July 1, 2025

Saba Raisesmaili
Senior Planner
City of San Diego
Urban Innovation Division
Development Services Department

Re: Opposition to Nolita Hall's CUP for Live Entertainment and Extended Hours

Dear Saba,

Thank you for reaching out regarding the upcoming Conditional Use Permit (CUP) hearing for Nolita Hall's request to allow live entertainment and extend hours of operation and alcohol service.

In March 2025, the Little Italy Association Board of Directors reviewed a recommendation from the Neighborhood Advisory Committee—a standing committee of the Board—regarding Nolita Hall's request. After careful consideration and discussion, the Board voted not to support the request for live entertainment and extended hours.

Since 2015, the Board has maintained a neighborhood operating policy designed to preserve the residential character and quality of life in Little Italy. This policy provides clear guidance on operational hours and restrictions on live music for restaurants. It was adopted to balance the interests of local businesses with the needs of residents by minimizing excessive noise and late-night activity.

While the Little Italy Association supports Nolita Hall's ongoing business success, we do not support their request for expanded live entertainment, extended hours, or additional alcohol sales beyond what is currently permitted.

Additionally, I have communicated our opposition to Detective McCurry with SDPD Vice Permits & Licensing regarding the proposed extension of alcohol service hours.

If you have any questions or need further information, please don't hesitate to contact me at (619) 233-3898 or chris@littleitalysd.com. Thank you for your time and consideration.

Sincerely,

Christopher M. Gomez
Chief Executive Administrator
Little Italy Association of San Diego

110511 ABC hearing data

Figure 1

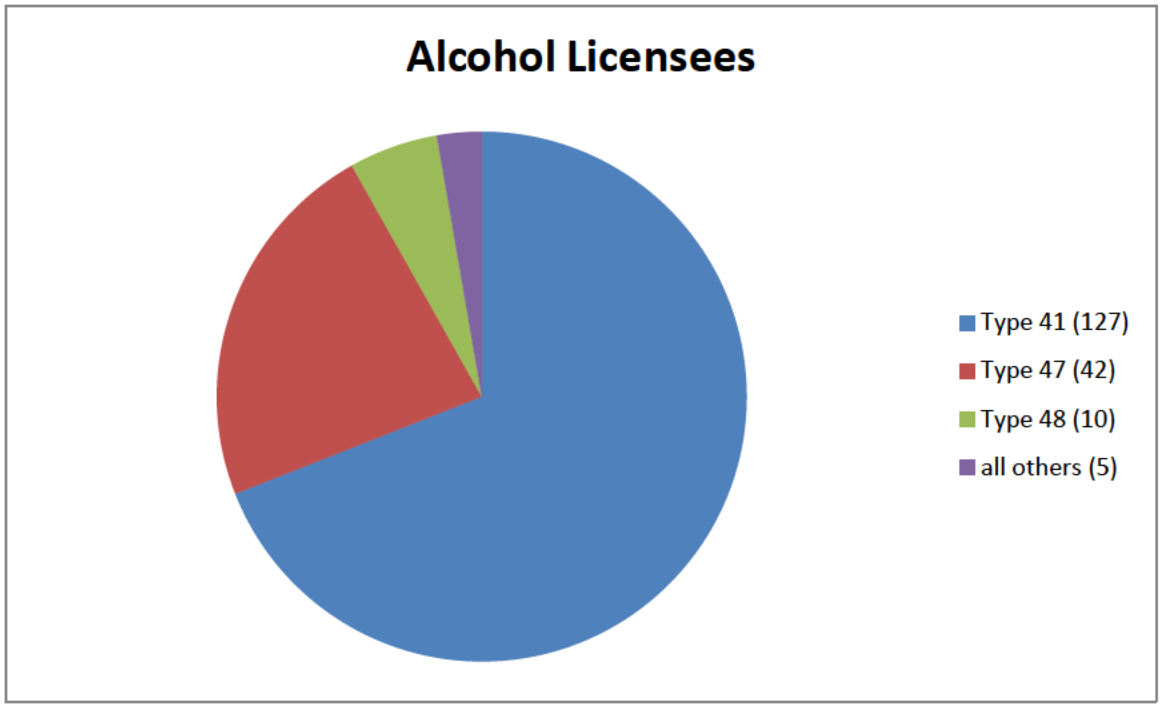
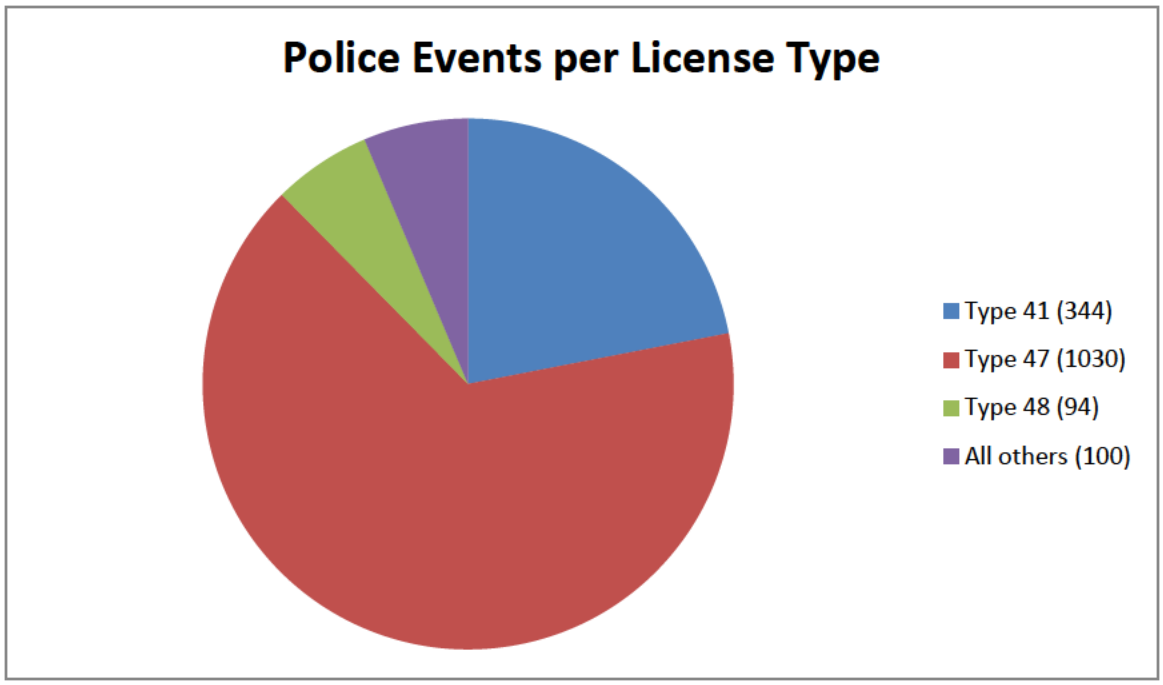


Figure 2



Source of data: **Police Events at Restaurants and Bars by ABC License type in Garden Grove, California,** Prepared by CLEW Associates Berkeley, California, February 23, 2011

This information comes from a new study assessing outlet density and outlet operation of California Alcoholic Beverage Control (ABC) Type 47 licenses in the City of Garden Grove, California, for the purpose of identifying social problems and safety issues associated with these outlets. This study is part of a larger study of alcohol outlets in 18 different cities in California; Garden Grove was selected because of its stable population and rate of development.

Figure 1 shows the relative number of different license types in the city. **The red area represents Type 47 Alcohol licenses, blue is Type 41. Type 47 licenses make up about 23 percent of the total.**

Figure 2 shows the number of number of police events at the different license types. Note that Type 47 licenses account for 66 percent of the police problems.

Quoting directly from the study's "Policy implications for on-sale outlets."

> The ABC Code states that a license will not be issued for any premises contrary to a valid zoning ordinance for any city or county (S. 23790). The understaffed ABC also depends heavily on the city to support compliance and enforcement activities for retail alcohol outlets. These circumstances underscore the value of a preventive approach to deal quickly with minor problems at alcohol outlets before they become major problems. Most of these problems are predictable and manageable but are far more difficult to deal with once they have taken root.
>
> (4) Land-use and zoning controls. Preventive oversight for retail alcohol outlets (both on-sale and off-sale types) is best managed as a matter of land-use control – especially conditional use permits (CUPs) and text restrictions that prevent alcohol outlets overconcentration. The ABC supports local jurisdictions that make full use of planning and zoning ordinances. (unquote)

San Diego police are woefully understaffed, and may be more so in the near future. Our community already suffers because of the overconcentration of alcohol outlets in the central business district. Most of Pacific Beach enjoys low crime rates and a good quality of life. But we have many times the citywide average in alcohol-related crimes, violent crimes, and DUI arrests, all of which stem from one tiny section of our community: The central business district, Census Tract 79.01.

Once a license is issued, it is impossible to control the behavior of the licensee; and when a license changes hands, the community has virtually no input. Regardless of how the current licensee operates his business, it would be unconscionable for the ABC to issue another Type 47 license in Pacific Beach until local controls are implemented.

Source of data: **Police Events at Restaurants and Bars by ABC License type in Garden Grove, California,** Prepared by CLEW Associates Berkeley, California, February 23, 2011

Results of the 2012 California Roadside Survey of Nighttime Weekend Drivers' Alcohol and Drug Use

November 13, 2012

John H. Lacey, Tara Kelley-Baker, Eduardo Romano, Katharine Brainard, and Anthony Ramirez

Pacific Institute for Research and Evaluation
Calverton, MD

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Executive Summary

Background

This report summarizes the results of the first California Statewide Roadside Survey of Nighttime Weekend Drivers' Alcohol and Drug Use. To our knowledge, it is the first state-level survey of this magnitude. It is modeled on data collection procedures used in the "2007 National Roadside Survey of Alcohol and Drug Use by Drivers," sponsored by the National Highway Traffic Safety Administration.

Methods

A random sample of nighttime drivers was interviewed on Friday and Saturday nights from 10 p.m. to midnight and 1:00 a.m. to 3:00 a.m. Data were collected on one weekend in eight communities and on two weekends in one community during the summer of 2012. The nine communities where data were collected were Eureka, San Rafael, and Redding in the northern part of the state; Fresno and Modesto in the central part of the state; and Anaheim, Ontario, Chula Vista, and Gardena in southern California.

Anonymous breath tests and oral fluid samples as well as responses to questionnaires were collected from over 1,300 drivers. The breath alcohol samples were analyzed for alcohol and the oral fluid samples were analyzed for nearly 50 drugs, including prescription, illegal, and over-the-counter drugs. Analyses were conducted by screening using enzyme-linked immunosorbent assay (ELISA) microplate technology and positive screens were confirmed using gas chromatography–mass spectrometry (GC/MS) or liquid chromatography–mass spectrometry (LC/MS/MS) technology.

Results

Among eligible drivers approached to participate in the survey, 81% (1,375 drivers) agreed to answer questions, 85.3% (1,449 drivers) provided a breath sample, and 77.3% (1,313 drivers) provided an oral fluid sample.

Among drivers participating in the interview, 3.7% reported having a medical marijuana permit and, of those, 65.8% reported having used the permit to purchase marijuana. Within the total population, 40% admitted to having at some time used marijuana.

In terms of breath and oral fluid test results, 184 (or, 14%) tested positive for at least one drug, and 7.3% tested positive for alcohol. One percent of tested drivers were at .08 blood alcohol content (BAC) or above.

The vast majority (89.6%) of drug positive drivers tested negative for alcohol. Of the drug-positive drivers, 2.7% had a BAC above zero but less than .05; 5.5% from .05 to .08; and 2.2% at or above .08.

Marijuana was the most frequently encountered drug at a prevalence rate of 7.4%, with 5.5% of drivers testing positive for marijuana alone; 1.1% testing positive for marijuana and an illegal drug; 0.5% testing positive for marijuana and a medication; and 0.3% testing positive for marijuana, an illegal drug, and a medication. Illegal drugs were present alone in 2.7% of drivers,

and in combination with medications in 0.5%. Medications alone were present in 3.3% of drivers. Synthetic marijuana was found in 5 (or 0.4%) drivers.

Conclusions

This survey provides a baseline California prevalence estimate for alcohol and drug use among nighttime weekend drivers and can be compared with results of future surveys to examine patterns of change in drug and alcohol use in that population. It should be noted that these figures describe the prevalence rates for the presence of these drugs in drivers and do not address whether those drivers were impaired by these substances.

Introduction

The objective of this project was to conduct a roadside survey of a random sample of nighttime weekend California drivers to develop a prevalence estimate of alcohol and drug use within that population, using the same basic methodology followed in the 2007 National Roadside Survey (NRS) (Lacey et al., 2009a). We conducted this study for the California Office of Traffic Safety (OTS) to help them monitor the prevalence of alcohol- and marijuana-involved driving in California and compare that with previous prevalence estimates (Lacey et al., 2009b; Johnson et al., 2012).

