



## Request for City Council Committee Action from Council Members Cam Gordon and Blong Yang

**Date:** May 6, 2015

**To:** Council Member Blong Yang, Chair, Public Safety, Civil Rights and Emergency Management Committee

**Referral to:** City Council

**Subject:** Repeal of Ordinance 385.80. - Lurking.

**Recommendation:** Approve ordinance amending Title 15, Chapter 385 of the Minneapolis Code of Ordinances relating to Offenses—Miscellaneous: In General, repealing Section 385.80 related to lurking.

**Previous Directives:** On April 3, 2015 this matter was introduced, referred to the Public Safety, Civil Rights and Emergency Management and a public hearing was set for May 6, 2015

### Department Information

Prepared by: Council Member Cam Gordon Approved by: Council Member Cam Gordon Presenters in Committee: Council Members Cam Gordon and Blong Yang
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**Financial Impact:** No financial impact

### Community Impact:

- City Goals

One Minneapolis: Disparities are eliminated so all Minneapolis residents can participate and prosper

- Racial inequities (including in housing, education, income and health) are addressed and eliminated.
- All people, regardless of circumstance, have opportunities for success at every stage of life.
- Equitable systems and policies lead to a high quality of life for all.

- Other:

Two Community Meetings were held focused on the repeal of this and the spitting ordinance. The first was held on **April 29**, 2015 at the Harrison Recreational Center, 503 Irving Ave N, and the second on **May 4**, 2015 at Park Avenue Methodist Church, 3400 Park Ave S. A third meeting will be held on **May 14**, 2015 at Matthews Park Neighborhood Center at 2318 29th Ave S.

## Supporting Information

Ordinance 385.80. – Lurking, was approved in 1960 as part of a larger effort to simplify city ordinances. Prior to that, as early as 1877, a prohibition against lurking “with the intent to do any mischief, or to pilfer, or to commit any crime or misdemeanor whatever, or who, not being an agent, servant or employee of a railway company, shall get on or off the cars of locomotive and any railway company operating its cars and locomotives within said limits while the same are in motion or standing still, or trespass upon the yards or premises of such railway company, with the intent to obtain a ride upon such cars or locomotive,” was contained in the Minneapolis Disorderly Conduct Ordinance.

In **2003** the Community Advisory Board on Homelessness recommended that “the City repeal its lurking and disorderly conduct ordinances, or amend them so that they give specific guidelines and criteria for illegal conduct.”

In November of **2004** the Council on Crime and Justice completed a report on “Low level Offenses in Minneapolis: An Analysis of Arrests and their Outcomes,” that found dramatic racial disparities in citations and arrests for lurking and high (nearly 80%) dismissal and acquittal rates.

In **2005** a City Task Force on the Decriminalization of Homelessness indicated that dismissal rates for lurking, loitering and trespass over 2003-2004 stood at 69%, and that dismissal rates for lurking were the highest of the three.

In **2005** the ordinance was amended to remove the words “do any mischief.”

The current ordinance reads:

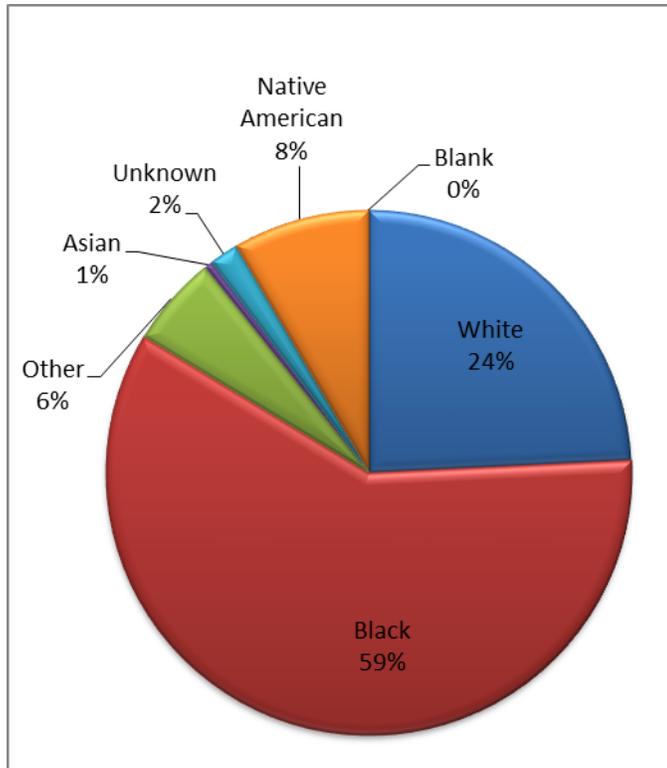
“No person, in any public or private place, shall lurk, lie in wait or be concealed with intent to commit any crime or unlawful act.”

