

*ABSTRACT*

The City of San Bernardino is a large community and has a diverse population. The city also has a wide distribution of crime types and social disorder. Prostitution in San Bernardino, particularly along a street known as the 'Baseline corridor', was a major problem.

The project took place in an area that had a high incidence of crime, was highly blighted and in serious economic disruption. Prostitutes constantly interfered with businesses and prevented law-abiding citizens from exercising their freedoms. Citizens and business owners were in constant fear of becoming a victim of prostitution related crime.

Business owners cited prostitution as their number one concern.

Traditional law enforcement techniques were applied but did not stop the problem. Prostitutes would get arrested but would immediately return to the streets after being cite-released from jail. The resulting fine would be about one hundred and fifty dollars, usually with no jail time. A unique approach was devised to deal with this problem. This method entailed obtaining a restraining order against habitual prostitutes. The restraining order enjoined the habitual offenders from engaging in nuisance activities related to prostitution, such as fighting, trespassing, and narcotics crimes. The courts agreed to set bail at \$20,000 and to impose jail time upon conviction.

A restraining order was obtained after considerable surveillance and documentation of the habitual prostitutes. The order was served and enforced with a zero tolerance policy. This technique resulted in an 8.3% violation rate over a ten-month period. This joint police/city government/community effort virtually eliminated the streetwalker component of prostitution from the target zone and improved the safety level of the City of San Bernardino.

# *Prostitution Restraining Order Program*

## **INTRODUCTION**

The City of San Bernardino Police Department is located in a large metropolitan area of Southern California known as the Inland Empire. The San Bernardino Police Department is the twelfth largest police department in the State of California. The department employs approximately three hundred sworn personnel, with a budget of 33 million dollars.

The City of San Bernardino has an area of about fifty-five square miles and contains around 180,000 residents. It is the county seat and hosts a large courthouse and numerous governmental services. The city contains a diverse population from various socio-economic, racial, ethnic and religious backgrounds.

During the last fifteen years, San Bernardino has seen a serious economic decline prompted by a devastating military base closure. In recent times approximately 45% of the city's residents were on public assistance of one type or another. In the early to mid nineties, the city had a drastic increase in violent crimes.

The city is divided into five distinct areas for police service labeled as 'A, B, C, D, & E' Area Commands. Each area contains a specialized Problem Oriented Policing (POP) team. The beat ('D') where this project was located is only four square miles in area. It should be noted that this only about 7% of the area of the city, but handles about 20% of all calls for service.

The 'D' is characterized as a high calls for service, low-income neighborhood with an active commercial district. There is extensive narcotic trafficking, high concentration of parolees, cheap motels, prostitution, and extensive social disorder. The 'D' Area POP team was assigned the task of handling the prostitution problem as their number one priority.

## SCANNING

In the City of San Bernardino, prostitution and its collateral crimes caused a great deal of economic and social disruption. Law-abiding citizens were reluctant to frequent many restaurants and businesses causing major economic loss. The drug trade flourished in the high prostitution area along a narrow two-mile strip referred to as the Baseline corridor, with many of the prostitutes as buyers of those narcotics. The Baseline area became an attractive site to drunks, loiterers, vandals and other criminals. Many crimes occurred due to the large numbers of active offenders, causing citizens to become victims in their own neighborhoods. The area was fast deteriorating and becoming 'off-limits' to people who wanted to avoid victimization and further socio-economic degradation.

The specific problem was identified by a police/community partnership. Problem Oriented Police Officers delved into the economic and life safety concerns of the business and residential community by conducting a business to business survey and asking about their biggest concerns. Time and again the number one complaint was prostitution in an around their businesses. The Chief of Police received many citizen complaints. These complaints cited prostitution as the number one problem. A secondary issue raised by business people was the economic interference contributing to a decline in commerce.

The increasing problem of business interference was identified by the obvious visual clues of the large number of prostitutes along the Baseline corridor. Calls for service in the area were

astronomical in proportion to the area's geographical size and population density. A large number of the calls for service were related to prostitution and its collateral crimes. These crimes include narcotics activity, public intoxication, loitering, blocking traffic, fighting, littering, urinating and defecating in public to name just a few.

