

City of San Antonio



AGENDA

City Council A Session

Municipal Plaza Building
114 W. Commerce Street
San Antonio, Texas 78205

Thursday, February 16, 2023

9:00 AM

Municipal Plaza Building

The City Council will hold its regular meeting in the Norma S. Rodriguez Council Chamber in the Municipal Plaza Building beginning at the above referenced date and time for the following items. Once convened, the City Council will take up the following items in any order during the meeting but no sooner than the designated times.

9:00AM: Call to Order

Members of the public can comment on items on the agenda. To sign up to speak visit www.saspeakup.com. Click on meetings and events and select the meeting you'd like to participate in. Sign up to speak or submit a written comment. Questions relating to these rules may be directed to the Office of the City Clerk at (210) 207-7253.

Individuals signing up for public comment may register for VIA bus fare or parking validation at www.saspeakup.com. VIA bus fare or parking at City Tower Garage (located at 100 Blk N. Main) will be provided to individuals who request the assistance. Staff will provide VIA bus fare passes and parking validation tickets in the lobby of City Council Chambers.

To view the Live meeting please view our [Live Stream](#)

During the meeting, the City Council may meet in executive session for consultation with the City Attorney's Office concerning attorney-client matters under Chapter 551 of the Texas

Government Code.

ACCESS STATEMENT

The City of San Antonio ensures meaningful access to City meetings, programs and services by reasonably providing: translation and interpretation, materials in alternate formats, and other accommodations upon request. To request these services call (210) 207-2098 or Relay Texas 711 or by requesting these services online at <https://www.sanantonio.gov/gpa/LanguageServices>. Providing at least 72 hours' notice will help to ensure availability.

Intérpretes en español estarán disponibles durante la junta del consejo de la ciudad para los asistentes que lo requieran. También se proveerán intérpretes para los ciudadanos que deseen exponer su punto de vista al consejo de la ciudad. Para más información, llame al (210) 207-7253.

For additional information on any item on this agenda, please visit www.sanantonio.gov or call (210) 207-7080.

20.

2023-02-16-0098

Ordinance ordering a City Charter Election to be held on Saturday, May 6, 2023. [Debbie Racca-Sittre, City Clerk]

THE CITY COUNCIL MAY RECESS FOR LUNCH AND RECONVENE TO CONSIDER ANY UNFINISHED COUNCIL BUSINESS

6:00 P.M. – If the Council has not yet adjourned, the presiding officer shall entertain a motion to continue the council meeting, postpone the remaining items to the next council meeting date, or recess and reconvene the meeting at a specified time on the following day.

Posted on: 09/26/2024 05:15 PM



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 20

Agenda Date: February 16, 2023

In Control: City Council A Session

DEPARTMENT: Office of the City Clerk

DEPARTMENT HEAD: Debbie Racca-Sittre

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Ordering a City Charter Election to be held on Saturday, May 6, 2023.

SUMMARY:

This ordinance will order a Charter Election to be held on Saturday, May 6, 2023.

The calendar leading up to the Saturday, May 6, 2023 Charter Election is:

- Thursday, April 6, 2023 5:00 p.m. - Deadline to Register with Bexar County to Vote in the May General Election
- Monday, April 24, 2023 - First day of Early Voting by personal appearance
- Tuesday, April 25, 2023 5:00 p.m. - Deadline for Bexar County to receive an Application for Vote by Mail Ballot
- Friday, April 28, 2023 - Fiesta San Jacinto Holiday (polls closed)
- Tuesday, May 2, 2023 - Last day of Early Voting by personal appearance
- Saturday, May 6, 2023 - Election Day from 7:00 a.m. to 7:00 p.m.

BACKGROUND INFORMATION:

On January 10, 2023, Ground Game Texas submitted a petition known as the San Antonio Justice Charter Petition. The language included at the top of the petition form is as follows:

“A petition to amend the City Charter of San Antonio to adopt a justice policy that will reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms, including: ending enforcement of low-level marijuana possession; ending enforcement of abortion crimes; banning no-knock warrants; banning chokeholds; and using citations instead of arrests for low-level non-violent crimes.”

Pursuant to Section 9.004 of the Texas Local Government Code, a total of 20,000 petition signatures from qualified electors of the City of San Antonio are required to be submitted to initiate a charter amendment election. The Office of the City Clerk verified the petition with the previous agenda item.

