

# Public Convenience or Necessity: The Power of Local Municipalities to Control Alcohol Outlet Density

*East County Community Change Project • June 2004*

**I**n a region experiencing rapid growth, such as the eastern area of San Diego County, communities are at risk of becoming oversaturated with bars, liquor stores and other locations where alcohol can be purchased.

If controls are not imposed, such conditions can threaten public health and safety and reduce the quality of life in surrounding neighborhoods. This issue briefing details the problems associated with high alcohol-outlet density and the power of local municipalities to mitigate them by adopting stronger prevention policies.



guidelines for the acceptable level of alcohol outlet density in a given census tract. If the number of alcohol retailers exceeds the number recommended, that census tract is considered to be oversaturated (detailed information is available on the ABC Web site: [www.abc.ca.gov](http://www.abc.ca.gov)).

## *The effects of outlet density on a community*

**U**ntil recently alcohol-related problems were viewed as the result of individual behavior. However, about 15 years ago researchers began to look at these problems from a new perspective, taking into account the context in which they occur. There is now a large and growing body of evidence showing that the negative consequences of alcohol use are strongly influenced by environmental factors. Foremost among these factors is alcohol-outlet density.

Many studies establish direct correlations between high alcohol availability and increases in drunken driving, sexual assault, crime and violence, underage drinking, health problems and economic decline. Moreover, the relationship between these problems and outlet density is statistically significant, regardless of socioeconomic and other demographic factors. (See enclosed Research Summary.)

For these reasons, the California Department of Alcoholic Beverage Control (ABC) has established

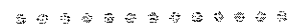
## *Using Public Convenience or Necessity (PCN) as a tool to control oversaturation*

**I**n 1994, the California State Legislature adopted the Caldera bill, which authorizes local municipalities to control the number of bars and retail outlets in their communities. These rules apply to ABC license requests in areas that are already oversaturated and/or areas that have high crime rates. Under the statute, high crime is defined as an area that exceeds the city's average crime rate by 20 percent.

Under such conditions, ABC must deny the license application unless there is a finding of need, termed



**“If the local authority denies a PCN waiver, then state law requires the ABC to honor that decision and deny the alcohol license application.”**



"Public Convenience or Necessity" (PCN) in the statute. Depending on the type of business requesting a license, the finding of "Public Convenience or Necessity," is determined either at the state or local level.

The State Department of Alcohol Beverage Control has sole authority over restaurants, hotels, motels and other lodging establishments, but local governments have discretionary power over bars and liquor stores. If, in these cases, the local authority does not find a need, state law requires the ABC to honor that decision and deny the license application.

### The Burden of Proof

Despite the authority of local municipalities to control outlet density, many of the census tracts in San Diego County, including the East Region, have reached or surpassed saturation levels (see map below).

