

RESOLUTION NO. 2021- \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE CITY ATTORNEY'S OFFICE AND CITY ADMINISTRATION TO PROVIDE ALL PERTINENT STATISTICAL DATA RELATING TO MUNICIPAL ORDINANCE VIOLATIONS FOR THOSE MATTERS WITHIN THE CITY'S PROSECUTORIAL AUTHORITY FOR THE LAST FIVE (5) YEARS, INCLUDING ALL DATA FOR ARRESTS, PROSECUTIONS, DISMISSALS (BY THE COURT OR BY PROSECUTORS), CONVICTIONS/ADJUDICATIONS, AND THE ASSIGNED JUDGE; AND FURTHER, DIRECTING THE CITY ADMINISTRATION TO TAKE ALL NECESSARY STEPS TO ESTABLISH A DIVERSIONARY PROGRAM TO BE UTILIZED BY THE MUNICIPAL PROSECUTION TEAM FOR THOSE FIRST-TIME OFFENDERS CHARGED WITH MUNICIPAL ORDINANCE VIOLATIONS, AND DIRECTING THE CITY ATTORNEY'S OFFICE TO UTILIZE STAY AWAY ORDERS AS AN ENFORCEMENT TOOL TO ADDRESS QUALITY OF LIFE OFFENSES IN THE CITY.**

**WHEREAS**, the City of Miami Beach (the "City") is a unique, coastal community which, due to a myriad of factors, consistently experiences a significant amount of petty crime and quality of life offenses; and

**WHEREAS**, the City is committed to reducing crime (including low-level crime) and repeat offenses, and bringing social services to those that may find it difficult to otherwise obtain such services; and

**WHEREAS**, on September 25, 2017, the Mayor and City Commission adopted Resolution No. 2017-30023 which authorized the City Attorney's Office to commence the in-house prosecution, by and through a City municipal prosecution team, of those individuals exclusively charged with violating the City's criminal ordinances; and

**WHEREAS**, the Miami-Dade State Attorney's Office continues to be the prosecutorial entity responsible for the prosecution of those offenders arrested for the commission of all felony, misdemeanor, and/or County ordinance violations (which also includes City ordinance violations if committed in conjunction with any felony, misdemeanor or County ordinance violation); and

**WHEREAS**, since the onset of the Covid-19 global pandemic in early March of 2020, the entire criminal justice system (including all participating parties – the judiciary, the prosecutors, the defense attorneys, the clerk of courts, and the detention facilities) has been severely impacted; and

**WHEREAS**, until about one (1) year ago, judges in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County would regularly issue standalone stay away orders to defendants pursuant to the disposition of criminal cases, as a result of crimes tied to particular victims or locations; and

**WHEREAS**, on November 25, 2020, the Eleventh Judicial Circuit Court, in its appellate capacity, in *Eric Freshman v. The State of Florida*, held that judges have no authority to issue standalone stay away orders because there is no explicit statutory provision which would allow

them to do so, even when ordered pursuant to a plea agreement by the parties; and

**WHEREAS**, the inability of judges to order those defendants who commit crimes tied to particular victims or locations, to stay away from such victims or locations, has created an additional challenge to preventing criminal activity and quality of life offenses; and

**WHEREAS**, the City's Municipal Prosecution Team continues to be legally authorized to utilize stay away orders from identifiable person(s) or location(s) (subject to the Judge's approval), in conjunction with a Defendant's specified condition of pre-trial release or post-conviction probationary period; and

**WHEREAS**, statistical crime and prosecution data, in conjunction with prior criminal history information and case disposition data, can be utilized as effective tools to acquire a detailed understanding of those defendants committing criminal law violations within the City, and further provide relevant knowledge surrounding their criminal conduct; and

**WHEREAS**, for those defendants that do not have any prior criminal history, and are true first-time offenders, a diversionary program would be appropriate for these individuals based upon their lack of criminal convictions, at the discretion of the City's Municipal Prosecution Team; and

**WHEREAS**, statistical data can also assist in identifying any shortcomings that have impacted the successful prosecution of those persons committing criminal offenses in the City, and can further assist in identifying any tools, policies and/or resources which may be utilized to enhance and take a more aggressive stance pertaining to future prosecutions.

**NOW THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, directing the City Attorney's Office and City Administration to provide all pertinent statistical data relating to municipal ordinance violations for those matters within the City's prosecutorial authority for the last five (5) years, including all data for arrests, prosecutions, dismissals (by the court or by prosecutors), convictions/adjudications, and the assigned judge; and further, directing the City Administration to take all necessary steps to establish a diversionary program to be utilized by the Municipal Prosecution Team for those first-time offenders charged with municipal ordinance violations, and directing the City Attorney's Office to utilize stay away orders as an enforcement tool to address quality of life offenses in the City.

**PASSED and ADOPTED** this \_\_\_\_\_ day of October, 2021.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Steven Meiner)

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney A.B.

10/11/21  
\_\_\_\_\_  
Date