

City of Wilmington



MICHAEL S. PURZYCKI
Mayor

October 24, 2024

Dwayne J. Bensing, Esq.
Legal Director
ACLU of Delaware
100 W. 10th Street, Ste. 706
Wilmington, DE 19801

Re: Enforcement of 11 Del. C. § 1321 and City Code Section 36-68.

Dear Mr. Bensing:

I am in receipt of Attorney General Kathleen Jennings' letter to you dated October 18, 2024 regarding the above referenced matter.

As Chief of the City of Wilmington Police Department ("WPD"), I am writing to advise you that the City and WPD agree with and accept the instruction of the Attorney General of Delaware that because of the constitutional concerns raised by the ACLU with regard to the enforcement of 11 *Del. C.* § 1321 ("Loitering; violation"), and 21 *Del. C.* § 4147 ("Pedestrians soliciting rides or business"), that her office will not be enforcing either statute against any Delawarean until the Delaware General Assembly acts to amend these statutes. As such, the City will not be enforcing these statutes as they are currently constituted. For the same reason and after consultation with the City Law Department, I am directing WPD not to enforce the City's nearly identical loitering ordinance embodied by Wilmington City Code Section 36-68.

The City will also instruct its police officers that they may not rely on either the State or the City loitering laws for any law enforcement activity, including any stop, search, or arrest, and that to the extent that there has been any such reliance to date, it will cease immediately. The City will request Wilmington City Code Section 36-68 be removed as a charging option from DELJIS and, with regard to pending charges under this provision of the City Code, if there be any, ask the prosecuting authority to enter a nolle prosequi on the court docket.

The City and WPD will provide training as described in the AG's letter concerning these matters and will take steps to amend WPD's internal policies accordingly.

Sincerely yours,



Wilfredo Campos
Chief
Wilmington Police Department

cc via email: Attorney General Kathleen Jennings
Mayor Michael S. Purzycki
Daniel Logan, Chief Deputy Attorney General
Patricia Davis, State Solicitor
Robert M. Goff, Jr., City Solicitor
Rosamaria Tassone-DiNardo, Deputy City Solicitor
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