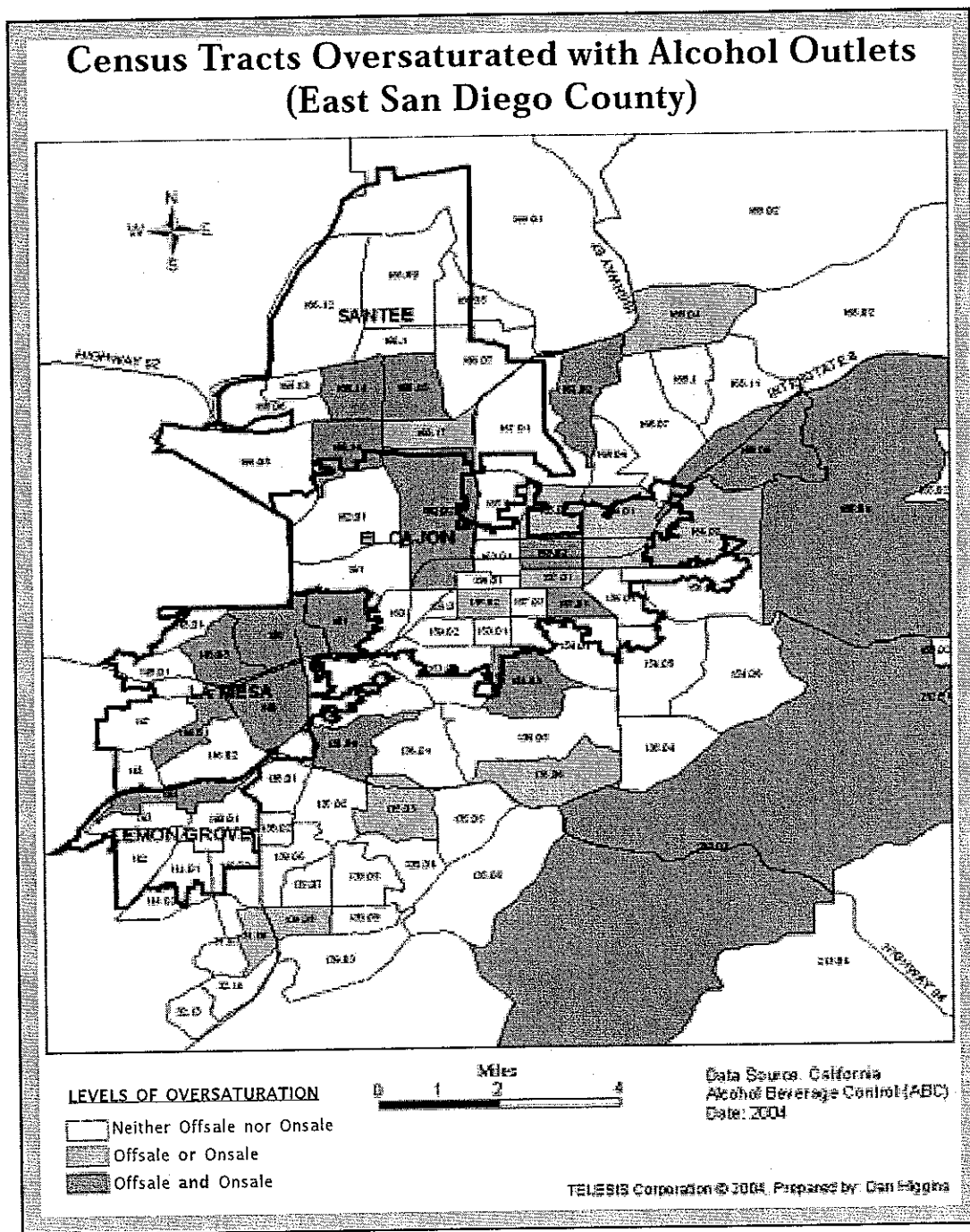
Part of the reason may be that local governments are seeking to support small business and they are unaware of the problems that inevitably come with high outlet density. As such, governing authorities may lean toward

approval of new applications unless it can be demonstrated that the license in question will result in escalated crime or some other negative consequence to the surrounding area.

But this is a flawed standard that is contrary to the intent of state law. When dealing with high-crime and oversaturated areas, local residents and health advocates should not be required to establish the potential for harm. *Instead, the burden of proof should be on the applicant, to show that there is a need for another alcohol outlet or, at a minimum, the outlet will be of benefit to the community.*

