

The Nile Theatre

Criminal Nuisance Abatement Project

City of Mesa Police Department, Arizona
Central Division Community Action Team

Summary

The Nile Theater was a notorious dance hall located in downtown Mesa, a city with a population of approximately 440,000. This business catered to teens and young adults by hosting hip-hop, punk, and gothic concerts and "raves". The Nile operated off and on from 1994 through 2002. Research by the Mesa Police Department revealed that the Nile was a focal point for the majority of criminal activity in the downtown area.

This "youth-oriented" business had unfortunately become a dangerous place for the Valley's teens and young adults to hang out. During a three-year period there was a homicide, several stabbings, firearms violations and numerous drug and alcohol related arrests.

The criminal activity associated with The Nile didn't happen in a vacuum. Area retailers, residents, and business groups for the downtown area were not silent in their concern of the negative affects including noise, disorder, trash and other quality of life issues.

The Nile Theater made the national spotlight in May 2000, when NBC's Dateline news show aired an exposé of the illegal drug use by teens at Raves. Their undercover cameras captured Ecstasy sales occurring within 30 seconds of entering The Nile.

The Mesa Police Department tackled this problem with a progressive approach during a four-year period, culminating in Arizona's first successful Commercial Criminal Nuisance Abatement. During the four years prior to 1998, it became obvious that traditional reactive policing was not solving the problem. In 1998, Officers of the Central District Community Action Team (CAT) opened a Problem-Oriented Policing Project on The Nile Theater.

The CAT unit proactively worked The Nile with traditional enforcement details, stings, undercover operations and enhanced presence. In addition, we worked with area community groups and businesses to monitor the problem and focused on working with The Nile owner. Arrests were made, meetings attended, warnings were made, but the violence and danger continued at The Nile Theater.

In 2001, we started a Criminal Nuisance Abatement case that was the first in Arizona to actually go to court. The documentation of efforts to stop the criminal activity from occurring at The Nile was overwhelming and the Maricopa County Prosecutor's Office was motivated to pursue abatement. The court determined that The Nile ownership was indeed responsible for affecting the criminal activity occurring on the property. As a result, the owner closed The Nile Theater, rather than losing the property altogether.

Scanning

The Nile Theater was located at 105 W. Main St. in downtown Mesa, AZ. This business catered to teens and young adults by hosting hip-hop and punk concerts as well as "raves" and occasionally became an arena for publicized "cage fights". Many of the events were "all ages" and were catered toward diverse youth groups depending on the type of event. The Nile Theater became one of the areas major venues for "underground" or counter-cultural conceits. The many customers included criminal street gangs, party crews, punk rockers, skaters, gothics, and ravers. Mixed in these groups were also young people who were law-abiding and just going to a small venue for a concert.

Research and crime analysis by the Mesa Police Department revealed that The Nile was a focal point for a majority of criminal activity in the downtown area. The types of criminal activity associated with The Nile included drug sales, drug possession, underage and public consumption of alcohol, assaults, aggravated assaults, vehicle burglaries and warrant arrests. Downtown businesses and residents reported this criminal activity. Patrol Officers were frustrated by the high rate of **calls-for-service** and the ineffective reactive response to this ongoing **problem**. On many occasions, The Nile owner, event staff and security were inadequate in controlling the problems. At one point, the management was even charged with Hindering Prosecution, by concealing evidence of a stabbing and trying to clean up the crime scene before police arrival. Private security personnel locked the doors preventing patrons from leaving and keeping police out. On another occasion the Nile security **even** asked patrons inside the club to prevent Officers from entering. This created an extremely unsafe and volatile situation for responding Police Officers.