In **2008** a motion to repeal the ordinance failed to pass the Council on a vote of 6-6.

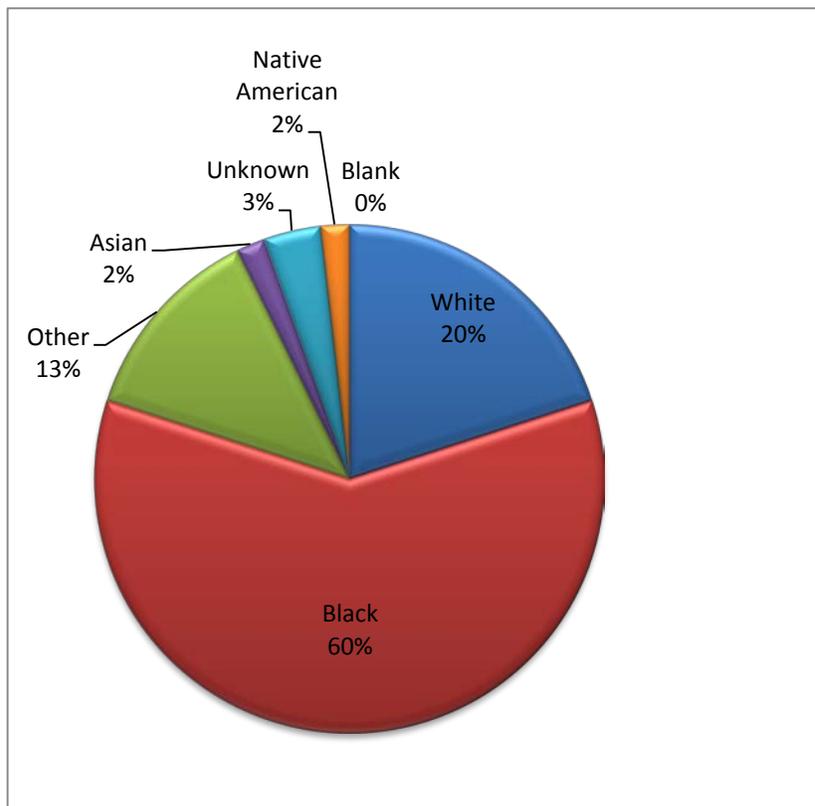
Between **2009** and **2014**, over two-thirds of the people arrested or cited for “lurking” in Minneapolis were people of color. 59 percent were Black, 8 percent were American Indian, 1 percent were Asian, 6 percent were “other” and 24 percent were White.

In **2014**, there were 65 citations issued for “lurking.” Of those cases, 4 are still open. Of the 61 that have been closed, 35 were declined or dismissed by City Attorney's Office, 14 defendants pled guilty to “lurking,” 8 defendants pled guilty to another case and had the “lurking” citation dismissed as part of a plea agreement, 2 cases were dismissed by the Court, one case was continued without prosecution, and 1 case was dismissed because the defendant was deemed not competent to stand trial. Overall, 22% of “lurking” citations in 2014 resulted in a “lurking” conviction, 12% were dismissed as part of a plea, and 58% were dismissed or declined. None were brought to trial.

