

RESOLUTION NO. 2021- _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RELATING TO THE CITY'S MUNICIPAL PROSECUTION PROGRAM; DIRECTING THE CITY ATTORNEY'S OFFICE TO APPEAL CASES THAT ARE DISMISSED BY THE COURT, IN WHICH THE DEFENDANT EITHER HAS A PRIOR ARREST OR IS A REPEAT OFFENDER ANYWHERE IN THE UNITED STATES; AND FURTHER DIRECTING THE CITY ATTORNEY'S OFFICE TO PROSECUTE THOSE CASES, IN WHICH THE DEFENDANT EITHER HAS A PRIOR ARREST OR IS A REPEAT OFFENDER ANYWHERE IN THE UNITED STATES, UNLESS THERE ARE EXCEPTIONAL CIRCUMSTANCES BASED ON THE EVIDENCE AND LAW; AND FURTHER DIRECTING THE CITY ADMINISTRATION, BY AND THROUGH THE MIAMI BEACH POLICE DEPARTMENT, TO OBTAIN OR PROVIDE ACCESS, IN A MANNER CONSISTENT WITH THE NEEDS OF THE CITY'S MUNICIPAL PROSECUTION TEAM, THE NATIONAL PRIOR CRIMINAL CONVICTIONS (NOT JUST LOCAL CRIMINAL PRIORS) FOR ALL DEFENDANTS CHARGED EXCLUSIVELY WITH MUNICIPAL ORDINANCE VIOLATIONS.

WHEREAS, the City of Miami Beach (the "City") continues to be inundated with a significant amount of quality of life offenses and crimes, which take place and persist within its jurisdictional boundaries; 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 Judges of the County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, have a considerable amount of discretion pertaining to misdemeanor cases involving these quality of life offenses, and generally have not been receptive to the City's efforts in the prosecution of its municipal offenses based upon the hierarchy and severity of other state law criminal cases pending in the County Court; and

WHEREAS, Florida statutory law and the Rules of Criminal Procedure expressly set forth the authority that the County Court possesses during the pendency of a criminal case, which neither permits nor authorizes the dismissal of the City's criminal case(s) against the City's objection(s), and therefore is legally improper; and

WHEREAS, the City's sole recourse to address an improper court dismissal of the City's case(s) requires an appeal of the adverse dismissal order to the Eleventh Judicial Circuit, sitting in its appellate capacity, which should result in the reversal of the dismissal and further establish legal precedent prohibiting these court dismissals; and

WHEREAS, the City has continued to experience an increasingly large number of visitors and tourists during various periods throughout the year, and a predominate number of those individuals arrested for violating the City's quality of life criminal ordinances resided out-of-state, and therefore; possessed no local criminal history; and

WHEREAS, the Municipal Prosecution Team's inability to ascertain and obtain those defendants' comprehensive national prior criminal convictions unequivocally hinders the successful prosecution of those out-of-state defendants, including addressing the County Court Judges' requests for prior criminal history and advocating for potential criminal penalties; and

WHEREAS, a more thorough and assertive stance pertaining to the prosecution of those individuals exclusively charged with violating the City's criminal ordinances is essential to address these quality of life crimes in the City and, in conjunction with obtaining comprehensive national prior criminal convictions of such individuals, will ensure to create a more positive stride in improving the health, welfare and safety of the City's residents and guests.

NOW THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby directing the City Attorney's Office to appeal cases that are dismissed by the court, in which the defendant either has a prior arrest or is a repeat offender anywhere in the United States; and further directing the City Attorney's Office to prosecute those cases, in which the defendant either has a prior arrest or is a repeat offender anywhere in the United States, unless there are exceptional circumstances based on the evidence and law; and further directing the city administration, by and through the Miami Beach Police Department, to obtain or provide access, in a manner consistent with the needs of the City's Municipal Prosecution Team, the national prior criminal convictions (not just local criminal priors) for all defendants charged exclusively with Municipal Ordinance Violations.

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