

Mike Feuer
City Attorney
Office of the City Attorney
James K. Hahn City Hall East
200 North Main Street, 8th Floor
Los Angeles, CA 90012

May 6, 2016

To City Attorney Mike Feuer:

Los Angeles is home to tens of thousands of low-income entrepreneurs who sell food and merchandise on the city's sidewalks and in city parks. Sidewalk vending provides an economic lifeline for many, and generates significant economic activity that benefits customers, brick-and-mortar suppliers, and the regional economy. Yet the city's complete criminal ban on sidewalk vending currently prevents thousands from entering the formal economy and perpetuates a cycle of criminalization, undue hardship, and poverty. It is time for a new approach. As City Council considers a program to enable vendors to work legally, the City Attorney can play an important role in pivoting away from criminalization towards opportunity and inclusion.

The attached memorandum outlines the legal authority for the City Attorney to exercise prosecutorial discretion in connection with these issues. Until the City Council adopts a comprehensive legal framework for sidewalk vending, the undersigned urge you to exercise your prosecutorial discretion and take the following action to provide relief for street vendors in Los Angeles:

- Publicly commit to not pursuing *any* misdemeanor sidewalk vending prosecutions or failure to appear prosecutions for sidewalk vending citations;
- Request dismissal of misdemeanor and infraction sidewalk vending citations pursuant to Penal Code Section 1385 for defendants who will suffer a significant financial hardship if required to pay the fines;
- Dismiss, in the interest of justice, administrative (ACE) citations for sidewalk vending for defendants who will suffer a significant financial hardship if required to pay the fines.

We look forward to discussing these recommendations.

Sincerely,

A New Way of Life Reentry Project
ACLU of Southern California
East LA Community Corporation
Legal Aid Foundation of Los Angeles
Los Angeles Street Vendor Campaign
National Lawyers Guild – Los Angeles
Public Counsel
UCLA Criminal Defense Clinic
UCLA Labor Center
Union de Vendedores Ambulantes
Union del Barrio

MEMORANDUM

TO: City Attorney Mike Feuer

DATE: May 6, 2016

RE: The City Attorney should use his legal authority to relieve low-income street vendors from excessive criminal justice debt and ongoing criminalization.

I. Introduction

Los Angeles is home to tens of thousands of low-income entrepreneurs who sell food and merchandise on the city's sidewalks and in city parks. Most sidewalk vendors sell low-cost items like clothing and handcrafts. Sidewalk vendors provide a convenient service for their customers and they rely on income from these sales for daily survival.¹

Sidewalk vending allows families with very low incomes to pay rent and buy basic necessities. It provides an important opportunity for low-wage workers who have been excluded from the economic recovery. In addition to providing a crucial economic lifeline for thousands of residents, vending also generates significant economic activity that benefits customers, brick-and-mortar suppliers, and the regional economy. While a typical vendor makes only ten thousand dollars per year, in aggregate sidewalk vendors contribute over a half billion dollars to the regional economy.²

Despite these benefits, Los Angeles has pursued a failed and punitive policy of criminalizing sidewalk vending. It is currently the only major city in the United States that does not permit any sidewalk vending. In 2014, police issued nearly 900 citations to residents selling goods on city sidewalks.³ The maximum fine for sidewalk vending is \$1000.⁴ Court fees and penalty assessments are several times the base fine. Thus, a vendor sentenced to pay an \$80 fine will owe over \$480 after fees and assessments are added.⁵ If the entire fine is not paid on time, an additional \$300 civil penalty is added.⁶

¹See Ruben Vives, *Street Vendors on Figueroa Street: An Entrepreneurial Spirit Rises from the Depths of Poverty*, L.A. TIMES, April 14, 2016, available at <http://www.latimes.com/local/california/la-me-la-street-vendors-20160414-story.html>.

