

DATE ISSUED: September 6, 2001 **REPORT NO.** 01-185

ATTENTION: Public Safety and Neighborhood Services Committee,
Agenda of September 12, 2001

SUBJECT: REAUTHORIZATION OF THE SAN DIEGO TRAFFIC
OFFENDER PROGRAM AND \$72 UNLICENSED DRIVER
VEHICLE IMPOUND FEE

REFERENCE: Resolution Number R-287838 adopted on September 16, 1996
Manager's Report No. 90-139 dated March 16, 1990

SUMMARY:

Issues: Should the City Council (1) reauthorize the San Diego Traffic Offender Program (STOP) for another five years, requiring periodic reports to the Public Safety and Neighborhood Services Committee, and (2) reauthorize the current \$72 Unlicensed Driver Vehicle Impound Fee, which funds the Program?

Manager's Recommendation: Approve the resolution reauthorizing the STOP Program for another five years, requiring periodic reports to the Public Safety and Neighborhood Services Committee, and reauthorizing the current \$72 Unlicensed Driver Vehicle Impound Fee.

Other Recommendations: None.

Fiscal Impact: Net revenue to the City's general fund from the Department's driver's license-related impounds and forfeitures was \$873,453 in Fiscal Year 2000.

BACKGROUND:

The California legislature enacted the Safe Streets Act of 1994 to provide law enforcement officers, prosecutors, and courts with tools to reduce the risk to public safety posed by illegal and unlicensed drivers. The Legislature found that of all drivers involved

in fatal accidents, more than 20 percent were not licensed to drive. Moreover, a driver with a suspended license was four times more likely to be involved in a fatal accident than a properly licensed driver. As part of this public safety initiative, the Legislature enacted two sections of the California Vehicle Code: Vehicle Code section 14602.6, allowing a peace officer to impound the vehicles of unlicensed or unauthorized drivers for 30 days; and Vehicle Code section 14607.6, authorizing forfeiture of vehicles owned by repeat offenders who met certain criteria. These sections became effective on January 1, 1995.

On April 23, 1996, the California Office of Traffic Safety awarded a \$635,000 grant to the San Diego Police Department, working in partnership with the City Attorney's Office, to create and support the San Diego Traffic Offender Program (STOP). The purpose of STOP was to identify and prosecute unlicensed drivers and impound and forfeit their vehicles, as well as the vehicles of drivers whose licenses have been suspended or revoked. In 1995, these drivers were responsible for 38 percent of the City's fatal and serious injury collisions.

The grant was contingent on the City developing a cost-recovery system that would allow the program to continue after the grant period ended. Pursuant to Vehicle Code section 22850.5, a city may recoup the costs of removing, impounding, storing, and releasing the vehicles of illegal drivers. On September 16, 1996, the City Council adopted resolution Number R-287838, which authorized STOP and a \$72 Unlicensed Driver Vehicle Impound Fee. The City agreed that the \$72 would be used to pay for the STOP Team and related programs. Authorization for the program will expire on September 16, 2001.

DISCUSSION:

The Department of Motor Vehicles (DMV) estimates that California is home to approximately one million drivers with suspended licenses and another one million drivers who have never been licensed at all. Moreover, the DMV estimates that approximately 75 percent of all drivers who have lost their driving privilege continue to drive. According to a March 2001 DMV estimate, there are 36,325 drivers in San Diego whose privilege to drive has been suspended or revoked. This number represents 4.6 percent of the driving population and does not include the unknown number of drivers who are not licensed at all. Clearly, there is still a great need in San Diego to focus on suspended, revoked, and unlicensed drivers.

STOP Team

STOP began operating on January 1, 1997. The STOP Team is comprised of one sergeant and five police officers, four of whom are motor officers, or officers on motorcycles. STOP Team officers primarily are responsible for enforcing driver's license laws. Their duties include identifying and arresting chronic and habitual traffic offenders, and investigating citizen complaints about suspended, revoked, and unlicensed drivers. STOP Team officers routinely participate in driver's license checkpoints, stings, surveillances,

and investigative follow-ups of illegal drivers. They also train and assist other officers throughout the Department with driver's license offenses and enforcement.

The STOP Team includes one administrative aide, one police code compliance officer, and one deputy city attorney. The STOP Team's administrative aide reviews all 30-day impounds, sends potential vehicle forfeiture cases to the City Attorney for review, answers questions from the public, refers drivers to the DMV, and serves as a liaison between the STOP Team, the DMV, and tow companies. The administrative aide also works closely with legal owners to facilitate the repossession of impounded vehicles, when appropriate. The Police code compliance officer conducts all 30-day post-storage hearings, inventories personal property left in impounded vehicles, and meets with drivers whose cars have been impounded.