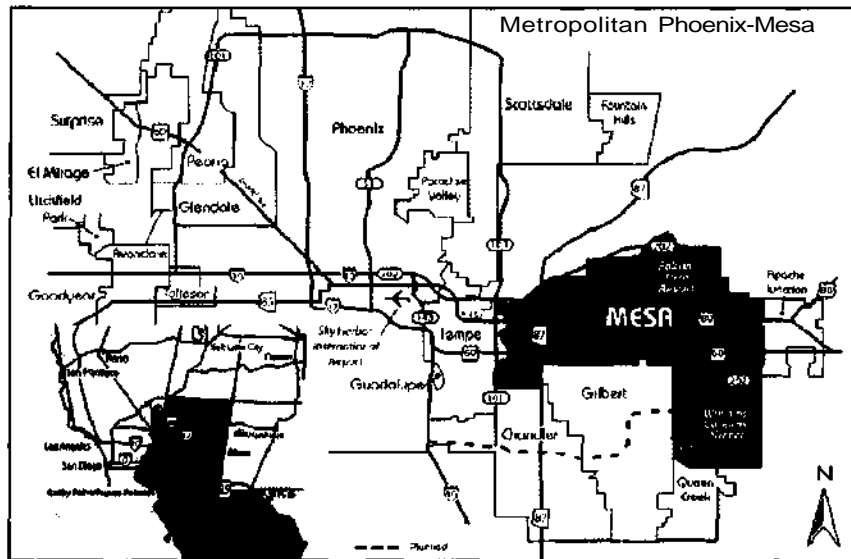
During hip-hop concerts and DJ competitions, there were stabbings and shooting incidents resulting in aggravated assaults and a homicide. During "Rave" concerts, drug sales and distribution of Ecstasy and Ketamine was rampant - resulting in overdose victims being taken away by ambulance. Public and Underage alcohol consumption was also a congruent problem as evidenced by the many disorder and disturbance incidents - not to mention the physical impact of parking lots and adjacent properties being littered with beer cans and bottles, drugs and drug paraphernalia after events.

All in all, the local business owners, residents, responding officers and city politicians were overwhelmed by the problems associated with The Nile. It was blaringly apparent that a traditional reactive approach would not solve this problem. It was time for a change.

Analysis

The City of Mesa has a population of approximately 440,000 and is a part of the greater Phoenix-Mesa area with a population of approximately 3.5 million. The Nile was located in the downtown area of Mesa, which is an older area of town that is undergoing a rejuvenation process. There is an eclectic mix of small retailer businesses, government offices, older homes and multi-housing complexes, with several halfway houses, in addition to historic neighborhoods. The Nile is housed in a 7,650 square foot building constructed in 1915. It faces Main Street and has an alley directly behind it with a parking lot to the southwest.

The Nile first began operation in 1994 and from the onset it commanded the attention of the Mesa Police Department because of various criminal activity associated with this location. The operator and owner of the nightclub was a young man, whose mother owned the actual physical building. The club was closed temporarily due to a criminal investigation during this time. It later reopened in 1998 and continued on the previous track. Although when The Nile originally opened in 1994 it did have a liquor license for a short time, later when it reopened in 1998 as an all ages nightclub they did not have a liquor license to sell or serve alcoholic beverages.



Most of the complaints were with regard to littering, loitering, fighting, drug and alcohol offenses. In addition, complaints had also been made of the owner and his involvement and/or facilitation of criminal activity on the premises. Complaints were received from citizens, area business owners such as the Transitional Living Community (halfway housing), The Tribune Newspaper, Surf and Ski screen-printing and the Executive Director of the Mesa Town Center Corporation, Mr. Tom Verploegen.

The CAT unit worked with the Crime Analysis Unit gathering statistical data on calls for service related to The Nile. They also interviewed local residents, businesses and downtown business groups who were more than willing to express their concerns about the club.

In analyzing the problem, we determined there was an evolving "crime triangle" of victim, offender and location. Initially we saw the offender or "suspects" as being those patrons who attended The Nile and caused disturbances and committed crimes against society by selling drugs. The victims were the law abiding patrons, area residents and businesses. After working the project for several years, we came to realize that The Nile location provided an opportunity for patrons who wanted to sell, buy or use drugs. It was the club management however, we came to realize, that was contributing to the criminal activity by their allowing the activity to go on. It was even alleged that The Nile management were not only negligent, but also were suspected of conspiring to allow drug sales, on their terms, for a stake in the profits. It was this realization that later made a dramatic change in our response.