Methodology

Data collection was a collaborative effort of the California Office of Traffic Safety (OTS) and the Pacific Institute for Research and Evaluation (PIRE).

Anonymous breath tests and oral fluid samples were obtained from more than 1300 weekend nighttime drivers randomly sampled from nine jurisdictions in California, including Anaheim, Chula Vista, Eureka, Fresno, Gardena, Modesto, Ontario, Redding, and San Rafael. Using procedures that were essentially identical to the 2007 National Roadside Survey (NRS) (Lacey et al., 2009a; Johnson et al., 2012), a random sample of weekend nighttime drivers were interviewed on Friday and Saturday nights from 10 p.m. to midnight and 1 a.m. to 3 a.m. As in the 2007 NRS, participants responded to surveys, including a self-report drug use questionnaire. Breath samples were collected using the Mark V Alcoviser™, and oral fluid samples were collected using the Quantisal ™ collection unit. The two-day data collection periods were conducted once in eight of the jurisdictions and on two weekends in one (Modesto). Thus, 10 sessions of weekend data collection occurred.

Site Recruitment

In 2007, the National Highway Traffic Safety Administration (NHTSA) funded the 2007 National Roadside Survey (NRS). Five of the sites who participated in the 2007 NRS were from California (Anaheim, San Jose, Torrance, Concord, and Oxnard). Additionally in 2010, PIRE conducted a roadside survey in six California cities. These cities were Anaheim, Bakersfield, Eureka, Fresno, San Rafael and Torrance. For continuity, we attempted to return to these same sites to conduct the current roadside survey. However, not all the police departments were available to participate. With the assistance from the OTS, specific police departments were identified to possibly assist with the roadside survey. Anaheim, Eureka, Fresno and San Rafael were willing to participate again in 2012 and OTS identified Chula Vista, Gardena, Modesto, Ontario and Redding as additional sites.

Once a geographic location was selected and the police department agreed to assist with traffic control during data collection, the jurisdiction was mapped and divided into a grid of approximately 1-square-mile areas. Squares containing fields, parks, airports, harbors, and the like, which contain few road segments, were eliminated from our sampling frame. Using a simple random sampling procedure of all the eligible “survey squares,” we identified 30 possible square-mile grid areas for potential survey site locations.

The map was sent to our main contact within each police department, and the day before data collection, our Survey Manager and a police officer reviewed the map and identified four suitable survey sites within the identified square-mile grids. Suitable survey sites included areas of the jurisdiction that had sufficient traffic flow and an area (i.e., a parking lot) with enough space to safely set up six to eight bays, and where vehicles could enter and exit safely. At a minimum, it was necessary for these locations to be safe and appropriately lit, have sufficient traffic flow to achieve the required sample size.

The Survey Manager and the officer then drove to the identified areas and looked for sites. Once a specific site was identified, they drove to the next square mile grid-area to search for another specific survey site. In total, four different survey sites were identified for each location (plus two backup sites) and each survey site was assigned to a time slot (i.e., one location from 10:00 p.m. until 12:00 a.m. on Friday night, another location 1:00 a.m. until 3:00 a.m., and still another on Saturday night from 10:00 a.m. until 12:00 a.m. and another location 1:00 a.m. until 3:00 a.m.).

General Survey Procedures

Data collectors were trained in all facets of roadside data collection, including safety, interacting with the public, collecting the data, and also a protocol for facilitating a safe ride home for impaired drivers. Data Collectors participated in a two-day training session to learn and understand every aspect of the equipment and the data collection procedures and protocols. The first day of training included classroom instruction using a training manual that detailed all project procedures and protocols. The second night included hands-on instruction, including training in a parking lot to mimic real survey site data collection (simulation survey). After participating in the training sessions, all Data Collectors were proficient in knowing how to interact with the public and successfully recruit participants while also ensuring informed and voluntary consent. All Data Collectors were also trained on how to detect an impaired driver and gained an understanding of the established impaired driving protocol.

At the data collection site, an officer positioned a police vehicle at the side of the road with overhead lights flashing and, thus, visible to approaching traffic. The police vehicle's headlights were positioned to illuminate the officer. Data Collectors, working in an off-road parking lot, set up the site with bays marked off by orange traffic cones borrowed from the police agency. Data Collectors unpacked their backpacks of supplies in preparation for vehicles, and set up the appropriate survey signs that informed the public of the voluntary nature of the survey. When the data collection team was ready, drivers were randomly waived into the survey site. To ensure unbiased selection of the first vehicle at each interview site, the third vehicle passing the site after initiation of the survey was waved in for the first interview. Commercial vehicles were excluded from the survey, but motorcycles were not. As the vehicle came into the survey area, a Data Collector guided the driver into the open survey bay. In some jurisdictions, the police were present but did not direct traffic. In those instances, a research assistant directed traffic.

Basic Survey Sequence

As the motorist came to a safe stop in the bay, the Data Collector recorded basic demographics based on observation (e.g., number of passengers, use of a safety belt by the driver, gender and ethnicity of the driver). These data were recorded so that descriptive information of potential subjects who refused was obtained. The Data Collector then approached

the vehicle and initiated contact with the driver using a basic protocol, including an introduction explaining that participation was anonymous and voluntary, and could be ended at any time.

Once oral consent for an interview was obtained, the subject answered questions covering topics such as his/her annual mileage, vehicle ownership, general alcohol and marijuana use and alcohol and marijuana use and driving, and a series of demographic items. During the interview, the Data Collector also obtained a passive alcohol reading on each subject using a passive alcohol sensor (PAS) device. After the interview was completed, the Data Collector requested a breath test with a preliminary breath test (PBT) device. The breath test results could not be read by the Data Collector but rather were stored in the device and downloaded later for analysis.

After the breath test request, the Data Collector offered a $20 incentive to the subject to provide an oral fluid sample. If the subject agreed, an oral fluid collection device was provided and the subject was instructed to place the device under their tongue. While the device was in the subject's mouth, the subject completed a drug use questionnaire. The items on the questionnaire included questions about their past use of drugs (illegal, prescriptions, and over-the-counter), drugs that they felt might impair driving, and about the most recent time they used specific drugs. The questionnaire also included additional questions on alcohol use. After the conclusion of the oral fluid collection, subjects were provided with the $20 in cash and given instruction on how to exit the survey site safely.

During the interview, if the PAS device detected alcohol in the air and/or if the Data Collector witnessed signs of impairment (e.g., slurred speech, blood-shot eyes, etc.) the Data Collector signaled the Survey Manager, who administered a breath test with a PBT (Intoxilyzer SD-400™) that displayed the result. Data Collectors were trained to recognize signs of impairment. If the driver had a blood alcohol concentration (BAC) of .05 or higher, the Survey Manager attempted to arrange a safe ride home (e.g., having another occupant of the vehicle drive if that person passed a BAC test, calling a friend or relative to come pick up the driver, arranging a taxi, etc.).

The basic survey sequence included:

- The research team arrived at the location; Data Collectors unpacked and set up study location equipment (e.g., "Voluntary Survey Ahead" signs) and individual Data Collectors' equipment in bays delineated by orange traffic safety cones.
- When a Data Collector was ready for a subject, the randomly selected driver was directed into the research area.
- A member of the research team directed the driver into a specific research bay; typically several bays were in operation.
- As the driver approached the bay, the Data Collector noted easily observable characteristics of the driver and vehicle and recorded those data (e.g., type of vehicle, number of passengers, seat belt usage, gender of driver, likely age of driver, etc.).
- The Data Collector approached the driver and briefly explained the purpose of the study, and explained that participation was both voluntary and anonymous and that the driver could stop participating at any point. The Data Collector obtained consent for continuing or, if the driver refused to participate, requested a breath sample. The non-participating driver's vehicle was assisted back into traffic flow and that driver was counted as non-participating.

- For drivers who chose to participate in this study, the Data Collector asked a few questions regarding the subject's general driving patterns and driving on that particular night.
- The Data Collector then asked a few questions regarding the subject's drinking behavior.
- During the questioning, the Data Collector obtained a passive alcohol reading of the driver using the PAS-Vr passive sensor and recorded the result on the survey form.
- The Data Collector requested a preliminary breath test from the driver. Note that the PBT recorded, but did not display, the driver's BAC.
- The Data Collector requested an oral fluid sample from the driver. As it took a few minutes to collect the required amount of oral fluid, the Data Collector at this time had the driver take a questionnaire that asked questions about their alcohol and drug use.
- Finally, the Data Collector thanked the driver and directed the person and their vehicle safely out of the research area and back into traffic.

The key objective of this roadside survey was to estimate the prevalence of drug- and alcohol-involved driving. However, other substances were also measured for future further analyses, including the use of over-the-counter, prescription, and illegal drugs that may impair driving performance. A specific focus was to estimate the prevalence of marijuana-involved driving in California. Table 1, below (from Lacey et al., 2009a), lists the drugs that were tested for in this survey. Oral fluid samples were analyzed for basically the same panel of drugs as in the 2007 National Roadside Survey (NRS) (see Table 1) supplemented by at least 8 versions of synthetic marijuana.

Table 1. Minimum Drug Detection Concentrations

Drug Class	Minimum Concentration Oral Fluid (ng/ml) Screen	Confirm	Common Name
Cocaine *(Cocaine, benzoylecgonine)*	20	8	Cocaine (e.g., crack or coke)
Opiates *(6-AM, codeine, morphine, hydrocodone, hydromorphone)*	20	10	Heroin Morphine or Codeine (e.g., Tylenol® with codeine)
Amphetamine/ Methamphetamine *(MDMA, MDA, MDEA, Phentermine)*	25	25	Amphetamine or Methamphetamine (e.g., speed, crank, crystal meth)
Cannabinoids *(THC, THC-COOH[THCA])*	4	2	Marijuana (e.g., pot, hash, weed)
Synthetic cannabinoids	N/A	0.5	(e.g., Spice, K2)
Phencyclidine	10	10	PCP (e.g., angel dust)
Benzodiazepines *(oxazepam, nordiazepam, bromazepam, flurazepam, flunitrazepam, lorazepam, chlordiazepoxide, temazepam, diazepam, clonazepam, alprazolam, triazolam, midazolam, nitrazepam)*	5	1	Benzodiazepines (e.g., Valium® or tranquilizers)
Barbiturates *(Phenobarbital, pentobarb, secobarbital, butalbital)*	50	50	Barbiturates (e.g., phenobarbital)
Buprenorphine (Suboxone®)	5	5	Opioid addiction treatment
Naltrexone (ReVia®)	40	10	Addiction treatment
Methadone	50	20	Methadone
Ethyl alcohol	.02%	.02%	Alcohol
Fentanyl (Sublimaze®)	1	0.5	Prescription pain killer
Oxycodone (Percocet®)	20	10	Prescription pain killers (e.g., Percocet®, OxyContin®, oxycodone, Demerol®, Darvon®)
Propoxyphene (Darvon®)	20	10	
Tramadol (Ultram®)	50	25	
Carisoprodol (Soma®)	50	50	
Meperidine (Demerol®)	50	25	
Sertraline (Zoloft®)	25	10	Anti-depressants (e.g., Prozac®, Zoloft®)
Fluoxetine (Prozac®)	100	10	
Tricyclic anti-depressants (amitryptiline, nortriptyline)	25	10	
Zolpidem (Ambien®)	10	5	Ambien® or other sleep aids
Methylphenidate (Ritalin®)	10	10	ADHD medications (e.g., Ritalin®, Adderall®, Concerta®)
Dextromethorphan	50	20	Cough medicines (e.g., Robitussin®, Vicks 44®, etc.)
Ketamine	10	10	Ketamine/Special K

Screening utilized ELISA micro-plate and confirmation utilized GC/MS or LC/MS/MS technology.

The same testing methodologies for assaying oral fluid were used for both the 2007 NRS (Lacey et al., 2009a) and the 2010 study on the prevalence of cannabis-involved driving in California (Johnson et al., 2012). The samples were sent to Immunalysis Corporation for processing. All samples were initially screened using enzyme-linked immunosorbent assay

(ELISA) microplate technology. For positive screening results, confirmation was performed using gas chromatography–mass spectrometry (GC/MS) or liquid chromatography–mass spectrometry (LC/MS/MS) technology.

Issues

The principal challenge was obtaining the cooperation and assistance of local police agencies. Some agencies identified concerns about possible entrapment by waiving potential subjects into the survey area, while others did not perceive this type of participation to be an issue. The assistance of police officers in traffic control was essential to this endeavor. It was important to obtain the endorsement of police management at the agency level to insure that the data collection would move forward in each locality. OTS and PIRE worked collaboratively to recruit and retain this cooperation. Site recruitment activity occurred during the first few months of the project and was maintained and refreshed throughout the data collection phase of the project (June, July, and August 2012).

Additionally, we were not been able to collect as many samples as we wished at nine sites, resulting in a lower number of samples than desired to analyze, so we added an extra data collection weekend at one site to expand the number of samples.

