THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: March 25, 2009 REPORT NO: **09-030**

ATTENTION: Budget and Finance Committee
Agenda of April 1, 2009

SUBJECT: Police Department User Fees

REFERENCE:
1. February 25, 2009 Budget and Finance Committee Meeting
2. City Proposed General Fund User Fee Policy
3. IBA General Fund User Fee Policy

REQUESTED ACTION:

Adopt the resolutions and ordinances ratifying the Police Department's revised Fee Schedule (Attachment I) and revisions to any applicable Municipal Code.

STAFF RECOMMENDATION:

Approve the revised San Diego Police Department's Fee Schedule with corresponding changes to the Municipal Code.

SUMMARY:

The San Diego Police Department [Department] is responsible for issuing permits and regulating industries involving a variety of businesses. These are collectively referred to as *Police Regulated Businesses*. In an effort to implement the Mayor's comprehensive fee policy and comply with Chapter Three of the San Diego Municipal Code, the Department has reviewed its fees and is proposing updates to the rates. These fees have previously been reviewed or updated between four and ten years ago. In that time, there have been increases to direct costs that are not recovered in the current fees. As a result, the General Fund is used to subsidize the portion of expense that is not fully recovered through fees.

Revisions to the fees will produce an estimated $2.1 - $2.6 million of cost recovery revenue in addition to the $3.6 million already budgeted[1]. The total adopted FY 2009 General Fund budget for the Department is $410,670,845. Total budgeted General Fund revenue is $44,785,622.

Special Event fees will be addressed in a separate comprehensive report including input from all City departments. Therefore, Special Event fees have been excluded from this report.

[1] State legislation may change licensing requirements for Massage and Holistic Health Practitioners and businesses. They would be licensed by the State thus eliminating revenue to the City.

Cost Recovery Discussion

Discussion of increasing the cost of any activity is never without questions or concerns. In the context of a municipality or specifically a police department, concerns regarding efficiencies and oversight are warranted. Questions arise such as: Why is there a fee? Don't taxes already pay for police services? Why are fees being reviewed? It is in this context that the fees included in this report are presented for review.

The primary purpose of the Department is to maintain peace and order and to protect the public from harm. Included in that general mission is to comply with the laws that govern the City through the San Diego Municipal Code. The Municipal Code directs the authority to capture the actual cost of conducting specific police activities associated with police regulated businesses. This precludes the general public from bearing the direct cost of enforcing laws and regulations pertaining to police regulated activities[2]. The individuals or enterprises that voluntarily enter into these police regulated businesses are directly impacted; however the Department also acknowledges the potential for impacts to transfer to a variety of areas.

Based on the authority presented in the Municipal Code, the Department used the objectives and policies that are included in the Office of Management and Budget Circular A-87 to determine which expenses were included in the development of the cost recovery fees. This benchmark document has been in use since 1921, is referenced by all state, local and tribal governments and establishes the principles and standards for determining allowable costs.

When direct costs were analyzed to determine the applicability for cost recovery, Department staff used the following criteria from Circular A-87, which states that the costs must;

1. Be necessary and reasonable for proper and efficient performance and administration of the function;
2. Be determined in accordance with generally accepted accounting principles;
3. Be adequately documented;

Compensation for personnel services can include but are not limited to wages, salaries, and fringe benefits.[3] Fringe benefits include but are not limited to costs of leave (annual leave, sick leave, holidays, court leave, etc), employee insurance, unemployment benefits, pensions and post-retirement health benefits,

Indirect costs, often referred to as *overhead*, as defined by OMB Circular a-87 vary among agencies and departments and are typically shared or allocated among individual programs, activities, or departments. The diverse characteristics of indirect services can not be defined for every activity but may include services such as; procurement, administration, accounting and/or human resources, either within the Department or centralized (Citywide); depreciation on buildings and equipment, or the cost of operating and maintaining facilities.

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[2] Municipal Code § 33.0307

[3] OMB Circular a-87 (Revised 5/10/04) Attachment B -8a

Fee Methodology

Using all of the above criteria, Department staff analyzed work hours, personnel classifications, salary rates, and overhead calculations to determine the appropriate rates for the various fees that are presented for consideration.

Salaries and wages included in the calculation for direct cost reflect the average actual salary for the respective classification. Sworn officers receive a variety of "add-on" pays which reflect special assignments such as canine, SWAT, training, etc. in addition to receiving shift differential pay for assignments to the second (swing) or third (graveyard) shifts. Officers also receive educational incentive pay for maintaining certification established by the State of California Commission on Police Officers Standards and Training. All of these add-on pays are considered wages under the Fair Labor Standards Act guidelines and are included when calculating cost recovery rates as they represent an expense to the City. Average percentages are used because not every officer receives every add-on pay.