Harms to the community, included criminal littering, drug paraphernalia, condoms, odors and contamination caused by urine and feces in the parking lots. Noise disturbances, fights, loitering, public consumption of alcohol, vehicle burglaries and other related property crimes, affected the local population who were not patrons of the club. Patron suffered as victims of overdosing, theft, robberies, stabbings, shootings, gang violence. The constant attention demanded from The Nile on a weekly basis, tied up many Officers. Officers responding code-3 and the violence potential posed possible harm to officers. On several occasions, aggravated assaults were committed against officers.

Before we opened the POP project in 1998, the problems at The Nile were addressed primarily in a traditional reactive process. When emergencies occurred, police would respond and try to help in the aftermath. This reactive stance did nothing to curb the problems and only tied up resources on a regular basis.

The Nile provided a location for teens and young adults seeking underground entertainment. Unfortunately, it also precipitated opportunity for drug and underage alcohol use, violence and physical harm to the patrons. We came to realize that The Nile as a venue for all ages concerts provided sought after entertainment, but it also did so in tandem with substance abuse that often related to crimes of violence and disorder. The patrons for the different kinds of shows came from various parts of the Phoenix-Mesa metropolitan area. This was a large population to try to target for education or proactive enforcement. It was obvious that after numerous meeting and attempt to work with The Nile management that they were the problem. Over time, we realized it was the management's unwillingness to provide a safe environment for the customers, which was the greatest causative factor.

Not only were there numerous crimes occurring at The Nile property and parking lots, but our Crime Analysis showed that the surrounding area had increases in **criminal** activity that coincided with the events at the club. It was not hard to determine that a high number of the problems in the downtown area were directly related to The Nile Theater. During the days and hours that The Nile was operating, there were virtually no other businesses operating in the immediate area. The confined downtown area was home to several businesses that only operated during the daytime. The closest business was a small country bar approximately a quarter mile to the west. Crime analysis and real-time surveillance was conducted to determine the extent of the problems and where problems originated.

Surveillance revealed that the country bar patrons mainly parked in front of 30 S. Robson Street and adjoining alleys to the west. The patrons at the bar rarely exceeded **150** people on a weekend. On the other hand, The Nile Theater generally operated Friday and Saturday nights with sporadic weekday shows. The Nile Theater had no public parking and utilized surrounding streets and the city parking lots to the South and Southeast as well as a Bank of America parking lot to the East. Depending on the event, patrons could number from 50 to 3500. Often the Nile Theater would hold multiple events on weekend evenings. For instance, from 5:00 **pm** to 9:00 **pm** a punk rock show might be playing on the main floor while a gothic music event would be playing in the basement. Then, at 10:00 pm a rave would take over the whole club until 5:00 am.

The Mesa Police had discussions with several area stakeholders. The City of Mesa has a private, non-profit organization called the Mesa Town Center Corporation. They are dedicated to the beneficial economic growth and business development of Mesa Town Center, Mesa's central business district and original mile square townsite. They are involved with policy development, advocacy, and program management functions conducted on behalf of property and business owners. Through the Mesa Town Center, we tried to establish a "Good Neighbor Policy" that was a written agreement to work out problems that affected other businesses in the area. One of the businesses affected was Transitional Living Centers (TLC), that operates several halfway houses near The Nile. The residents of the halfway houses are sometimes tasked with cleaning up the city parking lots as terms of their probation or parole. They complained of routinely finding drugs and paraphernalia in the surrounding parking lots. This of course, created a significant public safety problem, as well as, creating an obvious dilemma for the ex-drug offenders tasked with clean-up.

Response

Initial responses to the problems at the Nile Theater took the typical reactive police approach. The Nile Theater would hold events and the police would respond to **911 calls-for-service**. As the problems started growing, the motivated beat officers and Bike teams started looking for on-view activity and conducting proactive patrols. While this slightly reduced crimes occurring outside the venue, it did nothing to stop problems inside the club.

When The Nile Theater originally opened in 1996 it had a Liquor License. After reports of alcohol and fire code problems we brought in the Arizona Department of Liquor License and Control, the City of Mesa Fire Marshal and building inspectors. Numerous building safety violations and the loss of the liquor license along with bad press resulted in the closing of the club for a short time.