Many hours were spent conducting undercover details to arrest both prostitutes and 'Johns'. There seemed to be no end to the supply of customers and the illicit sex providers who re-offended time and again. Several 'John\*' details were conducted with as many as twenty suspects being arrested hi one day. The prostitution problem occupied an enormous amount of the vice unit's time, along with impacting the Patrol Division's ability to be proactive in other areas. Other methods to reduce criminal activity were sought after. The prostitution problem was not abated by traditional enforcement techniques. A novel approach would be required.

## ANALYSIS

Prostitution has long been considered to be the world's oldest profession. Over the years communities have tried different methods to eliminate this type of criminal activity from their streets. Methods range from totally ignoring their presence to passing and enforcing laws against it. The City of San Bernardino, not unlike other cities, has had a prostitution presence for many years. In the 1940's a red light district existed along 'D' Street, but was eliminated when Norton Air Force Base was built. The prostitutes moved to other locations and were concentrated in low income areas, particularly on the west side of the city.

Times changed and the economy in the city deteriorated, more specifically due to the closure of the local air force base. This base closure eliminated 10,000 Air Force jobs and an untold number of civilian jobs were lost in the community that supported Air Force personnel. With the base

closure many homes were left empty and property prices declined. Many of the homes previously occupied by Air Force personnel and their families were situated along the Baseline corridor and were now vacant. Absentee landlords began renting to people without proper screening, no questions asked. This practice along with low rent was highly attractive to the criminal element. The vacant houses provided plenty of hideouts where prostitutes could turn tricks and get high.

Prostitutes began moving into this area in large numbers, bringing with them an appetite for narcotics. The interaction with dealers was intimate as most of the prostitutes worked to feed their drug habits. Some disenfranchised women turned to prostitution for economic or for psychological reasons. One prostitute interviewed related that she made \$200.00 per day, with drugs consuming \$100.00 per day. The sheer number of girls working on the street began making an impact on the Baseline corridor, causing victimization to the citizens and business persons in the area.

Certain proponents for the legalization of prostitution have said that prostitution is a victimless crime. In fact, prostitution brings with it many collateral crimes leading to victimization of the innocent. Along the Baseline corridor crimes such as thefts, robbery, stolen vehicles, battery and murder were occurring on a regular basis. Many intoxicated people rambled along the streets. Without a doubt these intoxicated persons included many prostitutes. The victimization of prostitution not only included criminal activity, but went well beyond. If a citizen were to walk down these same streets it would not be uncommon to come across condoms and syringes lying on the ground. Prostitutes conducted their business in public walkways, alleys and parking lots, using these same areas for toilets. Children were observed playing with used and discarded condoms as balloons.

The local businesses and restaurants were also victims in the cycle of prostitution. Citizens had little desire to visit the Baseline corridor and felt uncomfortable and in personal danger.

Prostitutes were brazen in their attempts to attract customers. They could be seen yelling out at passersby, flagging down cars, standing in the street and exposing their breasts or buttocks.

Prostitutes would block the sidewalks and entrances to businesses in an attempt to gain customers.

Business people were threatened with physical harm if they tried to stop the prostitutes or called the police. Many businesses, such as the community grocery store, suffered great economic loss and had to close. Others were in danger of business failure. These business failures caused community distress and continued economic failure. Many of the Baseline businesses were replaced with low income producing endeavors, reducing the tax base for the city:

The prostitutes were relentless in their attempts to attract customers. Prostitution on Baseline was a twenty-four hour a day, seven day a week endeavor. One group appeared in the early morning and stayed out until late afternoon. Another set worked late afternoon and stayed until two or three in the morning. Yet another group would work all night and go home around sunrise. These women (and some men) commonly worked particular sections of the street and appeared to have a 'territory'. The territory was closely tied in with their personal residence, usually a few blocks away.

It did not seem to matter to the 'Johns' that some of the prostitutes were known carriers of AIDS/HIV and other sexually transmitted diseases easily transmitted to family members or other sexual partners, further expanding the radius of possible victims. The Baseline corridor was virtually a sexual *bazaar* with males and females hawking their wares in broad daylight. It was no place for a lady or gentleman.

Traditional police methods were utilized in an attempt to decrease and eliminate the impact of prostitution. The San Bernardino Police Department Vice Unit heroically conducted 'John Decoy' operations and prostitution stings on a weekly, many times daily basis. The area Problem Oriented Policing (POP) team assisted in every operation for over a year. On some days as many as twenty people were arrested. These stings also allowed the POP team to gather intelligence on all of the prostitutes in the area, their habits and methods for conducting business. These operations did not reduce the illicit activity, and even though citizens praised police efforts, they still complained of the same problems.

