkbox"/> in pedestrian walkways (skywalk, underground)
<input type="checkbox"/> At payphones	<input type="checkbox"/> in parking lots
<input type="checkbox"/> at bus stops	<input type="checkbox"/> patios at restaurant/café/bar
<input type="checkbox"/> at a taxi stand	<input type="checkbox"/> in traffic (at intersections)
<input type="checkbox"/> on the bus	
<input type="checkbox"/> in an elevator	
10. Do you ever block the sidewalk?
11. How do most people react when you ask for money?
12. Do you ever ask again after they’ve indicated they don’t want to give? Yes; No
13. How are you treated by local businesses?
14. Do you ever panhandle with others? If **no**, why not? If **yes**, why and how many?
15. Are there laws against panhandling?
16. Do you know about the City’s panhandling by-law? Yes; No
17. What are you not supposed to do when you panhandle?
18. Are there places you are not allowed to panhandle?
19. Are there other laws that affect you?
20. How did you find out about these laws?
(Prompts: police, BIZ, friends/other panhandlers, social service provider?)
21. Does the by-law/laws/police/BIZ/Cadets affect:

- **How** you panhandle? **Where** you panhandle? **When** you panhandle? The **amount of money** you receive?
22. Have you ever been ticketed, asked to move along, fined, or charged for panhandling?
If **yes**, when? ___ Where?___ By whom?
If fined, did you have the money to pay the fine? **Yes**; **No**
If detained – how long?
23. Have you encountered the police/BIZ/Cadets for any other reason? How were you treated?
24. What do you think about the by-law/laws? Fair? unfair? Why?
25. Do you think there should be laws around panhandling? Which? Why?
26. What would you do panhandling was illegal?
27. On those days you can't get enough money by panhandling, what do you do?
28. Do you have other sources of income besides panhandling? **Yes**; **No** If yes, which:
- | | |
|---|--------------------------------|
| • Wages/Salaries (what's the job? How often do you work?) | • Seniors' benefits |
| • Employment Insurance | • Child benefits |
| • Worker's compensation | • Money from family or friends |
| • Social Assistance | • GST Refund |
| • Disability | • Illegal activities |
| | • Other |
29. Do you regularly use any services?
- | | |
|--------------------------------------|-----------------------------------|
| a. Foodbanks? | g. Training or education |
| b. Shelters? | h. Health clinics |
| c. Prepared meals / "Soup kitchens"? | i. rehab/substance abuse services |
| d. Drop in centers? | j. Counselling |
| e. Clothing banks? | k. Other |
| f. Employment services? | |
30. Would you like to stop panhandling? If so, what do you need in order to help you stop?
31. Demographics:
How old are you?
Are you... Male Female Transgendered
What is your ethnic/cultural background?
32. Do you have any dependents? Children (what age)? Spouse? Elderly parents? Friends?
33. What is the highest level of education have you completed? _____
34. Do you have monthly expenses (utilities, telephone, child support)? If so, how much?
35. Do you have a disability?
36. Do you have any additional comments that you would like to make?

Thank you

Appendix C: Questionnaire for BIZ

1. What is *The City of Winnipeg Obstructive Solicitation By-Law*?
2. How long has the current version been in effect?
3. Who can enforce the by-law?
 - a. Police?
 - b. BIZ?
 - c. Cadets?
 - d. Other?
4. How is it enforced
 - a. fine?
 - b. jail time?
5. What is the most common infringement(s) of the by-law?
6. What is its purpose?
 - a. Effect on downtown safety?
7. What/why is the captive audience clause in place?
8. Do you think it is effective?
9. How do you think it affects the lives and methods of panhandlers downtown?
10. Has the number of panhandlers diminished since its inception? How many panhandlers do you estimate are in the downtown?
11. Are there other mechanisms that help achieve the by-law goals?
12. Do you try and inform panhandlers of its contents? If so, how? If not, do you think panhandlers know/understand its contents?
13. What do the business owners in the exchange think about panhandlers? The by-law?
14. Any comments?

