



## Legislation Details (With Text)

**File #:** ID#19-906    **Version:** 1    **Name:**

**Type:** Discussion Item    **Status:** Individual Consideration

**File created:** 1/22/2020    **In control:** City Council

**On agenda:** 3/3/2020    **Final action:**

**Title:** Hold discussion and receive a report from the Criminal Justice Reform Committee, including draft legislation supporting a Cite and Release Program, and provide direction to the City Manager.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Article 14.06 memo.pdf, 2. Background Memo, 3. Draft ordinance language, 4. Summary Memo C&R Stats, 5. 2018 Cite and Release Analysis, 6. 2018 Cite Arrest Ineligibility, 7. 2019 Cite and Release Analysis, 8. 2019 Cite Arrest Ineligibility

Date	Ver.	Action By	Action	Result
3/3/2020	1	City Council		

### **AGENDA CAPTION:**

Hold discussion and receive a report from the Criminal Justice Reform Committee, including draft legislation supporting a Cite and Release Program, and provide direction to the City Manager.

**Meeting date:** March 3, 2020

**Department:** City Manager

### **Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

### **Fiscal Note:**

**Prior Council Action:** Council discussed this item during its regular meeting on October 15, 2019 but did not provide direction to staff. Rather, the Council referred the item back to the Criminal Justice Reform Committee for further work.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- ☐ Economic Development - Choose an item.
- ☐ Environment & Resource Protection - Choose an item.
- ☐ Land Use - Choose an item.
- ☐ Neighborhoods & Housing - Choose an item.
- ☐ Parks, Public Spaces & Facilities - Choose an item.
- ☐ Transportation - Choose an item.
- ☒ Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The San Marcos City Council empaneled a Criminal Justice Reform subcommittee to study local criminal justice reform efforts in parallel with the work being done at the county level. The committee originally consisted of Council Member Mark Rockey Moore (chair), Council Member Lisa Prewitt, and Council Member Dr. Ed Mihalkanin. The committee began meeting monthly in July, 2019. The committee has been working on a draft ordinance that pertains to the use of Cite and Release by sworn law enforcement officers employed by the City. In their regular meeting held on October 3, 2019, the committee developed language for this draft ordinance and presented that language to the Council on October 15, 2019. During that meeting, discussion by the members of Council in conjunction with questions and answers to and from members of staff and the community prompted the Council to send the item back to the committee for further development.

On November 7, 2019, the Criminal Justice Reform (CJR) committee met again and discussed a third version of the ordinance developed by committee members and constituents associated with Mano Amiga. There were substantive changes in this draft that had previously been removed, and there was a lack of consensus on a few of the points. Additionally, a red-lined copy of the ordinance in relation to the prior version was not available. A representative from Mano Amiga volunteered to create the red-lined draft and send that to the committee members and staff representatives. Approximately one week later, staff received a red-lined document for review. That document contained additional wording not previously discussed in any of the meetings, so it became clear that another meeting would need to be held to further discuss what a final draft might look like. The committee did not meet over the Christmas and New Year's holiday time period and reconvened on January 28, 2020. One committee member was new since the November 7, 2019 meeting.

Council Member Dr. Marquez replaced outgoing Council Member Lisa Prewitt. This item represents the most current recommended legislation by the members of the CJR committee including highlighted areas showing two decision points around which the committee members were not fully in agreement. A memo is attached to this item to further provide explanation and context about those two areas.

Additionally, two documents are attached to this item that illustrate an analysis of the use of Cite and Release for eligible class A and B misdemeanors by members of the San Marcos Police Department in 2018 and 2019. This analysis was completed by Assistant Chief Brandon Winkenwerder. In summary, those documents show that the majority of defendants handled by the department for an eligible offense were not actually eligible for Cite and Release. In 2018, 31% of the 543 people charged with a citation-eligible Class A or B misdemeanor were actually eligible to receive a citation in lieu of arrest. In 2019, that number was 34% of 398 people. The most common reasons that a person is not eligible for Cite and Release are outstanding warrants for other offenses, the presence of more serious charges not eligible for cite and release, and not being a resident of Hays County. For this analysis, residency was defined as people who live, work, or go to school in Hays County. The analysis also showed that officers increased their use of Cite and Release by 76% in 2019 over 2018 despite the fact that the request made by department administration for officers to increase the use of Cite and Release was not formally made until late July of 2019.

#### **Council Committee, Board/Commission Action:**

The Criminal Justice Reform committee has met multiple times with staff representatives and is prepared to discuss this item with the Council at large.

#### **Alternatives:**

In preparation for future action, the Council at large may choose to direct staff to finalize the draft ordinance, make changes to the recommended language of the ordinance, or provide direction that is not in favor of the ordinance. Council may also choose to consider a resolution instead of an ordinance in support of the main tenants of the draft ordinance language discussed at the committee level.

#### **Recommendation:**

During this entire process which began in July of 2019, staff has worked in earnest to study its internal process in hopes of identifying areas of improvement that could be in alignment with the goals of the CJR committee. Staff has worked tirelessly to study and present data to the committee indicating that first-line Officers of the Police Department have used discretion to divert people out of the formal criminal justice system on hundreds of occasions in the recent past even before this issue became a focal point of discussion for City Council. Additionally, Police Department leadership has been engaged in the CJR process at the county level to ensure that they are prepared to implement any county-wide changes to Cite and Release or Cite Divert as soon as they are available. Consequently, staff recommends that the City Council consider a resolution in support of

certain enumerable and identifiable processes involving Cite and Release and Cite and Divert to include periodic data analysis and reporting that will explore the department's success in implementing the tenants of that resolution.