ISSUE:

This ordinance will order a Charter Election to be held on Saturday, May 6, 2023.

ALTERNATIVES:

None.

FISCAL IMPACT:

The ordinance contracting with the Bexar County Elections Administrator for Election Services for the Saturday, May 6, 2023 will be presented to the Mayor and Council at a later date.

RECOMMENDATION:

The City Council has a ministerial duty to order a Charter Election and the San Antonio Justice Charter Amendment must be placed on the ballot for the next election.

ORDINANCE

ORDERING AN ELECTION FOR A CITY CHARTER AMENDMENT TO BE HELD ON SATURDAY, MAY 6, 2023, IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

* * * * *

WHEREAS, on January 10, 2023, petitioners submitted to the Office of the City Clerk a petition seeking to amend the City Charter to adopt a Justice Policy that limits enforcement of low-level marijuana possession, limits enforcement of abortion crimes, bans no-knock warrants and contains additional policies concerning warrants, bans chokeholds by San Antonio police officers, establishes a cite and release policy for low-level nonviolent crimes, and creates a Justice Director to serve as the lead representative charged with fulfilling the Justice Policy; and

WHEREAS, the City Clerk has certified to the City Council that the petition contains a sufficient number of verified signatures, as determined by state law, of qualified voters of the municipality to submit the Charter amendment to the electors of the City of San Antonio; and

WHEREAS, state law requires the City Council to submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a sufficient number of qualified voters of the municipality; and

WHEREAS, it is now necessary to vote on the item to order an election to amend the City Charter;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. A Charter amendment election is ordered to be held in the various voting precincts of the City of San Antonio on Saturday, May 6, 2023, to submit the following proposition to amend the City Charter of the City of San Antonio to the qualified voters of the City:

CITY OF SAN ANTONIO PROPOSITION A

Shall the City Charter be amended to include a justice policy under which the City of San Antonio will “use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the city’s contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater public needs” and to “reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms”, including: ending enforcement of low-level marijuana possession by prohibiting police officers from issuing citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in limited circumstances; prohibiting the enforcement of abortion crimes to promote the reproductive health, safety, and privacy of all City residents and stating that police officers shall not investigate, make arrests, or otherwise enforce any

alleged criminal abortion, except in limited circumstances; banning no-knock warrants by stating that police officers shall not obtain a “no-knock” search warrant, nor shall they participate in serving a “no-knock” search warrant with other law enforcement agencies and creating additional policies concerning the issuing of warrants; banning chokeholds with no exceptions; requiring police officers to issue citations instead of making arrests for low-level nonviolent crimes defined as Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and Safety Code §§ 481.1161(b)(1) & (2), Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457, Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A), Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2), Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c), Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3), Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2), and all Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031; and requiring the San Antonio City Council to appoint and provide resources to a Justice Director, with no previous experience in law enforcement, who will be charged with fulfilling the justice policy by providing a justice impact statement before any City Council vote affecting the justice policy and meeting quarterly with community stakeholders to discuss the development of policies, procedures and practices related to the justice policy in open meetings?

SECTION 2. The official ballots for the election shall be prepared in accordance with the Texas Election Code to permit the electors to vote “FOR” or “AGAINST” the aforesaid PROPOSITION, with the ballots to contain such provisions, markings, and language as required by law, and with such PROPOSITION to be expressed substantially as follows:

CITY OF SAN ANTONIO PROPOSITION A

FOR	}	SHALL THE CITY CHARTER BE AMENDED TO INCLUDE A JUSTICE POLICY UNDER WHICH THE CITY OF SAN ANTONIO WILL “USE ITS AVAILABLE RESOURCES AND AUTHORITY TO ACCOMPLISH THREE GOALS OF PARAMOUNT IMPORTANCE: FIRST, TO REDUCE THE CITY’S CONTRIBUTION TO MASS INCARCERATION; SECOND, TO MITIGATE RACIALLY
AGAINST	}	DISCRIMINATORY LAW ENFORCEMENT PRACTICES; AND THIRD, TO SAVE SCARCE PUBLIC RESOURCES FOR GREATER PUBLIC NEEDS” AND TO “REDUCE

