



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 10, 2011 REPORT NO: 11-073
ATTENTION: Public Safety and Neighborhood Services Committee
Agenda of May 11, 2011
SUBJECT: Police Department Proposed Civilian Reductions
REFERENCE: Budget Committee Meeting – May 4, 2011

REQUESTED ACTION:
Information Item Only

SUMMARY:

The San Diego Police Department (Department) was requested to provide additional information regarding proposed budget changes. This report will provide information regarding the following subjects:

1. Abandoned Vehicle Abatement Unit
2. Entertainment Fees
3. Alarm Permit Revenue
4. Impacts to revenue from previous civilian reductions

The Department analyzed many options for reductions in an effort to present a balanced proposed FY12 budget including the reduction of sworn and civilian positions and non-personnel expense. The proposed budget includes a combination of reductions to all these areas.

Over the last three years, the Department has lost 155.50 sworn positions and 133.00 civilian positions. Even during difficult budget times the Department must continue to focus on the core mission of public safety: responding to emergency situations. With the continued attrition of the sworn personnel the Department has reached a plateau whereby the number of authorized sworn positions cannot decline any further without substantially jeopardizing the safety of our growing population.

Similar to the difficult decisions made with previous budget reductions, the Department identified units whereby sworn personnel could be used to perform functions that may have been performed

by civilian personnel. This has never been intended as a statement of capabilities between sworn and civilian personnel. Civilian personnel maintain an important role in the Department. These actions are intended to provide the Department the ability to maintain a level of sworn officers that when necessary, are able to respond to situations that require a full contingent of armed and trained police officers.

ABANDONED VEHICLE ABATEMENT PROGRAM

BACKGROUND

The State of California has long recognized that abandoned vehicles constitute a public nuisance and a health and safety hazard. They reduce the value of private property, promote blight and deterioration, create fire hazards, and damage the environment with leaking fluids and oils. Furthermore, they endanger the safety of minors, frequently harbor rodents and insects, and negatively impact the welfare of San Diego communities.

Abandoned Vehicle Abatement authorities (AVA) were authorized in the California Vehicle Code (CVC) in 1967 to allow cities/counties to establish abatement authorities. In 1971, new vehicle codes were enacted which allow (but did not demand) the imposition of a one dollar (\$1) surcharge on vehicle registrations or renewals. This was enacted to assist offsetting expenses that cities and counties were experiencing for removing nuisance vehicles.

Changes to the CVC throughout the next 30 years changed oversight of the program within the State government, added a \$2 commercial vehicle fee and adjusted reporting requirements.

In 1991, the San Diego County Board of Supervisors in coordination with the local 18 cities within the county established the *San Diego County AVA Service Authority* (SDAVA). The board of directors of the SDAVA is comprised of two San Diego City Councilmembers, two County of San Diego Supervisors and three council members from member cities. The Board is responsible for all administration of the program.

The CVC provides for the following:

1. All money collected locally through the vehicle registration fee is continuously appropriated to the State Controller for reimbursement to each respective county authority.
2. Each authority (including SDAVA) must be staffed by existing county/city personnel. City staff from the San Diego Police Department currently performs administrative duties for the SDAVA and are reimbursed by program funds. This is different than the actual SDPD AVA program.
3. The actual removal and disposal of vehicles may only be undertaken by a county or city, it cannot be contracted to a third party, with the exception of the actual towing/ removal of the vehicle or parts.
4. Funds reimbursed to each local member of the SDAVA are only eligible for staff time and reasonable expenses to complete the abatement, removal and disposal of vehicles as defined as public nuisances within the CVC, not 72 hour notices or other parking citations.
5. The reimbursement apportionment formula is based on 50% population figures and 50% of the respective percentage of vehicles abated.

The SDAVA bylaws, reaffirmed by the State in 2008, identify that any excess reimbursement funds accrued remain within the respective members' trust account year-over-year instead of being returned to a County-wide pool. The City may only use its funding apportionment for abatements within the City and may not share nor transfer funds with other local cities.¹ The Department has historically received approximately \$900,000 to \$1.0 million annually in expenditure reimbursements. Currently, the AVA trust for the City of San Diego has an estimated fund balance of \$1.3 million.