### The Need for Public Involvement

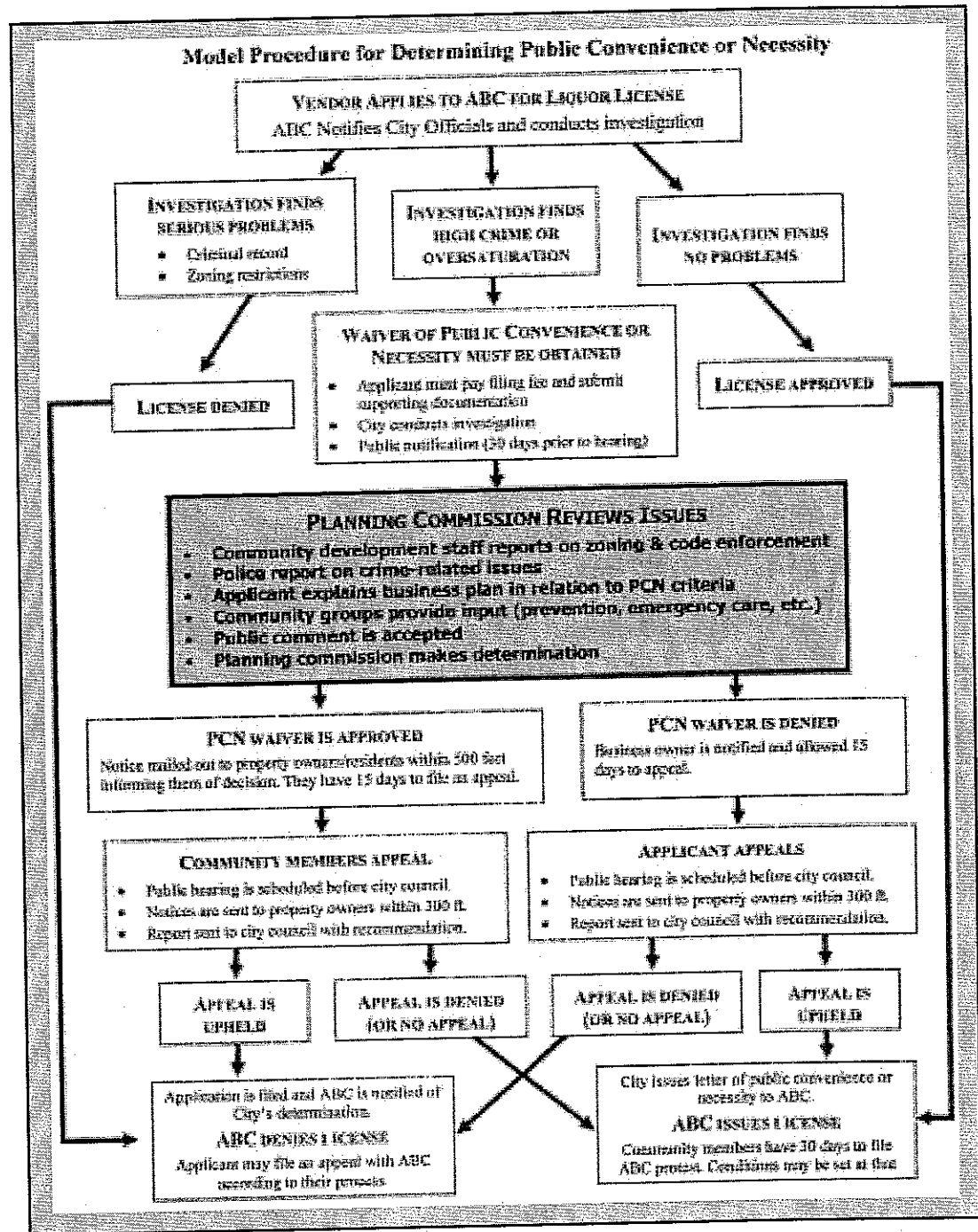
In some cities, PCN-related decisions are made by an administrator such as the city manager or planning director. However, such a procedure does not



allow for any community input on the issue. A preferable approach would be to hold a public hearing, so the effect on local neighborhoods could be assessed.

An ideal process would solicit input from a variety of stakeholders. In addition to local law enforcement and planning department staff, community members, health and emergency care providers, and representatives from other community agencies would be asked to participate.

Because these decisions are related to land use, a local planning board or commission is often a good venue for this kind of hearing. Under such a system, the board would have the power to make a final decision, but if it were contested, it could still be appealed to the city council for a final resolution. (See model procedure at right.)



### Establishing PCN

#### Criteria: How and Where to Draw the Line

State law does not mandate a set of criteria to be used to establish PCN. Instead, that decision is left up to the local elected officials, so they can take into account characteristics unique to their respective communities. To aid them in making this decision, prevention experts have developed two sets of criteria.