²Surveys indicate that the average sidewalk vendor makes about \$10,098 in revenue per year. Approximately 50,000 sidewalk vendors work in Los Angeles, making vending over a half-billion dollar industry. YVONNE YEN LIU ET AL., SIDEWALK STIMULUS, ECONOMIC ROUNDTABLE (2015).

³City of Los Angeles Presentation on Sidewalk Vending, June 18, 2015 available at <http://sidewalkvending.lacity.org/documents/English/Sidewalk%20Vending%20PowerPoint%208.pdf>; See also Report from Board of Police Commissioners, December 17, 2013, available at http://clkrep.lacity.org/onlinedocs/2013/13-1092_rpt_bpc_12-17-13.pdf (indicating that the LAPD issued 889 citations in 2012).

⁴Los Angeles Municipal Code § 11.00(m).

⁵See Cal. Gov. Code § 70373 (adding a thirty-five dollar criminal conviction assessment); Cal. Penal Code § 1465.7 (applying a 20% criminal surcharge fee); Cal. Gov. Code § 76000 (assessing seven dollars of every ten dollars, or part of ten dollars, upon every fine for the County Penalty Fund); Cal. Gov. Code § 70372a (assessing three dollars of every ten dollars, or part of ten dollars, upon every fine for the State Court Facilities Construction Fund); Cal. Penal Code § 1464 (assessing ten dollars of every ten dollars, or part of ten dollars, upon every fine for the State Penalty Fund); Cal. Gov. Code § 70372 (assessing two dollars of every ten dollars, or part of ten dollars, upon every fine for the State Immediate and Critical Needs Account); Cal. Gov. Code § 76104.7 (assessing four dollars of every ten dollars, or part of ten dollars, upon every fine for the State DNA Identification Fund); Cal. Gov. Code § 76104.6 (assessing one dollar of every ten dollars, or part of ten dollars, upon every fine for the County DNA Identification Fund); Cal. Gov. Code § 76104.7 (assessing two dollars of every ten dollars, or part of ten dollars, upon every fine for

MEMORANDUM

Vendors also face the possibility of arrest, misdemeanor prosecution, and the attendant immigration consequences. Enforcing the ban is harming both vendors and the City of Los Angeles.⁷

Many sidewalk vendors already living in poverty currently owe thousands of dollars in fines and penalties.⁸ In cruel irony, these fines are the consequence of their efforts to escape poverty through entrepreneurship and productive contribution to our economy. Vendors with unpaid fines are often afraid to appear in court or apply for a driver's license, which can lead to additional criminal charges for failing to appear or driving without a license, perpetuating a cycle of poverty and criminalization.⁹ This process contributes to the dramatic racial disparities in arrests related to unpaid fines.¹⁰

We are asking City Attorney Mike Feuer to use his authority as public prosecutor and elected public servant to provide relief for sidewalk vendors.¹¹ We must rethink the failed approach of complete criminalization of sidewalk vending. This calls for both legislation *and* prosecutorial discretion. As City Council considers a program to enable vendors to work legally,¹² the City Attorney should exercise his legal discretion on behalf of low-income sidewalk vendors who continue to be criminalized for their trade. This memo outlines three actions the City Attorney can immediately take to allow sidewalk vendors to come back into good standing with the criminal justice system and spare many the painful decision of choosing between buying basic necessities and paying their citations. Until the City Council adopts a comprehensive legal framework for sidewalk vending, City Attorney Mike Feuer should:

1. Publicly commit to not pursuing *any* misdemeanor sidewalk vending prosecutions or failure to appear prosecutions for sidewalk vending citations;
2. Request dismissal of misdemeanor and infraction sidewalk vending citations pursuant to Penal Code Section 1385 for defendants who will suffer a significant financial hardship if required to pay the fines;
3. Dismiss, in the interest of justice, administrative (ACE) citations for sidewalk vending for defendants who will suffer a significant financial hardship if required to pay the fines.

the County Maddy Emergency Medical Services Fund); Penal Code §1465.8 (applying a forty dollar "Court operations assessment" per conviction); Cal.Gov. Code §76000.10 (assessing a four dollar fee for the Emergency Medical Air Transportation Act Fund).