Indirect expense is then added to the direct expense (direct salary and fringe), which captures the shared cost of Department and City operations. The indirect expense also captures the labor and fringe load. Load can be defined as the overhead rate, which captures expenses occurring as a result of leave, or vacation time also know as non-productive time.

The following table provides the calculations for determining the *Cost Recovery Rate* for 1.00 Police Officer II-Detective. This is one of the primary hourly rates that were used in determining the proposed user fees included in this report.

DIRECT COST		
Police Officer II -Detective	$ 38.10	Average Hourly wage
Advanced POST	$ 3.15	Special pay for attaining State peace officer accredidation
Shift Differential	$ 0.82	Calculated based on distribution across all shifts
Subtotal Hourly Rate	$ 42.07	
Fringe Benefits	$ 24.78	37% of Total Direct Cost
Total Direct Cost	**$ 66.85**	

INDIRECT COST		
Labor Load (17.4%)	$ 7.32	Hourly Rate $42.07 x 17.4%
Department/City Overhead (13.6%)	$ 6.72	Hourly Rate + labor load ($49.39) x 13.6%
Fringe Load (17.4%)	$ 4.31	Fringe ($24.78) x labor load (17.4%)
Total Indirect Cost	**$ 18.35**	

DIRECT COST	$ 66.85	
INDIRECT COST	$ 18.35	
COST RECOVERABLE RATE	**$ 85.20**	

The presented fees reflect the actual cost of time that Department personnel spend on the respective activities. In some cases, the Department could justify increased hours necessary for certain activities; however the costs presented in this report only reflect actual time being dedicated to the activities. No overtime was included in the calculation of the fees nor were any increased staffing proposals included. Where efficiencies may be gained through improved procedures, the Department is recommending less than full cost recovery with the plan to review operations after one year.

Efficiencies

The Department completed Business Process Reengineering (BPR) in FY 2008. One result of the BPR was the determination to consolidate some investigation activities with the goal of reducing the overall expense. Several units under the Vice Command were studied, however those efforts focused on the investigation and processing of arrestees and did not specifically address the processing of the police regulated businesses. The Unit has consolidated some activities primarily due to the reduction of personnel and continues to pursue technology enhancements to increase the recovery of fines.

Efficient operations are the foundation of a well-run organization. Just as private entities strive to maintain efficient flow of work product, the Department also strives to achieve efficiencies in the enforcement of the laws that govern police regulated activities, all while maintaining officer safety. Although it may appear to be efficient to only provide 1.00 Police Detective to complete a field investigation, there are still officer safety issues that need to be considered. These safety practices and procedures cannot be marginalized through the process of trying to reduce expenses. An example may be the investigation and enforcement of an entertainment permit. Sending one Police Detective to investigate an entertainment venue does not provide the necessary officer safety, thus two or more Police Detectives may be required. The cost of which is reflected in the fee for the permit.

Officer safety is not intended to preclude the Department from pursuing further efficiencies. Safety and security for the general public is the goal of the Department as well as protecting the wellness of all individuals impacted by police regulated businesses. The efficient pursuit of these goals will consistently be applied to minimize the impact of those affected.

PROPOSED FEES

Police Regulated Industries

As previously discussed, these fee adjustments are unique from other City functions as these fees cover the expense necessary to monitor and regulate the activities within certain police regulated industries. The fees do not represent the cost of a commodity provided to the public; rather they provide funding to protect the public from improper activities in these respective industries.

The Department recognizes that police regulated industries are legally allowed to operate although by their very nature, many attract illegal components which require continuous oversight to protect all involved. Therefore, the fees presented here are intended to recover the expense for the regulation of these industries as described in the Municipal Code.

§33.0307 Application and Regulatory Fees

It is the policy of The City of San Diego that the cost of inspecting, regulating, and enforcing laws relating to police-regulated businesses be borne by the permittees in the form of regulatory fees. To this end, unless otherwise specified, regulatory fees shall be paid according to the schedule set in the City Clerk's Composite Rate Book

The following fees represent 100% cost recovery and are classified as Category I fees as described in the City's User Fee Policy. Additional detail regarding the calculation of each fee is found in Attachment II.

