

Racial Equity and Social Justice Initiative

RESJ Tool: Fast-Track Version



INSTRUCTIONS

This abbreviated version of the full RESJ Tool is intended for issues on a short timeline or without a widespread impact.

- Examples:
- single piece of legislation already drafted and introduced.
 - creation of a single position description and job posting for an open position
 - development of a single budget item proposal

For broader policies and legislation in its beginning phase, please use the full version of the RESJ Toolkit.

This tool should be completed by people with different racial and socioeconomic perspectives. When possible, involve those directly impacted by the issue. Include and document multiple voices in this process. The order of questions may be re-arranged to suit your situation.

Mission of the Racial Equity and Social Justice (RESJ) Initiative: To establish racial equity and social justice as core principles in all decisions, policies and functions of the City of Madison.

Equity is just and fair inclusion into a society in which all, including all racial and ethnic groups, can participate, prosper, and reach their full potential. Equity gives all people a just and fair shot in life despite historic patterns of racial and economic exclusion (www.policylink.org).

The persistence of deep racial and social inequities and divisions across society is evidence of bias at the individual, institutional and structural levels. These types of bias often work to the benefit of White people and to the detriment of people of color, usually unintentionally or inadvertently.

Purpose of this Tool: To facilitate conscious consideration of equity and examine how communities of color and low-income populations will be affected by a proposed action/decision of the City.

The “*What, Who, Why, and How*” questions of this tool are designed to lead to strategies to prevent or mitigate adverse impacts and unintended consequences on marginalized populations.

BEGIN ANALYSIS

Name of topic or issue being analyzed:

Ordinance Amendment ID # 42503, Pedestrian Highway Safety Ordinance (Version 1), amending sec. 12.325 of the Madison General Ordinances. This is a pending amendment to an existing law which prohibits people from being upon the highway on foot for the purpose of soliciting a employment, business, or charitable or other contribution and also prohibits vehicles from stopping for people soliciting. The existing law had been in place for many years, but a moratorium on enforcement was put in place in January of 2016 in response to a US Supreme Court Case, Reed v. Town of Gilbert. ID# 42503 was introduced to change the law to apply to people approaching vehicles in the highway for any reason, not just for solicitation.

Note – if another ordinance is proposed that has the same general impact, this analysis is intended to apply to that legislation as well.

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Lt. David Jugovich, MPD
Linette Rhodes, CDD

Names and affiliations of others participating in the analysis:

Legislative subcommittee of the Homeless Services Consortium (via Linette Rhodes)

1. WHAT

a. What does the policy, plan or proposal seek to accomplish?

The purpose of the pending amendment is to bring MGO 12.325, Solicitations on the Highway, into line with current constitutional law under the US Supreme Court case Reed v. Town of Gilbert, and Norton v. Town of Springfield, a 7th Circuit case applying Reed to panhandling / solicitations. The original amendment in ID# 42503 was generated by the City Attorney's office in an effort to make the existing ordinance content neutral under these cases, and thus maintain pedestrian and vehicle safety in these situations. An RESJI analysis was requested by several alders.

DRAFT
(9/16/16)

1. b. What do available **data** tell you about this issue?

SEE NEXT PAGE FOR DATA

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A. Specific data relevant to the proposed ordinance:

Local law enforcement data (Source: Madison Police Department):

(1) **Citations for the ordinance in question - MGO 12.325(1) (No Soliciting in Highway)** from January 2014 to Nov. 2015: 35 citations were issued to 19 individuals. (Two people had 7 citations each, 1 person was cited 4 times, one was cited twice, 15 people were cited once.)

All 19 persons cited for highway solicitation were identified as White. 4 were females, 15 males.

Of these 19 individuals, 5 had No Permanent Address (NPA), and 1 gave the job center address. 11 of the 35 citations (31%) were issued to the 5 people who gave NPA.

During this time period, there were 0 citations issued for MGO 12.325(2) which prohibits vehicle *drivers* from stopping for a person soliciting in the highway in violation of 12.325(1).

(2) *We also reviewed all citations issued under the panhandling ordinance, MGO 24.12, as comparable data related to the behavior of asking for a handout, from Jan. 2014 to Nov. 2015. The first set of data below is for panhandling in an intersection, which is similar, but not the same, as the ordinance in question. The second set of data is for all types of panhandling, including: aggressive or menacing panhandling, panhandling near an ATM or sidewalk café – which are less relevant to this analysis. There has been an enforcement moratorium on all forms of panhandling violations since January of 2016.*

Data specific to intersection panhandling: 45 citations issued to 22 individuals for panhandling in the intersection under MGO 24.12(5)(c), the most relevant of the panhandling charges to this analysis. (45 of the 261 total panhandling citations.)

