

# CITE AND RELEASE: PROTECTING IMMIGRANTS AND DISRUPTING CARCERAL SYSTEMS

## **THE PROBLEM**

Mass incarceration is the result of discrimination, profiling, and unfair sentencing. Research shows that stop and search rates are significantly higher for people of color, a reality that disproportionately impacts BIPOC communities.<sup>1</sup> Immigrants are particularly vulnerable to the disproportionate profiling and arrests of people of color. Once targeted by the criminal legal system, immigrants can become part of the arrest to deportation pipeline. From there, processing techniques vary, but in the vast majority of arrests—custodial arrests where individuals are taken to a police precinct for processing—fingerprinting occurs, and the data then ends up being shared with national entities such as Immigration and Customs Enforcement (ICE). Arrests for low-level offenses can have a long-term negative impact on an individual’s ability to secure employment, housing, health care, and immigration status.<sup>2</sup>

Fingerprints routinely taken by police in the immediate aftermath of a criminal arrest are automatically shared with the Federal Bureau of Investigation (FBI), who then shares them with ICE. This is the case regardless of any sanctuary laws localities or states may have passed to protect their immigrant community members from immigration enforcement. This means that one arrest—even if criminal charges are never filed with a court—can result in immigration detention and deportation. This can happen in cases when an immigrant community member is undocumented or has a prior criminal conviction that puts their current immigration status at risk.

These potential immigration consequences of a criminal arrest are a vivid example of how the immigration system relies on and compounds the racial injustices of the criminal legal system. For example, one in three Black men and one in six Latino men born today can expect to experience incarceration in their lifetimes.<sup>3</sup> Additionally, more than one in four people arrested on drug-related charges in 2015 were Black, although drug use rates do not differ significantly by race and ethnicity.<sup>4</sup> Meanwhile, although only seven percent of

immigrants who are not U.S. citizens are Black, they make up twenty percent of those facing deportation on criminal grounds.<sup>5</sup>

## **THE SOLUTION**

Localities should pass a “cite and release” ordinance—allowing for citations instead of custodial arrests—to reduce the taking and sharing of fingerprints by police. A citation is “a written or electronic order issued by a law enforcement officer or another authorized official. Instead of an arrest or continued detention, the citation releases the person on the promise to appear in court (or another government office) or pay a fine.”<sup>6</sup>

The ordinance should cover as many offenses as possible, include strict limits on police officer discretion about whether to issue a citation or make an arrest and provide for a wide range of acceptable IDs to be sufficient for a citation. The use of citations can couple with diversion programs that avoid jail time or fines. Examples of offenses included in cite and release policies include marijuana possession, driving without a license, and shoplifting.

Cite and release policies, by design do not require fingerprinting. Citations also make it more likely that the charge will be dismissed due to a diversion program. As such, they help those struggling to maintain access to critical services and programs, stay competitive for job opportunities, and mitigate the immigration consequences of their contact with the criminal legal system. In these ways, cite and release policies serve to disrupt data sharing that contributes to arrests and deportation pipeline. Additionally, cities and counties pay a significant amount in costs associated with physical arrests, which could be saved or redirected towards addressing other public safety needs.<sup>7</sup>

## **LOCAL EXAMPLES**

Several localities in Texas, including **Austin** and **Bexar County**, implemented cite and release policies over the past two years. These policies are intended to reduce arrests, particularly for low-level offenses. In Bexar County, the cite and release program allows

individuals with certain misdemeanors to qualify for a citation and completion of a diversion program. The individual has 30 days to report to the county re-entry center for a case review with a prosecutor to determine eligibility for the program. Upon successful completion of the diversion program, within 60 days, the low-level charge is dismissed.

**Austin** passed a cite and release policy in 2019, as part of a set of Freedom City policies.<sup>8</sup> The city saw a 20 percent decrease in discretionary arrests in the first three months and a 57 percent decrease from 2018 levels.<sup>9</sup>

In February 2020, **Cambridge** unanimously passed a law to codify the existing practice of issuing summons to undocumented immigrants driving without a license.<sup>10</sup> The law also prohibits police from asking about a person's immigration status.

Localities that already have cite and release policies can consider ways to improve their programs. For example, in April 2015, **New York City** announced changes to improve their summons program, including through robocall reminders, clearer forms, and a flexible court appearance option pilot in **Manhattan**.<sup>11</sup> These changes all aimed to reduce the number of arrest warrants issued due to missed court appearances. From 2016 to 2017, opt-in text reminders helped reduce missed appearances by 26 percent.<sup>12</sup>

Cite and release policies should be considered one of many ways to reduce the negative impact that criminal arrests have on our communities and immigrants in particular. For example, localities should also advocate for their local District Attorneys' offices to decline to prosecute certain offenses and support state-level decriminalization and legalization efforts. Efforts gaining traction include marijuana decriminalization and legalization, drivers' licenses for all regardless of immigration status, and decriminalization of sex work.

## **LANDSCAPE AND RESOURCES**

ILRC has more information about **Bexar County**,<sup>13</sup> and the Immigrant Defense Project offers recommendations for aligning immigration and criminal system demands during COVID-19.<sup>14</sup> The Texas Organizing Project supports extensive cite and release reform efforts across the state.

*Co-authored by Center for Popular Democracy and United We Dream.*



# NOTES

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7. <https://www.kens5.com/article/news/local/law-enforcement/das-cite-and-release-program-yields-savings-seeks-expansion/273-39005734-cc1f-447c-8d0b-f26570d90ab3>
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