UNNECESSARY ARRESTS AND SAVE SCARCE PUBLIC RESOURCES THROUGH A COMPREHENSIVE SET OF REFORMS”, INCLUDING: ENDING ENFORCEMENT OF LOW-LEVEL MARIJUANA POSSESSION BY PROHIBITING POLICE OFFICERS FROM ISSUING CITATIONS OR MAKE ARRESTS FOR CLASS A OR CLASS B MISDEMEANOR POSSESSION OF MARIJUANA OFFENSES, EXCEPT IN LIMITED CIRCUMSTANCES; PROHIBITING THE ENFORCEMENT OF ABORTION CRIMES TO PROMOTE THE REPRODUCTIVE HEALTH, SAFETY, AND PRIVACY OF ALL CITY RESIDENTS AND STATING THAT POLICE OFFICERS SHALL NOT INVESTIGATE, MAKE ARRESTS, OR OTHERWISE ENFORCE ANY ALLEGED CRIMINAL ABORTION, EXCEPT IN LIMITED CIRCUMSTANCES; BANNING NO-KNOCK WARRANTS BY STATING THAT POLICE OFFICERS SHALL NOT OBTAIN A “NO-KNOCK” SEARCH WARRANT, NOR SHALL THEY PARTICIPATE IN SERVING A “NO-KNOCK” SEARCH WARRANT WITH OTHER LAW ENFORCEMENT AGENCIES AND CREATING ADDITIONAL POLICIES CONCERNING THE ISSUING OF WARRANTS; BANNING CHOKEHOLDS WITH NO EXCEPTIONS; REQUIRING POLICE OFFICERS TO ISSUE CITATIONS INSTEAD OF MAKING ARRESTS FOR LOW-LEVEL NONVIOLENT CRIMES DEFINED AS POSSESSION OF CONTROLLED SUBSTANCE LESS THAN 4 OZ, PENALTY GROUP 2-A (SYNTHETIC CANNABINOIDS), CLASS A OR B MISDEMEANOR UNDER TEXAS HEALTH AND SAFETY CODE §§ 481.1161(B)(1) & (2), DRIVING WHILE LICENSE INVALID, CLASS A OR B MISDEMEANOR UNDER TEXAS TRANSPORTATION CODE § 521.457, THEFT OF PROPERTY LESS THAN \$750, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 31.03(E)(2)(A), THEFT OF SERVICE LESS THAN \$750, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 31.04(E)(2), CONTRABAND IN A CORRECTIONAL FACILITY, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 38.114(C), GRAFFITI, WITH DAMAGE LESS THAN \$2500, CLASS A OR B MISDEMEANOR UNDER TEXAS PENAL CODE § 28.08(B)(2) & (3), CRIMINAL MISCHIEF WITH DAMAGE LESS THAN \$750, CLASS B

MISDEMEANOR UNDER TEXAS PENAL CODE § 28.03(B)(2), AND ALL CLASS C MISDEMEANORS, EXCEPT CLASS C PUBLIC INTOXICATION, WHICH SHALL BE ADDRESSED IN ACCORDANCE WITH TEXAS CODE OF CRIMINAL PROCEDURE SECTION 14.031; AND REQUIRING THE SAN ANTONIO CITY COUNCIL TO APPOINT AND PROVIDE RESOURCES TO A JUSTICE DIRECTOR, WITH NO PREVIOUS EXPERIENCE IN LAW ENFORCEMENT, WHO WILL BE CHARGED WITH FULFILLING THE JUSTICE POLICY BY PROVIDING A JUSTICE IMPACT STATEMENT BEFORE ANY CITY COUNCIL VOTE AFFECTING THE JUSTICE POLICY AND MEETING QUARTERLY WITH COMMUNITY STAKEHOLDERS TO DISCUSS THE DEVELOPMENT OF POLICIES, PROCEDURES AND PRACTICES RELATED TO THE JUSTICE POLICY IN OPEN MEETINGS?

SECTION 3. If adopted, the specific provision of the City Charter listed below shall be amended to create Article XV, entitled Justice Policy, by adding the underscored words to read in its entirety as follows:

ARTICLE XV. JUSTICE POLICY

Sec. 170. Justice policy.

It is the policy of the City of San Antonio to use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the City's contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater public needs.

Sec. 171. Definitions.