AVA reimbursement funds are available to reimburse expenses (salary/fringe) for all personnel that perform abatement duties full-time, regardless of classification. Additionally, funds have been used to purchase vehicles, computers, cameras, radios, etc. for the AVA unit.

It is important to note that the AVA unit is reimbursed for qualified actual expenditures and does not serve as a revenue generating function in the City.

SAN DIEGO POLICE DEPARTMENT AVA UNIT

The San Diego Police Department established its permanent AVA unit in 1992. It currently resides in the Traffic Division unit and is staffed by 7.00 Police Code Compliance Officers, 1.00 Police Code Compliance Supervisor and 1.00 Administrative Aide II.

The primary responsibility of AVA is to identify and remove abandoned or inoperable vehicles from public and private property. However, the majority of vehicles targeted for abatement are located on private property.

The AVA Unit has also assisted area Commands by responding to a significant number of 72-hour parking complaints by San Diego residents. Until recently, 72-hour parking complaints have grown steadily and consumed more and more AVA resources. Over the past six months, retired senior volunteers (RSVP) have assumed a greater role in managing the complaints, enabling AVA officers to focus on AVA enforcement. (AVA enforcement related to 72-hour parking complaints does not qualify for State reimbursement under the AVA program.)

A significant number of AVA investigations involve non-compliant vehicle and property owners. Frequently vehicle owners ignore written correspondence and refuse to meet with civilian officers. They do not permit officers to inspect vehicles on private property and as a result, enforcement efforts are hampered or have to be curtailed.

When a vehicle or property owner is not cooperative, it becomes necessary to obtain an inspection warrant to inspect a vehicle located on private property. Inspection warrants are required when an officer needs to enter a place where the property owner generally has an expectation of privacy. Inspection warrants are similar to search warrants in that the officers must prepare a warrant and affidavit authorized by a magistrate. After the inspection, the owner is given a reasonable amount of time to bring the vehicle into compliance. If compliance is not achieved, an abatement order must be obtained from the court to remove and dispose of the vehicle. The warrant process, as

¹ Memo from John J. Sansone, San Diego County Counsel, October 26, 2000

well as the techniques needed to manage uncooperative vehicle and property owners, would be best handled by sworn, uniformed personnel.

PROPOSED CHANGES TO SDPD AVA UNIT

In Fiscal Year 2012 the Department will operate the AVA unit with 4.00 Code Compliance Officers, 3.00 Police Officer II's and 0.50 Police Motor Sergeant. One-half of the Motor Sergeant's time will be dedicated to AVA supervision the other half will be used to supervise a regular Motor squad. All staff time (including salary and fringe) conducted for qualified abatement procedures will continue to be 100% reimbursed.

All AVA assigned personnel will be responsible for the investigation of AVA related incidents. Investigations involving uncooperative or noncompliant vehicle owners will be conducted primarily by, or with the assistance of sworn personnel. Sworn officers will be responsible for serving inspection warrants and abatement orders.

Sworn officers assigned to the AVA Unit will be Motor officers as police motorcycles are highly mobile and can patrol areas that are often inaccessible to officers in vehicles. The motorcycles also enable officers to easily observe abandoned vehicles in parking lots and locations where they may be partially obstructed.

The following table represents a comparison between the current and proposed expenses and reimbursements. Non-personnel expense is estimated and primarily reflects vehicle and data processing expenses.

| CURRENT | | Salary/Fringe | Total Expense | Reimbursement |
|-----------------|----------------------------|---------------|---------------|---------------|
| 7.00 | Code Compliance Officer | \$91,546 | \$640,822 | \$640,822 |
| 1.00 | Code Compliance Supervisor | \$96,437 | \$96,437 | \$96,437 |
| 1.00 | Administrative Aide II | \$78,790 | \$78,790 | \$78,790 |
| | Non-Personnel Expense | | \$125,000 | \$125,000 |
| 9.00 | TOTAL | | \$941,049 | \$941,049 |
| PROPOSED | | | | |
| 4.00 | Code Compliance Officer | \$91,546 | \$366,184 | \$366,184 |
| 3.00 | Police Officer II | \$149,156 | \$447,468 | \$447,468 |
| 1.00 | Administrative Aide II | \$78,790 | \$78,790 | \$78,790 |
| 0.50 | Police Sergeant | \$162,115 | \$81,058 | \$81,058 |
| | Non-Personnel Expense | | \$125,000 | \$125,000 |
| 8.50 | TOTAL | | \$1,098,500 | \$1,098,500 |

By funding the motor officers through the AVA, the General Fund may have the potential to realize approximately \$447,000 in savings.

