

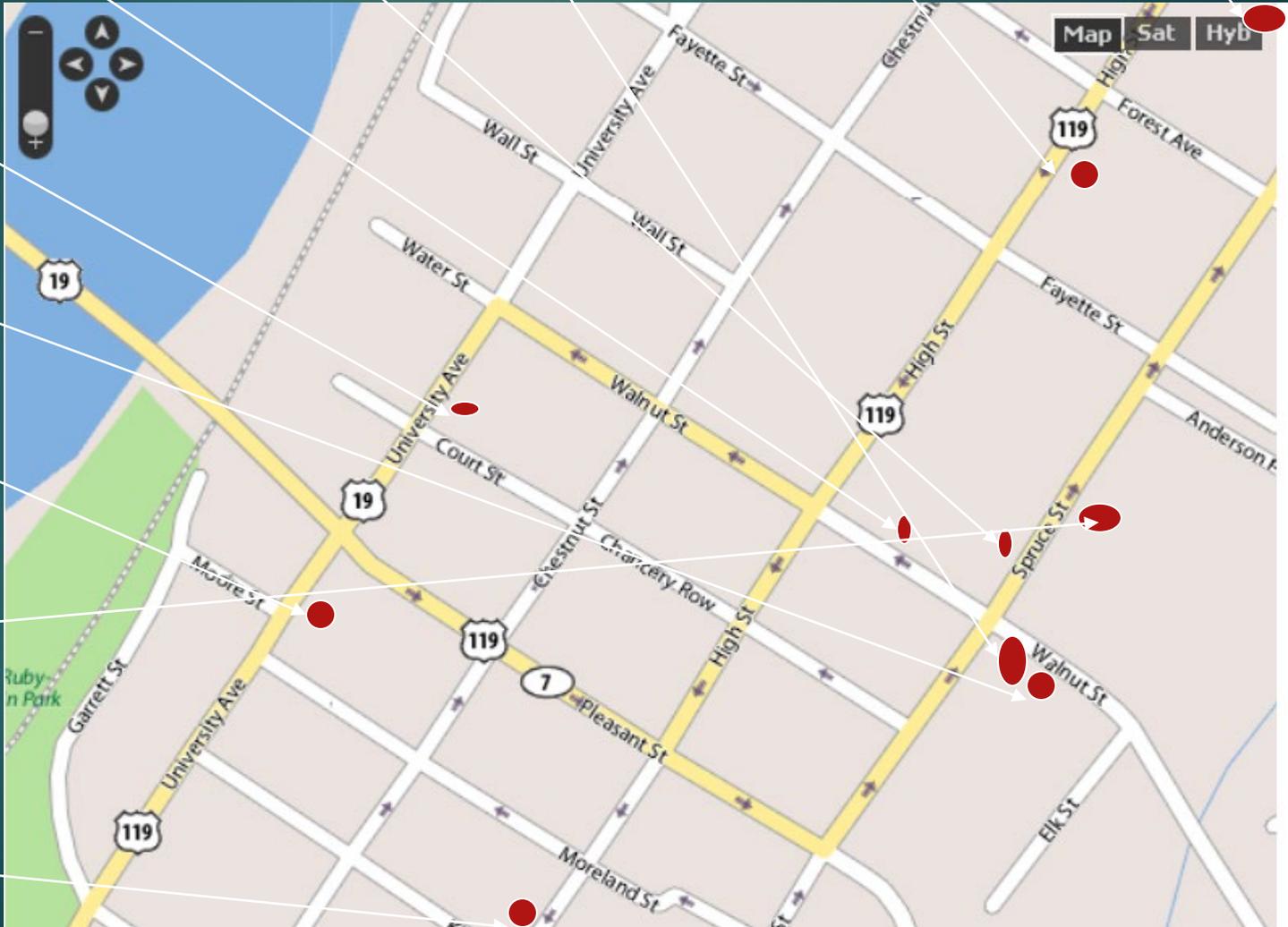
Healthrite

Friendship Room

First Baptist

Soup Kitchen

Christian Help



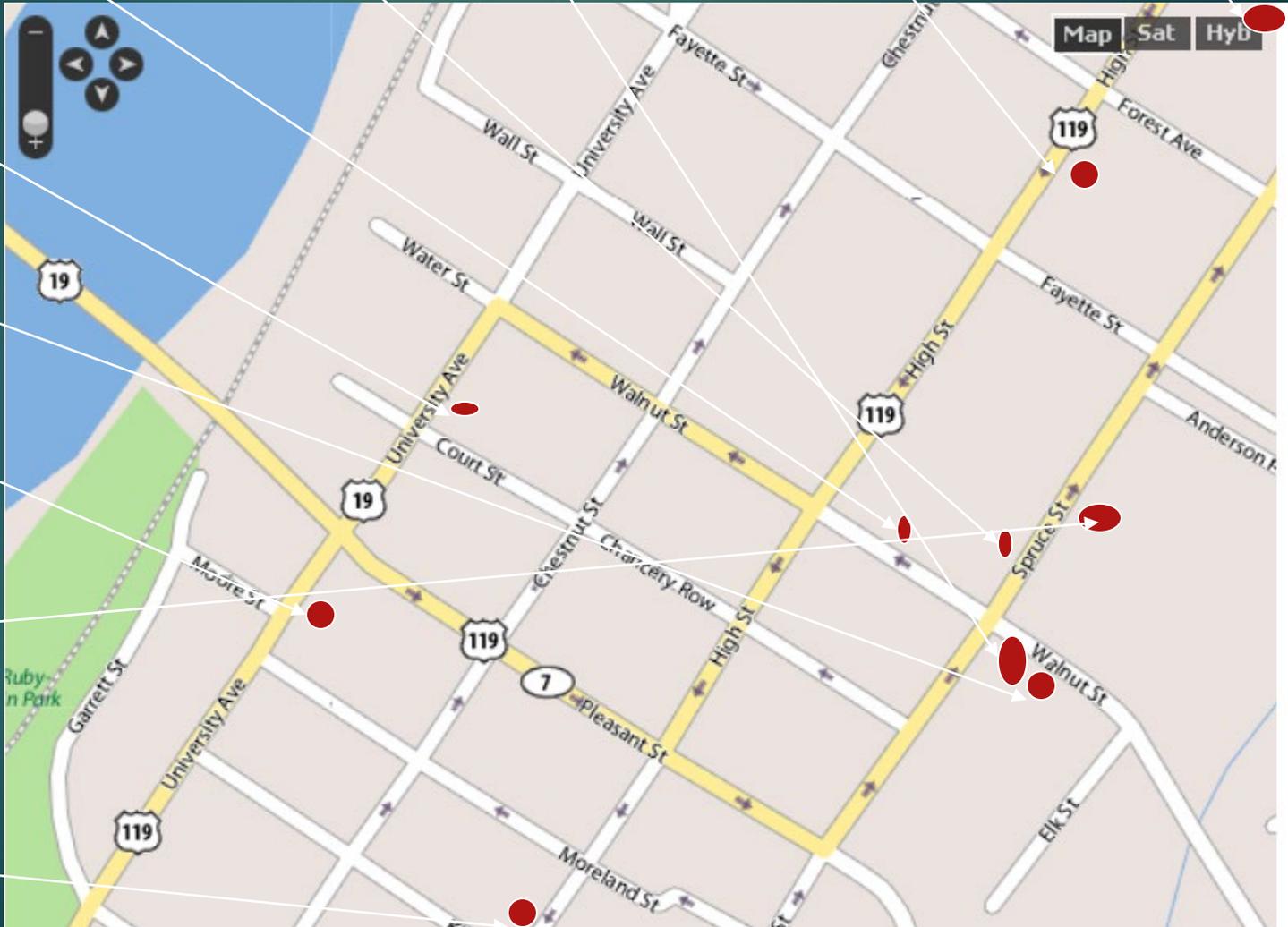
Salvation Army

United Way

Bartlett House

Bus Stop

DHHR





# Aggressive Panhandling



- Loitering – Protected Activity under First Amendment (Freedom of Assembly)
- Begging/Panhandling - Protected Activity under First Amendment (Freedom of Speech)
- Restriction – (Aggressive Solicitation)
  - A. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent,  
or
  - B. Following the person being solicited, if that conduct is:
    - 1. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
    - 2. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation, or

# Aggressive Panhandling (Cont)

- C. Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:
  - 1. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - 2. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation, or
- D. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person to take evasive action to avoid physical contact with the person making the solicitation; or
- E. Intentionally or recklessly using obscene or abusive language or gestures:
  - 1. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - 2. Words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation, or
- F. Approaching the person being solicited in a manner that is:
  - 1. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - 2. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

# Aggressive Panhandling (Cont)

- (c) Prohibited Acts. It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:
- (1) In an aggressive manner in a public area;
  - (2) Within fifteen feet of any entrance or exit of any bank or within fifteen feet of any automated teller machine abutting a public right-of-way during the hours of operation of such bank or automated teller machine.
  - (3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

# WV CODE RESTRICTIONS



- Public Intoxication – Protected Activity when the offender is an alcoholic under Eighth Amendment (Cruel and Unusual Punishment) (WV Supreme Court)

296 S.E.2d 873 (1982)

STATE ex rel. Mark Anthony HARPER

v.