The first set is "Mandatory" criteria; conditions under which an application automatically will be denied. The

second set is "Discretionary" criteria; conditions that may disqualify an application based on a risk-and-benefit assessment. It should be noted these two are not meant to be mutually exclusive. To the contrary, using a combination of both is recommended, as that would afford the highest level of protection. (See next page, taken from: *Public Convenience or Necessity: A Guide for Local Government*, produced by the EMT Group and funded by the California Department of Alcohol and Drug Programs.)

## Mandatory Criteria

The following factors are examples of those that might be used as the basis to reject a PCN waiver in an area of undue concentration or high crime:

- Targeted law enforcement areas, i.e. regions already drawing excessive amounts of law enforcement resources.
- Elevated rates of alcohol-related crime (i.e., disturbing the peace, public intoxication, prostitution, vandalism, graffiti, etc.)
- Long-term levels of undue concentration (20 percent higher than the state average).
- Proximity to sensitive land uses (i.e., schools, churches, residences, parks, areas designated for economic development).

## Discretionary Criteria

Under this model, the decision-making body conducts a risk and benefit analysis, with the benefits being considered first. Here the applicant and/or those supporting the application have an opportunity to present the merits of the proposed outlet and explain what value it will bring to the community. If no tangible benefits can be demonstrated, no waiver would be granted. If there are discernable benefits, then the risks are examined.

### *Benefit Analysis*

- Net employment gain, especially of local residents
- Various business taxes
- Unique business addition
- Upgrading an area and its usage
- Positive cultural or entertainment value
- Long-term economic development goals

### *Risk Analysis*

- Law enforcement calls for service (20 percent higher than the average)
- Ratio of all police calls to alcohol-related calls
- Level of law enforcement capacity
- Health indicators, alcoholism rates, homelessness
- Percentage of youth in the immediate vicinity
- Alternative business uses available
- Duplication of existing services
- Business operations (i.e., percentage of alcohol vs. other items sold, late-night sales, underage staff, sale of inexpensive or fortified wines, etc.)



**“The burden of proof should be on the applicant to show that having a new alcohol outlet will be of benefit to the community.”**



Since the density of alcohol outlets in a given community can have a significant impact on public health and safety, local governments should have policies and procedures in place to prevent oversaturation. Establishing a strong set of PCN criteria and applying them to new applications as part of the planning process is a fair and reasonable way to meet this goal.

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## Evaluating the Impact of Outlet Density on Crime

While much of the crime data police collect may not appear to be related to alcohol consumption, much less the density of alcohol outlets, the research tells a different story. As demonstrated in the studies below, crimes such as domestic violence, assault, burglary, grand theft and others are linked to the availability of alcohol in a community. It would therefore be a mistake to minimize the relevance of such data when making decisions about whether to permit additional alcohol outlets in a neighborhood.

### Violence and Crime

The relationship between alcohol outlet density and violent crime has been well documented. Communities with 100 or more alcohol outlets and a population of 50,000 or more can expect an annual increase of 2.5 violent crimes each year for every alcohol outlet added in the area.<sup>i</sup> Criminologists studying the distribution of violent crimes have found on-site alcohol outlets such as bars and restaurants were among the “hottest” of the “hot spots” for such incidents.<sup>ii</sup> In one large U.S. city, researchers found city blocks with bars had higher rates of assaults, robberies and rapes than other blocks, even after the analysis accounted for the effects of unemployment and poverty.<sup>iii</sup>

Researchers also found these so-called “wetter” neighborhoods have higher levels of public drunkenness and disturbing the peace violations<sup>i</sup> along with calls for police services.<sup>iv</sup> Further support for the causal relationship comes from research showing violence and other problems decrease when alcohol availability goes down.<sup>v,vi,vii,viii</sup>

Increased homicide rates also are prevalent in regions with high densities of off-site alcohol outlets such as liquor stores.<sup>ix</sup> One study of urban neighborhoods in New Orleans found a 10 percent higher outlet density was associated with a 2.4 percent higher homicide rate. According to the researcher, this was true even after considering other factors such as the percentage of unemployed, black, young male residents and the number of households headed by unmarried people.<sup>x</sup>