The deputy city attorney screens and issues misdemeanor cases initiated by STOP Team officers and other traffic officers, prosecutes cases involving suspended, revoked, and unlicensed drivers, represents the City in 30-day impound hearings, reviews cases for administrative forfeiture, and represents the City in vehicle forfeiture court hearings. The STOP deputy screens arrests for illegal street racing and prosecutes those cases that proceed to trial. The STOP Deputy also represents the City in court hearings on all 30-day impounds from arrests for illegal street racing.

In addition to driver's license and illegal street racing violations, the deputy is a resource to officers and prosecutors on traffic-related issues. For example, this year the STOP deputy worked with officers to prosecute a defendant who was involved in a serious incident of road rage; a defendant who provided false information to the DMV to obtain multiple forms of identification; and a defendant charged with resisting, obstructing, and delaying a peace officer when the lawfulness of a vehicle impound was questioned. The partnership between the Police Department and the City Attorney's Office ensures the aggressive prosecution of suspended, revoked, and unlicensed drivers and facilitates the civil forfeiture of offenders' vehicles.

Traffic Accidents

Because the Legislature found that illegal drivers were involved in a disproportionate number of traffic accidents, one of the STOP team's goals is to reduce the number of collisions. Since 1995, collisions in all major categories have decreased in San Diego. From 1997 to 2001, the average number of fatal collisions (including those involving pedestrians) and the average number of injury collisions (including those involving pedestrians) have fallen by 6 percent. Alcohol-related collisions have decreased by an average of 9 percent. The greatest reduction has been in injury and fatal hit and run collisions, with a 23 percent average decrease. While other factors may explain these decreases, the STOP Team's focus on suspended, revoked, and unlicensed drivers is likely a contributing factor. Table 1 captures the number of calendar year collisions in all major categories, before and after STOP.

Table 1

COLLISIONS IN THE CITY OF SAN DIEGO

	CY 1995*	CY 1997	CY 1998	CY 1999	CY 2000	4-YR. AVG.**	REDUC- TION FROM 1995***
Fatals With Pedestrians	65	55	56	77	54	61	6%
Injuries With Pedestrians	5,858	5,436	5,500	5,560	5,439	5,484	6%
Alcohol- Related	933	904	845	841	803	848	9%
Injury & Fatal Hit & Runs	750	547	580	599	577	576	23%

* Before the STOP program.

** Four year average = CY 97, CY 98, CY 99, CY 00.

*** Reduction from CY 95, using four-year average.

Prosecution

The STOP Team is responsible for a significant increase in the number of arrests and prosecutions of suspended, revoked, and unlicensed drivers. In 1996 the Department submitted 2,209 cases to the City Attorney's Office to review for prosecution. In 2000, the Department submitted more than 7,000 driver's license violation cases for review. This dramatic increase is attributed to the STOP Team's focused, proactive enforcement of driver's license offenses, ongoing training of officers, and the cooperative partnership between the Department and the City Attorney's Office.

Also, the number of criminal misdemeanor cases for license violations issued by the City Attorney's Office has increased since STOP was created. In 1996, only 65 percent of the license violation cases submitted to the City Attorney's Office resulted in charges issued. Recent figures show that the City Attorney's Office issues criminal charges in almost 99 percent of license violation cases. Finally, since the STOP Team was formed, there has been an increase in the number of prosecutions with a corresponding decrease in the

number of cases dismissed. In 1996, 82 percent of driver's license cases were prosecuted, and 18 percent were dismissed. In 2000, 86 percent of driver's license cases were prosecuted, and 14 percent were dismissed. These changes reflect the priority given to license violations in the City Attorney's Office. Table 2 reflects the numbers of driver's license violation cases submitted, issued, prosecuted, and "dispo'd," or settled by a conviction or dismissal, before and after STOP.