Results

Sample/Population

Site Participation

Nine jurisdictions participated in the roadside survey: three from the northern region of California (Eureka, San Rafael, and Redding), two from the central region of the state (Fresno and Modesto which participated on two weekends), and four from the southern region (Anaheim, Ontario, Chula Vista, and Gardena). Table 2 presents the number of eligible drivers who participated in the survey, by site and region.

Table 2. Sites by Region and Participation Numbers

Region	Site	N	%
North	Eureka	141	8.2%
	San Rafael	79	4.7%
	Redding	165	9.7%
Central	Fresno	101	5.9%
	Modesto	444	26.1%
South	Anaheim	161	9.6%
	Ontario	238	14.0%
	Chula Vista	171	10.0%
	Gardena	199	11.9%
Total		1,699	100.0%

Driver Participation

As indicated in Table 3, a total of 1,715 drivers were approached to participate in the roadside survey. Of those approached, 1,699 were eligible to participate in the survey (99.1%). Ineligible drivers included those who had prior knowledge of the survey (drivers could not self-select themselves to participate), spoke a language other than English or Spanish, or were too intoxicated to consent to participate.

Table 3. Number of Drivers

	# of Drivers
Approached	1,715
Non-eligible	16
Prior Knowledge	*3*
Language	*12*
Too intoxicated	*1*
Eligible	1,699
% of Approached	99.1%
Consented Survey	1,375
% of Eligible	80.9%
Consented Breath Sample	1,449
% of Eligible	85.3%
Provided Breath Sample	1,432
% of Eligible	84.3%
Consented Oral Fluid	1,319
% of Eligible	77.6%
Provided Oral Fluid	1,313
% of Eligible	77.3%

Drivers who refused to participate in the survey were asked if, before leaving, they could at least provide a breath sample. As a result, the participation rate among those who provided a breath sample was higher (85.3%) than that for those who participated in the questionnaire part of the survey (80.9%) and/or provided an oral fluid sample (77.3%). Some drivers who consented to a breath and/or oral sample were not able to complete providing them because of either physiological or technical issues (e.g., failure to exhale a minimum volume of air into the breathalyzer; not providing a large enough sample of saliva).

We compared the demographics of drivers who refused to those who agreed to participate in the survey. There were no differences in the two groups in terms of gender and race, but those who chose to participate were somewhat younger than those who refused. This difference was not statistically significant.

Demographics

Table 4 presents the gender of drivers eligible to participate in the roadside survey by region. There were significantly more male (almost 61%) than female (39%) drivers. This is similar to the 2007 National Roadside Survey where 63% of drivers were male and 37% female. No statistically significant difference in gender distribution was found across the three regions. In the tables, the 95% confidence interval for each value is presented below that value.

Table 4. Gender by Region

Gender		Regions			
		Central	North	South	Total
N		528	379	746	1,653
Males	%	58.1	62.8	61.9	60.9
	CI	[47.8, 67.9]	[60.7, 64.8]	[59.8, 64.1]	[57.2, 64.5]
Females	%	41.9	37.2	38.1	39.1
	CI	[32.1, 52.3]	[35.2, 39.3]	[36.0, 40.2]	[35.4, 42.8]

Note: In all tables, the 95% confidence interval for each value is presented below that value.

By age, there was no statistical difference in the proportion of drivers by region. As illustrated in Table 5, approximately 44% of participants were in the 21-34 year age group, followed by 24% in the 35-49 age group.

Table 5. Age by Region

Age		Regions			
		Central	North	South	Total
<21	N	81	61	87	229
	%	19.8	19.0	13.5	16.7
	CI	[11.7, 31.4]	[10.9, 31.0]	[6.9, 24.9]	[10.1, 23.4]
21-34	N	191	143	272	606
	%	46.7	44.6	42.3	44.1
	CI	[39.9, 53.6]	[40.6, 48.6]	[40.8, 43.8]	[41.9, 46.4]
35-49	N	83	63	181	327
	%	20.3	19.6	28.2	23.8
	CI	[15.1, 26.7]	[14.7, 25.8]	[24.2, 32.5]	[20.9, 27.1]
50+	N	54	54	103	211
	%	13.2	16.8	16.0	15.4
	CI	[9.9, 17.4]	[8.1, 31.8]	[11.7, 21.6]	[12.1, 19.3]
Total		409	321	643	1,373

Table 6 shows that about 45% of the drivers in the sample were of Hispanic/Latino descent. There were significantly more Hispanic/Latinos in the southern region (57.8%) or in the central region (44.6%) than in the northern region (18.3%), ($p < .05$).

Table 6. Ethnicity by Region

Ethnicity		Region			
		Central	North	South	Total
Hispanic/Latino	N	180	58	370	608
	%	44.6	18.3	57.8	44.9
	CI	[37.7, 51.7]	[9.8, 31.6]	[36.3, 76.7]	[30.3, 60.5]
Not Hispanic/Latino	N	224	259	270	753
	%	55.5	81.7	42.2	55.1
	CI	[48.3, 62.3]	[68.4, 90.2]	[23.3, 63.7]	[39.6, 69.7]
All		404	317	640	1,361

Approximately 55% of the drivers identified themselves as “white.” As indicated in Table 7, the percentage identifying as African-American were lower in the northern region of the state (2.5%) than in the central (6.5%) or the southern (13.4%) regions. The percentage identifying themselves as Asians was higher in the southern region (13.4%) than in the central (10.4%) or northern (7.6%) regions. However, this difference was not statistically significant.

Table 7. Race by Region

Race		Region			
		Central	**North**	**South**	**Total**
White	N	251	250	247	748
	%	62.3	78.9	38.8	55.2
	CI	[39.8, 80.5]	[69.1, 86.2]	[28.1, 50.7]	[44.4, 65.5]
African-American	N	26	8	85	119
	%	6.5	2.5	13.4	8.8
	CI	[5.1, 8.1]	[1.2, 5.2]	[3.0, 43.9]	[3.0, 22.8]
Asian/PI	N	42	24	85	151
	%	10.4	7.6	13.4	11.1
	CI	[4.3, 23.2]	[4.6, 12.2]	[7.1, 23.8]	[7.1, 17.0]
American Indian	N	6	3	8	17
	%	1.5	1.0	1.3	1.2
	CI	[0.4, 5.2]	[0.0, 11.0]	[0.8, 2.0]	[0.6, 2.4]
Other	N	78	32	211	321
	%	19.4	10.1	33.2	23.7
	CI	[11.0, 31.8]	[6.6, 15.1]	[19.7, 50.1]	[16.1, 33.4]
Total		403	317	636	1,356

Table 8 shows that most drivers in the sample, approximately 38%, reported to have some college experience (but no degree). Overall, drivers' education level did not differ significantly from region to region.

Table 8. Education by Region

Education		Region			
		Central	**North**	**South**	**Total**
None-8th Grade	N	15	8	28	51
	%	3.7	2.5	4.4	3.7
	CI	[1.5, 8.9]	[0.8, 7.5]	[2.0, 9.0]	[2.1, 6.4]
9th-11th Grade	N	15	12	29	56
	%	3.7	3.8	4.5	4.1
	CI	[2.0, 6.7]	[2.4, 6.1]	[2.8, 7.4]	[3.0, 5.6]
High School Grad	N	80	66	129	275
	%	19.6	20.9	20.2	20.2
	CI	[10.6, 33.4]	[18.3, 23.8]	[16.4, 24.6]	[16.6, 24.4]
Some College - No Degree	N	176	130	208	514
	%	43.1	41.1	32.6	37.7
	CI	[30.2, 57.1]	[27.5, 56.3]	[26.1, 39.7]	[31.6, 44.2]
Trade School Certificate	N	14	5	24	43
	%	3.4	1.6	3.8	3.1
	CI	[2.0, 5.7]	[0.3, 9.1]	[2.6, 5.3]	[2.3, 4.3]
Associate	N	43	30	44	117
	%	10.5	9.5	6.9	8.6
	CI	[9.3, 11.9]	[5.7, 15.5]	[4.7, 10.0]	[7.0, 10.5]
Bachelor	N	39	45	96	180
	%	9.6	14.2	15.0	13.1
	CI	[8.2, 11.2]	[6.3, 29.1]	[12.4, 18.0]	[10.7,16.2]
Master/ Doctorate/ Professional	N	26	20	81	127
	%	6.4	6.3	12.7	9.3
	CI	[1.3, 25.9]	[1.6, 21.5]	[8.7, 18.1]	[5.6, 15.0]
Total		408	316	639	1,363

As shown in Table 9, among participating drivers, most (about 77%) reported to be employed (either full-time or part-time). No differences in employment status were found across regions.

Table 9. Employment by Region

		Region			
Employment		**Central**	**North**	**South**	**Total**
Employed	N	312	241	509	1,062
	%	76.3	75.3	79.0	77.3
	CI	[71.8, 80.2]	[63.5, 84.3]	[75.2, 82.4]	[73.4, 80.6]
Unemployed	N	53	39	86	178
	%	13.0	12.2	13.4	13.0
	CI	[11.5, 14.6]	[8.5, 17.2]	[10.1, 17.5]	[11.1, 15.1]
Retired	N	8	14	18	40
	%	2.0	4.4	2.8	2.9
	CI	[0.8, 4.6]	[1.6, 11.5]	[2.1, 3.7]	[2.0, 4.2]
Disability	N	8	12	9	29
	%	2.0	3.8	1.4	2.1
	CI	[1.2, 3.2]	[2.0, 7.1]	[0.8, 2.4]	[1.4, 3.3]
Homemaker	N	14	2	11	27
	%	3.4	0.6	1.7	2.0
	CI	[1.4, 8.1]	[0.1, 3.8]	[1.2, 2.5]	[1.1, 3.4]
Student	N	12	12	10	34
	%	2.9	3.8	1.6	2.5
	CI	[1.2, 7.3]	[0.8, 16.4]	[1.1, 2.2]	[1.2, 5.0]
Other	N	2	0	1	3
	%	0.5		0.2	0.1
	CI	[0, 2.9]		[0, 1.6]	[0, 0.8]
All		409	320	644	1,373

Driver's Responses to Roadside Questionnaires

Drivers were asked several questions about their driving, general drug use, and alcohol and drug use and driving. The following section examines the self-reported responses related to marijuana, and risk perceptions related to alcohol use and driving.

Marijuana

Drivers who participated in the questionnaire portion of the roadside survey were asked specific items related to medical marijuana. As indicated by Table 10, almost 4 % of the drivers reported to have a medical marijuana permit.

Table 10. "Do you currently have a medical marijuana permit which allows you to purchase and use marijuana for pain relief?"

	N	**%**
Yes	48	3.7%
No	1,258	96.3%
Total	1,306	100.0%

Among those drivers who reported having a medical marijuana permit, almost 66% reported to actually having used the permit to purchase marijuana (Table 11).

Table 11. "If Yes, have you used your permit to purchase marijuana?"

	N	%
Yes	27	65.8%
No	14	34.1%
Total	41	100.0%

All drivers who completed the questionnaire were asked whether they had ever used marijuana. As indicated in Table 12, 40% reported they had used marijuana at least once.

Table 12. "Have you ever, even once, used marijuana or hashish?"

	N	%
Yes	519	40.0%
No	778	60.0%
Total	1,297	100.0%

Among drivers who reported that they had used marijuana at least once (n = 519), only 362 drivers reported the age at which they first used marijuana. Of these, most (53%) reported having initiated use between the ages of 14 and 17 years (Table 13).

Table 13. "If Yes, how old were you the first time you used marijuana or hashish?"

Age of First Use		Driver's Age				
		0-21	21-34	35-49	50+	Total
<13	N	3	10	3	2	18
	%	5.5%	5.5%	4.4%	3.5%	5.0%
	CI	[1.1, 23.4]	[2.8, 10.7]	[1.0, 17.4]	[1.2, 10.0]	[3.3, 7.4]
14-17	N	38	98	35	21	192
	%	69.1%	54.1%	50.7%	36.8%	53.0%
	CI	[54.0, 81.0]	[47.2, 61.0]	[34.1, 67.2]	[21.4, 55.6]	[46.9, 59.1]
18-20	N	14	47	19	19	99
	%	25.5%	26.0%	27.5%	33.3%	27.4%
	CI	[10.1, 49.0]	[20.8, 31.9]	[13.0, 49.2]	[18.8, 51.9]	[20.5, 35.4]
21-24	N	0	22	5	6	33
	%		12.2%	7.3%	10.5%	9.1%
	CI		[8.1, 17.8]	[2.2, 21.2]	[4.9, 21.2]	[6.0, 13.6]
25+	N	0	4	7	9	20
	%		2.2%	10.1%	15.8%	5.5%
	CI		[0.7, 7.0]	[4.8, 20.3]	[6.9, 32.1]	[3.9, 7.8]
All		55	181	69	57	362

Among drivers who completed the questionnaire and responded that they had used marijuana at least once (n = 519), 470 drivers responded to the question regarding how long it had been since they last used marijuana. Of these, more than half reported they had not used marijuana in over a year (Table 14). Almost 28% reported they had used marijuana within the past 30 days.