⁶Cal. Penal Code § 1214.1(a).

⁷Criminalizing sidewalk vending undermines the city's goal of reducing homelessness by limiting opportunity and asking impoverished households to pay costly fines and fees.

⁸The federal poverty line for a single adult is an income of \$11,770 per year. Annual Update of HHS Poverty Guidelines, 60 Fed. Reg. 16, 4036 (Jan. 25, 2016).

⁹Cal. Penal Code § 853.7. Community service is not a solution for most street vendors with unpaid fines. After accounting for agency fees, community service hours may be credited at below minimum wage. As one recent report put it, this system "closely resembles wage garnishment at the unconscionable rate of 100%." Street vendors are predominately low wage workers who cannot afford to spend dozens, or even hundreds, of hours in uncompensated work. See NOAH ZATZ ET AL., GET TO WORK OR GO TO JAIL: WORKPLACE RIGHTS UNDER THREAT 7 (2016) available at <http://www.labor.ucla.edu/publication/get-to-work-or-go-to-jail/>.

¹⁰See STOPPED, FINED, ARRESTED: RACIAL BIAS IN POLICING AND TRAFFIC COURTS IN CALIFORNIA (2016) available at <http://www.ebcl.org/backontheroad>.

¹¹Los Angeles City Charter § 271.

¹²See Council File 13-1493 available at

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1493>.

MEMORANDUM

As we move towards a fair and inclusive program for sidewalk vending in Los Angeles, the City Attorney has a crucial role to play. By taking the above actions, the City Attorney can relieve vendors of the accumulated criminal justice debt and alienation that has resulted from years of criminalization and help pave the way for meaningful economic opportunity.

II. Sidewalk vending in Los Angeles

It is estimated that tens of thousands of Angelenos work as sidewalk vendors.¹³ Most sidewalk vendors sell merchandise, while a smaller number sell food.¹⁴ Sidewalk vendors offer value and convenience to their customers and contribute to the cultural vibrancy of the city. Despite these benefits, the city prohibits nearly all sidewalk vending.¹⁵ This leads to thousands of unnecessary confrontations between police officers, private security guards, and vendors. Emboldened by the blanket ban on sidewalk vending, private security guards often harass vendors and destroy their property.¹⁶ The Los Angeles Police Department and the Fashion District Business Improvement District are facing civil liability for unconstitutionally confiscating and destroying street vendor property during enforcement actions.¹⁷

Many city leaders recognize that the ban on sidewalk vending is a failed policy. In November 2013, Los Angeles City Council members Jose Huizar, Curren Price, and Joe Buscaino introduced a motion directing the Chief Legislative Analyst to recommend regulations allowing food and merchandise vending on city sidewalks.¹⁸ The City Council is now developing a program to allow sidewalk vendors to work legally and join the formal economy. However, as the legislative process unfolds, thousands of low-income, mostly immigrant, entrepreneurs are subject to ongoing criminalization and prevented from providing for their families, developing their businesses, and contributing to their communities without fear of arrest and criminal penalties.

For vendors, paying criminal justice debt often means foregoing basic necessities

Antonia and her husband work as vendors selling prepared foods. Together, they earn enough money to rent a room and pay for basic necessities. Most months they are able to send a little extra money to their daughter, who is pursuing a degree in social work, and help support Antonia's elderly mother, who requires medication for high blood pressure and asthma. If required to pay a vending citation, Antonia would have to forego basic necessities or withhold much needed support for her mother and daughter.

¹³Tso, Sharon M. (Nov. 2014). City of Los Angeles Sidewalk Vending Status Report, Chief Legislative Analyst report to Economic Development Committee, available at http://clkrep.lacity.org/onlinedocs/2013/13-1493_rpt_cla_11-26-14.pdf.