The Nile survived, reopened and continued to operate catering to the same clientele, with the same problems persisting. In addition to the disorder, trash and violence crimes, another problem also started to appear. When police units responded, minor type calls turned into major cases. There was a large underlying anti-police sentiment. Patrons who were total strangers became like family. If one patron would find himself or herself in trouble, the mob mentality would ensue. This would result in on scene officers requesting emergency response of back-ups, putting the whole city in danger as police units responded Code 3 from all over. It was only a short time before patrol supervisors mandated that three units at a minimum would respond to a call for service. As The Nile Theater grew in popularity, this number reached a five-unit minimum.

In August of 1997 the Nile Theater promoted and hosted the highly publicized band Eroticide. This band was notorious for putting on sexually explicit shows. Undercover officers were inside during the concert and observed several violations including sex acts and public sexual indecency. The resulting investigation led to a search warrant of The Nile Theater and several arrests. The club closed for a short time and then operated on and off for several months.

In September of 1998 The Nile Theater reopened, this time without a liquor license. With the reopening, the Central Division Community Action Team (CAT) opened a Problem Oriented Policing Project. The CAT team worked proactive details, educated the owners and continued to work with the area stakeholders but the problems remained constant.

It was painfully obvious The Nile Theater was gaining in popularity since its re-opening. Whereas, The Nile had adjusted to the desire of its clients and the growing rave scene, our policing techniques remained the same. In addition to maintaining strict pro-active enforcement of the surrounding areas outside the Nile, Central CAT worked with the Mesa Town Center Corporation. With them, we adopted a Good Neighbor Policy that stipulated the owners and management would provide adequate security and clean up surrounding parking lots after events. The owner of The Nile agreed with the policy and signed it. Surveillance revealed that this worked for a short time but soon things were back to normal, with police responding five units at a time and area businesses complaining of trash and vandalism.

For especially large or highly promoted events, Central CAT would organize mini field forces. The field force consisted of extra officers, on overtime or pulled from other districts, to proactively work the area and be in the area should a large-scale incident occur. Even the high profile police presence at these events, on-view criminal activity was easy to come by, with officers making arrests for alcohol, drug and weapons violations.

In 2000 the Mesa Police Department Special Investigations Division began sending undercover officers into The Nile Theater, especially during rave events. What they found was open use of "club drugs", also known as **Ketamine**, LSD and Ecstasy. During undercover investigations inside the club, CAT Officers staged outside the entrance of the Nile Theater to provide a visible presence and proactive enforcement during events. During this time it was rare for uniformed officers to enter The Nile. There was a two-fold reason for this. The primary reason was officers' safety, as there had been attempts by patrons and security to incite the crowds against police. Secondly, although CAT officers had a working relationship with the owner and staff of The Nile, the owner and his family had a civil rights lawsuit against the City of Mesa as a result of the Eroticide investigation and search warrant in 1997.

During the height of the rave scene, with uniformed police officers standing on the outside and undercover officers on the inside it was obvious that our efforts were having no effect on the rave scene, illegal drug use and related crimes. This was evident when the Nile Theater was a lead story on NBC's Dateline news program. During this program a young female entered the club and was offered illegal drugs multiple times, with the first time being thirty seconds after entering the rave.

About the time the NBC Dateline story aired, a stepped-up undercover investigation was already underway. This investigation involved detectives from area agencies. The resulting investigation revealed that ecstasy sales were linked to promoters, deejays and fans that played at various venues throughout the state. Many "deejays" had cult type followings and "prescribed" certain types of ecstasy to go along with their music. Undercover officers made controlled buys resulting in numerous arrests throughout the Phoenix metro area.

