

San Marcos Police Department Cite and Release Program Report

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Sir,

This *Cite and Release Program Report* is provided in accordance with Section 8, Ordinance Number 2020-18, as required by the San Marcos City Council. The report outlines the enforcement activity related to the Cite and Release program, which began on June 1, 2020. The period covered by this report is June 1 – December 31, 2020.

Cite and release is authorized under article 14.06 of the Texas Code of Criminal Procedure. This statute was first adopted by the Texas Legislature in 2007. A citation is when the violator is released in the field without being transported to a jail facility for booking and magistration. Currently, those who receive citations for Cite and Release eligible offenses are required to report to the Hays County Jail on the first and third Wednesdays of every month. The failure rate for the local program is currently 40% for Cite and Release eligible offenses, wherein the defendant fails to appear as required by the peace officer issuing the citation.

Proponents for Cite and Release believe the discretionary program will reduce lost hours of officers' time, reduce the number of overall arrests, and reduce the impact on minorities and impoverished citizens. Opponents believe the program contributes to the release of repeat offenders and has a direct correlation to higher crime rates in urban areas. Additionally, opponents point out that many persons fail to comply with the requirements of Cite and Release and inevitably have warrants issued for their arrest, resulting in higher bonds than would have been prescribed had an arrest been made.

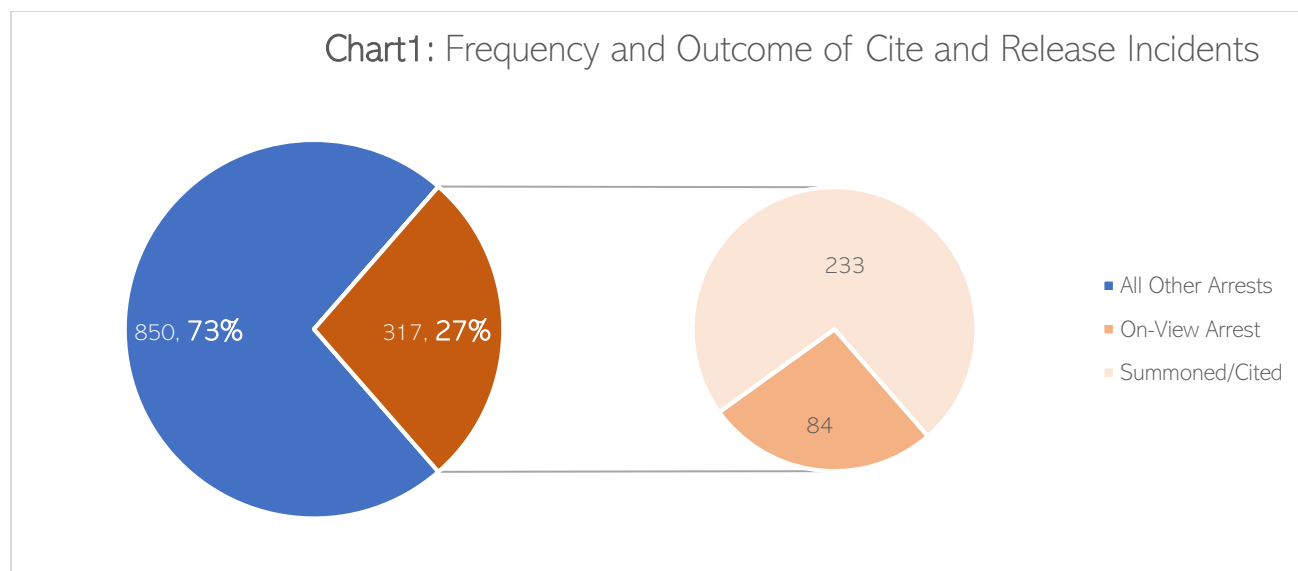
Very few agencies participate in this discretionary statute. Known participating agencies include Bexar County, San Antonio PD, Austin PD, El Paso PD, Dallas PD and several agencies in Hays County. Most known programs began in 2019 or later, and several are specific to marijuana offenses. The City of San Marcos has the only known ordinance requiring Cite and Release, which was passed and approved on April 7, 2020, and became effective May 31, 2020. It is important to note that the San Marcos Police Department did not have a policy requiring Cite and Release before the ordinance.

The San Marcos Police Department arrested 2,337 people in 2019 and 1,574 people in 2020. However, due to COVID-19 response measures, these numbers are uncomparable. The Department initiated efforts to reduce officer and citizen contact, thus working to mitigate the spread of the virus. Unfortunately, there was a corresponding increase in most crimes. Preliminary numbers indicate an 11% increase in aggravated assaults, rape, murder and robbery combined. Violent crime is rooted in guns, drugs and recidivism. Of the 689,109 persons arrested by Texas

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law enforcement officers in 2019, 70.32% had previously been arrested (Crime in Texas, 2019). Data for 2020 has not yet been published by the Department of Public Safety.

Locally, there were 317 eligible offenses for Cite and Release since June 1, 2020. These account for 27% of the overall arrest numbers for the same time period, as shown in Chart 1. Of the 317, the Department arrested 84 on-sight in lieu of issuing a citation, as promulgated in Section 3 of the ordinance.