Table 2

**MISDEMEANOR DRIVER'S LICENSE OFFENSES*
CASES ISSUED / DISPO'D BY CITY ATTORNEY'S OFFICE**

	CY 1996**	CY 1997	CY 1998	CY 1999	CY 2000
Total Cases Submitted	2,209	2,454	7,139	7,745	7,623
Cases Issued	1,434	2,111	6,846	7,571	7,522
% Of Total Cases Issued	65%	86%	96%	98%	99%
Cases Dispo'd ***	1,312	1,889	5,943	6,455	6,030
% Of Issued Cases that Dispo'd	91%	89%	87%	85%	80%
Cases Dismissed	235	409	1,023	935	871
% Of Dispo'd Cases that were Dismissed	18%	22%	17%	14%	14%
Number of Prosecutions	1,077	1,480	4,920	5,520	5,159
% Of Dispo'd Cases that were Prosecuted	82%	78%	83%	86%	86%

- * Includes VC § 12500(a) and VC §§ 14601.1(a), 14601.5(a), 14601.2(a), 14601.3(a) and 14601(a) charges.
- ** Before the STOP program.
- *** The difference between issued cases and dispo'd cases is comprised of those cases that remain open (ongoing investigation or negotiation, or where Defendant has failed to appear).

Role Model

The STOP program has made a positive impact on the community and has been favorably viewed by the local media. In 1998, the STOP program was a finalist in international competition for the Herman Goldstein Award for Excellence in problem solving. San Diego is considered the premier STOP program and is a model for other traffic offender programs in California and the United States. Stockton, Napa, Merced, Chula Vista, and Oceanside, Seattle, and Reno are just a few of the cities that have followed San Diego's lead. The success of the STOP Team has been a positive factor in the award of other Office of Traffic Safety grants, such as the recent Drag Net grant to combat illegal street racing.

Impounds and Forfeitures

Impounds are authorized by Vehicle Code sections 22651(p) and 14602.6(a). Vehicle Code section 22651(p) authorizes officers to impound a vehicle when the driver has a suspended or revoked driving privilege, has an expired driver's license, or has never been issued a driver's license. The registered owner may retrieve the vehicle upon proof of a valid driver's license and current registration. Vehicle Code section 14602.6(a) authorizes 30-day impounds for illegal driving offenses but not for expired driver's licenses. The Police Department impounds approximately 18,000 cars each year for driver's license violations. The STOP Team is responsible for approximately 30 percent of those impounds.

A vehicle is subject to forfeiture as a nuisance if the criteria of Vehicle Code section 14607.6(a) are met: the vehicle is driven on a highway; the driver is unlicensed or has a license that has been suspended or revoked; the driver is the registered owner; and the driver has a prior misdemeanor conviction for a driver's license offense. There are limited exceptions to vehicle forfeiture. One exception is when there is a community property interest in the vehicle and vehicle is the only one available to the driver's immediate family.

When a vehicle is impounded for thirty days, the case is reviewed to determine whether it qualifies for forfeiture. If the statutory requirements for forfeiture are met, the Department provides notice of forfeiture to the driver, the registered owner, and the legal owner, if there is one. The vehicle is eligible for forfeiture 15 business days after the mailing of the notice, or 5 business days after personal service of the notice. If the driver obtains a valid driver's license, the car is not forfeited but is released to the registered owner. If a vehicle meets forfeiture criteria and is not returned to the registered owner by

mitigation, the deputy city attorney reviews the case. Most vehicles are forfeited administratively, where there is no opposition to the forfeiture. However, when the forfeiture is contested, a court hearing is set and a judge decides whether the vehicle will be forfeited.

During the STOP Team’s first four years, 1,246 forfeiture cases were initiated, and 642 cars were ultimately forfeited. The forfeiture program provides an incentive for illegal drivers to obtain a valid driver’s license. The data shows that since the forfeiture program began, approximately 50 percent of drivers who were suspended, revoked, or unlicensed obtained a valid license when faced with losing their vehicles. Table 3 provides information on the number of the STOP Team’s forfeitures from 1997 through 2000.

Table 3

VEHICLE FORFEITURE PROGRAM

	CY 1997	CY 1998	CY 1999	CY 2000	TOTALS
Forfeiture Cases Initiated	270	365	352	259	1,246
Drivers Who Remedied	137	195	158	106	596
Percent of Drivers Who Remedied	51%	53%	45%	41%	48%
Total Vehicles Forfeited	132	167	191	152	642
Administrative Forfeitures	119	141	165	136	561
Judicial Forfeitures	13	26	26	16	81
Court-Denied Forfeitures	1	3	3	1	8

Once forfeited, the vehicle is sold at public auction, and proceeds are distributed in accordance with Vehicle Code section 14607.6(i). That section allows tow companies to collect towing and storage costs, legal owners to collect what they are owed, and other lien holders, if they can establish a financial interest, to collect what they are due. Next, Unlicensed Driver (ULD) and Negligent Impound (NIP) fees are paid to the City, and the remaining funds are split between the City's general fund and the State's smog repair fund. (Note: ULD and NIP fees are described in the following section on revenue.) Table 4 describes the distribution of proceeds from the STOP Team's vehicle forfeitures.