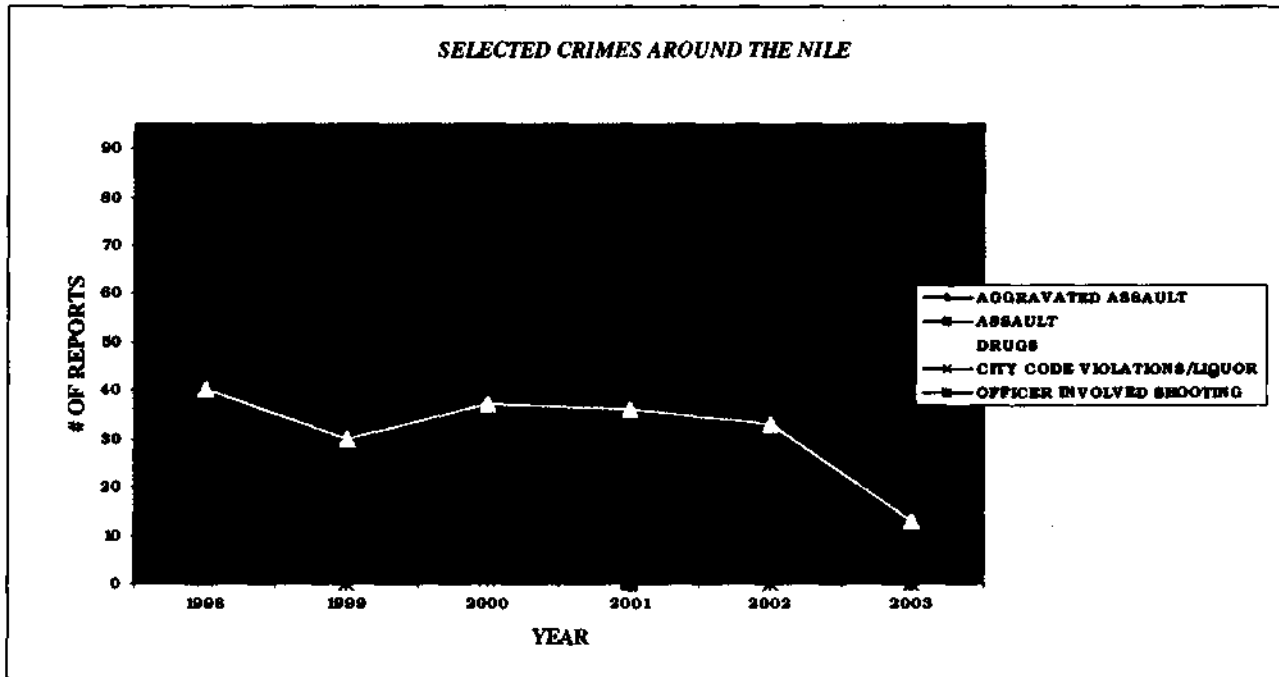
Also of interest was the fact that Nile Theater security would often bring out people that they had "caught" selling illegal drugs and turn them over to uniformed officers. This gave the appearance that the relationship that CAT Officers had developed paid off. However, undercover officers on the inside found that it appeared Nile Theater security was singling out "non-sanctioned" dealers and were "throwing a bone" to the uniformed CAT Officers. It also appeared that they did this at key times during an event to tie up the officers with an investigation and get them out of the area. Still given the number of arrests of dealers and clients, The Nile remained open and continued business as usual.

In late 2001 Officers of the Central Division Community Action Team learned that the City of Phoenix was successfully using a little known statute called Residential Criminal Nuisance Abatement to rid the city of slumlords. In brief, the statute allows a government entity or civil organization to file for a court order against property owners that continually neglect their property. The process begins with a warning letter to property owner. In ninety percent of the cases, this is all it takes to get a property owner on board. If the warning letter fails to get the property owners attention, the State / Plaintiff files a case with the Superior Court. The State / Plaintiff must then prove to the court that an owner is negligent in the maintaining of a property. The court then issues a temporary order commanding a property owner to conduct business in a lawful manner and/or maintain a property to a certain standard. The property owner may contest the temporary court order or the permanent order that may be issued ninety days later. The court order is a civil process. However, violating the court order is a felony and turns the process criminal. If the property owner were to be found guilty of violating the order, he may face jail time, fines and seizure of the property. The Maricopa County Attorney's Office Community Action Bureau handled the successful cases that occurred in **Phoenix**. **In** addition to the Criminal Nuisance Abatement statute for residential properties, there is also a statute for commercial properties. However, until the Nile arrived there had not been a successful commercial case presented. It should be noted that the Nuisance Abatement holds the property owner accountable, although renters and occupants may be included.