Table 14. "How long has it been since you last used marijuana or hashish?"

Timeframe	N	%
Within Past 30 Days	130	27.7%
More than 30 Days/ within a Year	85	18.1%
More than a Year	255	54.3%
Total	470	100.0%

Among drivers who responded they had used marijuana at least once, almost 63% reported using marijuana once per day, and 12% reported using marijuana more than three times a day (Table 15).

Table 15. "If daily, on average how many times a day do you use it?"

Timeframe	N	%
Once per Day	52	62.6%
2-3 Times per Day	21	25.3%
More than 3 Times per Day	10	12.0%
Total	83	100.0%

The roadside questionnaire also included questions about marijuana use and driving. This question was asked of drivers who indicated that they had used marijuana at least once. As indicated in Table 16, among those drivers asked the question, "In the past year have you used marijuana within two hours before driving?" approximately 14% reported that they had used the drug within two hours of driving.

Table 16. "In the past year, have you used any marijuana within two hours before driving?"

	N	%
Yes	67	14.3%
No	402	85.7%
Total	469	100.0%

Further, among those drivers who reported to have used marijuana at least once, 246 drivers answered the question, "When you used marijuana and drove, did you notice if it (marijuana) had any effect on your driving?" Of those who responded, about 22% reported marijuana has had an effect on their driving (Table 17).

Table 17. "When you used marijuana and drove, did you notice if it (marijuana) had any effect on your driving?"

	N	%
Yes	55	22.4%
No	191	77.6%
Total	246	100.0%

Of those drivers who reported that they felt that marijuana had an effect on their driving (n = 55), the majority (almost 52%) reported that they felt the drug made their driving "worse." However, interestingly, almost 31% reported that the drug made their driving "better" (Table 18). A number of other studies (e.g., Danton et al., 2003; McCarthy et al., 2007; Terry & White, 2004) have reported that cannabis users do not report perceptions that cannabis use impairs driving, even among those who acknowledge the risks associated with alcohol-involved driving.

Table 18. "If Yes (did feel an effect), did marijuana make your driving better or worse?"

	N	%
Better	16	30.8%
Worse	27	51.9%
No Difference	9	17.3%
Total	52	100.0%

In addition to asking eligible drivers about marijuana use, the roadside questionnaire also included items on medication use. Specifically, we asked drivers if they had taken any medications or drugs on the day of the survey that might affect their driving. As indicated in Table 19, approximately 2% of the population (n = 28) reported they had taken a medication that might have affected their driving that day.

Table 19. "Have you taken any medications or drugs TODAY that you think may affect your driving?"

	N	%
Yes	28	2.2%
No	1,267	97.8%
Total	1,295	100.0%

Participants were also asked if they had ever <u>not</u> driven because they had taken a medication or drug. Interestingly, 35% reported "yes" to this item (Table 20).

Table 20. "Have you ever NOT driven because you were on a medication/drug?"

	N	%
Yes	450	35.0%
No	836	65.0%
Total	1,286	100.0%

Laboratory Analysis Results

In this section we first present the estimated prevalence for all of the drugs tested for in this study (see Table 1).These are examined either for drugs consumed alone or in conjunction with others (i.e., multi-drug users). Next, we present drug prevalence in conjunction with alcohol (collected from breath samples).

Drug Prevalence

As indicated in Table 21, among the drivers who provided an oral fluid sample, a total of 184 were positive for drugs (14% of the total sample of drivers).

Table 21. Total Drivers with Positive Oral Fluid Result

	N	%
Positive	184	14.0%
Negative	1,130	86.0%
Total	1,314	100.0%

Among those who tested positive, 122 drivers (66.3%) were single-drug users, 37 drivers (20.1%) tested positive for two drugs; 14 drivers (7.6%) tested positive for three drugs; eight drivers (4.3%) tested positive for four drugs, two drivers (1.1%) tested positive for five drugs, and one driver (0.5%) tested positive for six drugs (see Table 22).

Table 22. Distribution of Drug-Positive Drivers by Number of Drugs Present (Excluding Alcohol)

# Drugs	N	%
1	122	66.3%
2	37	20.1%
3	14	7.6%
4	8	4.3%
5	2	1.1%
6	1	0.5%
Total	184	100.0%

We divided the drug positive findings into three categories to better enable interpretation of the results. The three categories were marijuana (the most prevalent drug), illegal drugs, and medications (prescription and over-the-counter drugs combined). Since several drivers tested positive for more than one drug, we had to create some combination categories, such as in the case where an individual tested positive for both a medication and an illegal drug, or marijuana and a medication, etc. Table 23 displays these results. The first line presents the summary result that 14.0% of drivers tested positive for one or more drugs. The subsequent lines present the results by category as described as mutually exclusive values. Thus, if one wishes to know the total percentage of drivers testing positive for illegal drugs, whether alone or in combination with other categories, one must sum the values for Illegal (2.7%), Illegal & Medication (0.5%), Marijuana & Illegal (1.1%), and Marijuana, Illegal & Medication (0.3%), for a total of 4.6% of drivers testing positive for illegal drugs, alone or in combination with other drugs. Marijuana is the most frequently encountered category both alone and in combination with other drugs. Among marijuana users, 26.5% (26 of 98) also used another drug.

Table 23. Drug Prevalence by Detailed Category

Drug Category	N	% (of Total)
Drug Positive	184	14.0%
Illegal	36	2.7%
Illegal & Medication	6	0.5%
Medication	44	3.3%
Marijuana	72	5.5%
Marijuana & Illegal	15	1.1%
Marijuana & Medication	7	0.5%
Marijuana, Illegal, & Medication	4	0.3%
Drug Negative	1,130	86.0%
Total	1,314	100.0%

We also tested for eight compounds of synthetic marijuana, or "Spice" (K2). These were JWH-018, JWH-073, JWH-200, JWH-250, AM2201, HU-210, CP47497, and CP47497 C8. Five oral fluid samples tested positive for AM2201. None of the other compounds were detected. Of the five positives, three appeared alone, one was found in conjunction with THC and methamphetamine, and one other was found in conjunction with alcohol.

Table 24 shows the prevalence rates by category with the sub-categories above collapsed. Thus, an individual may appear in more than one category if they tested positive in more than one category. Again, marijuana is the most prevalent category with 7.4% and with Medication and Illegal both at 4.6%. To reiterate, the cell values in this table are not additive because individuals who are multi-drug users may appear in more than one category.

Table 24. Drug Prevalence by Category Overall

Drug Category	N	% (of Total)
Illegal	61	4.6%
Medication	61	4.6%
Marijuana	98	7.4%
Drug Negative	1,130	
Total Number of Drivers Tested	1,314	

Table 25 presents the drug prevalence by drug class as described in the labels in the table. Again, marijuana is the highest prevalence class, followed by stimulants and by drivers who tested positive for drugs in more than one class.

Table 25. Drug Prevalence by Drug Class

Drug Class	N	%
Antidepressants	3	0.2%
Marijuana	72	5.5%
Narcotics	14	1.1%
Sedatives	9	0.7%
Stimulants	42	3.2%
Other	4	0.3%
More than one class	40	3.0%
Negative	1,130	86.0%
All	1,314	100.0%

Drugs and Alcohol

This section presents alcohol prevalence as well as drug prevalence in conjunction with alcohol (collected from breath samples). To simplify the report, we do not present tables for all individual drugs; rather, we present tables for drivers with any drug positive, separated as marijuana users and consumers of any drugs other than marijuana; and by single- versus multi-drug users.

Table 26 shows the distribution of blood alcohol content (BACs) among the drivers in the sample that provided a breath sample. The vast majority of the drivers (about 93%) were negative for alcohol. About 1% of the drivers were at a BAC = .08 or higher.

Table 26. BAC Distribution

BAC	N	%
BAC = .00	1,326	92.6%
.00 < BAC < .05	66	4.6%
.05 ≤ BAC < .08	25	1.7%
BAC ≥ .08	15	1.0%
Total	1,432	100.0%

As shown in Table 27, most of the drivers who participated (86%) were drug negative (1,111 out of 1,294). Further, about 81% of the drivers who provided both breath and oral fluid samples were both alcohol and drug negative (1,048 out of 1,294). Of those testing positive for alcohol, 23% (19 of 82) also tested positive for at least one other drug. Interestingly, the drug-positive drivers are more likely to have a positive BAC (19 of 183, 10%) than drug negative drivers (63 of 1,111, 6%). However, for marijuana users, there was no driver with a BAC ≥ .08 g/dl.

Table 27. Drug Use by BAC

			BAC				
			BAC = .00	.00 < BAC < .05	.05 ≤ BAC < .08	BAC ≥ .08	Total
Drug Positive	Marijuana	N	85	4	9	0	98
		%	7.0%	23.5%	17.0%		7.6%
		CI	[5.3, 9.2]	[10.8, 43.8]	[7.4, 34.2]		[5.7, 10.0]
	Other Drugs	N	79	1	1	4	85
		%	6.5%	5.9%	1.9%	33.3%	6.6%
		CI	[4.4, 9.6]	[0.1, 32.8]	[0, 17.6]	[8.3, 73.4]	[4.5, 9.5]
Drug Negative		N	1,048	12	43	8	1,111
		%	86.5%	70.6%	81.1%	66.7%	85.9%
		CI	[83.8, 88.8]	[50.3, 85.1]	[63.6, 91.4]	[26.6, 91.7]	[83.5, 87.9]
All			1,212	17	53	12	1,294

Discussion

This OTS-sponsored first statewide survey on alcohol and drug use of the California nighttime weekend driving indicated an overall drug prevalence rate of 14.0% and an alcohol prevalence rate of 7.3%. Among the drugs tested for, marijuana had the highest prevalence rate at 7.4%. The prevalence rate for illegal drugs was 4.6% as was that of medications (prescription and over-the-counter drugs). Two point seven percent of drivers had breath alcohol levels at or

above > .05, a level generally considered to be impairing and 1.0% at or above .08, the illegal limit in California and the United States. In terms of drug impairment, we tested for drugs that experts believe are potentially impairing. However, the current science does not provide enough information to address what proportion of the drug positive drivers may have had their driving impaired. That knowledge will be building as more studies of specific drugs' contribution to crash involvement develops. Thus, this prevalence study speaks to the 14.0% prevalence of drug-involved driving in the nighttime weekend driving population. In the future, if other surveys of this magnitude are conducted, more insight can be brought to this topic in terms of prevalence rate changes over time and the effects that any potential policy changes may have.

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Project Team

Credits

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Disclaimer

The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the State of California Business Transportation and Housing Agency or the National Highway Traffic Safety Administration.

Grant Personnel

John H. Lacey served as the Principal Investigator for this project. As such, he was responsible for overall oversight of the research, including finalizing the research protocol. He was also responsible for guiding the statistical analysis.

Dr. Tara Kelley-Baker served as Co-Principal Investigator on this project, assisting Mr. Lacey with all aspects of project's direction, including generation of manuscripts.

Dr. Eduardo Romano served as the statistician on this project; he was responsible for the primary data analyses on this project.

Katharine Brainard served as Project Manager. She was responsible for the day-to-day management of project tasks and staff.

Anthony Ramirez and Beth Lauer served as Field Supervisors and were responsible for the overall training of staff and managing the day-to-day data collection operations of staff in the field for data collection events.