- (a) Justice impact statement. A statement of how major City decisions impact the City's justice policy. The statement is to be prepared by the Justice Director. The elements of the justice impact statement shall include, at a minimum, the following elements: (1) how the proposed action fulfills the three aims of the City's justice policy; (2) whether the proposed action will negatively impact any historically over-policed communities; (3) whether the proposed action would

- increase law enforcement spending as compared to other City programs; and (4) a consideration of alternatives, if any, that would better advance the City's justice policy;
- (b) Justice policy. All of the policies contained within this Article of the City Charter;
 - (c) Law enforcement industry. Includes any past or present sworn officer, civilian employee, or contractor of any law enforcement agency, including any local, state, tribal, or federal agency; also includes private security and contractors for law enforcement agencies;
 - (d) Mass incarceration. The criminal justice system by which the United States criminalizes and incarcerates more of its own people than any other country in the history of the world. Mass incarceration inflicts harm on the most vulnerable among us and disproportionately impacts people of color;
 - (e) Marginalized communities. People who are historically less protected and more subject to persecution within American society, including, Black, indigenous, and people of color, the LGBTQIA community, immigrant communities, people with disabilities, and people living in poverty; and
 - (f) Over-policing. The historic and current practice of law enforcement to disproportionately target poor people and people of color, including for offenses that are committed at equal rates among races and income levels.

Sec. 172. Justice Director.

- (a) The City Council, including the Mayor and District Representatives, shall directly appoint a Justice Director to serve as the lead City representative charged with fulfilling the Justice Policy. Such appointment shall occur at a publicly noticed meeting subject to the Texas Open Meetings Act. The City Council shall fix the Justice Director's compensation;
- (b) The Justice Director shall be appointed on the basis of qualifications to fulfill the City's social justice three-part mandate of reducing the City's contribution to mass incarceration, mitigating racist and discriminatory law enforcement practices, and saving scarce public resources for greater public needs;
- (c) No person shall be eligible for appointment as Justice Director if they have worked in the law enforcement industry, or if they disclose significant financial investments in the law enforcement industry;

- (d) Prior to taking action to appoint a Justice Director, the City shall request and publish a Personal Financial Statement Report from each candidate, to include, at a minimum, all fields included in Form PFS-TEC of the Texas Ethics Commission. The report shall cover, at a minimum, the candidate's current investments and any investments held over the twelve months prior to appointment;
- (e) The Justice Director shall report directly to the City Council;
- (f) The Justice Director may be removed by resolution approved by the majority of the total membership of the City Council, with or without cause.

Sec. 173. Resources and support.

- (a) The Mayor and City Council shall provide the Justice Director with sufficient personnel and resources necessary to carry out this justice policy;
- (b) The Justice Director and any support staff shall have access to offices in the Department of Diversity, Equity, Inclusion and Accessibility.

Sec. 174. Justice impact of City decisions.

- (a) The Justice Director shall provide the City Council with a justice impact statement prior to any City Council vote affecting the City's justice policy. Decisions that require a justice impact statement shall include, but not be limited to: the annual city budget and any amendments thereof; any contract or contract amendment concerning sworn officers of the San Antonio Police Department; and any resolution or ordinance related to law enforcement, criminal justice, policing, crime, public safety, or incarceration;
- (b) In addition to justice impact reports regarding individual City actions, the City Manager shall collaborate with the Justice Director to prepare an annual justice impact statement for City activities, with specific analysis of the justice impact of each City department. The City Manager shall ensure that the Justice Director has access to City information on an ongoing basis to allow for ongoing monitoring and analysis of the City's justice impact.

Sec. 175. Community stakeholder involvement.

- (a) The Justice Director shall arrange quarterly meetings subject to the Texas Open Meetings Act to discuss both the development of policies, procedures, and

practices related to this justice policy as well as data gathered concerning the implementation of the justice policy. These meetings shall include the Police Department, a designated individual from the Bexar County District Attorney's office, representatives from community organizations, and individuals directly impacted by over-policing and mass incarceration;

- (b) All input raised during such quarterly meetings shall be meaningfully considered, and the Justice Director will report back to City Council on the work completed during such quarterly meetings.

Sec. 176. Elimination of marijuana enforcement.