In the case of the Nile Theater, Central CAT Officers compiled three years worth of documented reports, crime analysis and calls for service into five 3-inch binders and took it to the County Attorney's Office for review. After a careful review of the documentation, they thought that The Nile Theater would be a good candidate for the first commercial abatement case in Maricopa County. CAT Officers also included recommendations on how to control security noise and litter that they would like to see incorporated into any court order issued. (*See attached, Temporary Restraining Order and Maricopa County News Release*)

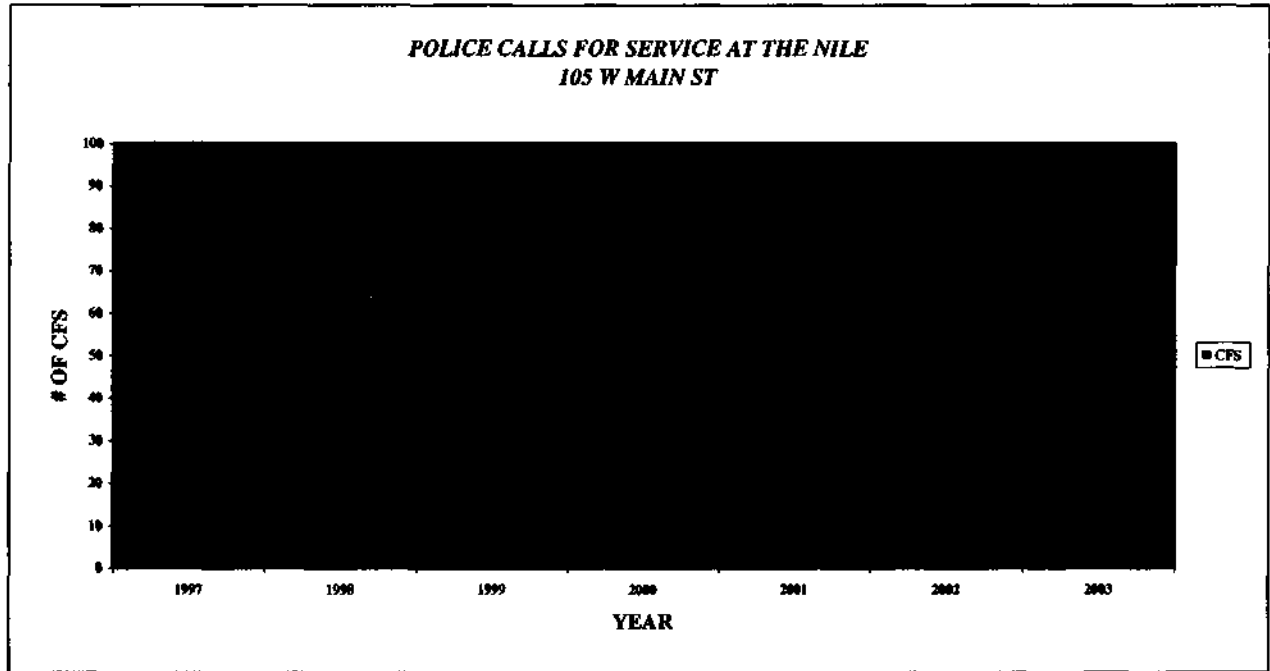
In January 2002 the Maricopa County Superior Court granted a temporary court order, restricting the way the Nile was to do business. Hearings were then held to determine whether or not the court order would be made permanent. The Nile Theater obtained lawyers to fight the order but in the end the County Attorney was victorious with the permanent court order being awarded in June 2002.

Assessment



With the granting of the temporary court order, activities at The Nile Theater became very low key. Events that once drew crowds in excess of 1500 were now only bringing in 50 to 100 people. In October of 2002, the owner decided to close The Nile. Initially the closing weekend was promoted as 3-days of concerts to celebrate the closing of The Nile. One of the underground fliers suggested, "burning down the house". The first concert day came and went with very low attendance. So low, in fact, that the next two days of concerts were canceled. Bands showed up at the back door and found a hand written note saying The Nile was closed. Since October 6th, 2002, there has not been a single documented report or **call-for-service** to The Nile Theater.