¹⁴*Id.*

¹⁵All sidewalk vending is prohibited except a few narrow forms of vending protected by the First Amendment. See LAMC § 42.00(b)(1-3).

¹⁶Emily Alpert Reyes, *L.A. Street Vendors Say Police Confiscate Goods but Don't Give Receipts*, L.A. TIMES, Jan. 15, 2015, available at <http://www.latimes.com/local/cityhall/la-me-street-vending-confiscations-20150115-story.html>.

¹⁷Emily Alpert Reyes, *Sidewalk Vendors Sue L.A., Say City Seized Their Carts and Belongings*, L.A. TIMES, Oct. 29, 2015, available at <http://www.latimes.com/local/lanow/la-me-ln-street-vendors-cart-seizure-lawsuit-20151028-story.html>.

¹⁸See Council File 13-1493 available at <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1493>.

MEMORANDUM

III. The statewide ticket amnesty law fails to reach most sidewalk vendors.

In June 2015, lawmakers enacted a statewide amnesty program for old traffic tickets and infraction citations.¹⁹ This program was adopted to provide relief for those “in violation of a court-ordered obligation because of unpaid traffic bail or fines.”²⁰ The program reduces the fines on old infraction citations by up to 80% for low-income residents and waives the \$300 civil assessment fee. When signing the bill, Governor Brown outlined the cycle of poverty created by excessive fines: base fines are inflated several-fold by additional fees, subsequent prosecutions for failure to appear or failure to pay add hundreds more in fines, and, in some cases, an arrest warrant is issued.²¹ He described the process as “a hellhole of desperation” and offered the amnesty program as a first step toward reform.²²

Unfortunately, the amnesty program is limited in scope and fails to reach many sidewalk vendors. Eligibility is restricted to citations due on or before Jan. 1, 2013. Most vendors who have sought consultation about their eligibility for the program have found that they are not eligible because, in addition to other factors, their tickets fall outside of the required time period. The City Attorney’s office has already commented on the limited reach of this law.²³ Although the amnesty program promised widespread relief, most vendors are not eligible for this program.

IV. The City Attorney should exercise his discretion and provide relief for sidewalk vendors.

Currently, sidewalk vending can be prosecuted as a misdemeanor, infraction, or administrative citation. Regardless of how the citation is prosecuted, there is an opportunity for the City Attorney to provide relief for vendors.²⁴ Until the City Council adopts a comprehensive legal framework for sidewalk vending, the City Attorney should exercise his clear legal authority to help vendors by taking the following actions: (A) publicly commit to not initiating *any* misdemeanor sidewalk vending prosecutions or failure to appear prosecutions for sidewalk vending; (B) request dismissal of sidewalk vending misdemeanor and infraction citations pursuant to Penal Code Section 1385 for defendants who will suffer a significant financial hardship if required to pay the fines; (C) dismiss, in the interest of justice, administrative citations for sidewalk vending for defendants who will suffer a significant financial hardship if required to pay the fines.

¹⁹Cal. Vehicle Code § 42008.8 (Jun. 24, 2015).

²⁰*Id.*

²¹Cal. Penal Code § 853.8.

²²Chris Megerian, *Revised California Budget Plan Helps Schools and the Poor*, L.A. TIMES, May 14, 2015, available at <http://www.latimes.com/local/politics/la-me-pol-state-budget-20150515-story.html>.

²³Gale Holland, *Homeless Could Get Minor Citations Cleared if They Accept Services*, L.A. TIMES, July 26, 2015, available at <http://www.latimes.com/local/lanow/la-me-ln-councilman-announces-program-to-assist-homeless-with-citations-20150726-story.html>.