### Domestic Violence and Sexual Assault

New findings suggest domestic violence and sexual assault in a neighborhood may rise as the number of liquor licenses in the area increases. Even after accounting for socioeconomic factors that could influence domestic violence, a study in Maryland showed that a doubling of the density of liquor stores was associated with a nine percent increase in the rate of reported domestic violence. While alcohol is certainly not the only factor in domestic violence

and sexual assault, researchers concluded that reducing the incidence of domestic violence in certain areas may be as simple as spreading out the stores that are allowed to sell alcohol.<sup>x</sup>

Several studies of college students also found a correlation between alcohol use and sexual assault. Specifically, the studies showed an increased likelihood of victimization among drinking and intoxicated women.<sup>xi</sup> In a study of 52 women bar drinkers, 85 percent of the women reported some form of nonsexual physical aggression. Thirty-three percent reported an attempted or completed rape occurred after drinking in a bar.<sup>xii</sup> The risk of nonsexual victimization was not greater for women who went to bars frequently, but the risk of sexual victimization increased.

### Alcohol-related collisions

The most frequently reported consequences of high outlet density are alcohol-related collisions. According to a study of 72 cities in California, for every one percent increase in outlet density there was a .54 percent increase in alcohol-related crashes. Thus, if a city of 50,000 had 100 alcohol outlets, the residents would experience an additional 2.7 crashes for each new bar or liquor store.<sup>1</sup> Some studies indicate the rate of crashes can be reduced by responsible beverage service training programs, but the level of risk still is high when outlet density exceeds the acceptable levels of saturation.<sup>xiii</sup>

This is of special concern in cities such as El Cajon and La Mesa, the two most populous cities in the East County region, where there is high outlet density and most of the alcohol outlets are located along major roads and highways. The presence of so many bars and restaurants, closely packed together near major intersections, tends to increase the chances of alcohol-related traffic crashes. According to data from the California Office of Traffic Safety (OTS) many of these incidents take place at night, as bars are closing and highways become crowded with patrons who have been drinking.<sup>xiv</sup> This is confirmed by the Place of Last Drink survey data, which indicates about half of drunken drivers in San Diego County are coming from bars and restaurants.<sup>xv</sup>



## Underage Drinking

A study of three cities in Northern California showed communities with high outlet density have significantly higher levels of underage drinking as well as gang-related behavior, drug sales and sexual promiscuity among youth. According to the authors, if alcohol outlets define the physical and social environment for youth, then they are more likely to engage in such activities.

A strong correlation was established between the age of a young person's first drink and a variety of personal and social problems. These include getting involved in fights, suffering personal injury, unprotected sexual activity and drinking problems later in life.<sup>xvi, xvii</sup> It can be especially problematic when young people grow up in an environment with alcohol advertisements on every street corner.

## Economic Decline

According to city planning departments, the most common complaints regarding alcohol outlets are related to noise, traffic or loitering. These problems may seem minor, but over time they change the character of a neighborhood. As a

result, those who regularly visit may change their routines, and even those living nearby may start to avoid the area.<sup>xviii</sup>

This phenomenon is consistent with research showing over-concentration of alcohol outlets often is part of a neighborhood's broad economic and social disintegration. *When an area becomes oversaturated with bars and liquor stores, it loses its economic base as well as its diversity and becomes less attractive to residents and potential retail customers.*<sup>xix</sup> Accordingly, a proliferation of alcohol outlets can be considered a symptom of economic decline and a factor that worsens such decline.