	Fee Name	Number of Permits FY 08	Current Fee	% Cost Recovery	Proposed Fee	% Cost Recovery
1	Adult Entertainer Permit	1,256	$71	29%	$245	100%
2	After Hours Permit - Ongoing	9	$1,570	81%	$1,927	100%
3	After Hours Permit - Single	4	$840	73%	$1,145	100%
4	Arcade/Pool Room	37	$55	76%	$72	100%
5	Auto Dismantler	53	$263	76%	$344	100%
6	Bingo Regulatory	10	$50	76%	$65	100%
7	Bingo Renewal (with change of personnel)	3	$13	76%	$16	100%
8	Casino Party	18	$50	76%	$65	100%
9	Commercial Recreation Theater	1	$675	76%	$883	100%
10	Curb Painter Regulatory	0	$45	76%	$59	100%
11	Curb Painter Renewal	0	$24	76%	$31	100%
12	Entertainment Permit Single Occasion <50 people	3	$189	94%	$201	100%
13	Entertainment Permit Single Occasion 50+ people	26	$379	30%	$1,252	100%
14	Entertainment Permit w Alcohol <50 people	16	$920	98%	$938	100%
15	Entertainment Permit w Alcohol and 50+ people	198	$1,840	57%	$3,253	100%
16	Entertainment Permit W/O alcohol <50 people	1	$126	44%	$283	100%
17	Entertainment Permit W/O alcohol 50+ people	5	$184	26%	$718	100%
18	Firearms Dealer	18	$660	14%	$4,671	100%
19	Going Out Business Regulatory	8	$98	76%	$128	100%
20	Going Out Business Renewal	2	$25	76%	$33	100%
21	Holistic Health Practitioner [4]	505	$159	91%	$175	100%
22	Holistic Health Practitioner Business [4]	26	$588	35%	$1,693	100%
23	Massage Establish. Business [4]	87	$884	52%	$1,707	100%
24	Massage Therapist - Off Premises Regulatory [4]	60	$233	42%	$552	100%
25	Massage Therapist - Off Premises Renewal [4]	168	$108	55%	$197	100%
26	Massage Therapist Regulatory [4]	214	$84	35%	$237	100%
27	Massage Therapist Renewal [4]	314	$28	33%	$85	100%
28	Massage Trainee [4]	331	$124	22%	$573	100%
29	Money Exchange Houses	40	$505	53%	$952	100%
30	Nude Entertainer Business /Club	15	$3,303	58%	$5,656	100%

[4] State legislation may change licensing requirements for Massage and Holistic Health Practitioners and businesses. They would be licensed by the State thus eliminating revenue to the City.

Table continued

	Fee Name	Number of Permits FY 08	Current Fee	% Cost Recovery	Proposed Fee	% Cost Recovery
31	Outcall Nude Entertainment Business	5	$2,800	18%	$15,702	100%
32	Outcall Nude Entertainment Regulatory	60	$188	20%	$940	100%
33	Outcall Nude Entertainment Renewal	39	$112	18%	$628	100%
34	Pawn Shop	40	$250	100%	$249	100%
35	Peep Show	242	$75	38%	$200	100%
35	Promoter	38	$500	76%	$654	100%
36	Public Convenience or Necessity	50	$220	96%	$228	100%
37	Second Hand Dealer	337	$55	45%	$123	100%
38	Solicitor Registration Card	86	$45	84%	$54	100%
39	Solicitor Renewal Card	57	$24	43%	$56	100%
40	Swap Meet - Annually	3	$975	76%	$1,276	100%
41	Swap Meet - Quarterly	0	$244	76%	$319	100%

Once again, these fees exist to recover the expense necessary to complete background investigations of applicants and perform on-going monitoring and regulation of activities. On-going monitoring includes site-visits, undercover operations, response to complaints, enforcement of regulatory penalties and possible misdemeanor cites or arrests for violations. Any expense that is not recovered directly impacts the General Fund and is in violation of Municipal Code §33.0307.

Entertainment Permits

As indicated in the above chart the Department is recommending adjustments to the various Entertainment Permits based on the cost of regulating and enforcing Municipal Code § 33.1500. Through this Municipal Code the City Council has authorized and provided the Chief of Police options to regulate the businesses and events which provide entertainment. As such the goal of the Department will be to continue recognizing entertainment venues as providing diverse and cultural experiences for residents of the City, while minimizing criminal activities and any adverse impact to surrounding business and residential communities.