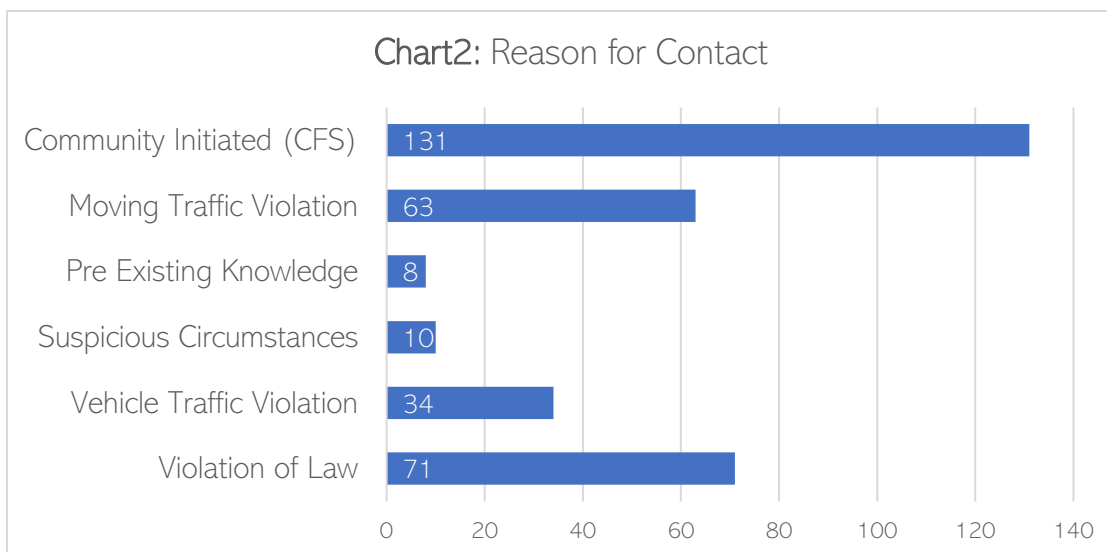
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The 84 persons who were arrested on-site represent 7% of the overall arrests during the same time period. They were arrested for one of the six enumerated reasons as shown in Table 1. The 84th person not reflected in the table is a juvenile offender and non-responsive to the ordinance, although the offense committed is Cite and Release eligible.

Contact Reason	Arrest Reason*						
	Arrest Warrant	No Hays County Connection	Other Non-Citable Offenses	Imminent Danger	Demand for Magistrate	Insufficient Identification	Grand Total
Community Initiated	2	9	20	0	2	1	34
Moving Traffic Violation	1	1	11	0	0	0	13
Pre-Existing Knowledge	2	0	1	0	0	0	3
Suspicious Circumstances	0	0	1	1	0	0	2
Vehicle Traffic Violation	1	4	6	0	0	1	12
Violation of Law	0	2	13	3	1	0	19
Grand Total	6	16	52	4	3	2	83

The next set of data relates to the reason for contact. As shown in Chart 2, the Department enumerated six reasons. I believe these reasons could be reduced to three, thereby ensuring greater accuracy in the final numbers.



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For example: does the category Suspicious Circumstances include Community Initiated if the citizen reported the circumstances? Additionally, why is it important to distinguish a Vehicle Traffic Violation from a Moving Traffic Violation, when both violate the Texas Transportation Code? It would seem important for citizens and elected leaders to know three reasons for contact: call for service, violation of penal or other law, and violation of traffic code. If the officer's activity was not taken in response to a call for service, then his or her activity would fall into the latter two categories.

Another statistic captured by the Police Department concerns Street Diversions. These diversions are described as written warnings that do not necessitate a citation or on-site arrest. However, such diversions are not required by Ordinance 2020-18. The Police Department policy governing this is 7.1.1, section IV. I recommend the policy be changed to mandate that all such warnings be written and captured electronically for accurate reporting. Currently the policy allows for written or verbal warnings. See Table 2:

Quarter	Street Diversion and/or Released	All Citations
2Q	13	753
3Q	22	1,028
4Q	56	1,215
Grand Total:	91	2,996

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Table 3 relates the Cite and Release offenses initiated in 2020. Due to the possibility of a citizen being arrested for multiple offenses, the total number of offenses will not match the total number of arrested persons. Table 3:

Offense	Count
CONSUMPTION RESTRICTED TO PREMISES	1
Criminal Mischief >=\$100<\$750	15
Criminal Mischief under \$100	3
Criminal Trespass	4
DOC - Fighting	5
DOC - Gesture	1
DOC - Language	1
DOC - Noise Unreasonable	24
Driving While License Invalid	23
Fail to ID	3
Graffiti Pecuniary Loss >=\$100<\$750	5
Instanter*	1
Jaywalking-Cross Intersection Diagonally	1
Juvenile Curfew Violation - Night	4
Minor Consuming Alcohol	4
Minor in Possession - Alcohol	3
Misrepresentation Of Age By A Minor	1
Noise Host Responsibility -Local Ordinance	1
POSS MARIJ <2OZ	56
POSS MARIJ >2OZ<=4OZ	2
Poss of Drug Paraphernalia - Container	11
Poss of Drug Paraphernalia - General	36
Poss of Drug Paraphernalia - Pipe	24
Purchase of Tobacco by Minor	2
Theft Prop <\$100 W/prev Convic	2
Theft Prop >=\$100<\$750	21
Theft under \$100	57
Violation Of City Ordinance	21
Total:	332

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Section 5 of Ordinance 2020-18 requires a written report of the age and race of the persons arrested who were eligible for the Cite and Release program. See Table 4 below. The table displays the age range and race of individuals who were involved in cited [C] offenses compared to those who were arrested [A]. The colors are broken down by race and sex. The graph is sectioned off by age range.

