



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Joe DeVries  
Deputy City Administrator

**SUBJECT:** SUPPLEMENTAL Sideshow Promoter  
and By-Stander Participant Ordinance

**DATE:** December 1, 2022

City Administrator Approval

Date: Dec 1, 2022

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt An Ordinance Adding Chapter 10.74 To The Oakland Municipal Code Imposing Fines And Penalties Against Organizers And By-Stander Participants Of Sideshows**

## **REASON FOR SUPPLEMENTAL**

On November 14, 2022, the City Council Public Safety Committee (PSC) (Committee) voted unanimously to forward the Sideshow Promoter and By-Stander Participant Ordinance to the City Council for consideration. However, the Committee members asked that additional information be provided to the Council regarding implementation, the definition of a promoter, current staffing, intelligence gathering, the status of vehicles involved in sideshows, and youth engagement. Also, the committee asked about additional traffic calming measures to accompany this additional enforcement tool. This report is responsive to those questions.

### **Implementation**

The PSC asked how the City would implement this ordinance with specific concerns about: OPD pursuit of suspects during a sideshow event due to the dangerous nature of pursuits, how individuals will be charged (criminal vs. civil), whether there are options for them to perform community service as opposed to fines, and how the City can avoid penalizing innocent bystanders.

The purpose of this legislation is to provide the City with an additional, alternative enforcement mechanism to address the challenges created by sideshow activity. One of the main benefits of this alternative is that it provides for civil action, which can be implemented via legal service as opposed to only on-the-street enforcement. Providing the City with a means to pursue legal action, particularly against promoters, is intended to reduce the occurrence of sideshow activity, thus reducing the need for in-person enforcement.

To the extent in-person enforcement is used, Oakland Police Department (OPD) policy prohibits the pursuit of vehicles solely for traffic violations. Vehicle pursuits may only be initiated when there is reasonable suspicion to believe the suspect committed a violent forcible crime and/or a crime involving the use of a firearm, or probable cause that the suspect is in possession of a

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firearm. A vehicle solely under investigation for participation in sideshow does not meet this pursuit criteria.

Citations issued in accordance with this ordinance will require the existence of probable cause that the specific person being cited violated the ordinance. This will require the citing officer to have specific, articulable facts as to how the person receiving the citation violated the ordinance.

#### Definition of a Promoter and Bystander Participant

The PSC asked for more detail about how OPD would identify a promoter and bystander participant. The committee also asked the current age range of people cited/arrested during sideshows. Additionally, concern was raised about the impact of penalties and whether those charged could perform community service instead of paying fines. Of the 57 individuals cited/arrested in 2021 under existing law, 46 were between the ages of 18 and 29. Only two were juveniles. The remaining 9 were between the ages of 30 and 40.

Sideshow represents a public safety emergency. To assure the safety of the community and those participating in a sideshow, the Oakland Police Department will shut down ingress and egress to sideshow and then facilitate safe egress from the area. In conducting citations, mere geographic proximity to a sideshow is insufficient to meet the criteria for bystander. Participation must be articulable with specific facts, such as presence at multiple sideshow locations, an act in furtherance of the sideshow such as assisting with taking over intersections or admitting to being present in the area for sideshow.

Identifying promoters is generally performed through intelligence gathering via open-source media. It is commonplace for promoters to post a flyer via various open-source media accounts that then gains traction amongst that promoters' followers or friends' groups. The flyers then get reposted, which then gathers other participants followers to tag and or share the information. Currently, tracking this information will generally assist in gauging the size of a potential planned sideshow event. While this information will generally assist in identifying promoters, it requires background work in knowing and identifying these subjects through contacts in the field and or intelligence gathering. The other issue as of late is there are many "car clubs" and as of recent "Sideshow Teams" that compete during these events to see which "club" or "team" has better drivers as well as who host the best sideshow event. As these events evolve, it has become more apparent that many recent Sideshow events will have numerous promoters.

Articulatable facts can include the actions of the subjects such as blocking the roadway, actively spinning donuts or illegal riding (hanging out of moving vehicles). It is also commonplace for the participants to travel in groups or caravans from one location to another when there is an active sideshow. Using this type of intelligence gathering by a skilled officer with experience in working sideshow type of events and prior intelligence gathering is a key part to the deterrence of the sideshow and identifying the individuals as a promoter, bystander/participant or those uninvolved in the event.

Additionally, the sideshow events now more than ever often involve gunfire in the air as well as directed gunfire at both bystanders involved and uninvolved. There have been numerous individuals run over with vehicles by those involved in the sideshow events which has also led to serious injury. The intelligence gathered by officers both in advance of the sideshow as well as

during the event has been crucial. This work has led to the capture of numerous individuals involved in many cases of these injuries and death to uninvolved individuals as well as participants of illegal sideshow events.

Once this intelligence is worked up by OPD, this record will then serve as the basis for any type of court action. Depending upon the depth and breadth of the record, court action could include anything from civil injunctions and seizure of vehicles to the imposition of fines for any damage incurred to the roadway, sidewalks, signage or other elements. This flexibility will allow the City to ask for specific remedies that are tailored to the situation. For example, should the record support it, the City could seek to bar promoters from promoting future events, disgorgement of any profits or restitution for resulting damages.

#### Youth Engagement and Legal Sideshow Alternatives

The Committee asked if the City has engaged with Oakland youth about sideshows and their interest in them and whether staff has considered legal alternatives to sideshows that could be brought forward for discussion.

OPD officers have spoken with many sideshow participants about an organized legal or safer sideshow alternative. The officers have been openly advised by the participants that part of the draw to sideshow events is the taking over of intersections and doing illegal activities within an anti-law enforcement mindset. Investigators have also observed several posts from various organizers who have attended events including Sonoma Raceway's weekly Wednesday night "Sonoma Drift" events and Sacramento's Raceway "Track Takeover" which is sponsored by a former Oakland sideshow promoter. The reaction on open-source media has been mixed but many promoters will use this opportunity to attend the legal event and then promote what they refer to as an "Aftermath" illegal type of event. The illegal event is then inherently a larger event as it gathers those that will attend the legal event and then continue to an illegal one in the streets. Those that won't attend the legal event generally post things with the mindset of the illegal type of events being not only better but what a "sideshow" is really about.

#### Percentage of Vehicles involved in Sideshows that are Stolen

The total number of cars that are involved in sideshows is much higher than the number of cars OPD recovers after an event, in part due to the limits on pursuit. It is on the order of a few dozen cars versus thousands of total cars encountered in a year that are participating. Therefore, there is not a good tracking system to determine the total number of stolen cars that are participating at an event. Of the cars that are recovered during follow-up investigations, as a percentage, the number that are stolen less than one percent.

#### Staffing of the Criminal Investigation Division (CID) and Intelligence Gathering

The Committee asked if intelligence regarding sideshow promoters can be gathered by a civilian to free up officer time to focus on duties that only a sworn officer can perform. To identify these individuals, OPD undertakes pre-event intelligence gathering as well as watching live streaming media during the event to better identify the promoters as well as what vehicle they may be using during the event. OPD believes that a sworn officer would be best to gather this intelligence as they have law enforcement experience in what intelligence to use and disregard as well as broadcasting necessary intelligence during the event that can be best used to safely

deter and or enforce action during a sideshow event. This would lead to greater safety for that of the general public, officers and even the participants to include bystanders of the event. The pre-event intelligence often plays a part in navigating the live streaming media to include whose media should be followed and then using that data to use a direct focused approach to enforcing action against a promoter. The same approach can also be used for bystanders in regard to intelligence as well as the observations of officers on scene when there is active sideshow at various locations throughout the city.

#### Transportation Engineering Measures

The Committee also asked about the possibility of expanding the existing traffic calming measures and whether the City should seek additional funding from the Alameda County Transportation Commission (ACTC) to meet this need.

Oakland Department of Transportation (OakDOT) received approximately \$650,000 in funding earmarked by Council in the FY2021-23 Budget for sideshow prevention measures in addition to another \$150,000 earmarked by the District Four council office for improvements at MacArthur/Fruitvale and MacArthur/Coolidge. This funding has informed the [pilot of sideshow prevention engineering improvements](#) to prevent sideshows/donuts/dangerous driving and associated violence at locations identified as heavily impacted by OPD. Many of these locations are also on Oakland's High Injury Network – the 6% of streets where 60% of severe and fatal crashes are concentrated. Installing hardened centerlines at these locations where feasible has co-benefits for both sideshow deterrence as well as traffic calming/slowing left turning vehicles which improves safety for all road users and particularly pedestrians. OakDOT will be requesting programmatic funding to continue its innovative work to support the City Administrator's Office (CAO), OPD, and the Department of Violence Prevention (DVP) in community safety/violence prevention efforts in areas most impacted by violence – including addressing sideshows with engineering improvements in prioritized locations, with a funding request in Oakland's FY 23-25 Capital Improvement Program (CIP).

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance Adding Chapter 10.74 To The Oakland Municipal Code Imposing Fines And Penalties Against Organizers And By-Stander Participants Of Sideshows

For questions regarding this report, please contact Joe DeVries, Deputy City Administrator, at (510) 238-3083.

Respectfully submitted,



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