A survey was conducted to determine two issues. The first issue was to determine if prostitution was a major concern and interfered with an individual business. The second issue was to determine if each business would engage in civil action to acquire a restraining order against particular prostitutes. Sixty-nine businesses were surveyed and all responded in writing. All of the businesses related that prostitution was their number one problem in regards to business interference (100%). Almost all of the businesses agreed to participate in the civil action, with only one business not participating (98.5%).

## RESPONSE

In the analysis process it was determined that the traditional methods of law enforcement would not be effective. In fact the problem was not going away at all. The 'D' Area Commander suggested that a restraining order be sought to prohibit the prostitutes along the target zone and their nuisance activity. The San Bernardino City Attorney's Office was contacted and a



partnership was formed. The City Attorney felt that to avoid constitutional challenges, an injunction could be obtained against the habitual offenders' nuisance activities as they related to prostitution instead of prostitution itself. This injunction would in fact prohibit nuisance activities that were already a violation of the San Bernardino Municipal Code, The injunction would elevate the violation of the municipal code to a violation of a Judge's court order. The violation of a Judge's court order carries much more weight and penalty than does a municipal code violation.

The legal argument for the injunction is not complex. It is based on the grounds that the prostitution activities are a public nuisance and are of a continual nature. The allowed continuance of these activities will result in irreparable harm to the plaintiffs (Businesses and the City itself) and financial payment would not provide relief. Therefore some sort of restraint is necessary. Several items were set forth in the injunction restraining the defendants continuing activities. They are listed as follows:

- a. Approaching or signaling to any vehicle on any street, alleyway, or other area of public passage, thus causing the vehicle to stop, unless a legitimate emergency situation so requires;
- b. Blocking the free passage of any person or vehicle on any street, walkway, sidewalk, driveway, alleyway, or other area of public passage;
- c. Being present, or causing others to be present, on the private property of others, except (1) with the prior written consent of the person in lawful possession of the property, or (2) in the presence and with the voluntary consent of the person in lawful possession of the property;
- d. Being present on the premises of an uninhabited or abandoned apartment or building;
- e. Making, causing, or encouraging others to violate noise restrictions;
- f. Fighting in public or any place open to public view or hearing;
- g. Drinking any alcoholic beverage in public or any place open to public view;
- h. Urinating or defecating in public or any place open to public view;

- i. Littering, including discarding cans, bottles or cigarettes, condoms, hypodermic needles other than in a proper waste receptacle;
- j. Damaging or vandalizing the property of another including any light fixture, fence, gate, wall, or window;
- k. Applying graffiti to any public or private property, including any building, fence, wall, garage door, street sign, tree, pole, or vehicle;
- l. Congregating in any public place with any other person for the purpose of engaging in any conduct prohibited by this injunction, or any criminal activity; Intimidating, provoking, harassing, challenging, or carrying out any acts of retaliation, including but not limited to, using abusive language and vulgar language to harass any person, including but not limited to, anyone who has complained or will complain about the identified persons activities.

The continued argument was based upon a law abiding citizens right to freely use the sidewalks and businesses in the area without interference from prostitutes, who were essentially denying people these rights. The motion also alleged that the defendant's actions have caused property values to drop, and has caused untold loss of freedom to the business owners including economic loss. It was argued that an injunction was needed because the defendants activities had continued unabated for over one year and the neighborhood had been robbed of its community pride and suffered continued deterioration. The final point was that a municipality has a right to abate any public nuisance or anything constituting a hazard to life or property (Civil Code 3479 and 3480).

The courts agreed to support the above process, but required specific documentation. The police department had to demonstrate that each defendant had a history of prostitution as well being a participant in the nuisance behaviors cited in the injunction. The activities also had to be tied to the exact target area. The police department had to document nuisance activities of each defendant to substantiate the claim that their activities were ongoing and a nuisance. Affidavits

were required to be sworn out by police officers and citizens, documenting what kinds of activity each defendant had participated in. All of the defendants had to be identified by each affiant from a group of photographs.

The team immediately set forth in what turned out to be a complex and time consuming endeavor. There were over one hundred and fifty prostitutes active in the city. The Vice Unit compiled their names but not every individual on the list of prostitutes was a habitual offender. The POP unit had to determine which ones were a particular nuisance in the target zone. A questionnaire was circulated to all members of the patrol division requesting officers to document any and all observations of nuisance activity. A memo was placed in the briefing log to provide command staff direction and support. Photographs of each contact were requested. Many of the prostitutes were street smart and continually avoided police contact.

