CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 NOV 18 PM 12: 58

To: Office of the City Administrator
Attn: Dan Lindheim
From: Police Department
Date: December 1, 2009

Re: **An Informational Report From the Oakland Police Department on The Success or Lack Thereof in Securing Prosecutions By The Alameda County District Attorney's Office When Liquor Store Operators Are Alleged to Have Sold Alcohol Or Tobacco To A Minor**

SUMMARY

As requested by the Rules and Legislation Committee, staff has prepared this informational report on the success or lack thereof in securing prosecutions by the Alameda County District Attorney's Office relative to allegations of selling alcohol or tobacco products to minors.

FISCAL IMPACT

This is an informational report; therefore, no fiscal impacts have been included.

KEY ISSUES AND IMPACTS

Underage drinking is a public health problem; alcohol is the most commonly used and abused drug among youth in the nation. Underage drinking is addictive and increases the chance of one becoming an alcoholic, and its abuse contributes to criminal behavior, as alcohol has been identified as being involved in 35% of overall crime and up to 60 % of domestic violence. Nationally, 19 % of drivers 16 to 20 years old who died in motor vehicle crashes had been drinking alcohol. Both underage drinking and tobacco use contribute to poor health for minors and increased cost of healthcare.

Underage drinking and tobacco use lead to addiction, crime and health issues among Oakland's youth. Alcohol and tobacco outlets are required to abide by state and local laws with respect to sales to minors. Although the majority of alcohol and tobacco outlets comply with these rules, as of November 3, 2009, the Oakland Police Department has completed 64 arrests/citations for either furnishing alcohol or cigarettes to minors. Of those 64 arrests/citations, 48 were presented to the Alameda County District Attorney's Office for charging. Only six of the 48 cases were selected for prosecution by the District Attorney.

BACKGROUND

In 2004 the City of Oakland adopted a master fee schedule amendment of Ordinance No. 12525 C.M.S., which provided for a fee assessment of $1,500 per year to operators of alcohol or tobacco retailers. In part, this fee funds an inspection/enforcement team (Alcohol and Beverage Action Team [ABAT]) operated by the Oakland Police Department. ABAT is charged with educating licensees of tobacco and alcohol establishments, and completing annual inspections within the City of Oakland.

PROGRAM DESCRIPTION

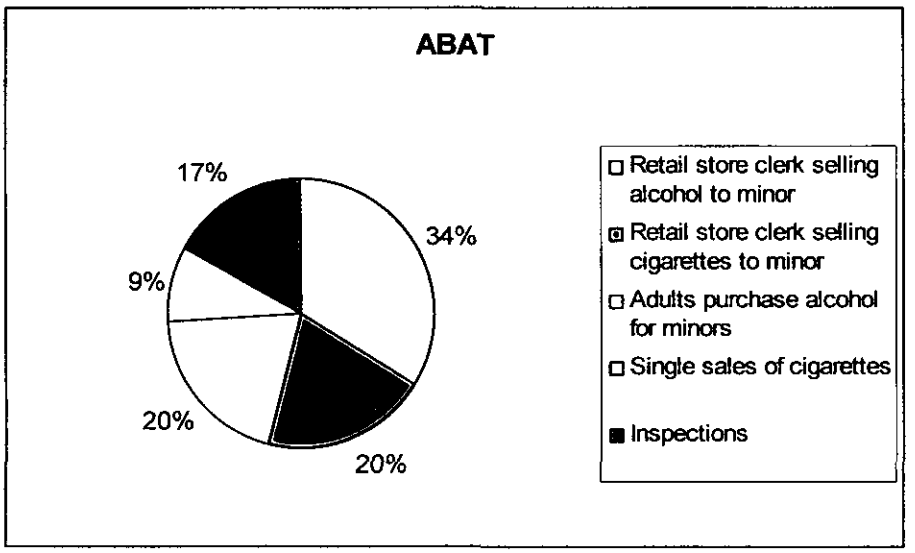
Since April 2009, ABAT has conducted 751 inspections and 34 undercover operations of alcohol and tobacco outlets within the City of Oakland. Inspections generally consist of site visits to check for proper licenses, violations of local and state laws, and nuisance abatement enforcement.

Undercover operations generally fall into one of three categories:

- Minors purchasing alcohol from retail stores;
- Minors purchasing cigarettes from retail stores; or
- Minors asking adults to purchase alcohol for them from retail stores.

These enforcement efforts have led to the arrests (usually citations in lieu of custody) of 64 persons as follows since April 2009:

	Arrests/Citations	**% of Arrests**
Retail store clerk selling alcohol to minor	22	34%
Retail store clerk selling cigarettes to minor	13	20%
Adults purchasing alcohol for minors	13	20%
Single sales of cigarettes	6	9%
Inspections	10	17%
TOTAL	**64**	**100%**



The Oakland Police Department, ABAT team works closely with the City's Special Prosecution Team to resolve these violations and to have the criminal citations charged. Of the 64 arrests/citations OPD presented to the Special Prosecution Team, the City prosecutors were able to present about 48 cases to the Alameda County District Attorney's Office. As of October 30, 2009 only six cases have been charged by the District Attorney's Office.

It should be noted that up to 70% of all alcohol and cigarette retailers do NOT sell to undercover minors during these operations.

The City prosecutors and ABAT continue to work together to strengthen the ABAT citations and arrests in order to secure the filing of charges. Several meetings and discussions have taken place between the City's teams and the District Attorney's Office where these cases are reviewed and discussed. Recently (November 4, 2009) members of the Oakland Police Department and Special Prosecution Team met with representatives of the Alameda County District Attorney's Office. During that meeting, the District Attorney's Office asked the City to re-submit the ABAT cases that were previously rejected for additional consideration. The District Attorney's Office stated they will again review the cases and attempt to charge the majority of them.

SUSTAINABLE OPPORTUNITIES

Economic: Improved public health among Oakland youth leads to decreased health care costs and better productivity (education/employment) among youth. Additionally, the performance of site visits helps to ensure these establishments are properly licensed, which contributes to the City's tax revenue base.

Environmental: Decreasing alcohol sales to minors reduces alcohol induced criminal activity which is directly associated with blight and unclean conditions, providing for a healthier environment.

Social Equity: Decreasing alcohol abuse among youth allows for youth to have a safer and more meaningful childhood. By working with alcohol beverage establishments, ABAT can help ensure that the quality of life is not negatively impacted by the presence of illegally operated liquor stores.

DISABILITY AND SENIOR ACCESS

There are no ADA or senior citizen access issues identified in this report.

RECOMMENDATION

Staff recommends acceptance of this informational report.

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:

Office of the City Administrator

Respectfully submitted,

FOR Anthony W. Batts
Chief of Police

Prepared by:
Lt. M. Poirier
Special Operations Section
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Item: _____
Public Safety Comte.
December 1, 2009