

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: JUNE 14, 2017
NUMBER: 7.04 – TRAFFIC
SUBJECT: ILLEGAL STREET RACING
RELATED POLICY: N/A
ORIGINATING DIVISION: TRAFFIC
NEW PROCEDURE:
PROCEDURAL CHANGE:
SUPERSEDES: DP 7.04 – 02/27/2015

I. PURPOSE

This Department procedure establishes guidelines for personnel responding to, or assisting in, the enforcement of illegal speed contests and other violations associated with this criminal activity.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

Illegal street racing, also known as “drag racing”, is a serious community problem, immediately threatening public peace, property, health, and safety. Illegal street racing can take the form of large-scale organized activities, or impromptu races on surface streets. Illegal street racing attracts other criminal activity such as juvenile curfew violations, gambling, fights and disturbances, littering, drinking in public, urinating in public, trespassing, and vandalism, including graffiti and destruction of property. Large groups often gather to participate in illegal street races. The presence of spectators at these events encourages criminal activity and creates an environment in which illegal activities flourish. Impromptu racing, while it doesn’t attract crowds, also poses a public health and safety risk. Drivers race on streets and highways, and sometimes from traffic light to traffic light on surface streets.

IV. DEFINITIONS

- A. Exhibition of speed - any exhibition of speed referred to in Section 23109(c) of the California Vehicle Code. Exhibition of speed requires a person driving a motor vehicle on a highway and willfully engaging in an exhibition of speed. Willfulness requires that an act is done willingly or on purpose (i.e., not by accident). It is not required that a person intend to break the law, hurt someone else, or gain any advantage. A person engages in an exhibition of speed when he or she accelerates or drives at a rate of speed that is dangerous and unsafe in order to show off or make an impression on someone else. An element of the offense is being able to prove that the driver intended to show off or impress someone, but there is no requirement to prove that the person intended to show off to or impress any particular person. Because most parking lots are not publicly maintained, an exhibition of speed must be on a street or highway, not a parking lot.
- B. Felony speed contest - an illegal motor vehicle speed contest with injury to a person other than the driver. Qualifying injuries, listed in Section 23109.1(b), include: (1) loss of consciousness, (2) concussion, (3) bone fracture, (4) protracted loss or impairment of function of a bodily member or organ, (5) wound requiring extensive suturing, (6) serious disfigurement, (7) brain injury; and (8) paralysis.
- C. Illegal motor vehicle speed contest - any speed contest referred to in Section 23109(a) of the California Vehicle Code which includes a motor vehicle race against another vehicle, a clock, or other timing device. An event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limit, is not a speed contest.
- D. “Preparations” - preparations for an illegal motor vehicle speed contest or exhibition of speed include, but are not limited to, those preparations referred to in Section 52.5202 of the San Diego Municipal Code.
- E. Reckless driving - any reckless driving referred to in Sections 23103(a) (reckless driving on a highway) and 23103(b) (reckless driving in an off-street parking facility) of the California Vehicle Code. An off-street parking facility means any off-street facility held open for use by the public for parking vehicles and includes any publicly owned facility for off-street parking, and privately owned facilities for off-street parking where no fee is charged to park and which is held open to the public for retail parking. Reckless driving requires a willful or wanton disregard for the safety of persons or property. Willful or wanton disregard means an intentional or conscious disregard for the safety of persons or property. A person acts with wanton disregard for safety when (1) he or she is aware that his or her actions present a substantial and unjustifiable risk of harm, and (2) he or she intentionally ignores that risk. The person does not have to intend to cause damage.

- F. Spectator - any individual referred to in Section 52.5203 of the San Diego Municipal Code and defined in Section 52.5202.

V. PROCEDURE

Citizen complaints of racing in progress at the time the complaint is received shall be dispatched in accordance with existing Communications Division guidelines. Officers who encounter these incidents, or who respond to calls of illegal street racing, shall evaluate the size of the event and crowd, and shall request adequate resources to resolve the incident in a manner that ensures the safety of citizens and officers. The officer and/or dispatcher must ensure that a field supervisor is notified regarding these types of calls or incidents.

A. **Illegal Speed Contest**

Participating in an illegal speed contest or aiding and abetting an illegal speed contest is a misdemeanor. Officers who observe individuals committing these violations will take appropriate enforcement action, which includes but is not limited to:

1. Arresting the individual and booking him or her into County Jail;
2. Arresting the individual and releasing him or her after issuing a Notice to Appear (PD Form 177); and,
3. After arrest, impound the vehicle used in the illegal speed contest. The vehicle may be impounded in accordance with Section 23109.2(a)(2)(A) of the California Vehicle Code, for not more than 30 days.

B. **Reckless Driving**

Reckless driving is a misdemeanor. Officers who observe individuals committing this violation will take appropriate enforcement action, which includes, but is not limited to:

1. Arresting the individual and booking him or her into County Jail;
2. Arresting the individual and releasing him or her after issuing a Notice to Appear (PD Form 177); or,
3. After arrest, impound the vehicle used in the reckless driving. The vehicle may be impounded in accordance with Section 23109.2(a)(2)(B) (when on a highway) or Section 23109.2(a)(2)(C) (when in an off-street parking facility) of the California Vehicle Code, for not more than 30 days.

C. Exhibition of Speed

Exhibition of speed is a misdemeanor. Officers who observe individuals committing this violation will take appropriate enforcement action, which includes, but is not limited to:

1. Arresting the individual and booking him or her into County Jail;
2. Arresting the individual and releasing him or her after issuing a Notice to Appear (PD Form 177); or,
3. After arrest, impound the vehicle used to participate in the exhibition of speed. The vehicle may be impounded in accordance with Section 23109.2(a)(2)(D) of the California Vehicle Code, for not more than 30 days.

CI. Spectators at Illegal Speed Contests or Exhibitions of Speed

1. An individual who is a spectator at an illegal speed contest or exhibition of speed, or at a location where *preparations* are being made for such activities, is guilty of a misdemeanor. Officers who observe individuals committing this violation will take appropriate enforcement action, which includes, but is not limited to:
 - a. Arresting the individual and booking him or her into County Jail; or,
 - b. Arresting the individual and releasing him or her after issuing a Notice to Appear (PD Form 177).
2. Officers shall adhere to the following guidelines when enforcing Sections 52.5203(a) and 52.5203(b) of the San Diego Municipal Code:
 - a. Understand the elements of Sections 23109(a) and 23109(c) of the California Vehicle Code;
 - b. Understand the definitions of a “spectator” and “preparations for an illegal speed contest or exhibition of speed” as defined in Section 52.5202 of the San Diego Municipal Code, and as used in Section 52.5203 of the San Diego Municipal Code; and,
 - c. Consider the totality of the circumstances and the actions of the individual to ensure he or she is a spectator who is knowingly present at the illegal event. Some circumstances to consider when determining whether a person is present for the purpose of observing include, but are not limited to:

- 1) The time of day;
- 2) The nature and description of the scene;
- 3) The number of people present at the scene;
- 4) The location of the individual in relation to other individuals or groups present at the scene;
- 5) The number and description of motor vehicles at the scene;
- 6) Whether the individual drove or was transported to the scene;
- 7) Whether the individual had previously participated in an illegal motor vehicle speed contest or exhibition of speed;
- 8) Whether the individual had previously aided or abetted an illegal motor vehicle speed contest or exhibition of speed; and,
- 9) Whether the individual was previously present at a location where preparations were being made for an illegal speed contest or exhibition of speed, or where an exhibition of speed or illegal speed contest was in progress.