

Durham Human Relations Commission
Response to FADE Recommendations, January 8, 2018

1. Recommendation from FADE: Continue looking at making low-level marijuana a low-level enforcement priority (LLEP). In addition to Seattle's LEAD program, look at Atlanta's pre-arrest diversion program.

- a. Background:

- In 2014, the city of Durham Human Relations Commission (HRC) recommended "the City of Durham reach out to municipalities, such as the City of Seattle, WA, to make inquiries about their initiatives regarding making marijuana arrest a low priority." The HRC did not, at that time, formally endorse the full FADE recommendation related to LLEP. See item 14 [here](#).
- In 2016, FADE asked the Durham City Council to vote on an ordinance and budget directive to carry out the LLEP fully. At that time, the City Council only voted to ask the City Manager to work with the Durham Police Department (DPD) Chief to give preference on treating a low-level marijuana charge as a citation rather than an arrest. Following that vote, the DPD adopted a general order along those lines. See the full minutes of both the FADE request and the City Council action [here](#).
- In 2017, **78% of the 87 people charged with only misdemeanor or drug paraphernalia possession were black**. While 34 of those were citations, DPD ordered or issued a warrant for arrest for at least 36 individuals. (Source: 2017 Durham Police Department Misdemeanor Marijuana Report). The total of those charged with low-level marijuana were lower than in previous years, but the racial disparities persist even though marijuana use is the same across races.
- In April 2018, FADE asked the HRC formally recommend their request that the city fully adopt making low-level marijuana enforcement an LLEP.

- b. **HRC recommendation:** We recommend the City of Durham adopt a formal policy to make low-level marijuana charges an LLEP. We acknowledge the action of City Council in 2016, but a formal policy could better help reduce the racial disparity that still exists around marijuana-related charges. We will share this recommendation with the appropriate parties, including City Council, Durham Police Department, County Commission, District Attorney, and Durham County Sheriff.

2. Recommendation from FADE: To further address racial disparities in traffic stops and searches, Durham should implement policies that minimize regulatory and equipment-based traffic stops.

a. Background:

- Even though the overall number of traffic stops are down from previous years, the HRC asked the DPD what policy ideas or strategies it had to reduce the remaining racial disparities in traffic stops. The response provided in September 2018 states that the department utilizes best practices by the accrediting body for law enforcement agencies, analyzes traffic stop data among employees on a semi-annual basis, reviews random officers' in-car and body-worn cameras, and makes reports available to the public.
- In 2016, vehicle equipment and regulatory stops accounted for 29% of the approximately 14,700 traffic stops that year. This is down from 39% of over 32,000 stops in 2010. (Source: Durham Police Department Traffic Stop Trend Analysis).
- Yet with the overall decrease, racial disparities persist. Data shows vehicle equipment and regulatory stops account for **38% of all black drivers stopped, compared to 25% of white drivers**. Other cities such as Greensboro and Chapel Hill have begun examining policies to de-prioritize these types of stops to reduce racial disparities. (Source: FADE Presentation to the HRC in April 2018).
- These stops lead to concerns about continuing racial disparities in both searches as well searches. In 2016 for example, black drivers who were stopped were searched at a rate 3.38 times that of white drivers. (Source: Durham Police Department Traffic Stop Trend Analysis).
- At the HRC's Immigration Forum in 2018, we received community input that de-prioritizing vehicle equipment and regulatory stops would help reduce the risks facing our immigrant community as well. (Source: June 16 report from HRC Immigration Forum).

b. **HRC recommendations:** Durham should adopt measures that reduce racial disparities in traffic stops and searches. First, we recommend Durham de-prioritize equipment-based traffic stops, including equipment-based checkpoints on roadways if it has not already enacted measures to do. We will share this recommendation with the appropriate parties, including City Council, Durham Police Department, County Commission, District Attorney, and Durham County Sheriff.

3. Recommendation from FADE: Request the city provide the Civilian Police Review Board (CPRB) with investigative power; create a task force that includes all stakeholders, including justice-involved people, to determine other ways in which a public accountability system may be involved; and remove from the list of criteria for eligibility for serving on the CPRB the prohibition of having a criminal record (specifically: “not be convicted of a felony or have pled “nolo contendere” to a felony and not be convicted of a class A1, 1, or 2 misdemeanor within three years prior to appointment to the Board”).

- a. Background:

- In response to a question asked by the HRC, the DPD shared the information that between July 2014 and July 2018, 11 appeals were made to the CPRB. Of those, only two were granted a hearing (both in the same year). The CPRB has not granted a hearing since 2015. This is consistent with trends since the CPRB’s creation more than a decade ago.
- According to the CPRB’s Annual Report for July 2018, the CPRB “voted to remove the language from the Civilian Police Review Board Procedures Manual/Section 1.4 Membership Eligibility ‘all members must not be convicted of a felony or have pled nolo contendere to a felony and not be convicted of a class A1, 1, or 2 misdemeanor within three years prior to appointment of the Board was approved. The recommendation was submitted to the City Manager for action.’

- b. **HRC recommendations:**

- The city, including the city manager and city manager’s office, should investigate how much power the city has in changing the CPRB. The HRC favors giving the CPRB more investigative power if the city, et al., have the authority to do so.
- The city should create a task force that determines other ways in which a public accountability system be involved and that members of said task force reflect the citizenry of the city of Durham, including justice-involved individuals. The outcome of this task force could help ease tension between Durham Police Department and the community.
- The city, including the City Manager and the City Manager’s office, remove the prohibition of having a criminal record from the list of criteria to serve on the CPRB. The HRC favors making the CPRB equitable for all community members, including but not limited to justice-involved individuals.