²⁴In April 2015, the UCLA Criminal Defense Clinic issued a report urging the City Attorney to exercise his discretion on behalf of sidewalk vendors. The present memorandum contains similar recommendations and elaborates on the legal authority allowing the City Attorney to act. See UCLA CRIMINAL DEFENSE CLINIC, CRIMINALIZING THE SIDEWALK (2015), available at <http://webshare.law.ucla.edu/Communications/Criminalizing%20the%20Sidewalk%20-%20A%20Report%20by%20the%20UCLA%20Criminal%20Defense%20Clinic%20-%20April%202015.pdf>.

MEMORANDUM

These measures would provide relief to vendors like Antwan

Antwan has been homeless for most of his young adult life. His mother died in a car accident when he was in high school and his father moved to Las Vegas, leaving Antwan in Los Angeles. After aging out of a Salvation Army shelter for homeless youth, Antwan survived by selling candy and bottled water on the street. He then enrolled at Southwest College. Shortly after enrolling, Antwan suffered debilitating vertigo and physicians at Cedars-Sinai hospital discovered a tumor. Facing these challenges, Antwan has relied on street vending to survive in spite of having some unpaid street vending tickets. His current goal is to clear up his debt and get a business license.

A. The City Attorney should not initiate any misdemeanor sidewalk vending prosecutions or related failure to appear prosecutions.

The City Attorney has broad discretion as public prosecutor to decide which crimes to prosecute.²⁵ In exercising his discretion, the City Attorney should consider not only whether there is sufficient evidence to support a conviction, but whether prosecution is in the interest of justice.²⁶

Sidewalk vending citations under Los Angeles Municipal Code Sections 42.00(b) and 63.44(B)(3) may be charged as a misdemeanor, punishable by imprisonment for up to six months.²⁷ As the public prosecutor charged with prosecuting misdemeanor offenses occurring in the city, the City Attorney can and should exercise discretion and, in the interest of justice, refrain from initiating any misdemeanor sidewalk vending prosecutions.

A misdemeanor prosecution is not proportionate to the alleged crime of street vending. For undocumented residents, a prosecution can carry serious immigration consequences. Noncitizens who are arrested or incarcerated face the risk of being transferred to, or picked up by, the Department of Homeland Security (DHS) after release from custody. A conviction can also increase an undocumented resident's priority for removal under the DHS Priority Enforcement Program.²⁸ Media accounts have documented several cases of residents placed in removal proceedings after being arrested for vending.²⁹

A misdemeanor conviction can have other serious immigration consequences. Such a conviction could potentially jeopardize a noncitizen's eligibility for DACA/DAPA. If a long term resident is disqualified from DACA/DAPA based on a misdemeanor conviction, they may miss a crucial opportunity

²⁵"It is well settled that the prosecuting authorities, exercising executive functions, ordinarily have the sole discretion to determine whom to charge with public offenses and what charges to bring." *People v. Birks*, 19 Cal. 4th 108, 134 (1998); *See also* Los Angeles City Charter § 271(c) Powers and Duties.

²⁶*See Steen v. Appellate Div. Superior Court*, 59 Cal. 4th 1045, 1055 (2014). *See also* Criminal Justice Standards Comm., Am. Bar Ass'n, Standards for Criminal Justice Standard 3-1.2(c) ("The duty of the prosecutor is to seek justice, not merely to convict.")

²⁷LAMC §11.00(m).

²⁸*See* "Policies for the Apprehension, Detention and Removal of Undocumented Immigrant," Memorandum from Jeh Charles Johnson, Secretary of Homeland Security, Nov. 20 2014.

²⁹*See e.g.*, Gordon Tokumatsu, *New Front in the Immigration Fight: Ice Cream Carts*, NBC LOS ANGELES (Feb. 18, 2011), <http://www.nbclosangeles.com/news/local/New-Front-in-the-Immigration-Fight-Ice-Cream-Carts-116436884.html>, and Jorge Luis Macias, *Immigration Activists Call For End Of Secure Communities Program*, HUFFINGTON POST (Oct. 18, 2011), http://www.huffingtonpost.com/2011/08/18/immigration-activists-secure-communities-program_n_930637.html.

MEMORANDUM

to receive work authorization and find employment in the formal sector.³⁰ Misdemeanor convictions may also create barriers to other immigration benefits for which a noncitizen must demonstrate “good moral character,” including eligibility for naturalization.³¹ Imposing such harm on an already vulnerable group of low-income residents for minor violations does not advance public safety or societal interests. While most vending citations are prosecuted as infractions, the City Attorney should publicly commit to not initiating *any* misdemeanor prosecutions for sidewalk vending.

Furthermore, vendors with outstanding fines are often apprehensive about contact with law enforcement and the court system. If they receive a subsequent citation some vendors will not appear in court out of fear they will be arrested for failing to pay their fines. The court clerk will then file new charges for the crime of failing to appear or may issue a warrant for the vendor’s arrest.³² The fine and fees for failing to appear are hundreds of dollars. When these fines are added to the underlying vending citation, it is virtually certain that a vendor will never be able to pay off the outstanding balance.

Failure to appear proceedings are initiated by court clerks pursuant to Penal Code Section 959.1(c)(1). However, the California Supreme Court has made clear that separation of powers prevents the clerk from initiating criminal proceedings without the prosecutor’s approval.³³ The City Attorney has the legal authority **not** to file any misdemeanor charges for failure to appear based on vending citations.

B. The City Attorney should request dismissal for certain sidewalk vending citations for inability to pay.

The City Attorney should ask the court to dismiss all actions under Los Angeles Municipal Code Sections 42.00(b), 80.73(b)(2)(a), 63.44(B)(3), and Penal Code Section 602.7 for defendants who would face a significant financial hardship if required to pay the fines. Under Penal Code Section 1385, the court will consider dismissing a charge in the interest of justice upon application by the prosecutor.³⁴

Asking the Court to dismiss sidewalk vending citations against low-income defendants is consistent with existing City Attorney policy. For example, through the homeless court clinic (HCC) the City Attorney already acts to relieve some poor residents from the excessive fines for infractions and misdemeanor citations by asking the court to dismiss the citations if the defendant completes community service, job training, or alcohol/drug treatment. The HCC program recognizes that it is counterproductive and unjust to cite homeless people for minor crimes arising out of poverty, and illustrates the City Attorney’s clear authority to dismiss citations.³⁵

The City Attorney's office can establish a simple and accessible process for vendors to apply for relief by asking the court to dismiss all actions brought under Los Angeles Municipal Code Sections

³⁰Consideration of Deferred Action for Childhood Arrivals Process Frequently Asked Questions, USCIS (June 15, 2015), <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions#criminal%20convictions>.

³¹8 U.S.C. § 1427.

³²See Cal. Penal Code § 853.7 and § 853.8.

³³See *Steen v. Appellate Div. Superior Court*, 59 Cal.4th 1045 (2014).

³⁴Cal. Penal Code §1385(a)(“The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. ...”)

³⁵While the HCC program is illustrative of the City Attorney’s clear authority to dismiss citations, in many cases, the program may not be well suited for sidewalk vendors. Sidewalk vendors are low-income workers who often do not have the time and transportation to attend the homeless court clinics. Many vendors do not require the job training, alcohol and drug treatment, and other services associated with homeless court.

MEMORANDUM

42.00(b), 80.73(b)(2)(a), 63.44(B)(3), and Penal Code Section 602.7 for those defendants who attest that paying the fine would create a significant financial hardship. Vendors could apply by mailing a simple form to the City Attorney's office listing their citation number and attesting to their financial circumstances. The form should be available in English and Spanish. Then, the City Attorney can file an application to dismiss the citation in the interest of justice under Penal Code Section 1385.³⁶

Establishing a simple system to dismiss citation for low-income vendors would avoid the type of injustice suffered by Sabas

In Nov. 2013, Sabas received a sidewalk vending citation and owed \$306. Despite having very little income, Sabas saved enough to pay \$256 of the balance. Then Sabas, who is in his 60s, got sick and could not pay the remaining \$50. A civil assessment of \$300 was added to his remaining balance of \$50. Despite paying \$256 towards his \$306 ticket, Sabas still owes \$356 on the ticket—more than the original amount.

C. The City Attorney should dismiss administrative (ACE) citations for sidewalk vending if the fine will create a significant financial hardship.

Sidewalk vendors also receive citations under the administrative citation enforcement (“ACE”) program.³⁷ An administrative citation carries a fine of \$250 for the first violation, \$500 for the second violation, and \$1,000 for the third and subsequent violations.³⁸

In its current form, the ACE program lacks many of the procedural safeguards available in a traditional criminal proceeding. A defendant can be convicted on a lower standard of evidence, as ACE hearings use the preponderance of the evidence standard rather than the more stringent beyond a reasonable doubt standard used in traffic and criminal court.³⁹ There is no procedure for a defendant to confront the police officer who issued the citation and information alleged on the citation is presumed to be true unless the defendant can prove otherwise.⁴⁰ In order to have the citation reviewed by a hearing officer, the defendant must pay the fine first or prove he or she is eligible for a fee waiver.⁴¹ If the defendant requests an administrative hearing to contest the citation, the hearing officer may impose additional administrative and enforcement costs.⁴²

Despite the informal procedures, the consequences of an administrative citation are serious. Failing to pay an administrative citation within 15 days after it becomes due is a misdemeanor punishable

³⁷Section 11.2.03 of the Los Angeles Municipal Code authorizes police officers to issue administrative citations for sidewalk vending.

³⁸LAMC § 11.2.04. In contrast to the steeply increasing fines of the ACE program, the \$50 or \$80 base fine for sidewalk vending infractions typically does not increase for subsequent violations.

³⁹LAMC § 11.2.09(e).

⁴⁰*Id.*

⁴¹LAMC § 11.2.08(a)(2)

⁴²LAMC § 11.2.09(g).

MEMORANDUM

by imprisonment for six months.⁴³ Additionally, the City Attorney retains the ability to charge the defendant with a misdemeanor for the underlying conduct, creating fear and uncertainty even after the administrative citation is resolved.⁴⁴

The City Attorney has great control over how the ACE program operates. If an administrative citation is contested, it is the City Attorney's responsibility to conduct an initial review.⁴⁵ After reviewing the administrative citation, the City Attorney has the authority to dismiss the citation if extenuating circumstances make dismissal appropriate in the interest of justice.⁴⁶ The City Attorney should do this if a vendor requests initial review and attests that paying the fine would create a significant financial hardship.

For administrative citations alleging a violation of Los Angeles Municipal Code Section 42.00(b), 80.73(b)(2)(a), or 63.44(B)(3), vendors should be able to apply for relief by mailing a simple form, available in English and Spanish, to the City Attorney's office listing their citation number and attesting to their financial circumstances. This will reduce the cost of administrative review by the City Attorney's Office and minimize any bureaucratic strain caused by maintaining and tracking these citations. It will relieve sidewalk vendors of the untenable choice of paying an administrative citation they cannot afford or risking a misdemeanor prosecution and imprisonment for failing to pay.

V. Conclusion

As the chief public prosecutor in the City of Los Angeles, the City Attorney has substantial prosecutorial discretion to relieve criminal justice debt. The City Attorney should exercise his discretion to help end the unjust criminalization of sidewalk vendors. The excessive fines and fees from vending citations impoverish thousands of low wage workers and alienate hard working members of our community from the court system and formal financial sector. The criminalization of vendors diverts scarce public resources away from more productive uses. By taking the concrete steps outlined above, the City Attorney can provide relief for low-income vendors and help alleviate this injustice.

⁴³LAMC §11.2.11(e).

⁴⁴LAMC § 11.2.01(d).

⁴⁵LAMC §11.2.08.

⁴⁶LAMC § 11.2.08(a)(1)(A).