



COUNCIL AGENDA: 10/29/19  
FILE: 19-979  
ITEM: 8.2

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Edgardo Garcia

**SUBJECT:** SPECTATOR ORDINANCE  
IMPLEMENTATION UPDATE

**DATE:** October 17, 2019

Approved

Date 10/18/19

## RECOMMENDATION

Accept a report on implementation of the Spectator Ordinance (Chapter 10.50 of the San José Municipal Code) which was enacted by the Council on April 30, 2019.

## OUTCOME

The Spectator Ordinance Implementation Update provides the Council with a report on the ordinance implementation since April 30, 2019.

## BACKGROUND

On April 30, 2019, the City Council approved an amendment to Title 10 of the San Jose Municipal Code to include a new chapter (Chapter 10.50) prohibiting spectators at Street Races and Reckless Driving Exhibitions. As part of the Council's action on this item, it approved a memo issued by Councilmembers Khamis and Esparza which directed that:

Staff return to Council in six months with a report on implementation, including data on the number of arrests, citations, calls, geographic distribution of incidents and possible additional tools or measures to improve enforcement and discourage participation in street racing and sideshows.

After numerous steps were taken to train patrol officers and to release multiple Public Safety Announcements educating the public, the ordinance took effect on July 4, 2019. The ordinance gives officers the discretion to provide verbal warnings, issue citations, or arrest spectators who are present at races and street side show events. The ordinance provides for potential fines of up to \$1000 dollars and/or six months in county jail.

## **ANALYSIS**

### **Implementation**

The Police Department's implementation plan began with the publication of a training bulletin to all Department personnel, training for field personnel, and the release of Public Service Announcements to the community. These preparatory activities were followed by warnings and enforcement throughout July, August, and September. Most often, the warnings and enforcement were performed by officers assigned to Racing Enforcement Detail (RED) teams. RED teams are ad-hoc collections of officers and supervisors who have been removed from the patrol structure to confront racing activities.

#### *Training Bulletin:*

- Training Bulletin number 2019-006 was published on July 3, 2019. It advised all Department members of the new ordinance, described the process for documenting and tracking enforcement, reminded officers of related vehicle code sections, and explained that enforcement would begin on July 4, 2019.

#### *Training of Field Personnel:*

- Briefing Roll Call Training was conducted during patrol briefings from June 24<sup>th</sup>- July 3<sup>rd</sup>, 2019
- The Racer Enforcement Dragnet Course was provided to 40 additional officers on July 3, 2019. This is a 4 hour POST certified class.

#### *Public Safety Announcements:*

- News media interview with Reporter Kiet Do from KPIX, Channel 5  
<https://www.youtube.com/watch?v=y1C5aCvBNJU>
- Department created an Inhouse Educational Video distributed on YouTube, Facebook, and Twitter, and Nextdoor  
<https://www.youtube.com/watch?v=yMu1-IRriy8>
- Mercury News Story  
<https://www.mercurynews.com/2019/04/30/san-jose-considering-new-spectator-ordinance-to-crack-down-on-street-racing-and-sideshows/>

#### *Racer Enforcement Detail Team Operations:*

- Our most commonly used enforcement technique at side show events is to utilize racer trained officers to saturate known locations where side shows occur. These RED teams are selected from the patrol watch list on evenings when social media indicates side show events will occur. RED teams seek to deter groups from gathering by proactively responding to common side show locations in advance of the offenders. Whenever possible, RED teams are staffed with officers who have been trained to identify motor vehicles with illegal modifications that violate California vehicle emission laws. Drivers who are issued emissions citations can be required to report to the State of California

Referee to have their vehicle inspected. Those vehicles are required to pass all smog and emission requirements before being signed off for daily use.

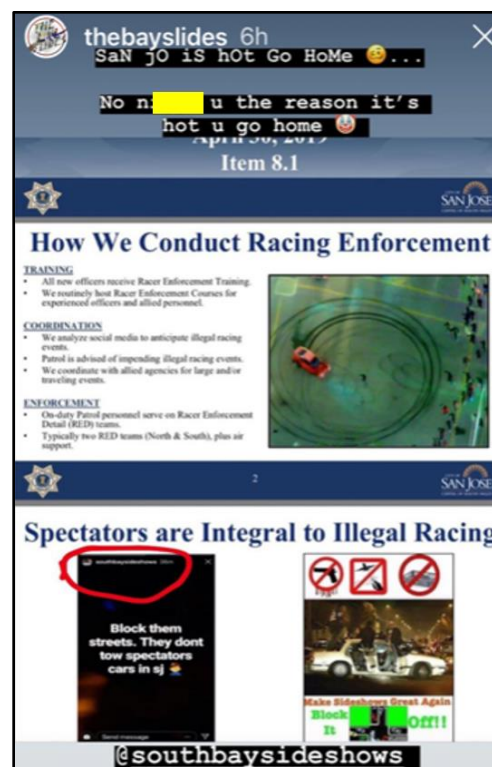
## Enforcement:

### *Metric Methodology:*

- Although training and public messaging took place before the spectator ordinance went into effect in the first week of July 2019, enforcement could not begin until the ordinance took effect. The preparation of this memorandum began in mid-September. Therefore, the dataset in this document spans from July 1, 2019 to September 14.

### *Social Media Response to RED Team Operations:*

- During the same time that the ordinance took effect, the Department noted several social media trends:
  - Side show crews are watching the council's actions. One poster went so far as to repost parts of the April presentation with added commentary about San Jose being inhospitable to side show activities (see right – slur is censored as [REDACTED]).
  - This summer's most common pattern has been for racers to gather in San Jose at traditional meet up locations, but then to leave for other jurisdictions (most commonly in the east bay) rather than conduct actual side shows in San Jose.
  - Side show activity has not stopped, but the crews appear to be looking for ways to mitigate their exposure to the spectator ordinance.
  - The Department believes this social media activity reflects a deterrent effect of the spectator ordinance.



### *Arrests, Citations & Geographical Information:*

- Warnings were given, but by their nature, warnings are not trackable.
- Eleven criminal citations were issued for violation of the spectator ordinance.
- No arrests were made for violating the spectator ordinance.
- Two arrests/citations were made for other related offenses.
- Two vehicles were impounded for related offenses.

- Spectator citations were issued to 10 adults and 1 juvenile.
- The 2 arrests/cites given for other violations were both to adult offenders.

Location	Spectator Ordinance Citations	Spectator Ordinance Arrests	Arrests/Cites For Other Violations	Vehicle Impounds
Hellyer Ave / Fontanoso Way	2	0	1	2
1560 Montague Exp	2	0	1	0
5995 Hellyer Ave	7	0	0	0

See attachment for event summaries of all three enforcement incidents.

### **Additional Tools & Measures**

- The Department is continuing its practice of staffing RED teams by pulling personnel out of the beat structure on an as-needed basis. Our capacity to do this is limited on evenings when call volume is unusually high.
- Additional funding to staff RED teams on overtime would be more reliable than pulling personnel from the patrol structure. Given other priorities, funding was not allocated for this purpose as part of the 2019-2020 Operating Budget, but can be explored again in the next budget cycle in light of the overall budget situation and other program priorities.
- In 2018 and 2019 the Department made grant requests to the State of California Office of Traffic Safety. Both were denied.

### **EVALUATION AND FOLLOW-UP**

This memorandum answers the April 26, 2019 request for a follow-up report on implementation.

### **PUBLIC OUTREACH**

This memorandum will be posted to the City Council Agenda website for the October 29, 2019 Meeting.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

There is no commission recommendation/input associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

October 17, 2019

**Subject: Spectator Ordinance Implementation Update**

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**CEQA**

Not a Project, File No. PP10-068(c), General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

EDGARDO GARCIA

Chief of Police

Attachment:

Spectator Ordinance - Enforcement Summaries

For questions, please contact Christina LaCap, Police Lieutenant, at 408-537-9995.

**Spectator Ordinance - Enforcement Summaries**

July 6, 2019	11:40 pm	Hellyer & Fontanoso	Event: 19-187-1061
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An officer came upon a large crowd of vehicles and pedestrians gathered in the roadway blocking traffic in preparation for a side show. The officer was able to stop one vehicle at the scene. The driver was cited for reckless driving and his car was impounded. The passenger was cited for the spectator ordinance.

During follow-up investigation, the officer located a vehicle and driver who had fled from the scene. The driver was cited for violating the spectator ordinance, evading the police, and reckless driving. The vehicle was impounded.

July 16, 2019	9:17 pm	1560 Montague Exp.	Event: 19-197-1024
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An officer discovered a vehicle doing side show maneuvers in an off-street parking facility. Two spectators were recording the activity on their cell phones. The driver was arrested for reckless driving and the two pedestrians were cited for violating the spectator ordinance.

September 13, 2019	10:47 pm	5995 Hellyer Ave	Event: 19-256-1141
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Officers responded to a report of side show activity at a parking lot in an area known for racing activity. They located evidence of racing activity and found 7 spectators standing within 200 feet of the scene. The subjects admitted to being present for the purpose of filming side show activity. All seven were cited for violating the spectator ordinance.