The POP officers devised a novel contact method to identify the craftier of the prostitutes. They placed a plainclothes officer in an unmarked unit. This unmarked unit was in constant radio and/or visual contact with a second marked black and white unit. The unmarked unit's task was to drive around and find a possible prostitute, then observe for a few minutes. The officer was then to move forward and allow the possible prostitute to make contact first, if possible. If the prostitute did not make contact, the officer would initiate a conversation. Once price and sex act were offered, the officer would decline the deal for one reason or the other and move on. The marked unit would move in a few minutes later and interview the prostitute to obtain her information, using CA PC 653.22 (Loitering with the Intent to Solicit Prostitution) as the precept for the contact. The plan of action here was to locate, identify and move on without an arrest, preventing the cover from being blown.

POP teams from every Area Command were utilized to make contacts with the numerous prostitutes along the Baseline corridor. Ten, two-officer teams were deployed with the contact/identify/move on technique. The teams operated at various times of the day and on several different occasions to contact as many prostitutes as possible. Each team made numerous contacts and developed required intelligence. These teams noted the various behaviors as outlined in the survey form, documenting the time and place of each contact. During total operations approximately eighty prostitutes were contacted. Out of these, forty-two were identified as being Baseline Corridor nuisances.

A historical package was developed for each one of the defendants, using the San Bernardino Police Department's records of public contact, which is called the Records Management System (RMS). The historical package was used as a basis for showing repeated nuisance behavior. This package detailed prior arrests for prostitution, public drunkenness, lewd conduct, narcotics activity and other nuisance behavior. Officer affidavits were included to document the dates, times, and places of each defendant's behavior. A series of photographs for each defendant were compiled in a mug book for later identification by the plaintiffs).

Several plaintiffs were required to identify the defendants. A random sampling of eleven of the sixty-eight business owners/representatives participating in the injunction were selected to identify defendants from the mug book. The selected representatives looked through the mug book and identified each prostitute that created business interference. Each individual signed an affidavit listing one or more defendants as creating a nuisance.

In the next phase a preliminary injunction was obtained from the Superior Court. Included in the injunction was a summons for each defendant to appear in court. Once again the five POP teams

combined efforts. Each defendant had to be located and served the preliminary injunction and all supporting documents. Proof of service documentation had to be filled out and resubmitted to the court. All forty-two defendants had to be served within a ten-day window. During the operation, any prostitute seen was advised he/she would be included on an additional phase. Many prostitutes heard about the project and began leaving the area. The corridor was rapidly becoming prostitute free.

On the court date, all of the officers who swore out affidavits appeared in court with the City Attorney to support the plaintiffs' claims. All officers and plaintiffs were prepared to testify before the court. Only one defendant appeared. Even though an injunction of this sort had not been issued before, the injunction was ordered without question because of the voluminous and specific information contained in the documents submitted to the court

Another operation was then put in place to serve the temporary injunction. All of the POP teams once again joined forces in ten, two-officer teams. A two-week window was allowed for the service of the injunction. Thirty-six prostitutes were eventually served out of the original forty-two. Two of the forty-two died prior to service of the permanent injunction of occupationally related hazards. Four were never located, and have never been seen in the area again. Several additional prostitutes who were on parole had the terms of the injunction served on them as part of their parole conditions. During this final operation any prostitutes who may have been seen were advised they were going to be restrained as had been done before, but their number was scarce.

## ASSESSMENT:

The prostitution restraining order was extremely effective. The streetwalker component of prostitution was virtually eliminated from the Baseline corridor. Citizen complaints became non-existent; citizens constantly commented about the lack of prostitutes.

The restraining order was enforced with zero tolerance for violations. Constant patrol and community vigilance to enforce the restraining order between July 1998 and May 1999 resulted in only three of the thirty-six restrained persons violating the order - 92% of the enjoined prostitutes did not violate the conditions of the restraining order. The violation rate is 8.33%.

Several categories of crime were evaluated that many times involve prostitutes. Arrests for prostitution were reduced 84.2%. Indecent exposure arrests were reduced 39%. Many prostitute calls are made to police as disturbing the peace calls. This type of call was reduced 7.1%. Due to the narcotics activity of prostitutes, they are frequently arrested for drug paraphernalia and being under the influence of narcotics. These prostitute related narcotics arrests were reduced 100%. Overall, prostitution and related arrests were reduced by 26% in the one-month period following the implementation of the restraining order and has remained low since.