Table 4

VEHICLE FORFEITURE REVENUE

	CY 97	CY 98	CY 99	CY 00	TOTAL
Proceeds to General Fund*	\$ 34,405	\$ 64,331	\$ 58,540	\$ 62,800	\$220,076
NIP Fees** @ \$53	\$ 5,037	\$ 6,191	\$ 7,270	\$5,163	\$23,661
ULD Fees*** @ \$72	\$ 6,015	\$ 8,072	\$ 9,217	\$ 6,548	\$29,852
Total Proceeds	\$45,457	\$78,594	\$75,027	\$74,511	\$273,589

* This represents one-half of the proceeds received at auction (less storage and impound fees due to the tow company). One-half also went to the State.

** NIP fees deposited into General Fund.

*** ULD fees deposited into STOP account

Revenue

Cost-recovery fees are assessed on all vehicles impounded pursuant to Vehicle Code sections 14602.6, 14607.6, 22651(h), and 22651(p), payable when the car is released. Tow companies under contract to the City collect the fees on the City's behalf. The cost-recovery fees total \$125. This total is comprised of a \$53 Negligent Impound Fee (NIP), which is deposited into the City's General Fund, and a \$72 Unlicensed Driver Fee (ULD), which is deposited into the STOP Team's account. The account is used to pay for the STOP team's salaries, office equipment, supplies, vehicles, and safety equipment.

Vehicle Code section 22850.5 authorizes cities to adopt resolutions establishing procedures for recovering the costs of impounding vehicles. Accordingly, the City Manager's Report dated March 16, 1990, Report No. 90-139 (RR 275487 filed April 16, 1990) authorized a full cost recovery fee for vehicles impounded because of owner negligence. Initially set at \$40, the NIP was established to account for the administrative costs of impounding and processing vehicles negligently left on public streets. The NIP fee is currently \$53.

The NIP fee was calculated using a salary average of all employee classifications from all departments that impound vehicles. Conversely, because driver's license violations are enforced only by sworn police personnel, only the salaries of sworn personnel were used to calculate the recovery fee for an impound related to a driver's license violation. The average cost for a police impound is \$150. Roughly half of that amount is \$72. The City Council approved this \$72 fee, known as the Unlicensed Driver Fee (ULD) in 1996. Resolution Number R-97-252 stated that the fee was a "current, conservative, and reasonable estimate of Police Department and City Attorney costs for documenting, researching, prosecuting, tracking, and releasing the subject impounded vehicles."

STOP has provided a public safety benefit by focusing on illegal drivers, resulting in heightened detection and prosecution of illegal drivers by the Department and the City Attorney's Office. In FY 2000, fees from *all* driver's license-related impounds by the Department and forfeiture proceedings from STOP impounds contributed a net \$873,453 to the City's general fund.

Table 5 presents a calendar year summary of impound fees, from 1997 to 2000.

Table 5

VEHICLE IMPOUND PROGRAM

	Authority*	CY 1997	CY 1998	CY 1999	CY 2000
<u>Vehicles Impounded</u>	VC § 22651(h)	2,084	3,036	3,950	4,326
	VC § 22651(p)	9,710	12,482	11,263	12,110
	VC § 14602.6	2,829	2,586	2,181	2,072
	VC § 14607.6	125	188	246	134
Total Impounds (Per above Authority)		14,748	18,292	17,640	18,642
30-day Post-Storage Hearings Conducted		822**	2,169	2,001	1,535
ULD Fees Collected on Driver's License Related Impounds ***		\$1,107,664	\$1,077,743	\$934,600	\$1,156,668
NIP Fees Collected on Driver's License Related Impounds ****		\$781,644	\$969,476	\$934,920	\$988,026

* VC §§ 22651(h) and 22651(p) authorize a one-day impound.
VC § 14602.6 authorizes a thirty-day impound.
VC § 14607.6 authorizes vehicle forfeiture.

** The STOP Team began conducting post-storage hearings in August 1997. Prior to that time, SDPD Vice Administration conducted the hearings.

*** Deposited into the STOP Team Fund.

**** Deposited into the City's General Fund.

Note: Fees do not include accrued interest

CONCLUSION:

It is respectfully requested that the Public Safety and Neighborhood Services Committee accept this report and recommend that the City Council approve the resolution reauthorizing the STOP Program to continue for another five years, with periodic reports to the Public Safety and Neighborhood Services Committee, and reauthorize the current \$72 Unlicensed Driver Vehicle Impound Fee.

Respectfully submitted,

David Bejarano
Chief of Police

Note: The attachment is not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachment