

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

RESOLUTION SEEKING A POLICY RECOMMENDATION FROM THE OAKLAND POLICE COMMISSION FOR BICYCLE AND PEDESTRIAN STOPS; AND ADOPTING AN INTERIM MORATORIUM ON THE OF ARREST OF PERSONS FOR BICYCLE AND PEDESTRIAN VIOLATIONS BY THE OAKLAND POLICE DEPARTMENT; AND REQUESTING AN INFORMATIONAL REPORT FROM THE OAKLAND POLICE DEPARTMENT REGARDING THE CIRCUMSTANCES AND NUMBER AND DEMOGRAPHICS OF BICYCLE AND PEDESTRIAN STOPS, TICKETS AND RELATED ACTIONS.

WHEREAS, throughout the City of Oakland, 24% of the residents are Black, yet 68% of police bicycle/pedestrian stops are of Blacks according to a 2019 study done by Bike-Lab.org;

WHEREAS, 23% of the stops occur in just three police beats in West and East Oakland, and the residents of those beats are predominantly people of color (74%), however, Blacks are significantly more likely to be stopped wherever they are in the city; and

WHEREAS, on August 3, 2018, Najari Smith was arrested during a peaceful bike ride with a group of organized by multiple local Black-led community cycling organizations in memory of Nia Wilson, an African American women fatally stabbed at the MacArthur BART station; and

WHEREAS, On June 30, 2020, the City Attorney was authorized and directed to settle the case of Najari Smith v. City of Oakland; United States District Court Case No. 19-cv06527- City Attorney File No. 33166, for the total sum of one hundred forty-seven thousand five hundred dollars (\$147,500.00) was awarded to Najari Smith as part of the settlement; and

WHEREAS, this substantial use of police resources for arrests of bicyclists and pedestrians creates diversion from responding to serious crime, additional legal liability, and consumes stretched Oakland monetary resources, as well as leaving less OPD personnel resources available to respond to more serious and/or violent crime; and

WHEREAS, in a study conducted by Stanford University, *Data For Change: A Statistical Analysis for Police Stops, Searches, Handcuffing, and Arrests in Oakland*, reported approximately

6,995 pedestrians stopped by Oakland Police Department (OPD), which amounts to 24.9% of stops made by OPD; and

WHEREAS the *Data For Change: A Statistical Analysis for Police Stops, Searches, Handcuffing, and Arrests in Oakland* reported approximately 1,081 bicyclist were stopped by Oakland Police Department (OPD), which amounts to 3.8% of stops made by OPD; and

WHEREAS, the *Data For Change: A Statistical Analysis for Police Stops, Searches, Handcuffing, and Arrests in Oakland* reported African Americans are approximately 59.8% of all stops by OPD; and

WHEREAS, the reported reasons for OPD stops account for approximately 64.4% are traffic violations, approximately 20.8% are for probable cause, approximately 8.7% are for reasonable suspicion of a crime, and approximately 1.8% are questioned if a person is on parole or probation; and

WHEREAS, in 2019, OPD reports that pedestrian encounter arrests, resulting from a dispatched call for service, made up 42% of all arrests; and

WHEREAS, in 2019, for non-dispatched, pedestrian and bicycle encounter arrests represented at least 12% of all arrests or about 1.032 individuals; OPD officers assigned to patrol made more than 50% of these arrests, and

WHEREAS, jaywalking enforcement disproportionately targets people of color. In 2019, 90% of illegal-walking tickets issued by New York police were to Black and Hispanic residents;

WHEREAS, the City of Oakland seeks to be a model both for bicycling and sustainable transportation, and a leader in working for racial justice, this incident goes against what Oakland stands for; now, therefore be it

RESOLVED: The Oakland City Council adopts an interim moratorium (**for six months**) on arresting, detaining, and/or handcuffing for any “non-violent” traffic related violation of the vehicle or Oakland municipal code involving a pedestrian and bicyclist; and be it

FURTHER RESOLVED: the Oakland City Council requests, prior to the end of the six month moratorium, a report on bicycle and pedestrian stops including a breakdown of the purpose, outcome, and demographics of bicycle and pedestrian stops, and recommendations and options for subsequent policies, and be it

FURTHER RESOLVED, the Oakland City Council requests the City to bring a report to Council on options for civilian personnel to perform education and enforcement function for bicycle and pedestrian violations; and be it

FURTHER RESOLVED: the Oakland City Council requests that the Oakland Police Commission provide to the City Council with policy recommendations for a bicycle and pedestrian stop policies.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID,
TAYLOR, THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
Acting City Clerk and Clerk of the
Council of the City of Oakland,
California