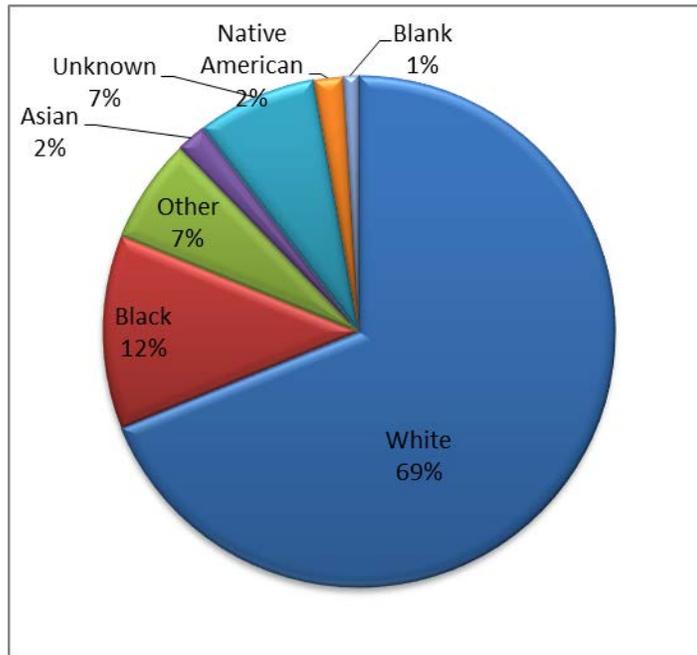
**Lurking Arrests from 2009-2014**



**Arrests**



**Suspects**



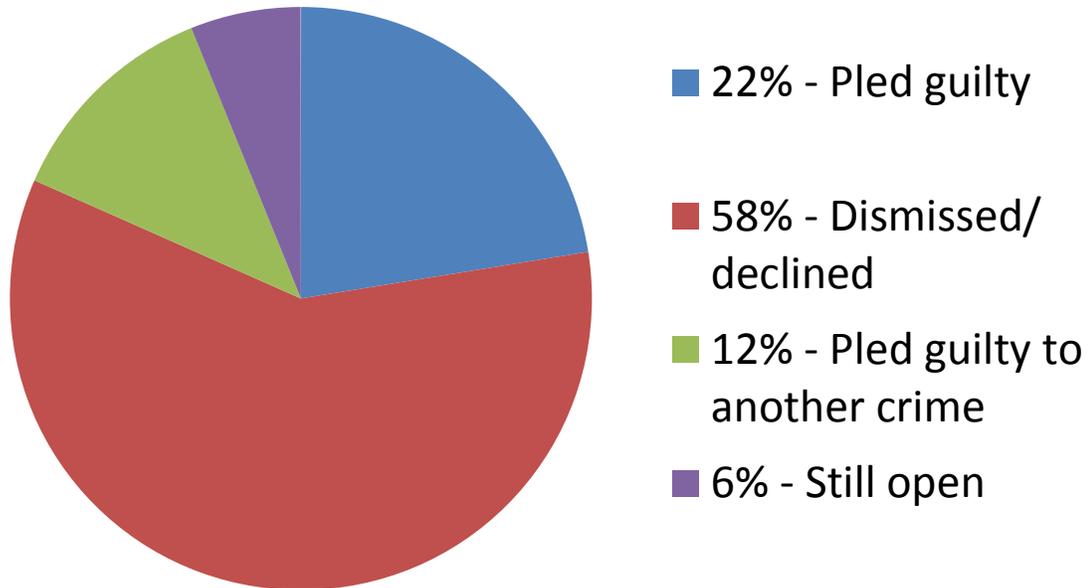
**Victims/Witnesses**

**CAPRS Arrests for Lurking**

CaseYear	Total	White	Black	Other	%White	%Black	%Other
2009	55	12	39	1	21.8%	70.9%	1.8%
2010	58	18	30	4	31.0%	51.7%	6.9%
2011	87	16	54	12	18.4%	62.1%	13.8%
2012	66	23	30	2	34.8%	45.5%	3.0%
2013	70	15	46	3	21.4%	65.7%	4.3%
2014	56	11	34	0	19.6%	60.7%	0.0%

2014 Lurking Citation Disposition

## 2014 "Lurking" citation disposition percentages



Disposition of Lurking Cases - 2014	Number	Percentage
Lurking Citations/Charges issued in 2014	65	100%
Cases closed	61	94%
Cases still open	4	6%