## Conclusion

In light of this research, appeals by community organizations and residents to limit and/or decrease the number of alcohol outlets in their neighborhoods should not be construed as anti-business. To the contrary, crime and over-concentration are barriers to attracting new businesses and commercial enterprises that can promote economic revitalization and development. Any new license applications in oversaturated areas should be considered with caution.<sup>vii, xx</sup>

- <sup>i</sup> Scribner, R.A., MacKinnon, D.P., & Dwyer, J.H. (1995). The risk of assaultive violence and alcohol availability in Los Angeles County. *American Journal of Public Health*, 85(3), 335-340.
- <sup>ii</sup> Sherman, L.W., Gartin, P.R., & Buerger, M.E. (1989). Hot spots of predatory crime: Routine activities and the criminology of place. *Criminology*, 27(1), 27-55.
- <sup>iii</sup> Roncek, D.W., & Maier, P.A. (1991). Bars, blocks, and crimes revisited: linking the theory of routine activities to the empiricism of "hot spots." *Criminology*, (29)4, 725-753.
- <sup>iv</sup> Calhoun, S., & Coleman, V. (1989). Alcohol availability and alcohol related problems in Santa Clara County. San Jose, California: County of Santa Clara Health Department, Bureau of Alcohol Services.
- <sup>v</sup> Chiu, A.Y., Perez, P.E., & Parker, R.N. (1997). Impact of banning alcohol on outpatient visits in Barrow, Alaska. *Journal of the American Medical Association*, 278(21), 1775-1777.
- <sup>vi</sup> Gorman, D.M., Labouvie, E.W., Speer, P.W., & Subaiya, A.P. (1998). Alcohol availability and domestic violence. *American Journal of Alcohol Abuse*, 24(4), 661-673.
- <sup>vii</sup> Alaniz, M.L., & Parker, R.N. (1998). Alcohol outlet density and Mexican American youth violence. Berkeley CA: Prevention Research Center.
- <sup>viii</sup> Parker, R.N., & Rebhun, L.A. (1995). Alcohol and homicide: A deadly combination of two American traditions. Albany, NY: State University of New York Press.
- <sup>ix</sup> Scribner, R.A., Cohen, D., Kaplan, S., & Allen, S.H. (1999). Alcohol availability and homicide in New Orleans: Conceptual considerations for small area analysis of the effect of alcohol outlet density. *Journal of Studies on Alcohol*, 60, 310-316.
- <sup>x</sup> Fewer liquor stores, less violence (2003). *Prevention File*, 18(1), 2.

- <sup>xi</sup> Abbey, A., McAuslan, P., & Ross, L.T. (1988). Sexual assault perpetration by college men: The role of alcohol, misperception of sexual intent, and sexual beliefs and experiences. *Journal of Social and Clinical Psychology*, 17(2), 167-195.
- <sup>xii</sup> Parks, K., & Miller, B.A. (1997). Bar victimization of women. *Psychology of Women Quarterly*, 21(4), 509-525.
- <sup>xiii</sup> Holder, H.D., & Wagenaar, A.C. (1994). Mandated server training and reduced alcohol involvement traffic crashes: A time series analysis of the Oregon experience. *Accident Analysis and Prevention*, (26)1, 89-97.
- <sup>xiv</sup> Data for California cities are available on the Office of Traffic Safety website: <http://www.ots.ca.gov/cgi-bin/rankings.pl>
- <sup>xv</sup> Place of Last Drink data is available on the East County Community Change Project website: <http://www.publicstrategies.org/east/index.htm>
- <sup>xvi</sup> Grant, B.F., and Dawson, D.A. (1997). Age of onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic survey. *Journal of Substance Abuse*, 9, 103-110.
- <sup>xvii</sup> Hingson, R.W., Heeren, T., Winter, M.R., & Wechsler, H. (2003). Early age of first drunkenness as a factor in college students' unplanned and unprotected sex attributable to drinking. *Pediatrics*, 111(11), 34.
- <sup>xviii</sup> Roncek & Maier (1991). U.S. Department of Health and Human Services: Pub. No. (SMA), 99-3298.
- <sup>xix</sup> Maxwell, A., & Immergluck, D. (1997). Liquor lining: liquor store concentration and community development in lower-income Cook County (IL) neighborhoods. Chicago, IL: Woodstock Institute.
- <sup>xx</sup> Alaniz, M.L., Cartmill, R.S., & Parker, R.N. (1998). Immigrants and violence: The importance of neighborhood context. *Hispanic Journal of Behavioral Sciences*, 20(2), 155-174.