In conclusion, the impact of the court order far exceeded its expectations. There was very little displacement of the prostitutes to other areas of the city. Many left town or stopped working as prostitutes altogether. The court order was taken seriously by the restrained individuals. Many other prostitutes believed that they would be named on the injunction next and left.

Prostitute related calls for service were greatly reduced, allowing officers to focus on other types of crime in a proactive role. Commerce has improved along Baseline. Business owners and citizens alike are impressed with the decreased criminal activity and are grateful for the improvement in the safety level of the area in general. Law-abiding citizens are able to conduct

business in the area without interference. The prostitution restraining order project has greatly improved the image of the City of San Bernardino and in particular the Baseline corridor.

## AGENCY AND OFFICER INFORMATION

This project involved officers who were trained and experienced in the problem solving process. The line level police officers were given ownership of this project and held accountable for its completion. The Area Command Lieutenant managed the project. No incentives were given to the officers for project completion but personal satisfaction and recognition.

No outside resources were utilized for this project. Each of Area Commands has two Problem Oriented Policing officers and two bicycle officers. Due to the unique nature of this organization, adequate manpower could be utilized at no additional cost.

Project Contact Person:

Lt. Jennifer Aragon and Jeffrey W. Harvey (Police Officer)

710N.D Street

San Bernardino, CA 92410

909-384-5688

**Questionnaire-Specific Prostitution Related Behavior Observations**

This information is being obtained to specify what types of behavior you have personally seen which you interpreted to be relative to prostitution activity. Please complete a separate form for each person you have identified as exhibiting these behaviors. Please be specific.

On \_\_\_\_\_ at about \_\_\_\_\_, I saw \_\_\_\_\_ whom I  
(date) (time) (name)

know from past contacts / identified from a photograph, doing the following:  
(circle one)

- a. Approaching or signaling to any vehicle on any street, alleyway, or other area of public passage, thus causing the vehicle to stop, unless a legitimate emergency situation so requires;
- b. Blocking the free passage of any person or vehicle on any street, walkway, sidewalk, driveway, alleyway, or other area of public passage;
- c. Being present, or causing others to be present, on the private property of others, except (1) with the prior written consent of the person in lawful possession of the property, or (2) in the presence and with the voluntary consent of the person in lawful possession of the property;
- d. Being present on the premises of an uninhabited or abandoned apartment or building;
- e. Making, causing, or encouraging others to violate noise restrictions;
- f. Fighting in public or any place open to public view or hearing;
- g. Drinking any alcoholic beverage in public or any place open to public view;
- h. Urinating or defecating in public or any place open to public view;
- i. Littering, including discarding cans, bottles or cigarettes, condoms, hypodermic needles other than in a proper waste receptacle;
- j. Damaging or vandalizing the property of another including any light fixture, fence, gate, wall, or window;
- k. Applying graffiti to any public or private property, including any building, fence, wall, garage door, street sign, tree, pole, or vehicle;
- l. Congregating in any public place with any other person for the purpose of engaging in any conduct prohibited by this injunction, or any criminal activity;
- m. Intimidating, provoking, harassing, challenging, or carrying out any acts of retaliation, including but not limited to , using abusive language and vulgar language to harass any person, including but not limited to, anyone who has complained or will complain about the identified persons activities.

**Please check all of the boxes that apply:**

- Officer Observation  Citizen Complaint  Admits prior 647b activity
- Engaging in 647b activity at time of contact  Intoxicated  Admits H&S use
- Arrested during contact: If yes: Charge: \_\_\_\_\_ / Case No. \_\_\_\_\_

Address of Subject: \_\_\_\_\_  
(No. & Street) (City) (State) (Zip Code)

Address of Nearest Relative: \_\_\_\_\_  
(No. & Street) (City) (State) (Zip Code)

**(Use back of form if more space is needed)**

In your own words, please explain as accurately as you can, what you saw. Be specific and give location, time, date, and activity observed. Record any admission of intent to prostitute or past prostitution activity. This information includes but is not limited to, hours of operation, money earned, or other locations in the city where they frequently work.

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Signed by/Date: \_\_\_\_\_

**\*\*\*\*\*PLEASE PLACE IN OFFICER HARVEY'S MAILBOX-THANK YOU\*\*\*\*\***