- (a) San Antonio police officers shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in the limited circumstances described in Section 176(b);
- (b) The only circumstances in which San Antonio police officers are permitted to issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana are when such citations or arrests are part of (1) the investigation of a felony level narcotics case that has been designated as a high priority investigation by an San Antonio police commander, assistant chief of police, or chief of police; and/or (2) the investigation of a violent felony.
- (c) San Antonio police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to Section 176(b).
- (d) In every instance other than those described in Section 176(b), and without relying on the impermissible grounds identified in Section 176(c), if a San Antonio police officer has probable cause to believe that a substance is marijuana, an officer may seize the marijuana. If the officer seizes the marijuana, they must write a detailed report and release the individual if possession of marijuana is the sole charge.
- (e) San Antonio police officers shall not issue any charge for possession of marijuana unless it meets one or both of the factors described in Section 176(b);
- (f) A class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge;
- (g) No City funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to

determine whether the substance meets the legal definition of marijuana under state law, except in the limited circumstances of a police investigation pursuant to Section 176(b). This prohibition shall not limit the ability of San Antonio police to conduct toxicology testing to ensure public safety, nor shall it limit THC testing for the purpose of any violent felony charge.

Sec. 177. Elimination of abortion enforcement.

- (a) It is the policy of the City of San Antonio to promote the reproductive health, safety, and privacy of all City residents;
- (b) The City hereby finds and declares that a variety of factors negatively impact its ability to legally and appropriately enforce state laws that criminalize abortion, including:
 - (i) The City's goal of promoting reproductive health, safety, and privacy of all City residents;
 - (ii) The legal and practical complexity of evaluating claims that City residents may have violated state laws concerning the criminalization of abortion;
 - (iii) The lack of training and capacity of City police to discern valid and enforceable complaints of unlawful abortion;
 - (iv) The risk of liability arising from improper enforcement of criminal abortion laws;
- (c) In light of the policy and findings identified above, City of San Antonio police officers shall not investigate, make arrests, or otherwise enforce any alleged criminal abortion, except in the circumstances identified in Section 177(d);
- (d) The only circumstances in which City of San Antonio police officers are permitted to investigate, make arrests, or otherwise enforce any state law that criminalizes abortion are when (i) coercion or force is used against a pregnant person or (ii) in cases involving conduct criminally negligent to the health of the pregnant person seeking care;
- (e) Except to the extent required by state or federal law, the City of San Antonio will not gather information concerning abortion-related crimes. Specifically, no city staff, city funds, or city resources will be used to:
 - (i) Store or catalog any report of an abortion, miscarriage, or other reproductive healthcare act or outcome;

- (ii) Provide information to any other governmental body or agency about any abortion, miscarriage, or other reproductive healthcare act, unless such information is provided to defend the patient's right to abortion care or the healthcare provider's right to provide that care;
- (iii) Conduct surveillance or collect information related to an individual or organization for the purpose of determining whether an abortion has occurred, except for aggregated data without personally identifying information or personal health information which is collected for purposes unrelated to criminal investigation, enforcement, or prosecution.

Sec. 178. Ban on no-knock warrants; additional policies concerning warrants.

- (a) San Antonio Police officers shall not obtain a "no-knock" search warrant, nor shall they participate in serving a "no-knock" search warrant with other law enforcement agencies;
- (b) No police officers may gain forcible entry into a premises, absent circumstances in which there is verified, imminent threat to human life;
- (c) For all search warrant executions:
 - (i) A law enforcement officer shall be easily recognizable and identifiable as a uniformed law enforcement officer;
 - (ii) A law enforcement officer shall knock and audibly, or in a manner sufficient to provide notice to any person with a disability, announce their identity as a law enforcement officer, authority pursuant to the warrant, and purpose;
 - (iii) A knock and announcement shall be provided in a manner reasonably expected to be heard observed and understood by occupants of the premises to be searched based on the size and nature of the location;
 - (iv) Any subsequent entry and search of the premises shall be recorded by a body-worn camera or other government issued recording device;
 - (v) Law enforcement officers shall delay entry for a sufficient amount of time after the announcement, based on the size and nature of the premises and occupants, to allow the occupant a reasonable opportunity to respond, and such delay shall be a minimum of 30 seconds;
 - (vi) An occupant of the premises to be searched shall be afforded an opportunity to comprehend the warrant authorizing entry to the premises prior to entry by a law enforcement officer;