Jack ZEGEER, Judge, etc., et al., City of South Charleston

“We agree that alcoholism is a disease. We also believe that criminally punishing alcoholics for being publicly intoxicated violates the prohibition against **cruel** and **unusual punishment**. W.Va. Const. art. III, § 5.[\[31\]](#)”

- WV Code 60-6-9(f) – “who is an alcoholic shall be found not guilty by reason of addiction” and will apply to:
  - Public Intoxication
  - Public Consumption
  - Illegal Possession of alcoholic beverages

# Research

Panhandlers need to go where the money is. In other words, they need to panhandle in communities and specific locations where the opportunities to collect money are best—where there are a lot of pedestrians or motorists, especially those who are most likely to have money and to give it.

- on or near college campuses (because students tend to be more sympathetic toward panhandlers);
- near places that provide panhandlers with shade and shelter from bad weather (such as doorways, alcoves and alleys in commercial districts);
- in front of convenience stores, restaurants and grocery stores (because panhandlers' claims to be buying food or necessities for them or their children seem more plausible, and because shoppers and diners often feel especially fortunate and generous);

# Research Continued



Panhandling is more common in communities that provide a high level of social services to the needy, because the same citizens who support social services are also likely to give money directly to panhandlers; panhandlers are drawn to communities where both free social services and generous passersby are plentiful.

- Most panhandlers are not interested in regular employment, particularly not minimum-wage labor, which many believe would scarcely be more profitable than panhandling.
- Some panhandlers' refusal to look for regular employment is better explained by their unwillingness or inability to commit to regular work hours, often because of substance abuse problems. Some panhandlers buy food with the money they receive, because they dislike the food served in shelters and soup kitchens.

# ISSUES



- ▶ As people with mental illnesses are increasingly released into the community, often without adequate follow-up care, panhandling also increases. Where there are inadequate detoxification and substance-abuse treatment facilities, panhandling is high.
- ▶ As courts strike down Panhandling laws that authorize police to regulate public disorder panhandling flourishes.
- ▶ Lack of Public Intoxication Shelter
- ▶ No Incarceration for Trespassing
- ▶ No Accountability from court i.e. probation, jail, etc.. (fines are unpaid)
- ▶ Restrictions on who can be arrested
- ▶ Non-Accountability to Mental Hygiene re: Involuntary Commitments
- ▶ Court's deference to Quality of Life Issues (Public Urination, Littering, Disorderly Conduct etc.)

# ISSUES Continued

- No current Public Intoxication Shelter
- Police are required by State Code to take the following actions for Arrestees not alcoholic – but found intoxicated:
  - Transported to the intoxicated persons residence
  - Release the Arrestee to a sober person that accepts responsibility for the intoxicated person
  - Transport the Intoxicated person to the Emergency Room or arrange for Transportation
    - NOTE – When no longer in medical distress are discharged.
  - Transport the Arrestee to a Judicial Official
    - NOTE – REGIONAL JAIL CAN AND DOES REFUSE CUSTODY OF INTOXICATED INDIVIDUALS UNTIL MEDICALLY CLEARED
- A person who has been found guilty of public intoxication 3 times within 6 months is sufficient evidence of alcoholism
- Involuntary Commitment requires that an individual be an imminent danger to themselves or others. Involuntary Commitment is a separate Civil Process and when the Intoxicated Individual is not a danger they are released.

# Arrest Clarifications

- ▶ Officer can arrest for any offense committed in the officer's presence.
- ▶ Officer may only arrest for a limited number of violations not committed in the officer's presence (Domestic Battery, Shoplifting).
- ▶ Officers generally may not arrest for a misdemeanor, not committed in the presence of the officer, without a warrant.
  - ▶ Warrant must be obtained from a judicial official based upon a sworn complaint
  - ▶ Warrant must establish the crime
  - ▶ If the officer did not observe the crime the victim or witness will be necessary to establish the probable cause for the complaint
  - ▶ Victim or Witness will be necessary to prosecute the crime

# One on One Surveys

Point in Time Survey, there were 43 sheltered and 23 unsheltered individuals in Morgantown/Monongalia County. (Total 66 individuals)

- 11 of which were in shelters or (26%) of the sheltered individuals
- During June 2011 a separate survey was conducted of the individuals that were found “Hanging out” in the Downtown area.
- 20 individuals consented to providing questionnaire information while another 43 refused to answer any questions. (32%)
  - 14 of the 20 were males (70%)
  - 13 of the 20 came from outside of the Monongalia area (65%)
  - 10 resided in the Bartlett house (50%)
  - 10 resided elsewhere (50%)