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Appendix A. Surveys

D.C. _____ PBT # ___ ___ ___ ___ SITE __/SESSION __/CASE __ __

DATE: ___ /___ / 2012 PAS # ___ ___ ___ ___ TIME: ___ ___ : ___ ___ AM PM

HOOK Greet driver with eye contact and smile—**AND get them to talk to you**… **TAKE PAS**

CONSENT *"You have not committed any violation. You have been randomly selected to participate in a voluntary and anonymous driver survey. The survey takes about 10 minutes and you will earn $20 for completing other parts of the survey. The survey includes questions on alcohol and drug use and an anonymous sample of your breath. Our breath test devices don't display the result, so there is no risk to you. You may skip any question or leave at any time.* ***May I begin?"***

AGE Qualifier: If subject looks younger than 25 yrs old, ask ***"Are you at least 16 yrs of age"***

☐ Yes ☐ No *(Thanks, but you have to be at least 16 to participate).* ☐ **Didn't need to ask**

OBSERVATIONS on Participants and Refusers:

AGE: ☐16-20, ☐ 21-34, ☐ 35+	**GENDER**: ☐ Male ☐ Female ☐ Unknown
HISP/LATINO (Ethnicity) : ☐ Yes ☐ No	**RACE:** ☐ W, ☐ B, ☐ A, ☐ PI, ☐ AI, ☐ Multi, ☐ UNK

Amer. Indian

Did you hear about this survey before being waved in? (Prior Knowledge)

☐ No ☐ Yes… How did you hear about this survey?..... ☐ Sought it out ☐ Did not seek it out

NOT ELIGIBLE: ☐ Commercial ☐ Age ☐ Language ☐ Prior Knowledge ☐ Too Intoxicated ☐ Other _____

☐ **AGREED**: ***"Great, thank you for helping us out, I'll begin by asking some questions…"***

☐ ***Refusal***: ***If you don't want to do the survey, would you mind giving us a quick, anonymous sample of your breath? Our device does not display any readings and there is no risk to you.***

PBT Refused: ☐ ***Give PINK sheet / Read Warning*** ☐ ***MANUAL SAMPLE***

PBT Provided: **Sample** ___-___-___-___ **Time** _____ ☐ ***Give PINK sheet & Read***

California Roadside Survey Questions

1. The average driver drives about 15,000 miles a year. Would you say you drive?

☐ More than average ☐ Average ☐ Less than Average ☐ Did not answer

★ **Record PAS Reading** ☐ **Positive** ☐ **Negative** ☐ **Not Collected**

G1 ☐, G2 ☐, Y1 ☐, Y2 ☐, [Y3 ☐, Y4 ☐, R1 ☐, R2 ☐, R3 ☐ call supervisor]

★★ **ASSESS INTOXICATION LEVEL**

☐ **LEVEL 1** = No Signs of alcohol or drug use

☐ **LEVEL 2** = Signs of use but no intoxication

☐ **LEVEL 3** = Signs of use & INTOXICATION (Signal Supervisor, **"I need some dollars over here!"**)

☐ **IDP (engaged impaired driver protocol)**

2. Who is the owner of this vehicle?

☐ Self ☐ Family member ☐ Friend ☐ Employer ☐ Other, specify: _____

3. Now I have a question about your use of alcohol:

a. In the past year, how often have you had a drink containing alcohol?

☐ Never ***(skip to Q7)*** ☐ 2 – 3 times a week

☐ Monthly or less ☐ 4 or more times a week

☐ 2-4 times a month ☐ Did not answer

b. Do you ever drink alcohol beverages such as beer, wine, or liquor or are you a total abstainer?

☐ Yes ☐ No, total abstainer ***(Skip to Q7)*** ☐ Did not answer

4. In general would you describe yourself as:

☐ A very light drinker ☐ A fairly light drinker ☐ A moderate drinker

☐ A fairly heavy drinker ☐ A very heavy drinker ☐ Refused to answer

5. About how many alcoholic beverages do you consume in an average week?

☐ 0 ☐ 1 – 2 ☐ 3 – 4 ☐ 5 – 7 ☐ 8 – 14 ☐ More than 14 ☐ Refused to answer

6. In the past 12 months, did you ever drive after drinking enough that you might be considered to be legally under the influence of alcohol?

☐ Yes …How many times did that happen would you say? _____ ("99" if refused to answer) ☐ No

Now I have a few background questions

7. What is your age? _____ **yrs** *("00" if refused)* **8. What is your zip code?** _____ *("00000" if refused)*

9. How far have you gone in school?

☐	None – 8th grade	☐	Some college – no degree	☐	Master's degree	☐	Trade School Certificate
☐	9th – 11th grade	☐	Associate's degree	☐	Professional degree	☐	Did not answer
☐	High School Grad	☐	Bachelor's degree	☐	Doctorate Degree		

10. Are you currently...

☐ Employed → ☐ Full time, ☐ Part time, ☐ Did not answer
☐ Unemployed → How long have you been unemployed _____ Months _____ Years ☐ Did not answer
☐ Retired ☐ On disability ☐ Homemaker ☐ Other _____, ☐ Did not answer

11. Are you Hispanic or Latino? ☐ No ☐ Yes ☐ Don't know ☐ Did not answer

12. To which racial group would you say you belong?

☐ White ☐ Black or African American ☐ Asian ☐ American Indian or Native Alaskan
☐ Native Hawaiian or Pacific Islander ☐ Other ☐ Did not answer

13. Please estimate your household income

☐ $0 - $25,000 ☐ $25,000 - $50,000 ☐ $50,000 - $75,000 ☐ $75,000 - $100,000
☐ $100,000 or more ☐ Did not answer

Breath Sample (PBT) ☐ **Refused / not provided** ☐ **Failed to capture** ☐ **Manual Sample**

"Now I'd like to get an anonymous sample of your breath. Our device does not display any readings and there is no risk to you (show PBT to driver). This will take just a couple of seconds. Take a deep breath in and blow it out long and steady (like blowing up a balloon) until I tell you to stop."

PBT Provided: **Sample** ___-___-___-___ **Time** ___ ___:___ ___ (show driver PBT- no display)

Oral Fluid Sample and Booklet ☐ **Refused oral fluid test/ not provided** ☐ **Failed to capture**

"We are now asking you to PARTICIPATE in two anonymous research activities. This may take a few minutes. It involves collecting a sample of your saliva for later analysis in a lab AND filling out a questionnaire about California laws and your use of substances, both prescription and non-prescription. As before, this is voluntary and anonymous and you may stop participating at any time."

☐	**ADMINISTERED ORAL FLUID**	☐	**X'd out pages 4 & 5 if "Never" to Q3a.**
☐	**HAND BOOKLET and pen**	☐	**COC label on Booklet and Swab**
☐	**Gave Consent Sheet (WHITE)**	☐	**Read Warning**
☐	**Gave Incentive**	☐	**Swab didn't turn blue**

Seatbelt use:

Driver	**Passenger**
☐	☐ Lap & shoulder belts (helmet if motorcyclist)
☐	☐ Shoulder belt only
☐	☐ Lap belt only
☐	☐ No use / no belt
☐	☐ Unknown
	☐ Not applicable (No Passengers)

Number of Passengers (excluding driver): ☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6+

Passengers under age 15 present: ☐ Yes ☐ No ☐ Unknown

Type of vehicle: ☐ Car ☐ SUV ☐ Minivan ☐ Pickup ☐ Other ☐ Motorcycle ☐ Unknown

Place COC Label Here

END TIME: ___ ___: ___ ___AM / PM

Put COC Label Here

ID: _ _ /_ _ /_ / _ _

California Driver Survey

The following questions ask about marijuana, driving, and laws regarding marijuana. All answers are anonymous and confidential. This survey is for research purposes only. You may skip any question and stop participating at any time.

1. Do you currently have a medical marijuana permit which allows you to purchase and use marijuana for pain relief?

☐ Yes ☐ No ☐ Refuse to answer

If Yes, what year did you receive your permit?_____ ☐ Refuse to answer

If Yes, have you used your permit to purchase marijuana?

☐ Yes ☐ No ☐ Refuse to answer

2. Have you ever, even once, used marijuana or hashish?

☐ Yes ☐ No ☐ Refuse to answer

If Yes, how old were you the first time you used marijuana or hashish?

_____ Age ☐ Refuse to answer

3. How long has it been since you last used marijuana or hashish?

☐ Within the past 30 days
☐ More than 30 days, but within the past 12 months
☐ More than 12 months
☐ No use **(Skip to Q7)**
☐ Refuse to answer

4. If daily, on average how many times a day do you use it? (select one)

☐ Once per day
☐ 2-3 times per day
☐ More than 3 times per day
☐ No use
☐ Refuse to answer

5. In the past year, have you used any marijuana within two hours before driving?

☐ Yes ☐ No ☐ No use ☐ Refuse to answer

6. When you used marijuana and drove, did you notice if it (marijuana) had any effect on your driving?

☐ Yes ☐ No ☐ No Use ☐ Refuse to answer

If Yes, did marijuana make your driving: (select one)

☐ Better ☐ Worse ☐ No difference
☐ Refuse to answer

7. Have you taken any medications or drugs **TODAY** that you think may affect your driving?

☐ Yes ☐ No ☐ Refuse to answer

8. Have you ever **NOT** driven because you were on a medication/drug?

☐ Yes ☐ No ☐ Refuse to answer

9. How likely do you think it is that alcohol impairs a person's ability to drive safely?

☐ Very likely
☐ Likely
☐ Somewhat likely
☐ Not at all likely
☐ Refuse to answer

10. How likely do you think it is that a person drinking and driving could be arrested for impaired driving?

☐ Very likely
☐ Likely
☐ Somewhat likely
☐ Not at all likely
☐ Refuse to answer

11. When you drink, how likely will it be somewhere other than your home?

☐ Very likely
☐ Likely
☐ Somewhat likely
☐ Not at all likely
☐ Refuse to answer

Drug Questionnaire **ID: _ _ /_ _ /_ / _ _ _**

The following questions ask about your use of medications and/or drugs and driving. This is for research purposes only. All your responses are **completely anonymous**. The following is a list of medications/drugs people may use. Please indicate the last time you used that particular medication/drug and answer the lettered questions across.

	Past 24 Hours	Past 2 Days	Past Month	Over a Month	Never	Refuse to Answer
Cough medicines (e.g., Robitussin, Vicks 44, etc.)	☐	☐	☐	☐	☐	☐
Other over the counter medicines	☐	☐	☐	☐	☐	☐
Tobacco (e.g., cigarettes, cigars)	☐	☐	☐	☐	☐	☐
Prescription pain killers (e.g., Percocet, Oxycontin, Oxycodone, Demerol, Darvon)	☐	☐	☐	☐	☐	☐
Ambien or other sleep aids	☐	☐	☐	☐	☐	☐
Muscle relaxants (e.g., Soma, Miltown)	☐	☐	☐	☐	☐	☐
Prescription dietary supplements (e.g., Phentermine)	☐	☐	☐	☐	☐	☐
ADHD medications (e.g., Ritalin, Aderall, Concerta)	☐	☐	☐	☐	☐	☐
Antidepressants (e.g., Prozac, Zoloft)	☐	☐	☐	☐	☐	☐
Marijuana (e.g., pot, hash, weed)	☐	☐	☐	☐	☐	☐
Cocaine (e.g., crack or coke)	☐	☐	☐	☐	☐	☐
Heroin	☐	☐	☐	☐	☐	☐
Methadone	☐	☐	☐	☐	☐	☐
LSD (acid)	☐	☐	☐	☐	☐	☐
Morphine or Codeine (e.g., Tylenol with Codeine)	☐	☐	☐	☐	☐	☐
Ecstasy (e.g., “E”, Extc, MDMA, “X”)	☐	☐	☐	☐	☐	☐
Amphetamine or Methamphetamine (e.g., speed, crank, crystal meth)	☐	☐	☐	☐	☐	☐
GHB (e.g., Liquid Ecstasy, Liquid G)	☐	☐	☐	☐	☐	☐
PCP (e.g., Angel dust)	☐	☐	☐	☐	☐	☐
Rohypnol (Ruffies)	☐	☐	☐	☐	☐	☐
Ketamine (Special K)	☐	☐	☐	☐	☐	☐
Benzodiazepines (e.g., Valium or tranquilizers)	☐	☐	☐	☐	☐	☐
Barbiturates (e.g., Phenobarbital)	☐	☐	☐	☐	☐	☐

ID: _ _ /_ _ /_ / _ _ _

Here is a list of questions concerning information about your potential involvement with drugs, excluding alcohol and tobacco, during the past 12 months. When the words "drug abuse" are used, they mean the use of **prescribed or over-the-counter medications/drugs in excess of the directions and any non-medical use of drugs.** The various classes of drugs may include: cannabis (e.g., marijuana or hashish), solvents, tranquilizers (e.g., Valium), barbiturates, cocaine, stimulants (e.g., speed), hallucinogens (e.g., LSD) or narcotics (e.g., heroin). Remember that the questions do not include alcohol or tobacco. If you have difficulty with a statement, then choose the response that is mostly right. You may choose to answer or not answer any of the questions in this section. **These questions refer to the past 12 months.**

In the past 12 months . . .	**Yes**	**No**	**Refuse to Answer**
In the last 12 months, have you used drugs other than those required for medical reasons?			
Do you abuse more than one drug at a time?			
Are you always able to stop using drugs when you want to? (If never use drugs, answer "Yes")			
Have you had "blackouts" or "flashbacks" as a result of drug use?			
Do you ever feel bad or guilty about your drug use? (If never use drugs, choose "No")			
Does your spouse (or parents) ever complain about your involvement with drugs?			
Have you neglected your family because of your use of drugs?			
Have you engaged in illegal activities in order to obtain drugs?			
Have you ever experienced withdrawal symptoms (felt sick) when you stopped taking drugs?			
Have you had medical problems as a result of your drug use (e.g., memory loss, hepatitis, convulsions, bleeding, etc.)?			