ENTERTAINMENT FEES

The Fiscal Year 2012 budget includes fee adjustments which will provide full cost recovery for expenses associated with enforcing laws which govern police regulated entertainment businesses. Municipal Code § 33.0307² requires the City to capture the actual cost of enforcing these specific laws. This precludes the general public from bearing the direct cost of enforcing laws and regulations pertaining to police regulated activities.

The Department recognizes the entertainment venues as providing diverse and cultural experiences for residents of the City. However, since 2009 the General Fund has subsidized approximately \$900,000 in expense regulating establishments with entertainment permits. All other police regulated industries are fully cost recoverable through their existing fees.

Using the criteria contained in federal OMB Circular A-87 and the recently enacted California Proposition 26, the Department has adjusted entertainment permits based on the cost of regulating and enforcing these specific permittees. The goal of the Department will be to continue recognizing the contributions of the venues, while minimizing criminal activities and any adverse impact to surrounding business and residential communities without putting the cost burden on the General Fund.

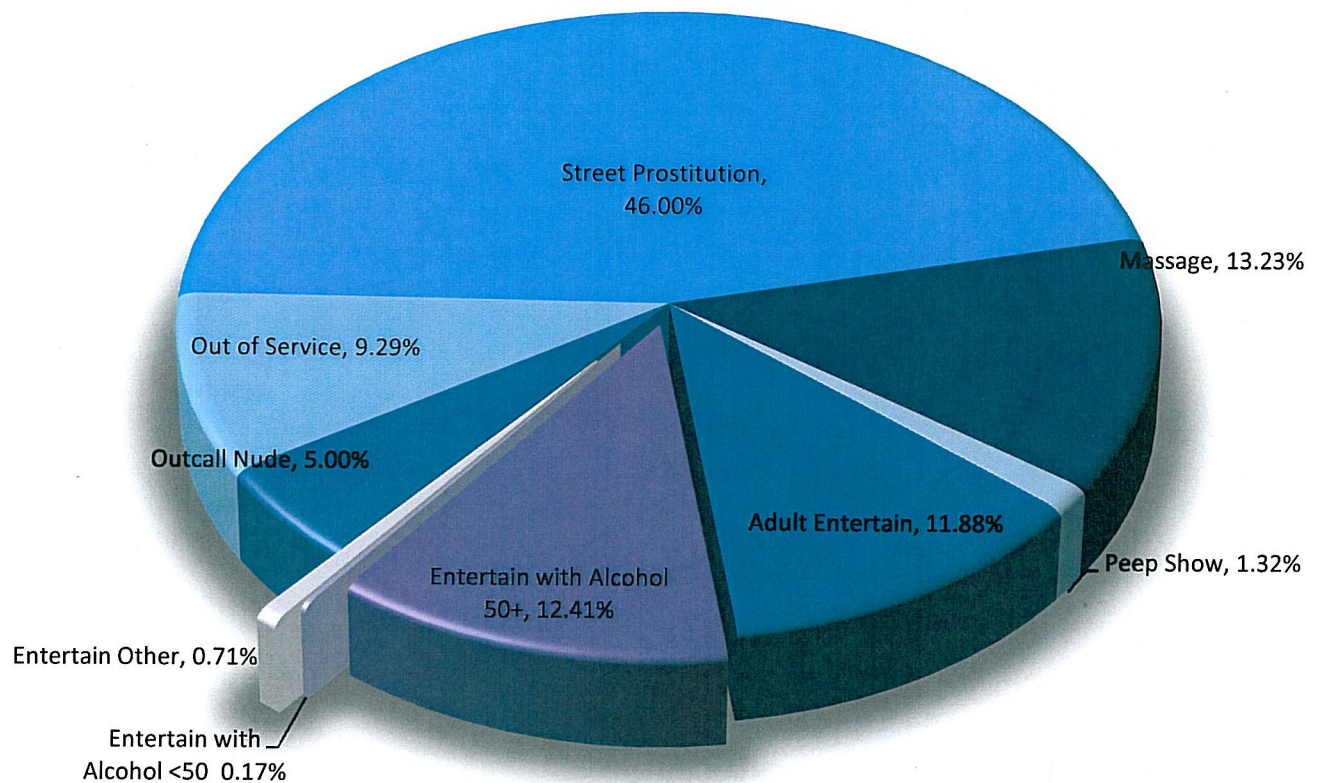
| | Fee Type | Number of Est. Permits | Current Fee | % Cost Recovery | Proposed Fee | % Cost Recovery |
|---|---|------------------------|-------------|-----------------|--------------|-----------------|
| 1 | Entertainment Permit Single Occasion <50 people | 3 | \$189 | 94% | \$201 | 100% |
| 2 | Entertainment Permit Single Occasion 50+ people | 26 | \$379 | 30% | \$1,252 | 100% |
| 3 | Entertainment Permit w Alcohol <50 people | 16 | \$920 | 98% | \$938 | 100% |
| 4 | Entertainment Permit w Alcohol and 50+ people | 198 | \$1,840 | 57% | \$3,253 | 100% |
| 5 | Entertainment Permit W/O alcohol <50 people | 1 | \$126 | 44% | \$283 | 100% |
| 6 | Entertainment Permit W/O alcohol 50+ people | 5 | \$184 | 26% | \$718 | 100% |