It should be noted that the Municipal Code also provides exemptions for types of entertainment and events including; City, County, or State sponsored events; non-profit sponsored activities for youths; entertainment sponsored by City authorized business improvement districts; or wedding or reception type functions when there is no admission charge; although there may be other applicable City regulations that must be complied with beyond entertainment permits.

All of these options are available to assist, businesses, the general public and the Department in providing safe entertainment for all ages.

Police Investigative Fee

Each time an applicant requests a permit for a police regulated industry the applicant is required to submit a non-refundable application fee also known as an "Investigation Fee" as authorized in the San Diego Municipal Code.

§33.0307 Application and Regulatory Fees

It is the policy of The City of San Diego that the cost of investigating and processing an application for a police permit is to be borne by the applicant. To this end, unless otherwise specified, all applications shall be accompanied by a non-refundable application fee, which will cover the cost of investigating and processing the application.

The Police Investigation Fee currently is $55.00 and was last amended nine years ago. The expense to investigate and process these permit applications has increased due to amount of work necessary to determine whether the permit applicants are deemed to be sufficient to conduct the occupation or business. In order to achieve 100% cost recovery as indicated in the Municipal Code and follow the recommendations of the City's User Fee Policy, the Department is recommending the Police Investigation Fee to be increased to $108.

Fee Name	Number of Applications FY 08	Current Fee	% Cost Recoverable	Proposed Fee	% Cost Recoverable
Police Investigations Fee	2,035	$55.00	50.9%	$108	100%

Alarm Permit Fee

Permits for residential and commercial burglar alarms are also issued by the Department. The permit fee provides administrative cost reimbursement for processing the permit and also provides cost reimbursement for patrol officers to respond to alarms. It is important to note that response to all alarm calls is a necessary function of public safety; Government Code section 845 says that a police department shall not fail to respond to an alarm call solely on the basis that the user does not have a city permit. However, the Alarm Permit fee and revocation schedule exists to capture the majority of expenses for responding to false alarms. The proposed fee adjustments will help to minimize impacts to the General Fund.

The total revenue generated in FY08 under the current Alarm Permit fee schedule was $1.78 million, which recovered 44% of the estimated expense. The new proposed fees represent an estimated increase of $1.4 million in revenue, which will recover an estimated 79% of expense to the Department.

Average number of alarm calls per day in the City of San Diego	120.0
Average daily number of calls that are cancelled prior to response	19.2
Average daily alarm calls that are legitimate burglary calls	0.7
Average false alarms per day that are responded to by officers	100.0
Total false alarm calls responded per year	**36,475**
Average officer hours per call	1.24 hours
Hourly cost recovery rate for 1.00 Police Officer II	$83.15
Average cost per call	$103.20
Total response/enforcement cost per year	$3,764,222
Alarm Permit Program direct administration expense	$261,518
Total Alarm Permit Program Expense	**$4,025,740**

Number of Residential Permits (FY 08)	15,597
Residential revenue at $55 per permit	$857,835
Number of Commercial Permits (FY 08)	6,680
Commercial Revenue at $95 per permit	$634,600
Total Permits	22,277
Total Permit Revenue	$1,492,435
Revocation/Penalties Collected	$288,116
Total FY 08 Revenue Collected (unaudited)	**$1,780,551**
Difference (Revenue – Expense)	**($2,245,189)**

Estimated residential revenue at proposed $100.25 Fee	$1,563,599
Estimated commercial revenue at proposed $173.25 Fee	$1,157,310
Estimated Revocation/Penalty revenue	$423,926
Total Estimated Revenue with PROPOSED FEES	**$3,144,836**
Total Alarm Permit Program Expense	**$4,025,740**
Estimated Difference with PROPOSED FEES (79% recovery)	**($880,903)**
Increased Collection efforts	**$200,000**
10% Reduced False Alarms = less program expense	**$375,950**
Est. Difference with Proposed Fees and Department Changes	**($304,953)**

Although the proposed fee will only capture 79% of the estimated expense at this time, it is anticipated that the increase in the revocation fees will encourage alarm permit holders to better monitor their alarm activity to lower the incident of false alarms. Additionally, the Department is implementing revised procedures to monitor and collect permit and revocation revenue, which will produce more cost recovery revenue.

The Department recognizes the value of burglar alarms in protecting owners' assets and discouraging criminal activity. Through the combination of these various recommendations, the Department should see an overall increase in Alarm Permit revenue and a decrease in false alarms with the goal of achieving full cost recovery over the next year. If the changes don't produce the expected results then the Department will bring forward additional recommendations for the FY 2011 budget.