- (d) To account for the potential presence of vulnerable persons:
 - (i) *Evaluation.* An application for a warrant shall assess, and a court issuing a warrant shall evaluate, whether there will be children, individuals with a disability, individuals who are elderly, or other vulnerable individuals present at the location where the warrant is to be executed;
 - (ii) *Requirements for issuance.* The City shall seek to execute search warrants only when children, individuals who are elderly, or other vulnerable individuals are not home. A warrant may only authorize the search of a location where a child, individual with a disability, any individual who is elderly, or other vulnerable individual will be present if the court determines, based on particularized facts, that there is a clear necessity for such search and that a safety plan is in place to ensure the safety of the vulnerable individuals;
- (e) All officers shall be equipped with video and audio recording devices, tested for functionality at least 24 hours before execution, turned on at least five minutes before the warrant is executed and to remain on five minutes after the warrant service process is complete (i.e. the entire event in which officers are on the scene);
- (f) Any search warrant authorized by this section shall utilize the least intrusive tactics possible. Only such persons as may be reasonably necessary for the successful execution of the search warrant with all practicable safety may participate in execution of a search warrant;
- (g) *Use of explosive devices.* Law enforcement officers executing a warrant shall not use or possess flash-bang stun grenades, or other explosive devices, chemical weapons, or any military-grade firearm, unless expressly authorized under the covered warrant based on clear and convincing evidence that the use of the devices is necessary under the particularized circumstances to protect the life or safety of law enforcement officers or other persons;
- (h) For purposes of this section:
 - (i) Verifiable exigent circumstances is defined as: an event occurring in real-time that is life-threatening to the officer(s) and/or an occupant(s) of the property;
 - (ii) In such cases, the officer(s) must be able to verify the perceived threat through video footage, required documentation and witness statements. Examples of

verifiable exigent circumstances could include: hearing a round being chambered in a gun, an occupant screaming something threatening, or seeing through a window an occupant or hostage held by a firearm.

- (i) Applications and issuance for all warrants must include:
 - (i) Search warrants are directed to law enforcement within the jurisdiction of the property being searched;
 - (ii) All search warrants shall contain:
 - (1) the date and time the warrant was issued;
 - (2) The name of the affiant;
 - (3) The identity and description, of the person for whom a search warrant is being issued;
 - (4) The offense, or probable cause, cited within the affidavit;
 - (5) The objects or persons described in the warrant, if found there, to be seized;
 - (6) The location and description of the place to be searched;
 - (7) A list of estimated ages and gender of any additional occupants, as well as any known individuals with cognitive and/or physical disabilities and pets at the property to be searched;
 - (8) Intended course of action if no response from suspect within 30 seconds;
- (j) Search warrants not executed within 7 days of issuance are void;
- (k) An officer must provide evidence gathered 24 hours, or less, before executing to verify the person is present at the residence to be searched and verify that there are no significant changes to information contained within the application;
- (l) *Avoiding destruction of property.* In executing any warrant, law enforcement officers shall seek to avoid the destruction of property occasioned by forcible entry and the execution of the search;
- (m) Property and/or cash cannot be seized during the course of the search unless a lawful arrest is made and these assets will be returned immediately to the arrestee if s/he is not convicted of the crime listed in the arrest;
- (n) If evidence is obtained in violation of this section, the City shall not attempt to utilize such evidence, and shall notify the District Attorney that any such evidence was unlawfully obtained;

- (o) Post-search report. For each search conducted pursuant to a warrant, the City shall collect the following data:
 - (i) The items to be seized under a warrant, as described in the application;
 - (ii) The items seized in the execution of that warrant;
 - (iii) Whether forcible entry was made in the execution of the warrant;
 - (iv) Any destruction of property that occurred in the execution of the warrant; and
 - (v) Any injuries that occurred in the execution of the warrant, either by law enforcement, occupants, or others present;
- (p) Each post-search report completed pursuant to Section 178(o) shall be considered public information subject to the Texas Public Information Act.

Sec. 179. Ban on chokeholds.

- (a) San Antonio police officers shall not use a chokehold or neck restraint on another person;
- (b) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section;
- (c) For the purposes of this section:
 - (i) "Chokehold" means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway;
 - (ii) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

Sec. 180. Cite and release policy.