The proposed permit fees are based on a cost model that minimizes administrative oversight thus keeping the expenses low. More complicated tiered structures will require further administrative oversight thus increasing the overall fee structure. The fees simply recover the expense of processing applications, including the investigation of permittees and conducting announced and unannounced inspections throughout the permit year.

² ***San Diego 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 Department reviewed the amount of time that the Vice Unit spends on all activities. The following chart identifies that 45% of Vice Unit labor is spent on Police regulated industries such as Massage/Holistic Health, Adult Entertainment or Entertainment in which cost recovery fees are captured. Approximately 55% of Vice Unit labor cost is not recovered through fees as it is spent on enforcing laws for Pimping and Pandering (Prostitution) – 46%, or Out of Service Time – 9.29%.



Additionally, in *United Business Commission v. City of San Diego*, 91 Cal. App.3d 156, 165-166 (1979) the court stated;

It is not to be understood from these citations that the costs to the municipality which may be considered are simply those which arise directly in the enforcement of the regulatory provisions themselves. The license fee may properly be fixed with a view to reimbursing the city, town, or county for all expense imposed upon it by the business sought to be regulated

It is through this court determination that the Department determines the expenses for each respective type of police regulated business. The Department cannot establish a fee structure that focuses simply on enforcement or policing violators, which has been suggested. The fee structure has been established to recover total expense of managing the respective police regulated business so as not to burden the general public, regardless of compliance.

The Department has additional punitive resources available for violators of police regulated business. These are purposely removed from any fee calculation so as not to burden compliant police regulated businesses.

The Department will work with the Entertainment Permit stakeholders to address concerns related to orientation and training of permit holders.

The Department's objective will continue to focus on compliance with the Municipal Code, prevent fiscal impacts to the General Fund and provide safe entertainment for all ages.

ALARM PERMIT REVENUE

During the May 4, 2011 Police budget presentation, several questions were presented regarding previous changes made in the Police Department Vice Permitting Unit. The Department was required to replace Police Code Compliance Officers (PCCO's) with sworn officers. Specifically, the questions focused on the impact to the number of permits processed and the amount of revenue received subsequent to the change. The Department made a commitment to report on the impact of these changes after 18 months of implementation. Since only 12 months have passed since the changes were implemented, some of the following data is subject to be refined.

Question: Has there been a drop in Alarm Permits since the change from 1.00 PCCO to 1.00 Police Officer?