ID: _ _ /_ _ /_ / _ _ _

The following questions ask about your experiences with alcohol:

In the past year, how many drinks containing alcohol did you have on a typical day when you were drinking?
☐ 1-2 ☐ 3-4 ☐ 5-6 ☐ 7-9 ☐ 10 or more
☐ Refuse to answer

In the past year, how often did you have six (five for a woman) or more drinks on one occasion?
☐ Never
☐ Less than monthly
☐ Monthly
☐ Weekly
☐ Daily/almost daily
☐ Refuse to answer

Did your drinking often interfere with taking care of your home or family or cause you problems at work or school?
☐ Yes ☐ No ☐ Refuse to answer

Did you more than once get into a situation while drinking or after drinking that increased your chances of getting hurt—like driving a car or other vehicle or using heavy machinery after having had too much to drink?
☐ Yes ☐ No ☐ Refuse to answer

Did you get arrested, held at a police station or have legal problems because of your drinking?
☐ Yes ☐ No ☐ Refuse to answer

Did you continue to drink even though it was causing you trouble with your family or friends?
☐ Yes ☐ No ☐ Refuse to answer

Have you found that you have to drink more than you once did to get the effect you want?
☐ Yes ☐ No ☐ Refuse to answer

Did you find that your usual number of drinks had less effect on you than it once did?
☐ Yes ☐ No ☐ Refuse to answer

Did you more than once want to try to stop or cut down on your drinking, but you couldn't do it?
☐ Yes ☐ No ☐ Refuse to answer

Did you end up drinking more or drinking for a longer period than you intended?
☐ Yes ☐ No ☐ Refuse to answer

Did you give up or cut down on activities that were important to you or gave you pleasure in order to drink?
☐ Yes ☐ No ☐ Refuse to answer

When the effects of alcohol were wearing off, did you experience some of the bad after effects of drinking – like trouble sleeping, feeling nervous, restless, anxious, sweating or shaking, or did you have seizures or sense things that weren't really there?
☐ Yes ☐ No ☐ Refuse to answer

Did you spend a lot of time drinking or getting over the bad after effects of drinking?
☐ Yes ☐ No ☐ Refuse to answer

Did you continue to drink even though it was causing you to feel depressed or anxious or causing a health problem or making one worse?
☐ Yes ☐ No ☐ Refuse to answer

During the past 12 months (one year), how often did you:

A. have any kind of high energy (caffeinated) drink like *Red Bull*, not containing alcohol?
☐ Every day
☐ More than once a week
☐ Once a week
☐ Once a month
☐ Less than once a month
☐ Never in the last year
☐ Never in my life
☐ Refuse to answer

B. have a high energy drink with alcohol?
(e.g., *Red Bull* + Vodka, or a pre-mixed drink)
☐ Every day
☐ More than once a week
☐ Once a week
☐ Once a month
☐ Less than once a month
☐ Never in the last year
☐ Never in my life
☐ Refuse to answer

ID: _ _ /_ _ /_ / _ _ _

The following questions ask about the last time you drank alcohol other than in your home. Think about the last time you drank alcohol. **Please DO NOT include tonight.**

1. Approximately how many drinks did you have? _____ ☐ Refuse to Answer
2. How long did you wait to travel back home after finishing your last alcoholic drink?
   - ☐ less than 2 hours
   - ☐ 2 hours or more
   - ☐ Refuse to Answer
3. Which of following was the main way you traveled back home (**check <u>one</u>**)?
   - ☐ Drove myself
   - ☐ Caught a ride
   - ☐ Took a taxi
   - ☐ Took a bus or train
   - ☐ Walked or biked
   - ☐ Did not go home (stayed at a friend's or hotel)
   - ☐ Refuse to Answer
4. Which of following options were available to you for your travel back home (**check <u>all</u> that apply**)?
   - ☐ Driving myself
   - ☐ Catching a ride with someone
   - ☐ Taking a taxi
   - ☐ Taking a bus or train
   - ☐ Walking or biking
   - ☐ Not going home (staying at a friend's or hotel)
   - ☐ Refuse to answer
5. For the last time you drank alcohol, please answer the lettered questions (A-D) **for <u>each</u> travel option available (leave blank if not applicable**).

Travel Option	A This option was convenient	B This option was inexpensive	C This option was safe	D This option was fast
Driving myself	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer
Catching a ride with someone	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer
Taking a taxi	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer
Taking a bus or train	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer
Walking or biking	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer
Not going home (staying at a friend's or hotel)	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer	☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree ☐ Refuse to answer

PREVENTION TACTICS

Restaurants that "Morph" into Bars and Nightclubs:
What's the problem and what can be done about it?

Friedner D. Wittman, CLEW Associates, July 28, Aug 4, Sep 26, Nov 18, 2011

Setting the Scene

At about 10:00 pm, downtown San Luis Obispo (SLO) changes dramatically from its daytime uses – shopping, tourism, dining, city government, professional offices – to a nighttime bar/restaurant scene of large drunken crowds surging between a dozen or so establishments in a six-block area. The crowd – mostly young people between 18 and their mid-20s, many of them Cal Poly students, – becomes increasingly drunk and disorderly. Some have "pre-loaded" or had drinks before coming downtown. ID checking is difficult with noisy and impatient crowds. A lively music scene and drink specials encourage people to stay longer, drink more. At 2:00 am closing time, these establishments discharge all their patrons onto the street, many of them inebriated and some falling-down drunk. The police have their hands full making sure people don't get hurt or start trouble. In the morning, neighboring merchants have to clean up the mess in front of their stores. (Figs. 1-6)

According to police call-for-service data, this scene goes on night after night, intensifying on weekends. Police resources are strained. More than half of police incidents occurring at all on-sale outlets take place at 10 establishments. Four police officers work with establishment security staff to manage late-night crowds. Officers and security staff contend with under-age drinkers, fights, unwanted sexual advances among patrons, violence, property damage, disturbances to neighbors, and DUIs. Expenses for these officers are paid by the city, not by the establishments where the police events originate. Costs of related problems occurring later and elsewhere, such as DUI crashes, are borne by individuals, families, employers, and the community.

The California Alcoholic Beverage Control Department (ABC) licenses the 10 establishments where most events occur. Half of the licenses are for restaurants (ABC Type 47 licenses), four are for bars (ABC Type 48 license) and one is for a brew-pub (Type 58). Those licensed as restaurants "morph," or change from operating as traditional restaurants, where alcohol is served incidental to meals, to operating as bars/nightclubs that serve alcohol for recreational drinking and entertainment (Fig. 7-8). As this example illustrates, morphing can be problematic both at the individual restaurant level, and more broadly when several outlets are packed into high-density districts such as downtowns, touristentertainment
areas, beach-fronts, shopping centers, and residential-commercial areas often near colleges and universities. A recent survey of ABC District Offices[1] revealed morphing is a problem found in all types of communities throughout the state – large and small cities and in all regions (Northern, Southern, Central Coast, Central Valley, Mountains, Desert). District Office interviews confirmed findings from studies of police events that just a few outlets can create a disproportionate number of police events for a local jurisdiction.

[1] ABC Study of Morphing. Prepared for CARS by CLEW Associates, funded by DADP. Aug 15, 2011

The survey also identified challenges faced by ABC District Office investigators dealing with problems related to morphing. Several ABC administrators noted the severity and pervasiveness of morphing which had been steady or growing slowly in communities throughout their districts. A number of administrators reported problems with morphing were increasing compared to past years.

ABC respondents also noted challenges facing police and planning departments in local jurisdictions (cities, counties). These local agencies are the community's front line for dealing with problems related to morphing. Reactive departmental practices help account for continuing problems related to morphing. In practice, local officials typically respond with enforcement activities to control

high-risk situations after the fact. Troublesome operators who challenge public oversight are often able to continue problematic operations for an extended period. Most local communities do not use preventive oversight that involves working with operators and concerned community groups to mitigate problems or to quell problems when they first appear.

How did morphing become an enduring problem for the ABC and for local jurisdictions? The first part of this paper discusses how morphing started in California restaurants and how it evolved over the last twenty years to create the problems seen today. This discussion reviews contributions to these problems made by the restaurant industry, the ABC, and local jurisdictions (city and county government). The second part of this paper discusses steps the ABC and local communities can take to mitigate public safety, health, and community quality of life (QOL) problems related to morphing. A few cities have begun making concerted efforts to prevent problems related to morphing. Discussion will return to San Luis Obispo, site of the opening scene described above, as an example of ways city agencies are working with all stakeholders to develop oversight requirements and operating standards to reduce and prevent these problems. Cities are focusing on shared responsibility among all parties for the community's high-risk outlets – starting with outlet operators – to free themselves of these problems.

How morphing has become a problem in California

Morphing becomes a community problem when problem-drinking – notably excessive drinking, underage-drinking, drunkenness and overcrowding – occurs at both a structural and individual level. Problems occur at the structural level following liberalizing changes in local land-use law involving a number of outlets. Problems also occur following changes at a particular establishment that falls under troublesome new management. How do these changes occur, and how do troubles persist and even increase over the years? In a nutshell, the restaurant industry has changed, the ABC has not kept up with these changes, and local jurisdictions have been slow to respond.[2]

1. The restaurant industry has changed

The restaurant industry has expanded over the last fifty years from places that serve freshly prepared meals to those serving "fast" food, convenience foods, frozen foods, and specialty foods. Many restaurants increase their bottom line by adding entertainment and by encouraging recreational drinking in addition to eating. Conversely, bars, which traditionally just served alcohol, now also offer food and entertainment and compete directly with restaurants.

[2] For background discussion of the history of morphing and its control, see F.D. Wittman, "Restaurants that 'morph': Problems and prospects for prevention and mitigation." Berkeley CA: CLEW Associates, July 15, 2011.

These changes are visible in national and regional chain restaurants where the overall experience of the setting is emphasized, not just the cuisine. This experience includes social and entertainment aspects of eating out – spending time with friends immersed in the camaraderie of other patrons, enjoying sports and entertainment. Bar-restaurant settings encourage recreational drinking by including entertainment such as wide-screen sports and game nights, live bands, DJs, and dancing.

In this context, national chain and local restaurants co-locate to express local styles of recreational drinking and add venues for local entertainment. Multiple restaurants often concentrate in high-density geographical areas to serve large numbers of patrons, with young professionals or college-age patrons being the typical target audience. These areas include downtown districts, redevelopment areas, tourism/entertainment zones, and mixed-use residential districts near colleges, sports facilities, and shopping centers. Live on-stage entertainment and special events are often included, including televised sports events, games of skill such as pool and darts and contests such as wet-T-shirt nights. These activities are offered in an environment that emphasizes continuous drinking and oversize drink specials (insert photo here of ads).

Growth of these establishments is part of a larger urban growth pattern designed to support higher population densities, pedestrian living and urban excitement. Growth of bars and restaurants in highdensity

urban contexts is especially encouraged by the hospitality industry and the alcoholic beverage

industry among other advocates for greater economic and physical development. The Responsible Hospitality Institute, for example, funded by the alcoholic beverage industry, promotes recreational drinking and entertainment as a central feature of "vibrant" nighttime urban development (see http://rhiweb.org).

These circumstances challenge the concept of "recreational drinking" as a benign activity free of problems and risks. In fact, recreational drinking includes high levels of drunkenness and related problem-behavior. The opening example illustrates how restaurant (actually restaurant-bar) atmospheres encourage excessive and high-risk drinking. Police event data reported below show this pattern of drinking in a substantial proportion of restaurants in many California communities. The high level of police involvement in these establishments indicates routine acceptance of excessive and high-risk drinking as part of a "recreational" and "entertainment" community drinking context.

How does the ABC act to reduce and prevent this high-risk drinking? What types of ABC-licensed "restaurants" and what kinds of settings are most involved? How do local agencies intervene? The following discussion addresses these questions.

2. The ABC has not kept up with changes in the restaurant industry

The ABC District office faces four operational challenges with problematic morphing in the burgeoning bar-restaurant industry: Out-of-date ABC definitions for restaurants and bars; insufficient resources for licensee education and compliance; narrowly-focused policies for disciplinary action; and dependence on local jurisdictions for effective oversight of on-sale outlets.

Out-of-date ABC License definitions for restaurants and bars. The state enacted its current regulations in 1957 when restaurants and bars operated as two relatively distinct types of on-sale establishments: Restaurants, or "bona-fide eating places" as defined by ABC Act 23038; and bars, or "public premises" as defined by ABC Act 23039 (see Appendix). The official distinction blurred over the

years as both types of establishments incorporated design and operational features found in each other. Court decisions have determined that bar-like functions can occur *within* a restaurant (for example, permitting a separate bar-counter and lounge area in addition to tables for dining) such that the establishment will still be considered a restaurant for licensing purposes even though part of it functions as a bar. Further, the distinction can be minimized to make both functions appear to be part of one facility. For example, a sign over a separating doorway that says "bar" on one side and "restaurant" on the other can be perceived as linking the two operations rather than separating them.

The State's definition for a bar or public premises is simply a negative version of its definition for a restaurant: *No* meals, *no* kitchen, *no* underaged patrons. There is no language in the ABC Act to prevent a bar or restaurant from including recreational drinking, a stage, live music, and dancing (except lewd dancing or sexual activity). The ABC Act does not define "nightclub" so there is no way to exclude such a use with respect to alcohol.