Disposition of Closed Cases	Number	Percentage
Declined or dismissed by City Attorney's Office	35	54%
Pled guilty	14	22%
Pled guilty to another case; lurking citation dismissed as part of a plea agreement	8	12%
Dismissed by Court	2	3%
Continuance without prosecution	1	2%
Dismissed - Defendant not competent to stand trial	1	2%

Totals	Number	Percentage
Total dismissals / declines / continuance	39	60%
Total convictions	22	34%

## Peer City Research

The Second Ward office conducted a survey of the 100 largest cities in the United States and found that 91 cities that do not prohibit “lurking,” 2 have distinct “lurking” ordinances (Grand Rapids, Minneapolis), 5 cities prohibit “lurking” with a concealed weapon (San Francisco, Sacramento, Stockton, Las Vegas, North Las Vegas) and 2 cities prohibit “lurking” in their “loitering” ordinance: 2 (Saint Paul, Richmond).

### **Cities with distinct “lurking” ordinances:**

#### Grand Rapids, MI:

“No person shall: Lurk, lie in wait or be concealed in any business, yard or other premises with intent to commit any crime or offense whatsoever.”

#### Minneapolis, MN:

“385.80. Lurking. No person, in any public or private place, shall lurk, lie in wait or be concealed with intent to commit any crime or unlawful act.”

### **Cities that prohibit “lurking” with a concealed weapon:**

#### San Francisco, CA:

“It shall be unlawful for any person, while carrying concealed upon his person any dangerous or deadly weapon, to loaf or loiter upon any public street, sidewalk, or alley, or to wander about from place to place, with no lawful business thereby to perform, or to hide, lurk, loiter upon or about the premises of another.”

#### Sacramento, CA:

“It is unlawful for any person, while carrying concealed upon his or her person any dangerous or deadly weapon, to loaf or loiter upon any public street, sidewalk or alley or to wander about from place to place with no lawful business thereby to perform, or to hide, lurk or loiter upon or about the premises of another.”

#### Stockton, CA:

“For any person, while carrying concealed upon his person any dangerous or deadly weapon, to loaf or loiter upon any public street, sidewalk or alley or to wander about from place to place without any lawful business, or to hide, lurk or loiter upon or about the premises of another.”

#### Las Vegas, NV:

“It is unlawful for any person, while carrying concealed upon his person any dangerous or deadly weapon to loaf or loiter upon any public street, sidewalk or alley or to wander about from place to place with no lawful business thereby to perform, or to hide, lurk or loiter upon or about the premises of another.”

#### North Las Vegas, NV:

“It is unlawful for any person, while carrying concealed upon his person any dangerous or deadly weapon, to loaf or loiter upon any public street, sidewalk or alley, or to wander about from place to place with no lawful business thereby to perform, or to hide, lurk, or loiter upon or about the premises of another.”

**Cities that prohibit “lurking” in their “loitering” ordinance:**

Saint Paul, MN:

“No person shall loiter or lurk on the streets, or in a public place, or in a place open to the public, with intent to solicit for the purpose of prostitution, distributing illegal narcotics or any other act prohibited by law.”

Richmond, VA:

“(b) Offense. It shall be unlawful for any person, within the city limits, to loiter, lurk, remain or wander about in a public place or in any place within view of the public and open to the public, for the purpose of soliciting for or engaging in prostitution or sodomy or for the purpose of engaging in the sale or distribution of controlled substances as defined in Code of Virginia, § 54.1-3401 or any successor statute.”

NOTE: In both of these cities, there are defined procedural requirements clearly laying out the circumstances which may be considered in determining whether a person intends to “lurk” or loiter with the intent to engage in prostitution or distribute narcotics, similar to the Minneapolis loitering ordinance text (385.50).

**AN ORDINANCE  
OF THE  
CITY OF MINNEAPOLIS**

**By Gordon and Yang**

**Amending Title 15, Chapter 385 of the Minneapolis Code of Ordinances relating to Offenses—Miscellaneous: In General.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 385.80 of the above-entitled ordinance be and is hereby repealed, as follows:

~~385.80. Lurking.~~

~~No person, in any public or private place, shall lurk, lie in wait or be concealed with intent to commit any crime or unlawful act.~~