Of the 22 individuals cited for intersection panhandling - 7 provided NPA and 1 person gave a shelter address. A total of 20 citations were issued to the 7 persons who gave NPA (several were repeat offenders.)

Of the 22 individuals cited for intersection panhandling - 3 citations were issued to a person identified as Black (7%) and 42 to a person identified as White, some of whom received multiple citations.

All MGO 24.12 (panhandling) citations: total of 260 citations issued to 77 individuals. Of these 77 individuals, 44 provided No Permanent Address (NPA), a shelter address or the job center, and 2 provided no address at all. Several of the NPA individuals were repeat offenders. A total of 137 citations were issued to the 44 people with NPA.

Race data on all types of panhandling citations: of 260 total citations, 55 citations (22%*) were issued to 27 individuals who identified as Black, 1 Hispanic (.4%*), 1 Native American, (.4%*), and 203 (78%*) citations were issued to White people, some of whom were repeat offenders. ***

**These race percentages have not been adjusted to account for multiple citations issued to the same person. Of the 55 citations issued to Black people there were 27 individuals cited. 1 individual who indentified as Black received 17 of the total 55 panhandling citation issued to a Black person, but none of his tickets were for being in the intersection.*

B. General data regarding economic status and race:

(1) 50% of single homeless shelter users in Madison are people of color or multi-racial and 90% of families using shelter services are families of color. (source: HMSI 2015 annual homeless memo.)

(2) In 2011 the official unemployment rate for blacks in Dane County was 25.2%, compared to 4.8% for whites. Dane County African Americans, were almost 5.5 times more likely to be jobless than their white neighbors (Source: Race to Equity Report "RTE").

(3) In 2011, the Census' American Community Survey reported that over 54% of African American Dane County residents lived below the federal poverty line, compared to 8.7% of whites (RTE)

(4) In 2010, the county's black youth arrest rate was 469 per 1,000, compared to 77 per 1,000 for whites (RTE.)

1. c. What data are unavailable or missing?

Data on warnings given for soliciting or panhandling in roadways or intersections - MPD does not track verbal warnings.

MPD also does not maintain data on driver complaints for this behavior.

Local statistical data demonstrating the number of pedestrian accidents due to "sudden pedestrian movement" attributed to panhandling or approaching vehicles for a solicitation is not immediately accessible - MPD tracks pedestrian accidents, but would require individual review of police reports for the pedestrian injury that was beyond the scope of this analysis. Therefore, we do not have local data on the race or economic status of anyone injured in that manner

We do not have any national data on the race or economic status of people who solicit for handouts in the roadway / at intersections.

2. WHO

a. Who (individuals or groups) could be impacted by the issues related to this policy, plan or proposal?

Who would benefit?

Who would benefit?

- Pedestrians and vehicle drivers who use the roadway would benefit by remaining safe by not stepping into the roadway to approach vehicles.
- Vehicle drivers who will not have to be distracted by people approaching in the roadway.
- People who frequently commute or drive through the major intersections where this activity takes place.
- Drivers who think panhandlers are a nuisance.
- Persons who would like to limit panhandling.
- Police officers - furtherance of the department's mission to prevent of injury and accidents and improve overall traffic safety.
- - Persons who do not step into the roadway and remain safe by not violating this ordinance.

Who would be burdened?

- Persons, including homeless persons, who earn income from soliciting in the roadway in a manner that will be prohibited under the amended ordinance.
- Charities that use roadway solicitation campaigns for fundraising (i.e. Fill the Boot).
- Any person who improperly approach vehicles - retail business solicitors, high school car wash, etc.
- Persons who are arrested/ cited due to enforcement of the amended ordinance.
- Persons who get a police record from being contacted based on a complaint about or violation of this ordinance even if not cited.

2.a. Are there potential disproportionate impacts on communities of color or low-income communities?

Yes, based on the known data above, there is a significant impact on low-income (homeless) persons who are known to be cited for solicitation within the roadway under the existing ordinance(s).

People cited are disproportionately homeless / provide no permanent address.

The low-income/homeless community contains disproportionate numbers of people of color.