Over time the separation between "bar" and "restaurant" has broken down in favor of more restaurants and fewer bars. Table 1 shows how "restaurants" appear to have absorbed "bar" functions over the last two decades.

Table 1. Changes in Frequency of ABC-Licensed Restaurants and Bars
*Totals for State of California, 1992 – 2010**

ABC License Type	1992	2010	Change (%)
Type 47 Restaurant	10,768	13,240	+23.0
Type 48 Pub Premises (Bar)	3,676	2,819	-23.3
Total	14,444	16,059	+10.1

* *Data furnished by ABC Central office.*

ABC License Types for restaurants and bars and their distribution. ABC regulations distinguish between Beer & Wine Licenses and General Licenses (beer, wine, and spirits) for restaurants and bars. Table 2 shows the statewide distribution of these licenses. Note the state has about five times as many Type 47 licenses as Type 48 licenses, and sixteen times more Type 41 than Type 42 licenses. The large

number of Type 47 restaurants opens the door for morphing to become a major problem.

Police events related to ABC License Types: Type 47s stand out. Many local jurisdictions report extensive use of local police resources to manage morphing. Of the two types of restaurants, Type 47 General Licenses (beer, wine and spirits) generate police eight more times AOD events than do Type 41

ABC
Type
Table 2. Description of On-Sale License Types
Number of licenses in
California (2010)
40 On-Sale Beer (no meals) 1,064
41 On-Sale Beer & Wine Restaurant (bona-fide meals) 22,450
42 On-Sale Beer & Wine Public Premises (no meals) 1,348
47 On-Sale General Restaurant (bona-fide meals) 13,006
48 On-Sale General Public Premises (no meals) 2,842

Licenses (beer and wine). In comparison, police events at Type 47 full-service restaurants look a lot more like police events at bars (Type 48 Public Premises) than at like beer & wine restaurants.

Table 3 shows these relationships for a mid-sized blue-collar California city of about 130,000 with a diverse population.[3] Note there are one-third as many Type 47 General Licenses as Type 41 Beer & Wine licenses, but Type 47s generated three times as many for calls for service. Type 47 outlets account for half of the all "Top Ten" outlets receiving the most police calls. Almost one-fourth of all Type 47 Licenses generated 21+ police calls per year, compared to three percent of Type 41 licenses. In this typical California city, Type 47 restaurants generate ten times as many police events (and related community problems) as do Type 48 bars. Type 41 restaurants generate fewer problems in comparison.

Table 3. Police Events at On-Sale Alcohol Outlets in a Mid-Sized, Middle-Class Calif City
Calls for Service by ABC License Type, CY 2008 (AOD Calls = Alcohol and Other Drug Events)
ABC
Type
Nbr
Outlets
in City
Nbr P.D.
Total Calls
for Service
Nbr Outlets
in P.D. "Top
Ten"
Nbr (%)
Outlets with
21+ Calls
Average
Total Calls
per Outlet
Average
AOD Calls
per Outlet
Average
Arrests per
Outlet
41 127 344 0 3 (02.4) 3.1 0.3 0.5
47 42 1,030* 5 10 (23.8) 25.8 2.2 3.0

48 10 94 2 2 (20.0) 10.4 1.4 2.1

* Includes calls for service to tourist/convention hotels in which Type 47s operate

ABC resources for licensee education and compliance. Over the last four decades bars and restaurants have come under less scrutiny as the ratio of outlets per ABC investigators has increased fivefold,
going from one investigator per 220 outlets in 1965 to about one investigator per 1,000 outlets today according to ABC figures. Currently the ABC has about the same number of staff it had in the 1950s to oversee three times as many retail alcohol outlets. With less oversight, "restaurants" sometimes slip through licensing with designs and business plans that emphasize recreational drinking and entertainment and without meeting basic operational requirements for food-serving establishments.

Despite diminished staffing levels in the District Offices, ABC has developed well-respected and effective compliance and education tools to address problems with morphing at on-sale outlets. However, use of these tools is not mandated by the state. Educational services are offered on a voluntary basis and the current recession has led to cutbacks in availability below the need and demand. Most officials believe licensees who most need training and oversight are not being reached.

- *Responsible Beverage Service training*. The ABC offers its own LEAD training (Licensee Education on Alcohol and Drugs) at no charge a few times each year in each District. The ABC also posts fee-based commercial RBS training programs on its website but does not monitor them.
- *Bar-checks and covert surveillance*. Unannounced site-visits to licensed establishments help remind outlet operators and their staff of their duty to follow alcohol laws closely.
- *Grants to assist local law enforcement*. The state provides competitive comprehensive grants to local law enforcement agencies to assist retail operators with compliance and enforcement of alcohol laws.

3 Data from City of Garden Grove ASIPS/GIS Community Tour (2008), prepared for City of Garden Grove PD and Orange County ADEPT Prevention Program by CLEW Associates, Berkeley California (June 22, 2009).

ABC resources for enforcement. Although much ABC enforcement activity is complaint-driven for specific alcohol outlets, the ABC also uses the following programs which focus on both compliance enforcement with heavy involvement be the local jurisdiction:

- *Decoy operations*. Often in association with local law enforcement, ABC conducts purchasing operations using underaged purchasers to test retailer compliance with minimum age laws (Decoy Buy), and to enforce laws that prohibit adults from purchasing for minors (Shoulder Taps). ABC uses a random selection process to expose all outlets in the community to decoy operations. These operations generally achieve thirty to fifty percent success rates.
- *IMPACT inspections*. Site visits are made to identify high-problem establishments by several agencies (ABC, police, public health, life-safety and fire-code compliance).
- *TRACE program*. TRACE is a protocol wherein first responders to alcohol-related emergencies immediately notify ABC when an incident involves a person under 21. ABC Investigators investigate where the alcoholic beverages were acquired, purchased, or served.
- *DUI checkpoints*. These ABC / local law enforcement checks reinforce RBS training and prevention messages particularly during holiday periods.

Enforcement begins with collection of evidence by sworn officers (ABC or local law enforcement) to support formal enforcement proceedings. Once sufficient evidence has been collected, the ABC files a charge ("accusation") against the licensee. The accusation is heard by an Administrative Law Judge (ALJ), who rules narrowly on the specific violation. The hearing proceeds strictly on the facts of the case and results of the investigation. Contextual matters such as general serving practices and general patterns of police activity are not considered. This time-consuming and expensive procedure results in relatively few disciplinary actions compared to the number of places observed by neighbors and by police to be engaged in serving practices and management policies that merit complaints. Penalties for

disorderly/disruptive premises range from license suspensions and stiff fines to revocation of the license; very troublesome operators treat penalties as a cost of doing business rather than as a wakeup call to run a better business. Appeals can add a year or more to the time required for enforcement.

ABC dependence on local jurisdictions. Contrary to popular belief, the ABC is not the only agency responsible for granting official approval for a State license to operate a retail alcohol outlet. The State grants a license to the operator of the outlet (a legal entity approved to do business in the State of California). In addition, two local jurisdictions are involved in granting zoning permits that permit the operation of the ABC License at the address (specific geographic location) in the community where privileges of the license will be exercised. Before ABC approves the license application, the local planning department must sign off that the license application meets local zoning code requirements. Further, local police are expected to review the ABC License application for crime problems at the proposed location and for related crimes in the surrounding area.

Because the ABC education and monitoring system is voluntary and its enforcement system is overloaded, the State depends heavily on local jurisdiction to do a careful job of approving, monitoring and enforcing operations of licensed establishments. Local jurisdictions which partner closely with the ABC on morphing issues have relatively few problems. More often, however, local agencies are not technically well-equipped and lack procedures for oversight to prevent and minimize the problems.

ABC District Office policy challenges related to morphing. The following policy issues hamper effective oversight for restaurants that morph into problematic outlets.[4] Extremely thin staffing levels at the District Offices offer a further barrier to effective action. Possible responses to operational constraints described above and to policy issues below will be discussed in the second part of this paper.

(1) The ABC does not formally recognize morphing as a problem. Morphing is technically legal although it appears contrary to the spirit of the law in these times. Although morphing is clearly implicated in police problems and community disturbances, ABC does not maintain separate files on morphing at either the Central office or District Office level. Nor does the ABC engage in systematic data collection, research and analysis of problem-experiences related to morphing. ABC attention to morphing issues is limited to case-level action for individual outlets after problems appear. The agency's knowledge about morphing exists only in the accumulated personal and professional knowledge of ABC investigators who deal it directly on a daily basis at the regional level.

(2) ABC provides minimal documentation and lacks templates for preventive conditions. District Office investigators cannot impose preventive conditions such as early closing hours on applicants or licensees without a clear nexus linking problems to the application. However, data necessary to establish the nexus – field investigations, police data, community complaints – are not routinely available, so potential problems are overlooked and not addresses. (The situation is the largely the same for local law enforcement and land-use agencies which, similar to the ABC, do not assemble local police data or community complaint data to support local permit reviews and monitoring/enforcement actions).

(3) ABC does not orient local jurisdictions regarding their joint responsibilities. The ABC works with local jurisdictions primarily on a case-by-case basis to license and enforce individual retail alcohol outlets. Only rarely do "big picture" contacts occur between the District Office and local jurisdictions to clarify roles and issues, to help cities develop policies for managing recurring problems through local ordinances, and to set up joint monitoring programs to check on alcohol outlet performance. Many local officials are not clear what ABC can and cannot do to manage morphing, or how local agencies can be most effective. Some officials (including police chiefs) want ABC to address land-use issues regarding alcohol outlet operations and density issues even though the matter is clearly a local responsibility.

3. Local jurisdictions are slow to step up

Public agencies in local jurisdictions (cities, counties, and special planning districts) are first responders to morphing that threatens community health, safety, and well-being. Local agencies typically react to these problems as they occur, relying on increased police activity to deal with problems

that come to a boil at on-sale outlets and spill over into the surrounding community. Some cities avoid these problems by using their planning and zoning ordinances for preventive management of the issues before they require extensive enforcement. Cities and counties that use local zoning to establish specific controls on high-risk outlets obtain notably effective results. [5]

[4] These observations are based on a survey of ABC District Office administrators. See F.D. Wittman and F. Latcham, "Survey Report and Findings ABC District Office Experiences with Restaurants that Morph into Bars and Nightclubs," prepared for Center for Applied Research Solutions, Sacramento, by CLEW Associates, Berkeley CA, August 7, 2011.

[5] FD Wittman and P Shane, Manual for Community Planning to Prevent Problems of Alcohol Availability, prepared for California Dept of Alcohol and Drug Programs. Berkeley CA: Prevention Research Center, September, 1988.

Most local jurisdictions in California have been slow to accept the ABC invitation to use their local zoning powers to regulate retail alcohol outlets as an integral part of the State licensing and enforcement procedures. Local officials in most cities and counties do not recognize the extent of community problems with restaurants that morph. Officials who do see these problems still cannot apply local planning and zoning powers firmly without a go-ahead from local elected officials and concerned community stakeholders. Given challenges facing the ABC summarized above, local jurisdictions are in a highly exposed position that puts them in the forefront for having to take action to reduce problems related to morphing. Most cities are not taking advantage of the local resources they have available to do this. Instead, absent wide-spread recognition of morphing as an important issue for local health and safety, cities and counties are overwhelmed. The following section describes how this has come about.

How problems with morphing restaurants take cities by surprise. Most communities typically welcome new and expanded restaurants with open arms. Local officials, other business, community leaders, and residents look to restaurants to make positive contributions to the local economy and quality of life. To encourage restaurant growth and expansion, most cities and counties place relatively light planning and zoning restrictions on restaurants. Cities allow market conditions to determine outlet location, size of establishment, type of use, densities (numbers of outlets allowed in a given area), and operating requirements. These communities issue "as of right" zoning permits to restaurants without imposing restrictions on operations other than state-mandated requirements (e.g., protection of handicapped access and food-, building-, and life-safety standards), and without imposing facility design requirements other than land-use planning physical requirements (e.g., lot-line setbacks, building heights, square footage limits).

Under these conditions, particularly in high-density downtown and redevelopment areas, the number of restaurants can grow rapidly as the area becomes "hot" and popular. In as few as three or four years, the number of restaurants seats in a downtown area can nearly double. "Restaurants" soon start competing with each other as if they are bars and nightclubs. These establishments morph into bars and nightclubs absent city restrictions and ABC license conditions. The city is then faced with containing public drunkenness, overcrowding, disturbances, violence and injuries, youth drinking and DUIs that start to flow from these "restaurants" into the surrounding community.[6]

As noted in the preceding section, certain on-sale ABC License types contribute most of the police problems. These are ABC Type 47 licenses (restaurants that serve beer, wine and spirits) and Type 48 licenses (public premises that serve beer, wine and spirits). Because most cities have many more Type 47 restaurants than Type 48 bars, a city is likely to have more "bad restaurants" than "bad bars" as measured by high numbers of police calls. For both types of outlet, about 10 percent of outlets in a city account for about 50 percent of the police calls to all outlets of that type. [7]

Local jurisdictions do not have to wait to be overwhelmed before acting to prevent excessive drinking and problem-behaviors related to morphing. A few cities and counties use their planning and zoning ordinances to minimize problems at bars, restaurants, and all other on-sale and off-sale alcohol

[6] See discussion for the City of Fullerton, California in Background paper, op. cit. Note 1.

