

**CITY OF SAN ANTONIO  
OFFICE OF THE POLICE CHIEF  
GOVERNANCE COUNCIL COMMITTEE CORRESPONDENCE**

TO: Sheryl Sculley, City Manager

FROM: William P. McManus, Chief of Police

COPIES TO: Mayor Julian Castro, Councilman Diego Bernal, District 1; Councilwoman Rebecca Viagran, District 3; Councilman Rey Saldaña, District 4; Councilman Ron Nirenberg, District 8; Erik Walsh, Deputy City Manager

SUBJECT: Child Safety Zone Council Consideration Request

DATE: October 11, 2013

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SUMMARY:

On October 2, 2013, Councilman Carlton Soules requested consideration of an ordinance intended to “promote, protect, and improve safety and welfare of the citizens of the City by creating a Child Safety Zone around the City’s park system where children regularly congregate in concentrated numbers.”

Councilman Soules recommended “aspects of a Child Safety Zone [should] include but are not limited to:

- (1) It shall be unlawful for any person required to register on the Sex Offender Database to knowingly be present in any City park. Furthermore, said individual is prohibited from loitering, and/or establishing a permanent or temporary residence within one thousand (1,000) feet of a city park.
- (2) For the purpose of determining the minimum distance separation, the requirement shall be measured from property line to property line. A map depicting the prohibited areas shall be maintained by the San Antonio Police Department.
- (3) Any person required to register on the database would be exempt to the Child Safety Zone under the following conditions:
  - a. The person has established a temporary or permanent residence within the Child Safety Zone prior to the date of adoption and has complied with all of the sex offender registration laws of the State of Texas.
  - b. The person is a minor. The person was a minor when he/she committed the offense and was not convicted as an adult.
  - c. The person is under an order of a court of pre-eminent jurisdiction in the State of Texas or of the Texas Department of Criminal Justice Parole Board permitting the person to be within the Child Safety Zone.
  - d. The Municipal Court of the City of San Antonio may authorize an exemption from this ordinance if in their opinion, undue hardship will result from compliance. In granting an exemption, the court shall take into account the probable effect the exemption will have upon the public health, safety, and welfare of the community.

CURRENT ENFORCEMENT:

Currently, Texas law allows parole boards and judges to impose restrictions of this nature on parolees or individuals on probation but does not grant them the same authority once the individual has completed the term of their parole/probation.

If an officer encounters an individual violating a City Ordinance or other criminal law, the officer would conduct a background check on that individual. If the subject is a registered offender but not on probation/parole there is no violation (with respect to being in the park). If the individual is on probation/parole, the officer will contact their parole/probation officer and if the individual is in violation of the terms of their probation, the officer must release the individual and file against them at large. The applicable judge will then determine if the terms were indeed violated, and if so, instruct the probation/parole officer to bring the individual in to face the charges.

Enacting an ordinance of this nature would extend the prohibition of certain sex offenders in City Parks after their probation and parole restrictions have expired.

LEGAL ISSUES FOR CONSIDERATION:

In discussion with the City Attorney's Office, we have identified the following legal issues that should be considered:

1. Because the intent of the law is intended to protect children, consideration should be given to limiting the ordinance to offenders who have been convicted of a crime against a child (under the age of 18). This could make the ordinance more defensible in case of legal challenges.
2. The River Walk, which is designated as a park, is located downtown and in close proximity to many businesses and public buildings which may create a legitimate need for registered offenders to be present.
3. In addition to the prohibition of entering the park or living within one 1,000 feet of a City Park, consideration should be given to whether or not registered offenders are able to come within a certain distance of a City park (e.g. within 300 feet).

RECOMMENDATION:

SAPD recommends bringing this issue before the Public Safety Council Committee in November for further discussion and possible action. SAPD will coordinate with the City Attorney's Office in advance of the meeting.



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William P. McManus, Chief of Police  
San Antonio Police Department