Appendix D: Consent Form for Panhandlers

- on UW letterhead -

STUDY ON THE CITY OF WINNIPEG'S PANHANDLING BY-LAW

We invite you to participate in a study conducted by Denise MacDonald, a student with the Urban and Inner City Studies Program of the University of Winnipeg. For this study, you will be interviewed on how the City of Winnipeg's panhandling by-law affects your life. The interview should take up to an hour.

Your participation is voluntary and you may refuse to answer any questions. You are free to stop participating at any time before March 30, 2012 without consequence. **You will receive a \$10 honorarium** for participating regardless.

The results will be presented at a student conference on March 30 which you are welcome to attend. The results will be made available to the Public Interest Law Centre which may use the data in a legal case challenging the captive audience clause of the panhandling by-law.

All information will be held in strict confidence and you will remain completely anonymous. Only the researcher will have access to interview notes and she will take necessary measures to protect all data. No names or identifying information will be included in the final report, presentation, or publications.

If you have any concerns about this study, you may contact the Senate Committee on Ethics in Human Research at 786-9058 or at ethics@uwinnipeg.ca. If you have questions about the research purpose or wish to receive the final report or attend the March 30th presentation, contact Denise at 480-8161 or denise_macd@yahoo.com.

Please check one:

- I agree to participate in the study described above.
- I **do not** agree to participate in the study described above.

My signature below indicates that I have given informed consent to participate in the above described project and that: (check all that apply)

- I have been given the opportunity to ask any and all questions about the described project and my participation, and all my questions have been answered to my satisfaction.
- I have been permitted to read this document and have been given a signed copy.
- I am at least 18 years old.
- I am legally able to provide consent.

**** Your name will not be associated with your interview****

Name (please print): _____

Signature: _____ Date: _____

Principal Investigator's Name: DENISE MACDONALD

Principal Investigator's Signature: _____

Date: _____

Appendix E: Consent Form for BIZ

- on UW letterhead -

STUDY ON THE CITY OF WINNIPEG'S PANHANDLING BY-LAW

We invite you to participate in a study conducted by Denise MacDonald, a student with the Urban and Inner City Studies Program of the University of Winnipeg. For this study, you will be interviewed regarding the City of Winnipeg's panhandling by-law. The interview should take up to an hour.

Your participation is voluntary and you may refuse to answer any questions. You are free to stop participating at any time before March 30, 2012 without consequence.

The results will be presented at a student conference on March 30 which you are welcome to attend. The results will be made available to the Public Interest Law Centre which may use the data in a legal case challenging the captive audience clause of the panhandling by-law.

You will be presented as a representative of the Exchange BIZ in the final report and presentation. Please inform the researcher if you are uncomfortable with this.

If you have any concerns about this study, you may contact the Senate Committee on Ethics in Human Research at 786-9058 or at ethics@uwinnipeg.ca. If you have questions about the research purpose or wish to receive the final report or attend the March 30th presentation, contact Denise at 480-8161 or denise_macd@yahoo.com.

Please check one:

- I agree to participate in the study described above.
- I **do not** agree to participate in the study described above.

My signature below indicates that I have given informed consent to participate in the above described project and that: (check all that apply)

- I have been given the opportunity to ask any and all questions about the described project and my participation, and all my questions have been answered to my satisfaction.
- I have been permitted to read this document and have been given a signed copy.
- I am at least 18 years old.
- I am legally able to provide consent.

Name (please print): _____

Signature: _____ Date: _____

Principal Investigator's Name: DENISE MACDONALD

Principal Investigator's Signature: _____

Date: _____

Thank you for your consideration.

DO YOU PANHANDLE?

A University of Winnipeg student is looking for participants for a study on City by-laws and panhandling.

Tuesday 11am-2pm
Wednesday 10am-1pm
Friday 10am-1pm

Check with Bell Hotel staff for location

1 hour interview. Honorarium provided.
****All participants will remain anonymous****