

RESOLUTION NO.

WHEREAS, it is in the best interest of our local community to minimize unnecessary and costly arrests that separate families and funnel vulnerable communities into incarceration; and

WHEREAS, the City wishes to uphold constitutional protections, to eliminate any racial disparities associated with discretionary arrests, and to ensure the efficient and equitable use of City resources; and

WHEREAS, state law allows use of citation in lieu of arrest for certain misdemeanor offenses, including possession of marijuana, driving while license invalid, and city ordinance violations; and

WHEREAS, most Travis County residents who are charged with a misdemeanor offense by the Austin Police Department are given a citation or ticket, and a smaller number of people are arrested and booked at the Travis County jail; and

WHEREAS, the City of Austin recently adopted its strategic plan, Strategic Direction 2023, which measures the local incarceration rate to monitor the "Fair Administration of Justice," and the use of discretionary arrest rather than citations for misdemeanors negatively impacts this metric; and

WHEREAS, data provided by the Austin Police Department shows significant disparities by race in the use of arrest, especially for Black residents; and

WHEREAS, according to 2017 data, Black residents were discretionarily arrested at more than double the rate of either white or Latino residents; and

WHEREAS, according to 2017 data, Black and Latino residents comprised

just under 75% of those discretionarily arrested for driving with an invalid license, although they comprise less than 45% of the City's population; and

WHEREAS, according to 2017 data, Black residents comprised 32% of those discretionarily arrested for low-level marijuana possession, although they comprise less than 8% of the City's population and federal data shows very similar rates of marijuana use across racial groups; and

WHEREAS, there are City costs associated with police officers spending their time booking an individual into jail, which can take multiple hours, rather than writing a citation, and shared City and Travis County costs associated with magistration, booking and local incarceration; and

WHEREAS, residents of Travis County who have received a citation from a law enforcement officer for Possession of Marijuana (POM), and then released to appear before Justice of the Peace 5, are eligible to attend a 4-hour class and have their charge dismissed, allowing them an opportunity to avoid a criminal charge, and freeing up county resources. Residents of Travis County who are arrested for POM are not eligible to attend the class and have their charge dismissed; and

WHEREAS, the City of Austin includes portions of Travis County, Williamson County and Hays County. Individuals cited in areas of the City located outside of Travis County are not currently reflected in all of the data or programming available.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council directs the City Manager to work with the Police Chief to

take the steps necessary and appropriate to eliminate the use of discretionary arrests for non-violent misdemeanors where state law allows and when it is feasible for police officers to write a ticket or citation in lieu of arrest, in order to:

- Reduce the budgetary impact associated with use of discretionary arrest in lieu of citation;
- Reduce the racial disparities and the impact of such disparities in the use of arrest by the Austin Police Department; and
- Reduce officer time associated with driving and booking, increasing time available to achieve other public safety goals and priorities; and
- Allow more people charged with Possession of Marijuana to participate in the Travis County marijuana diversion program if they so choose and they are eligible.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to send a semiannual public memorandum to the City Council, for the purposes of transparency, to provide data concerning the use of discretionary arrest in lieu of citation for nonviolent misdemeanor offenses when a ticket or citation would be allowed by state law. The memos should be released at the end of each quarter for at least the next 24 months.

The report or memorandum should document anonymized records of every instance that an Austin police officer arrests a resident for a nonviolent misdemeanor charge when the suspect has no outstanding warrants, was not intoxicated, and legally could have been given a citation, but the officer determines giving a ticket or citation is infeasible. The memorandum should include the

following data for each instance:

- (1) a documented reason for the stop or the arrest;
- (2) the reason for the discretionary use of arrest;
- (3) the race and ethnicity of the person arrested; and
- (4) the general location, such as the zip code of the incident.

The report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to work with the Police Chief to identify additional documents or procedures that may be used by officers to establish a person's county of residence in order to issue a citation or ticket in lieu of arrest. Examples for consideration could include: any state or federal issued ID, library card, utility or rent bill, community organizational membership card, student ID, church ID, or other forms of identification that include an individual's name and address.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to return to Council by November 1, 2018 with recommendations on how the City can further address racial disparity in arrests made by the Austin Police Department. The City Manager should establish a community working group to support the development of the recommendations provided to Council.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to provide an update to the City Council by September 1, 2018 on activities conducted, including all policies, procedures, and practices identified and implemented, as a result of this resolution. The City Manager is directed to consult with the working group described above and any other interested stakeholders, especially community organizations and individuals directly impacted by the policing and arrests of immigrant communities and communities of color, in the development of policies, procedures, and practices related to this resolution.

ADOPTED: _____, 2018

ATTEST: _____

Jannette S. Goodall
City Clerk