Response: There has been an 11.5% drop in Alarm permits primarily in renewals when comparing the activity between the two organizational structures. The Department has attributed this change to economic conditions and the increase in fees since the process requirements have not changed. Penalties and fines are also down 11% which was expected due to the increase in punitive fines. The following chart provides a comparison of the 3rd Qtr. FY 2010 when 1.00 PCCO was involved in the permit process versus the same time period for FY 2011 when 1.00 Police Officer has managed the permit process. The total change between FY10 and FY11 is -11.5%.

| Number of Alarm permits | 3rd Qtr FY10 | 3rd Qtr FY11 |
|---------------------------------|--------------------------------|--------------------------------|
| Alarm Permits – New | 1,368 | 1,348 |
| Alarm Permits – Renew | 4,297 | 3,664 |
| TOTAL ALARM APPLICATIONS | 5,665 | 5,012 |

Factors contributing to the decline of alarm permit renewals include the continued foreclosure of commercial and residential properties across the region according to alarm industry representatives. Additionally, a new trend that is appearing with younger generation clients is the ability to have live video sent directly to a smart phone thus potentially affecting consumer demand for alarms or alarm permits. These changes would have occurred regardless of the Department staffing adjustments.

Question: Has the Department only collected \$250,000, while the PCCO's collected over \$3,000,000 when they were involved in the process?

Response: The Department has already collected over \$1.6 million in alarm fee revenue through February, 2011. The \$250,000 referred in the above question only reflects the amount that has been collected through the on-line payment system. The total program is expected to collect \$2.6 million for FY 2011. It should be noted that the \$250,000 collected through the on-line system is via an automated process which requires very minimal labor to process thus saving additional resources. The Department is exploring options to expand the capabilities.

The following chart indicates the comparison of revenue collected between the two fiscal years. The FY 2011 amounts include \$97,761 collected via the on-line collection system.

| Fees collected | 3rd Qtr FY10 | 3rd Qtr FY11 |
|-------------------------------|--------------------------------|--------------------------------|
| Alarm Permit Fees | \$684,505 | \$617,791 |
| Alarm Revocation/Penalty Fees | \$50,643 | \$35,985 |
| TOTAL PER QUARTER | \$735,149 | \$653,776 |

Additionally, a benefit has been realized with this organizational change. Previously, Department personnel conducted inspections using a PCCO for the assigned industry with an additional sworn officer as cover. The Department is now able to use a single sworn position to conduct inspections and tobacco decoy operations which has allowed other staff to focus on other priorities.

Question: Has the Department sent any requests to the City Treasurers' collections unit.

Response: The Alarm Permit Unit has only periodically used the City Treasurers' collections unit for outstanding debts. Since the implementation of SAP which was concurrent with the personnel change, the system for referring delinquent accounts has been updated. The subsequent results have limited the Department's ability to manually refer accounts to collections. Without this integration, there is a potential of double billing customers through the Alarm Permit System and the Treasurers' collection unit, which the Department would like to prevent. This situation would still exist regardless of the classifications performing oversight of the program.

The expense to integrate the alarm system records with collections system has not been budgeted due to conflicting priorities. As discretionary funds have become scarce, the Department is seeking opportunities to finance these enhancements with one-time grant money; just as one-time grant funds paid for the development of the On-line Permit renewal system.

In the meantime, the Department has not ignored this situation and has been working with the respective parties to possibly identify other solutions. Although time delays always hamper collection efforts, there is no statute of limitations and the Department will continue to pursue the collection of any outstanding penalties.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Auditor is currently conducting an audit of the alarm program

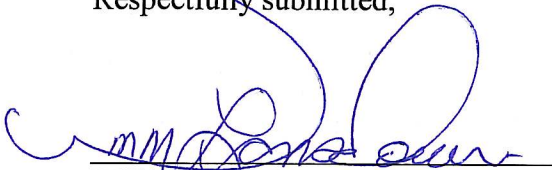
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Notices of the changes to the Fee Schedule will delivered to impacted stakeholders.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include owners of police regulated businesses and independent contractors; alarm permit holders and alarm monitoring companies

Respectfully submitted,



William Lansdowne
Police Chief