

Proposed Response to Grand Jury Report:

“Electric Scooters: Innovation or Disruption?”

IBA Report 19-22 REV

City Council, Item 201

October 28, 2019



Independent Budget Analyst



This report focuses on impacts to the City and its citizens related to scooter usage, as well as regulatory and associated enforcement issues.

- The Grand Jury filed this report on June 20, 2019.
- The report includes 5 findings & 3 recommendations directed to the City Council.
- An extension of the original due date (Sept 18, 2019) was requested/granted.
 - The response is now due to the Superior Court Presiding Judge by Dec 13, 2019.

Development of Proposed Response

- For this Grand Jury report various departments assisted the IBA in the development of the proposed Council response, including:
 - Development Services (DSD)
 - Police
 - Environmental Services
 - Risk Management
 - City Attorney's Office

Prescribed Grand Jury Responses

- For each Finding:
 - Agree
 - Disagree wholly or partially
- For each Recommendation:
 - Has been implemented
 - Has not yet been implemented, but will be
 - Requires further analysis
 - Will not be implemented because it is not warranted or is not reasonable

Finding 01

Dockless scooters are spread out in great numbers on San Diego City sidewalks without approval from the City.

Proposed Response: Partially disagree

- Riders have deposited scooters on SD City sidewalks at widespread levels in the past.
- With the City's Shared Mobility Device (SMD) Ordinance (adopted May 2019), scooter companies have worked on their collection and staging efforts, which has begun to alleviate the issue.
- City has endeavored to install scooter/SMD corrals.

Finding 02

Riders of the dockless scooters are routinely violating the California vehicle code and San Diego City ordinances.

Proposed Response: Partially disagree

- Since SMD Ordinance implementation, scooter-related violations have begun to diminish.
- Some scooter riders continue to illegally travel on sidewalks, and there have been staging violations.
- SMD Ordinance restricts speeds in certain areas.
 - Scooter companies have had varying degrees of success at compliance.
- City sent 6 scooter companies letters re: compliance responsibilities & repercussions for violations (July).



Finding 03

Reckless and improper use of scooters has resulted in one death and many injuries.

Proposed Response: Agree

Finding 04

Scooter accidents are exposing the City of San Diego and its citizens to expensive damage awards as a result of litigation.

Proposed Response: Partially disagree

- While the potential for claims and litigation related to scooter accidents exists, the extent of any damages that may be borne by the City is unknown.
- Although there are outstanding claims and several pending lawsuits against the City, the City has taken action to limit its exposure.
 - This includes permit conditions, such as insurance requirements & indemnification of the City.

Finding 05

San Diego City government has lagged behind other comparable sized cities in regulating the scooter companies' use of the public right of way.

Proposed Response: Partially disagree

- SD dealing with scooter-related issues for some time.
 - May 2018 – Council considered, but did not adopt, emergency ban of scooters on boardwalks.
 - Afterward, the City began developing comprehensive SMD regulations – adopted May 2019.
 - City will consider amendments based on experience.
- Some cities implemented regulations prior to SD; some implemented bans on shared scooter operations.

Recommendation 19-52

Within the next twelve (12) months, rules for micro-mobility companies operating within the City. At minimum, the rules should include designated operating areas, speed limits and per unit licensing fees.

Proposed Response: The recommendation has been implemented.

Response includes information on SMD Ordinance provisions:

- Operating areas with speed restrictions
- Certain permit requirements and fees

Recommendation 19-53

Within the next twelve (12) months, contracts with micro-mobility companies operating within the City. At minimum, the contracts should protect and indemnify the City in the event of liability or damages arising out of the use and operation of the vehicles.

Proposed Response: The recommendation has been implemented.

Response includes information on certain permit conditions including:

- insurance requirements
- indemnification of the City

Recommendation 19-54

Provide additional resources to the SDPD for comprehensive enforcement of existing laws and regulations that pertain to electric scooters and other micro-mobility vehicles. This should include resources for the collection and storage of abandoned, seized and/or impounded vehicles.

Proposed Response: The recommendation has been implemented.

Proposed response states that to be effective, the City's enforcement efforts encompass policing as well as other activities.

Recommendation 19-54 (con't)

Recent notable enforcement and other City efforts:

- installation of scooter/SMD corrals
- impoundment of 2,500 SMDs during July's Comic-Con, and imposition of related fines
- letters to SMD companies in July re: compliance responsibilities and repercussions for violations
- NOVs to SMD companies in Aug
- Administrative Citations (re: staging)
- initiation of a non-compliance proceeding and Notice of Intent to Revoke the SMD permit from Lime – administrative hearing results pending

Recommendation 19-54 (con't)

Ongoing efforts related to enforcement of SMD regulations:

- retaining Sweep Inc. – assists with impounding
- enforcing Vehicle Code violations related to SMDs
 - \$150,000 in FY20 budget, largely for Police overtime
 - special enforcement days in targeted areas
- enforcing SMD Ordinance violations – DSD Code Enforcement
- analyzing data from SMD operators to identify issues and insights related to SMD compliance and usage in the City – Panda to help DSD in this effort

Recommendation 19-54 (con't)

The proposed response also notes:

- In response to the implementation and enforcement of the SMD Ordinance, Uber announced in mid-September that it is pulling its JUMP e-bikes and scooters out of San Diego.
- Skip is also pulling its scooters out of the San Diego market.
- The Active Transportation & Infrastructure Committee received an update on SMD regulation on Oct 23, 2019.

Previous Action

- The Active Transportation and Infrastructure Committee (ATI) reviewed the proposed response on Oct 2, 2019.
- ATI approved the proposed response and forwarded it to Council with one adjustment, which was requested by Uber:
 - Removing “citing excessive regulation” from the response to Recommendation 19-54, third paragraph, as that reference does not accurately reflect the reason for pulling its JUMP e-bikes/scooters out of San Diego.

Next Steps

We request that Council:

- consider a few minor updates to the current proposed response (in Finding 01 and Recommendation 19-54);
- approve the response to the Grand Jury, with the modifications requested, and direct the Council President to deliver the response to the Presiding Judge of the Superior Court by Dec 13, 2019.