- (a) Except as provided under Section 180(b), a citation, ticket or verbal warning, rather than arrest, shall be issued for individuals charged with committing the following offenses, in accordance with Article 14.06 of the Texas Code of Criminal Procedure:
 - (i) All Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031;
 - (ii) Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and

Safety Code §§ 481.1161(b)(1) & (2);

- (iii) Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457;
 - (iv) Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A);
 - (v) Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2);
 - (vi) Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c);
 - (vii) Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3); and
 - (viii) Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2).
- (b) An officer may conduct a custodial arrest for offenses listed under Section 1 only if any of the following circumstances are present:
- (i) The subject could not provide satisfactory evidence of personal identification to allow for citation. In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-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, as well as photos of the aforementioned forms of identification. Additionally, in the absence of a physical ID, a credible verbal verification of a subject's identity and address shall suffice and may be obtained by contacting a family member, friend, or any person who has personal knowledge of the subject;
 - (ii) The subject demands to be taken before a magistrate;
 - (iii) The subject has an outstanding arrest warrant for a non-citation eligible offense from a criminal law enforcement agency;
 - (iv) Before making an arrest for a citation-eligible offense, the officer shall contact a supervisor to obtain approval. In any case where an arrest is made

for a citation-eligible offense, the specific reason(s) for the arrest and supervisor approval shall be included in the incident report. If an incident report fails to contain a valid reason for an arrest in cases of the above-listed offenses, or include reasons for arrests not listed herein, the San Antonio Police Department Internal Affairs Unit shall conduct an investigation into the incident and take appropriate follow-up or disciplinary action with the arresting officer;

- (c) In cases in which the subject is suspected of committing any offense(s) listed in Section 180(a) or Class C Public Intoxication, and the subject appears to suffer from mental illness and/or addiction, the subject should be referred to appropriate medical and/or psychiatric services in lieu of arrest;
- (d) On a quarterly basis, the City shall gather and publish as an open record under the Texas Public Information Act, the following data concerning the cite and release program:
 - (i) Aggregate data showing the number of arrests made for citation-eligible offenses in which arrest was *not* mandated by state law. Such data shall also be aggregated and categorized by race and ethnicity of the person arrested, geographic location of arrest, alleged criminal offense, and reason for arrest;
 - (ii) Aggregate data showing the number of citations, tickets or warnings issued for citation-eligible offenses. Such data shall also be aggregated and categorized by race and ethnicity of the person cited, ticketed or issued a warning, geographic location of incident, and alleged criminal offense;
 - (iii) Anonymized records of every instance that a San Antonio police officer made an arrest for a citation-eligible offense, including:
 - (1) Documented reason for the stop and the arrest;
 - (2) The particular offense alleged;
 - (3) The reason for arrest and whether supervisor approval for the arrest was obtained;
 - (4) The age, race, and ethnicity of the person arrested;
 - (5) The general location, such as the zip code or intersection of the incident;
 - (iv) This 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 arrests.

Sec. 181. Implementation of justice policies.

- (a) The City Manager and Chief of Police shall ensure that San Antonio police officers receive adequate training concerning each of the provisions of the justice policy;
- (b) The City Manager shall work with the San Antonio Police Chief to update City policies and internal operating procedures in accordance with this justice policy. Actions that may be necessary include, but are not limited to: updating the San Antonio Police Department General Manual; updating the training bulletin; training officers; and updating internal databases and systems.

Sec. 182. Officer discipline.

Any violation of this justice policy may subject a San Antonio police officer to discipline as provided by the Texas Local Government Code or as provided in City policy.

Sec. 183. Effective date.

This Charter amendment shall become effective upon adoption.

Sec. 184. Severability.

If any portion of this Article shall be deemed unlawful by a court of law, that portion shall be severed from the Charter and the rest shall continue in force.'

SECTION 4. . CANVASS DATE. The City Council shall canvass the results of the election during the regularly scheduled "B" Session on Wednesday, May 17, 2023.

SECTION 5. CERTIFICATION. As soon as practicable after the election and the declaration by the City Council that this Charter amendment has been approved and adopted, the Mayor shall certify to the Secretary of State an authenticated copy of the amendment, under the City's seal, showing the approval by the qualified voters of the municipality.