[7] See, for example, "Police Events and Restaurants and Bars by ABC License Type," prepared for Grant Raupp Consultants by CLEW Associates. Berkeley California, Feb 23, 2011; See also "San Luis Obispo ASIPS/GIS Community Tour (CY 2008)," prepared for City of San Luis Obispo by CLEW Associates, Berkeley California, October 20, 2009 (www.SLOCity.org/City

Council/PastCouncilMeetings/Oct21,2009).

outlets. Use of these ordinances is sometimes referred to as "local control" for retail alcohol availability. Especially since the ABC encourages them to do so, there is no reason why all California cities and counties cannot make full use of their local control powers to oversee retail alcohol outlets.

ABC allowance for local planning and zoning. The ABC will not issue a retail alcohol license "contrary to a valid zoning ordinance of any city or county" (S. 23790, State ABC Act). The ABC District Office does not complete processing of a license application until the city or county certifies that the candidate outlet meets local planning and zoning requirements. This local sign-off provides an important opportunity for the jurisdiction to set limits on locations, numbers, and types of outlets that the city permits, as well as to establish safe operating conditions for outlet. The local zoning permit process provides opportunities both to prevent problems at the outset and to pursue enforcement actions locally (rather than only through the ABC) as needed.

Restaurants, bar-restaurants bars, and nightclubs as a land-use issue. Most communities want to accommodate well-run bar-restaurants and nightclubs as part of the community social fabric as long as this occurs on a controlled basis and under appropriate public oversight. What local agencies and community groups don't like is being over-run by too many establishments, or being surprised by a "restaurant" that is really a restaurant-bar or a nightclub operating out far beyond expectations for a restaurant use-permit. Officials and neighbors are especially annoyed when an applicant pretending to be a traditional restaurant actually ends up operating a bar/nightclub. The community wants to be able to tell the sheep from the goats in advance, and to be prepared when the sheep turns out to be a goat. Fortunately, local (city and county) land-use planning definitions can be used to differentiate restaurants, bars, and nightclubs by specifying permitted design features and operational practices for each type of facility (land-use) as well as for each ABC license type.

*Conditional use permits and operating requirement*s. Local zoning ordinances allow cities to include preventive architectural design and operating requirements in land-use permits for restaurants. These requirements, stated as conditions in the use permits, are called CUPs or conditional use permits. CUPs can be written to distinguish low-risk uses at quiet traditional restaurants from higher-risk uses at bars and nightclubs. The city can regulate each type of use accordingly, with appropriate oversight and safeguards for each level, allowing for trouble-free operation for all three types of on-sale outlets according to community circumstances. The CUP can also disallow problematic serving practices associated with high-risk drinking at all establishments. For example:

Permitted Uses for On-Sale Retail Alcohol Outlets
Example City, California
Traditional
Restaurants
Bar-
Restaurants
Nightclubs
Architectural Features
Bar seating for 10% or more of customers No Yes Yes
Games of skill, amusement devices, contests No Yes Yes
Entertainment devices – Large-screen TV, jukeboxes No Yes Yes
Elevated stage, dance floor, sound board No No Yes
Operating Features
Late-night operation after kitchen closes (no minors) No Yes Yes
Promotions and advertising for special events No No Yes
Alcohol advertising that encourages inebriation No No No
Over-pouring and self-serve practices No No No

Active or passive zoning: Preventive oversight or post-hoc enforcement? California cities and counties have a choice whether to use establish local control through CUPs or whether to use "as of right" zoning. Local control through a CUP zoning ordinance allows the city to manage the operation and growth of on-sale outlets – some combination of traditional restaurants, bar-restaurants, and nightclubs that meets local needs. "As of right" zoning allows market forces a comparatively free hand to determine the distribution and operation of these outlets – and confines the city's actions to address resulting problems through after-the-fact police responses and complex, time-consuming enforcement actions that depend on the ABC or on cumbersome local nuisance-abatement procedures.

California cities which have adopted CUP ordinances for on-sale outlets report progress reducing problems with morphing through improved practices by restaurant operators.[8] The alcohol outlet CUP is a useful tool that lets cities maintain necessary levels of oversight and enforcement, respond to community complaints, coordinate interagency activities, and continue to work with restaurant operators regarding responsible serving practices. Over time the local CUP ordinance will help local agencies and concerned community members set limits on numbers, types, locations, and operations that prevent problematic morphing and reduce troublesome on-sale establishments of any type to a minimum. This will occur while restaurant operators, the alcoholic beverage industry, and the hospitality industry seek ways to grow and to operate with as few restrictions as possible. As the CUP takes hold in a given community, city agencies, concerned community groups, and bar-restaurant operators will learn to function efficiently within this dynamic tension to protect public health and safety while offering hospitality and entertainment.

What more can be done to prevent problems related to morphing?

This final section discusses steps the current system of State and local agencies can take to strengthen their system for preventing and reducing problems related to bar-restaurant morphing.

1. ABC and other State Agencies

The California Department of Alcoholic Beverage Control is the logical starting point for measures to improve oversight for problems related to morphing. The first two measures involve long-range structural changes. The next two are near-term practical steps. Mindful of the State of California's dire budget circumstances, these comments focus on using existing resources more effectively.

(1) Update the ABC Act to reflect the range of "restaurants" currently operating as on-sale retail alcohol outlets. Three distinct types of establishment are blurred in the current definition of "restaurant" in S. 23038: Traditional restaurants, bar-restaurants, and nightclubs. These three types of settings must be distinguished clearly since they pose different levels of risk to public health, safety and community well-being, and they must be regulated accordingly. Initiatives for this must come from alcohol policy advocates, the cities, and other interested parties.

(2) Establish a database and record-keeping system to track performance for all outlets by on-sales license type with respect to health and safety problems based on police and events complaints. Systematic documentation of "hot spots" (high-risk addresses) and geo-areas is needed to support oversight by the ABC and local jurisdictions. Combined efforts by the ABC and local law

[8] See discussion about City of Fullerton in Background paper, Op.Cit., Note 1

enforcement agencies can benefit from collaboration with the California Department of Public Health (DPH) and the State Board of Equalization (SBOE) to establish this data base. DPH can help set up the database and tracking system to support preventive surveillance, enforcement, research and policy-making. SBOE can provide alcohol sales data by volume and dollar amount.

(3) Flag applications at high risk of morphing for license conditions and thorough local review. Levels of environmental risk factors related to "restaurant" design and operation can be differentiated by setting type (restaurant, bar-restaurant, nightclub). Knowledge of risk levels is available through ABC field experience and data from police events and community complaints can be used to

calibrate relative levels of risk (see Point 2 above). As part of the licensing process, standard preventive conditions could then be placed on each setting type, and additional conditions can be applied as needed to meet special community conditions.

(4) Train local officials, community leaders and retailers on preventive oversight for retail alcohol outlets. Local officials and other community members can become more proactive by learning about (a) ABC and local powers to regulate retail alcohol outlets, (b) the potential of "restaurants" to behave like bars and nightclubs, (c) uses of local planning and zoning to provide local oversight for on-sale outlets, and (d) best practices for sales and service of alcoholic beverages to prevent inebriation and other alcohol-related problems. ABC-sponsored training awareness programs can provide basic information on these items, followed by Dept of Alcohol and Drug Program training and technical assistance both to cities and to outlet operators.

2. Local Jurisdictions Cities and Counties)

California cities have been slow to take advantage of preventive land-use approaches that using CUP ordinances to manage health, safety, and social problems with alcohol outlets. Cities can do three things to make successful use of the CUP approach for setting up a local oversight system:

- Formally coordinate city agencies to focus specifically on local control of retail alcohol outlets (for example, a dedicated alcohol policy working group reporting directly to mayor or city manager);
- Support participation by local community groups concerned about public health and safety issues to focus on retail alcohol outlets (for example, create a community coalition of concerned neighbors, parents, shopkeepers, and other stakeholders concerned about health and safety effects).
- Establish a community process for local planning and zoning that accords retail alcohol operators and other members of the alcohol/hospitality industry an opportunity to participate along with other stakeholders in local decision-making about retail alcohol outlets in the community.

How can officials and stakeholders concerned about public safety, health and community issues adopt a land-use approach that takes advantage of CUP oversight? A few leading cities now taking the initiative to develop effective local controls for restaurants can serve as examples for others. The City of San Luis Obispo, which provided an example of community problems with morphing at the beginning of this article, also provides an example of a city determined to solve these problems using local resources. The City, with strong leadership from the police department, has committed to a multi-year process that seeks to balance interests of all stakeholders – to find common ground that permits late-night club-type operations in a college town in a manner that does not damage or harm merchants, residents, and tourists who want a relatively quiet community. Four stakeholder groups have met to review police data and other information to identify issues for "development of strategies to reduce public safety challenges associated with licensee alcohol establishments." The four groups are Community (merchants, residents,

the university), Development (economic and physical growth), Hospitality (bar-restaurant operators, alcoholic beverage distributors), and Safety (law enforcement and medical services).[9] Through continued meetings the City seeks to develop land-use policies and CUP requirements, along with other social and economic measures, to stabilize Downtown nightlife and reduce alcohol-related problems. San Luis Obispo exemplifies several California cities exploring the use of local land-use controls in addition to enforcement and local development activities. These cities can be organized to create a learning community that encourages California cities to learn from each other.[10]

(1) Identify "local control" cities to share their information and experiences in the control of morphing. ABC District Offices and the state's alcohol advocacy community can be polled to identify participant cities currently using local zoning ordinances to control problems related to morphing.[11]

(2) Document development of planning and land-use policies for alcohol outlets in each city. Establish a comparative framework study local planning processes and CUPs from city to city. A model alcohol outlet control ordinance is available[12] to help develop this framework:

- Define land-uses (restaurant types)

• Document the nexus or connection between alcohol problems and alcohol outlets
• Draft language to establish preventive conditions for architectural design and operation (CUPs);
• Pass the ordinance and set up a rigorous implementation system
• Monitor and evaluate results for feedback and improvements to the oversight policy.

(3) Share findings through training sessions, publications and workshops. The following experiences can be shared among participating cities.

• Critical comparisons and analyses of local planning/zoning processes and specific CUP conditions
• Documentation and feedback to assess and monitor outlet performance (police events, complaints)
• Policy issues for building relationships among stakeholders and with the ABC District Office
• Evaluation, public review, and renewal of the local zoning policies by the local community.

Over time this approach will help local jurisdictions create local controls that work effectively with the ABC District Office to establish an oversight system that lets the community to enjoy the advantages and benefits of its restaurants without having to experience alcohol-related problems and disturbances.

9 San Luis Obispo Nightlife Public Safety Assessment, prepared for City of San Luis Obispo by the Responsible Hospitality Institute. Santa Cruz, CA, July 18, 2011.

10 Regional training workshops used model ordinances and demonstration examples successfully to introduce CUPs for retail alcohol outlets to California cities. Workshops sponsored by Dept of Alcohol and Drug Programs, Dept of Alcoholic Beverage Control, and League of California Cities, were offered by Institute for the Study of Social Change, UC Berkeley, 1996-1998.

11 Cities include: Fullerton, Garden Grove, Marietta, Newport Beach, Ontario, San Luis Obispo, Santa Rosa, Walnut Creek.

12 See "Best Practices in Municipal Regulation to Reduce Alcohol-Related Harms From Licensed Alcohol Outlets," Center for the Study of Law and Enforcement Policy, Pacific Institute for Research and Evaluation. Monograph prepared by JL Mosher and SL Saetta (Ventura, CA: Ventura County Behavioral Health Department Publication, 2008).

APPENDIX

State ABC Act Definitions for restaurants and bars.

ABC Act 23038: "Bona fide public eating place" (Restaurant) means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. "Meals" means the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement. "Guests" shall mean persons who, during the hours when meals are regularly served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that any food be sold or purchased with any beverage.

ABC Act 23039: "Public Premises" (Bar) means premises licensed with any type of license other than an on-sale beer license, and maintained and operated for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food shall not be sold or served to the public as in a bona fide public eating place, but upon which premises food products may be sold or served incidentally to the sale or service of alcoholic beverages, in accordance with rules prescribed by the department.

Figure 1
Bar-restaurant in Downtown San Luis Obispo
Figure 2
Bar-restaurant in Downtown San Luis Obispo
Figure 3
Police and security staff at bar-restaurant in Downtown San Luis Obispo

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