However, people cited locally for soliciting in the roadway under the existing ordinance, as well as for panhandling within 25 feet of an intersection, are disproportionately White. The local data demonstrates that enforcement of existing MGO 12.325(1) and the related panhandling ordinance does not have a disproportionate negative impact on people of color.

There is a potential impact on the Homeless Service Consortium's federal funding (which directly supports persons of color and homeless/low income people) but ONLY if it is found by a jurisdiction that has authority over the funding that this ordinance, as amended, criminalizes homelessness in violation of the U.S. constitution.

3. WHY

a. What are potential unintended consequences (social, economic, health, environmental or other)?

Prohibiting more conduct than is necessary / conduct that is not unsafe or illegal (legal and practical concerns).

Potential unintended consequences on Homeless Service Consortium's federal funding (see above) ONLY if it is found that enforcement under the amended version of this ordinance criminalizes homelessness in violation of the U.S. constitution.

4. HOW: RECOMMENDATIONS SECTION

- a. Describe recommended strategies to address adverse impacts, prevent negative unintended consequences and advance racial equity (program, policy, partnership and/or budget/fiscal strategies):

Recommendations for the ordinance amendment:

(1) Additional community engagement is needed before making a recommendation on this ordinance. More public input and broader viewpoints should be sought. We recommend the ordinance be referred to additional city committees eligible for referral of city legislative matters, such as:

City-County Homeless Issues Committee, EOC, PBMVC.

(2) Secondly - better outreach about these meetings is needed. Announce the meetings well ahead of time, through local channels, to make sure the community leaders in touch with people who would be impacted by the legislation are able to attend or can send comments to those referral bodies prior to the meeting. Members of this RESJI analysis team can take the lead on these announcements once we know where the ordinance is being referred. (Only the sponsors/council can change the referrals.)

This will include notifying the Homeless Consortium listserve and participating agencies of the meetings and request for input. The homeless services providers should be asked to reach out directly to homeless or low income communities of color for feedback on the proposed ordinance.

(3) Sponsor attendance at meetings: We also recommend that the ordinance sponsor(s) attend all committee meetings to which the ordinance is referred to explain or answer questions about the rationale for the ordinance, so the public has the opportunity to hear the rationale. And so the sponsor can hear the feedback first hand.

(4) For the future - regardless of the outcome of the ordinance amendment, this RESJI team recommends that the Homeless Services Consortium Board of Dane County be notified of policy changes with a direct impact on the homeless, so outreach and feedback-gathering as described in item 2 above can continue. Especially with policy changes that involve the intersection of poverty and race.

(5) With respect to concerns about criminalizing homelessness and potential unintended consequences on HUD funding, gathering more data to support the safety needs for legislation *could* help ensure that any ordinance that is adopted will have the necessary factual basis to survive constitutional scrutiny. Better collaboration and outreach up front, as recommended above, may provide important /new insight into the safety concerns, and could lead to broader community support for policies that are designed to preserve safety for all.

DATA RESOURCES FOR RACIAL EQUITY AND SOCIAL JUSTICE IMPACT ANALYSIS

City of Madison

- Neighborhood Indicators (UW Applied Population Lab and City of Madison):
<http://madison.apl.wisc.edu>
- Open Data Portal (City of Madison):
<https://data.cityofmadison.com>
- Madison Measures (City of Madison):
www.cityofmadison.com/finance/documents/madisonmeasures-2013.pdf
- Census reporter (US Census Bureau):
<http://censusreporter.org/profiles/06000US5502548000-madison-city-dane-county-wi>

Dane County

- Geography of Opportunity: A Fair Housing Equity Assessment for Wisconsin's Capital Region (Capital Area Regional Planning Commission):
www.capitalarearpc.org
- Race to Equity report (Wisconsin Council on Children and Families):
<http://racetoequity.net>
- Healthy Dane (Public Health Madison & Dane County and area healthcare organizations):
www.healthydane.org
- Dane Demographics Brief (UW Applied Population Lab and UW-Extension):
www.apl.wisc.edu/publications/Dane_County_Demographics_Brief_2014.pdf

State of Wisconsin

- Wisconsin Quickfacts (US Census):
<http://quickfacts.census.gov/qfd/states/55000.html>
- Demographics Services Center (WI Dept of Administration):
www.doa.state.wi.us/section_detail.asp?linkcatid=11&linkid=64&locid=9
- Applied Population Laboratory (UW-Madison):
www.apl.wisc.edu/data.php

Federal

- American FactFinder (US Census):
<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>
- 2010 Census Gateway (US Census):
www.census.gov/2010census