After The Nile closure, the owners leased the building to a church and it is now known as the Faith Harvest Church. However, the court order remains in effect. In the event the church group turn rogue or they are kicked out and another venue brought in, the building owners will still be held accountable for crimes and court order violations occurring on their property.



This project could have never been accomplished without the cooperation of several agencies. Strictly utilizing police resources would have resulted in the endless circle of enforcement activities. Law Enforcement, the Fire Department, Building Inspectors, the County Attorney's Office, private business and concerned citizens contributed to a successful solution to this problem. All of these contributions and efforts to curb the problems were well documented and were key in proving in court that The Nile Theater was an appropriate subject for a Criminal Nuisance Abatement order.

The initial goal of this **problem-oriented** policing project was not to shut down The Nile Theater. The goal was to reduce the **calls-for-service** placed on patrol, to insure a safe downtown area and to maintain a quality of life suitable for everyone. The court terms issued to The Nile Theater were not unreasonable and in no way limited the Nile's ability to flourish as a business. If the terms had been adhered to, The Nile's liability would have been reduced significantly.

With the closing of The Nile, this project was closed and deemed a success. As of this report there has not been a single call for service to the old Nile Theater. There have been no citizen complaints of noise, litter or general nuisance type crimes. The Mesa Town Center Corporation has also reported zero complaints from the area and their staff is no longer spending hours cleaning city owned parking lots in the downtown area. Ironically, when the court ordered The Nile to operate without criminal activity, it just didn't have the same appeal. The Nile didn't go out with a bang or a fire. It just fizzled out.

Agency and Officer Information

The Mesa Police Department's Central Division Community Action Team (CAT) initiated this Problem Oriented Policing Project involving The Nile Theater. The team is comprised of a sergeant and six officers. Unlike a typical patrol squad, this team works directly for the Division Commander to address high priority issues and works proactively with the community to solve crime-related issues.

CAT officers receive a variety of training in traditional and non-traditional policing techniques to equip them with the tools to solve problems affecting the community. This training ranges from classes offered by the U.S. Department of Justice Office of Community oriented Policing Services to classes on surveillance and special investigations.

Central CAT could have never accomplished this project alone. Without the buy-in of the Mesa Police Department's Command staff in allocating overtime and the resources of various divisions, a six officer team could never have completed this project. Of equal importance to the completion of this project was the support we received from other entities such as Building Inspectors, the Fire Department and the Maricopa County Attorney's Office.

Project Contact Persons:

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FILED
JUN 27 2002 @ 9:30 a.m.
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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

RICHARD M. ROMLEY,
MARICOPA COUNTY ATTORNEY,

Plaintiff,

v.

, NILE
THEATER, an Arizona Limited
Liability Corp.,

Defendants.

NO. CV2002-011923

TEMPORARY RESTRAINING
ORDER

(Non-Classified Civil)

PRIORITY CASE
[A.R.S. 12-993]

1 Plaintiff having filed a verified complaint which shows to the satisfaction of
2 the Court that a commercial building or place located at 105 W. Main Street,
3 Mesa and also known as:

4 BEGINNING at a point 34 feet West to the Northeast corner
5 of Lot 8, Block 12, Mesa City, according to the plat of record
6 in the office of the County Recorder of Maricopa County,
7 Arizona, in Book 23 of Maps, page 18;
8 Thence West 50 ½ feet;
9 Thence South 153 feet;
10 Thence East 50 ½ feet;
11 Thence North 153 feet to the point of beginning.
12 A.K.A.: 138-42-046

13 has been regularly used in the commission of crime and is a nuisance under
14 A.R.S. § 12-998, and pursuant to the authority granted in A.R.S. § 12-999, and
15 for good cause shown:

16 IT IS HEREBY ORDERED that Defendants,

17 the Nile Theater, L.L.C. shall
18 immediately:

- 19 a. Use licensed security companies and personnel for all events.
- 20 b. Utilize night club industry security standard ratio (1 security/75
21 patrons)
- 22 c. Employ at least two (2) security guards in the Bank of America
parking lots to deter drug and alcohol violations, loitering, and
littering during all events.
- d. Post a sign on the front door advising patrons that they are
subject to search upon entering the establishment. This includes
a possible search of pockets, bags, and purses for drugs and
weapons.
- e. Direct security to take a proactive approach to curb drug and

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other illegal activity inside the establishment:

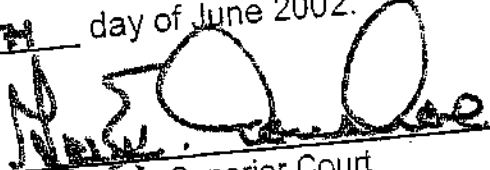
- Detain anyone openly using/possessing/selling illegal drugs, or committing other illegal activity, until police are called and arrive.
- Confiscate items associated with use of illegal drugs (i.e. smoking pipes, needles, breathing masks, other indicia of drug activity).
- Ensure that management is cooperative with law enforcement.
- f. Prohibit use of illegal drugs or alcohol by performers during events.
- g. Ensure that employees clean up the surrounding parking lots during and after events (Mahoney, Bank of America, and Drew lots).
- h. Prohibit employees and promoters and their agents from placing handbills on vehicles, buildings, or fixed objects (i.e. poles, signs, etc.).
- i. Provide adequate dumpster and trash bins on the property.
- j. Reduce the impact of noise on the surrounding area by ensuring that the rear doors remain closed during events.
- k. Provide adequate lighting on the property.
- l. If crime has not been abated within three months of this court order, employ new management or find a new use for the property.

This Temporary Restraining Order shall be effective upon service upon Defendants, and shall remain in effect until such time as a hearing is completed as set forth in A.R.S. § 12-999 (c). Plaintiff shall cause a copy of this Temporary Restraining Order to be served on each Defendant pursuant to the Arizona Rules of Civil Procedure.

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MADE AND ENTERED this 26th day of June 2002.

8 AM


Judge of the Superior Court

CV2002-011923

GARY E. DONAHOE



Maricopa County Attorney

RICHARD M. ROMLEY

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News Release

For Immediate Release:

If you have any questions contact
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NILE THEATER ORDERED BY SUPERIOR COURT TO RESTRICT "RAVE" CLUB ACTIVITIES

**Maricopa County Attorney wins first case abating a criminal nuisance at a commercial
establishment.**

After lengthy litigation before Superior Court Judge Gary E. Donahoe, the Maricopa County Attorney's Office was successful in persuading the court to enter a permanent injunction against the Nile Theater, 105 West Main Street, Mesa, AZ. The County Attorney had alleged that the Nile Theater was a magnet for criminal activity including drug sales, violent crimes resulting in homicides, stabbings, and assaults. The Nile Theater, which was host to numerous "RAVE" parties attended by teenagers, was found by the court to be "a place that has been regularly used in the commission of crime." The court further concluded that "the evidence support the conclusion that the sales of illegal drugs and drug paraphernalia regularly occur at events taking place at the Nile Theater." The evidence also shows that events of the Nile Theater support criminal activity such as... illegal possession in use of alcohol, and aggravated assault on public property immediately adjacent to the Nile Theater. The court opined that the defendants and their respective corporations knew that the Nile Theater was being used as a place for criminal activity.

The court ordered numerous remedial actions including but not limited to:

1. Illegal conduct is to cease,
2. Music at the Nile Theater may not audible for more than five feet from the premise after 10:00pm,
3. Surrounding areas must be kept clean of illegal drug paraphernalia including syringes, condoms, blow pops, pacifiers and masks.

County Attorney Rick Romley said, "Councilman Phil Gordon and I have been fighting against slumlords for a number of years. We have been successful against those who pollute their

neighborhood with slum residences. We now have expanded our anti-slumlord efforts to commercial properties. Property owners that ignore the health welfare and safety of communities by permitting illegal activities to occur on their properties will be held accountable."

Court minute entry may be found on the Internet at courtminutes.maricopa.gov.