All 20 individuals received more than one service or program (100% )

- 17 received services from Christian Help (85%)
- 17 received services from the Friendship Room (85%)
- 11 received services from Healthrite (55%)
- 16 received services from the Soup Kitchen/First Baptist (80%)
- 16 received services from the Salvation Army (80%)
- 16 received food stamps (80%)
- 0 received WIC
- 1 received Unemployment (5%)
- 4 received Social Security Benefits (20%)
- 5 received disability benefits (25%)
- 17 were employable; however one individual was an admitted “Crook”. (85%)

# Quick List of Providers

## ▶ **Bartlett Housing Solutions**

- ▶ Provides emergency, transitional, and permanent housing (using the "Housing First Model"), as well as meals, life skills training and comprehensive case management services to homeless individuals and families to promote self-sufficiency and end the cycle of homelessness.

- ▶ [www.bartletthousingsolutions.org](http://www.bartletthousingsolutions.org)

## ▶ **Caritas House**

- ▶ Provides advocacy, case management, prevention education, community and nursing outreach, transitional housing, and volunteer and support services to enable people with HIV/AIDS to improve their health and quality of living.

- ▶ [www.caritashouse.com](http://www.caritashouse.com)

## ▶ **CASA for Kids**

- ▶ Advocates for abused and or neglected children so they can be safe, regain permanence and have the opportunity to thrive within a loving and healthy family environment.

- ▶ <http://wvcasa.org/casa-for-kids>

## ▶ **Catholic Charities West Virginia**

- ▶ Works to alleviate, prevent and reduce poverty through direct service and programs that provide basic needs and opportunities for improving the well-being for all people in need.

# Providers Continued

## ▶ **Christian Help**

- ▶ Assists residents of Monongalia and Preston counties with emergency financial assistance, food orders, free clothing, household items and kitchenware, resume, interview and job application assistance, as well as a Jobs for Life training program and referrals to additional community resources.

- ▶ [www.motownchristianhelp.com](http://www.motownchristianhelp.com)

## ▶ **Legal Aid of West Virginia**

- ▶ Helps to ensure fairness in the justice system by providing free assistance to eligible individuals and families facing civil legal issues affecting their health, safety, economic security and other basic needs.

- ▶ [www.lawv.net](http://www.lawv.net)

## ▶ **Milan Puskar Health Right**

- ▶ Meets the health care needs of those who are uninsured, underinsured or are receiving Medicaid benefits. The clinic takes a whole person approach and provides services to improve physical, mental, dental and vision health. MPHR also operates the Friendship Room.

- ▶ <https://mphealthright.org>

## ▶ **Monongalia County Child Advocacy Center**

- ▶ Provides a child-friendly and safe environment where child abuse victims and their families are interviewed, educated and healed.

- ▶ [www.moncocac.org](http://www.moncocac.org)

# Continued

- ▶ **NCWV Community Action Association**

- ▶ Provides a wide variety of services to low-income individuals and families and is committed to advocating for low-income individuals so they can reach self-sufficiency.

- ▶ [www.ncwvcaa.org](http://www.ncwvcaa.org)

- ▶ **The Salvation Army**

- ▶ Cares for the total family by providing social, counseling and faith-based services. Also home to the area's only hot dinner program

- ▶ <http://salvationarmymwv.org/the-corps/west-virginia>

- ▶ [Hope Farm Inc Food Pantry](#)

- ▶ Morgantown, WV 26501  
(304) 276-6262

Hope Farm Inc Food Pantry is a food pantry. Serves Marion County, Monongalia County, Taylor County Food pantry service hours: Monday-Friday: 8:00am - 5:00pm. . \*

- ▶ Morgantown, WV 26505  
(304) 292-6050

- ▶ [Covenant Evangelical Methodist Food Pantry](#)

- ▶ Covenant Evangelical Methodist Food Pantry is a food pantry. Serves Monongalia County Food Pantry is open on the 3rd Saturday of each month. the hours of operation is 9am-11:30am.

# Continued

- ▶ The Morgantown Community Kitchen (MCK) is a non-profit organization, established in 1984 with a focused goal – to help the less fortunate members of our community. The Kitchen provides a safe, clean, uplifting environment for those in need of a nutritional meal. We serve the homeless, the working poor, the unemployed and their families. In short, we help people who, through no fault of their own, find themselves in crisis.
- ▶ Open Monday through Friday, 10:00 a.m. – 1:00 p.m. The Community Kitchen is located in the fellowship hall of Trinity Episcopal Church on the corner of Spruce and Willey Streets.
- ▶ [communitykitchenmorgantown@gmail.com](mailto:communitykitchenmorgantown@gmail.com)