The following fee schedule represents the proposed fees and fines for Burglar Alarm Permits. The determination for calculating the fees was to recover the cost of the administering the program and responding to one false alarm per permit. Based on the current penalty schedule it is possible for an alarm permit holder to have three false alarms in one year before a revocation fee is imposed. Although residential permits comprise 70% of all alarm permits, commercial burglar alarms comprise almost 70% of all alarm calls. Therefore the fee structure represents the allocation of resources necessary to respond to commercial burglar alarms.

Burglar Alarm Permits		No. Permits FY 08	Current Fee	Current % Cost Recovery	Proposed Fee	Proposed %Cost Recovery
1.	Residential Permit	15,597	$55.00	43%	$100.25	79%
2.	Business Permit	6,680	$95.00	43%	$173.25	79%

The Burglar Alarm penalty structure was based on recovering the cost of responding to one false alarm. By the time a business or residence is invoiced with a revocation penalty, Police Officers have already responded to several false alarms within a short period of months. The 1st Revocation penalty was increased by approximately 47% and thus each successive revocation penalty was increased by approximately the same percentage. These penalties are intended to encourage compliance with the Burglar Alarm Permit requirements and thus do not have a cost recovery component.

Burglar Alarm Penalties		Current Penalty	Proposed Penalty
1.	1st Revocation (penalty/fine)	$75.00	$110.00
2.	2nd Revocation (penalty/fine)	$150.00	$220.00
3.	3rd Revocation (penalty/fine)	$300.00	$440.00
4.	4th Revocation (penalty/fine)	$1,500.00	$2,200.00
5.	Penalty for not obtaining permit	$100.00	$146.75

The San Diego Fire Department has also initiated a proposal to begin charging for Fire Alarm permits similar to the Police Department Burglar Alarm permits. Representatives from both Fire and Police met to determine if a combined fee could be initiated for combined burglar and fire alarms. After analyzing the respective department procedures for responding to alarm calls it was determined to not be in the best interest of citizens. A combined permit could require citizens to pay for services in which they may not use; as not all businesses or residences have both fire and burglar alarms. Police Department personnel do not necessarily respond to fire alarms and conversely, Fire department personnel do not respond to burglar alarms. The Departments will continue to evaluate the Alarm Permit programs for consistencies and overlapping coverage and may present a combined permit at some point in the future.

The Department's primary goal of protecting the safety and security of all residents and visitors remains the utmost important aspect in daily operations. Through the compliance of the alarm permitees and the implementation of the proposed Burglar Alarm Permit and Penalty fee structure, the Department will be able to minimize impacts to General Fund priorities.

Fees not included

Card Rooms

The Department recommends that the Mayor request the City Attorney's office to opine on recent changes to State regulations for Card Room establishments. Although user fees are currently being collected and the existing two card room establishments within City limits are being monitored, the changes to the State regulations could adjust what is legally allowed to be included for full cost recovery. The Department will continue to monitor these fees and recommend future changes as necessary to ensure compliance with the Municipal Code and the City's User Fee Policy.

Tobacco Fees

These fees were recently reviewed in a report to the Public Safety and Neighborhood Services Council Committee. The total data captured for this new fee totals less than one year. As more data is collected the Department will make any recommendations as part of the annual reporting requirement under the Tobacco Ordinance.

Repossession Fee

This is a $15 fee that is established by the California Vehicle Code (9255). The Department does not have the authority to adjust it.

Tow Fees

The Department manages the City's tow program under contract with various vendors. The City's Purchasing and Contracting Department is currently conducting an RFP for new tow contracts. Once the determination is made on how the new contracts will be managed, the Department will be able to provide more accurate cost estimates and make any necessary adjustments to several different tow fees.

FISCAL CONSIDERATIONS:
The Department estimates the following increases in General Fund revenue with the proposed rates will be $2.1 - $2.6 million. There will be no cost for implementation other than expenses associated with public notice or mailings.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
The Budget and Finance Committee discussed a General Fund User Fee Policy at its February 25, 2009 meeting.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Notices of the changes to the Fee Schedule will be posted at all San Diego Police Department facilities. The proposed Fee Schedule will also be posted on the City's web site. The Department has met with representatives of business interest groups and will continue to provide updated information to individuals and businesses.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Stakeholders include owners of police regulated businesses and independent contractors; community groups and organizers of special events; film production companies; construction companies that require traffic control; professional and college sports teams; local colleges and universities.

Respectfully submitted,

William Lansdowne
Chief of Police

Jay Goldstone
Chief Operating Officer