SECTION 6. JOINT ELECTION; CONTRACT FOR ELECTION SERVICES. The City Council also authorizes the Saturday, May 6, 2023 Charter amendment election to be held jointly with other participating local political subdivisions located within Bexar County. The city shall execute an agreement with Bexar County to conduct the election as a joint election with the other political subdivisions identified in the agreement. An ordinance authorizing this contract will be considered by the City Council at a subsequent meeting.

Pursuant to the Texas Election Code, Section 61.012, as amended, the Bexar County Elections Administrator shall provide at least one accessible voting system in each polling place used in the Election. Such voting system shall comply with Texas and federal laws establishing the requirements for voting systems that permit voters with physical disabilities to cast a confidential or secret ballot.

SECTION 7. PRECINCTS AND POLLING LOCATIONS; HOURS OF VOTING. The Charter amendment election shall be held as prescribed by law between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, May 6, 2023, at the precincts of the City of San Antonio at the locations listed by the Bexar County Elections Administration office. The list of locations, as currently anticipated, is attached as **Exhibit A** and may be updated by the Administrator on its website at: <https://www.bexar.org/1568/Elections-Department>.

SECTION 8. VOTING SYSTEM. Voting on Election Day shall be conducted by the use of ES&S EVS 6.0.2.0 equipment, comprised of the ExpressVote (voting unit), the (Tabulator), the Express Touch (Curbside unit) and the DS450 and 850 (for tabulating the mail ballots, as determined by the City Clerk and the Bexar County Elections Administrator).

For early voting by mail and for provisional voting at this election, voting shall be conducted using the 850 equipment, and paper ballots.

For early voting by personal appearance, voting shall be conducted using the same equipment as on Election Day. The equipment shall be placed at branch offices established for the purpose of conducting early voting by personal appearance at the locations and during the dates and hours listed by the Bexar County Elections Administration office, in an attachment to the election agreement brought to Council for consideration at a later meeting.

SECTION 9. VOTER REGISTRATION; EARLY VOTING. The last day to register to vote in the May 6, 2023 election is Thursday, April 6, 2023. Early voting by personal appearance shall be conducted at the branch offices during the period for early voting, commencing Monday, April 24, 2023, and ending on Tuesday, May 2, 2023. Hours of early voting are established by the Bexar County Elections Administrator in accordance with the applicable provisions of Texas law. A copy of the locations as identified on the date of this ordinance and hours for early voting are attached as **Exhibit B**. If any locations are changed, this will be reflected on the Bexar County Elections webpage found here: <https://www.bexar.org/1568/Elections-Department>

Electors may cast their early vote by mail. Ballot applications and ballots voted by mail shall be mailed to the early voting clerk as follows:

Jacquelyn F. Callanen
Bexar County Elections Administrator
1103 S. Frio, Suite 100
San Antonio, TX 78207

The last day for the Administrator to accept an application by mail for a ballot to be voted by mail is by close of business on Tuesday, April 25, 2023.

SECTION 10. NOTICE. (a) *Form of Notice of Election.* The City Clerk of the City of San Antonio is authorized and directed to prepare a form of the Notice of Election in both English and Spanish, the contents of which comply with the requirements of Section 4.004 of the Texas Election Code and any other applicable law, and will include at the minimum, the nature and date of the election; the location of each election day and early voting polling place; the hours the polls will be open; the locations, dates and times of temporary branch locations of early voting by personal appearance; the early voting clerk's mailing address; and any other information required by other law, and with variations as permitted by applicable law.

(b) *Method of Giving Notice.* Notice of the election shall be given by posting a copy of the Notice of Election, both in English and Spanish, not later than the 21st day before the date set for the election as required by state law. Notice of the election shall also be given by publishing a Notice of Election, both in English and Spanish, at least once, not earlier than the 30th day or later than the 10th day before Election Day, in a newspaper of general circulation published in the City of San Antonio. The *San Antonio Express News* is a newspaper of general circulation within the city.

SECTION 11. ELECTION MATERIAL. All resident qualified electors of the City shall be permitted to vote at the election and on the day of the election, such electors shall vote at the designated polling places. The election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, and as may be required by any other law. All election materials and proceedings shall be printed in both English and Spanish. The official ballots for the election shall be prepared in accordance with the Texas Election Code.

SECTION 12. If any provision of this Ordinance or its application to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council declares that this Ordinance would have been enacted without such invalid provision.

SECTION 13. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter

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of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code.

SECTION 14. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this the 16th day of February 2023.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney