



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Anthony Mata

**SUBJECT: PROHIBITING UNLAWFUL
POSSESSION OF CATALYTIC
CONVERTERS IN SAN JOSE**

DATE: January 16, 2024

Approved 	Date 1/23/24
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RECOMMENDATION

- a) Approve an ordinance adding Part 6 to Chapter 10.20 of Title 10 of the San José Municipal Code to prohibit the unlawful possession of catalytic converters in San José.
- b) Adopt a resolution amending the Administrative Citation Schedule of Fines to establish civil fines for unlawful possession of a catalytic converter specifying increased fines for repeat violations of the same code provision by the same person within 12 months from the date of an administrative citation.

SUMMARY AND OUTCOME

Approval of this recommendation will prohibit the unlawful possession of catalytic converters in San José and help curtail the rampant theft of catalytic converters in the City, thus saving residents millions of dollars in property loss and repair costs.

BACKGROUND

Catalytic converter theft has become a widespread problem, affecting thousands of San José residents in recent years. Key components of catalytic converters include valuable metals like platinum, palladium, and rhodium that have increased in value in the global market, making catalytic converters lucrative targets for thieves looking to profit from the resale of precious metals. Thieves receive an average of \$250 per catalytic converter in the black market and victims typically pay up to a thousand dollars or more in parts and labor to replace a stolen catalytic converter.

The San José Police Department filed 1509 reports of stolen catalytic converters across the city in 2021, 1843 reports in 2022, and 769 reports from January 1, 2023 through October 2023. This indiscriminate crime extends across virtually every neighborhood, impacting residents' livelihoods. It has been the cause of violence, financial strain, and inconvenience for many.

In the worst cases, victims have been physically harmed or killed attempting to interrupt the crime. A thief can steal a catalytic converter in minutes, without having to break into a structure to complete the theft. Unfortunately, vehicles, from which the parts are stolen, are typically in driveways, parked on the street, or in parking lots, and because a metal saw is used to remove a catalytic converter, the actual crime is quite loud and often occurs in plain view. As a result, many of these crimes are interrupted by the vehicles' owners or bystanders who are simply investigating the commotion. Individuals committing these thefts are often armed and the confrontations during interrupted thefts have resulted in a homicide and multiple assaults in San José.

In addition to the violence, the financial strain on victims of catalytic converter theft is enormous. As it costs as much as a thousand dollars or more to replace a catalytic converter, accounting for parts and labor, millions of dollars have been spent by San José residents to replace the parts themselves. This does not account for the lost wages when a family is without their vehicle for days or weeks while their car is in the repair shop. The volume of replacement parts required due to the thefts has resulted in shortages of catalytic converters, resulting in vehicles being out of commission even longer while a part is on order. The repair costs and costs associated with being without the family vehicle have resulted in significant financial hardship for San José residents.

Current law allows the San José Police Department to search and seize a catalytic converter that is suspected to be stolen only if it can be proven to have been stolen from a particular victim. This can only be done for catalytic converters having unique etched serial numbers. The San José Police Department's "Etch and Protect" program provides residents with free etching of license plate numbers on their catalytic converters, aiding in the identification of stolen catalytic converters and allowing officers to cite individuals responsible for theft. However, there is currently only one garage providing this service and, in 2022 and 2023, only 425 residents had their vehicle identification numbers etched into their catalytic converters through the program.

On November 28, 2023, a San José Police Department officer stopped a stolen vehicle containing 14 stolen catalytic converters. None of the catalytic converters had etched vehicle identification numbers, so charges were not filed for the possession of the catalytic converters.

At the November 30, 2023 Rules and Open Government Committee meeting, Mayor Matt Mahan and Councilmembers David Cohen and Pam Foley brought forward, and the committee approved, a memorandum recommending that City Council direct the City Manager and City Attorney to draft an ordinance to prohibit the unlawful possession of catalytic converters in San José and a resolution amending the Administrative Citation Schedule of Fines to establish civil fines for unlawful possession of a catalytic converter. The full text of this direction is as follows.

“Direct the City Manager and City Attorney to:

- a. Draft an ordinance to prohibit the unlawful possession of catalytic converters in San José.
- b. Draft a resolution amending the Administrative Citation Schedule of Fines to establish civil fines for unlawful possession of a catalytic converter specifying

- increased fines for repeat violations of the same code provision by the same person within twelve months from the date of an administrative citation.
- c. Return to City Council for consideration of the draft ordinance and resolution in early 2024.”

ANALYSIS

In 2022, the California State Legislature passed Senate Bill 1087, which amended section 21610 of the Business and Professions Code, to impose stricter regulations on core recyclers, dismantlers, and other licensed businesses that may reasonably generate, possess, or sell catalytic converters. The law requires core recyclers to provide documentation signifying the catalytic converter being purchased by the core recycler was obtained by the seller in a legal manner. Business and Professions Code section 21610 also outlines fines imposed on core recyclers who fail to provide this documentation.

However, there is no complementary law requiring the seller to produce this documentation when in possession of a catalytic converter not attached to a vehicle. A seller in possession of illegal catalytic converters simply needs to find an in-state buyer willing to violate the law or transport the stolen property out of state to perform a legal transaction. When the supply chain is interrupted by law enforcement, there are currently no consequences for the transporter of stolen catalytic converters.

Without consequences for possession of stolen catalytic converters, thieves are emboldened, knowing if they simply make a clean getaway from a theft, they will not be prosecuted. The lack of prosecution and crime deterrence stemming from the current legal situation with respect to the possession of stolen catalytic converters creates a financial hardship and decreases public safety for the residents of San José.

In October 2022, the City of Los Angeles enacted an ordinance barring unlawful possession of an unattached catalytic converter without proof of ownership. Since then, the city has seen a steady decline in reported catalytic converter theft. Staff recommends the City of San José implement a similar ordinance which would make it unlawful for any person, other than a core recycler, to possess any catalytic converter that is not attached to a vehicle, unless the possessor has valid documentation or other proof to verify that they are in lawful possession of the catalytic converter. The ordinance defines documentation or other proof to mean written document(s) clearly identifying the vehicle from which the catalytic converter originated based on the totality of the circumstances.

Under the proposed ordinance, "lawful possession" includes: (1) being the lawful owner of a catalytic converter or (2) in possession of a catalytic converter with the lawful owner's written consent. It is not required to prove the catalytic converter was stolen to establish the possession is not a "lawful possession." Each catalytic converter unlawfully possessed is a separate violation of the ordinance.

The criminal penalties for violation of this ordinance, a misdemeanor, are limited to a fine of not more than \$1,000 or imprisonment for a period of not exceeding six months, or by both fine and imprisonment.

Staff also recommends adoption of a resolution amending the Administrative Citation Schedule of Fines to add administrative citation fine amounts for violation of the proposed San José Municipal Code Section 10.20.180, Prohibition of Unlawful Possession of Catalytic Converters. The proposed additional fines are as follows:

- a. \$1,000 per stolen catalytic converter for a first offense;
- b. \$2,000 per stolen catalytic converter for a second offense within a 12 month period from the date of the first violation;
- c. \$4,000 per stolen catalytic converter for a third and subsequent violations within a 12 month period from the first violation.

The combination of current state laws that make it difficult for core recyclers to purchase stolen converters and the proposed local ordinance against unlawful catalytic converter possession and associated civil fines would effectively deter future catalytic converter thefts and financially disincentivize habitual thieves from committing the crime and improve public safety in San José.

EVALUATION AND FOLLOW-UP

The San José Police Department will follow-up with an informational memorandum in six months to a year.

COST SUMMARY/IMPLICATIONS

There are no cost implications for the San José Police Department. The cost implications for the City Attorney's Office are unknown.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office; City Manager's Office of Administration, Policy, and Intergovernmental Relations; and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for February 6, 2024 City Council meeting.

Communications Plan

Once the ordinance goes into effect, the San José Police Department will develop a comprehensive communications plan through which the department will communicate details of the new ordinance along with the penalties for violating the ordinance with community partners, stakeholders, and the public. The department, through its Media Relations Unit, will also communicate details of the new ordinance along with the penalties for violating the ordinance through press releases and social media posts.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



ANTHONY MATA
Chief of Police

For questions, please contact Lieutenant Brent McKim #3893, San José Police Department Financial Crimes Unit, at (408) 277-4521 or Lieutenant Paul Hamblin #3600, San José Police Department Research and Development Unit, at (408) 277-5200.