

REPORT AND RECOMMENDATION
on
INVESTIGATIONS OF
LIQUOR LICENSE APPLICATIONS

State of New Jersey
Commission of Investigation

March, 1992

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COMMISSION OF INVESTIGATION

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March, 1992

Governor James J. Florio
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith submits,
pursuant to N.J.S.A. 52:9M, a preliminary report on one phase of
its investigation into organized crime control of bars.

Respectfully,


James R. Zazzali
Chairman


Barry H. Evenchick


Kenneth D. Merin

The Commission's investigation into organized crime influence in bars and taverns in the state focused in part on the extent to which weaknesses in procedures at either the municipal or state level have allowed criminal elements to continue in licensed premises in violation of state law. At the conclusion of the public hearing on February 19, 1992, the Commission announced it had conducted a limited study of local licensing procedures.

The study concluded that laxity in the manner in which municipalities conduct background checks on applicants for licenses is the principal reason organized crime is still involved in the liquor business. Many municipalities appear to give background investigations of applicants for licensure a low priority. Other municipalities seem unaware either of their authority or responsibility in the area. In most cases, these weaknesses are the result of limited manpower or expertise in conducting financial background investigations.

Because limited resources and time constraints made it impractical to review licensing practices of all 567 municipalities in the state, the study involved 66 municipalities selected on the basis of their location and population. Selections were made so as to include at least three locations from different population ranges in each of the state's 21 counties. The largest municipality was Newark, with a population of 275,221; the smallest was Seaside Heights with 2,366. The municipalities used in the survey are shown on Table 1.

After the municipalities were selected, Commission investigators interviewed authorities in each one, using a questionnaire developed by the staff. The interviews always began with the municipal clerk, or the alcoholic beverage control clerk if the municipality was large enough to have one. Police officials were interviewed if they participated in the licensing procedure. Review of the responses revealed no uniformity whatsoever in how municipalities investigate applicants.

In most municipalities surveyed, it would not be cost-effective to hire persons with the qualifications needed to conduct detailed financial inquiries since 28 of the 66 municipalities reported processing fewer than one transfer per year. Another four reported one to two transfers, and six more reported two. Thus, 58% of the towns in the survey had two or fewer license transfers per year.

Some municipal officials either do not know how to conduct a proper applicant investigation or have simply chosen not to do anything too extensive. Obvious examples were in the relatively large townships of Washington (Gloucester County), Brick and Woodbridge, where little is done. Similarly, little investigation is done in Absecon, Seaside Heights, Sea Isle City, Medford Lakes, Medford, Salem, Middle Township, Woodbury Heights and Pennsville. Interestingly, one police department had recommended that more extensive background investigations be done; the governing body, however, was uninterested in instituting new procedures.

* * *

Some municipalities surveyed are so small that they have little demand for ABC background checks. For example, Lopatcong and Flemington, with four and five licenses respectively, seldom need to conduct background investigations. In each, the chief of police does the investigations when necessary. In Carney's Point, there has been no request for a background investigation in three years. Applications there are routinely taken at face value.

A problem in small communities is that officials tend to know the applicants; therefore, they may bypass all or part of the background inquiries. In Pennsville, for example, the clerk said investigations are not done because applicants are "usually well known." This may be the case in other small communities where there are only a few liquor licenses which have been held by the same persons for a number of years. In Lopatcong, for example, the police chief said he does all of the background investigations because "many times" he "knows the applicant." The police official interviewed in Old Bridge stated that local police should continue to do license backgrounds because "most of the time they know the applicants." And in Salem, applicant information is forwarded to the local police department only in the event that the "applicant is unknown to the clerk's office."

At first blush, such familiarity may appear beneficial. In reality, however, it puts local officials at a disadvantage since they would be less likely to do a thorough background

investigation as required by law and might accept at face value statements made by an applicant.

* * *

All but 10 municipalities involved local police at some point in the application process. Most of the others, if they conduct any background investigations at all, use the municipal clerk's office. One, Fairfield Township (Cumberland County), uses the State Police, and Buena Vista Township uses the township solicitor. Forty-four (67%) of the municipalities surveyed do not use personal history questionnaires in conducting background investigations. And, whether due to inexperience or lack of manpower, 61 (92%) do not conduct a thorough financial investigation on applicants.

Most of the municipalities in the sample have never or rarely denied licensure to an applicant. A few officials interviewed claimed that even though recommendations had been made for denial on occasions, some had been overruled by the governing body or the State Division of Alcoholic Beverage Control. Others may have had no denials simply because their background investigations were so limited that they could not possibly have established justification for any.

Although applicants for liquor licenses may have undisclosed financial backing, some municipalities, including Camden, Cherry Hill, Garfield, Middletown, Linden, Vineland, Washington Township, Woodbridge and Brick, do not even inquire into the subject. Others, which do inquire, nevertheless require no

documentation to support responses. This category includes Newark, Elizabeth, Trenton, East Orange and Edison.

These failures allow organized criminal elements the opportunity to invest illicit profits in licensed establishments. However, when asked during the survey whether or not organized crime elements had interests in bars in their jurisdiction, 48 municipalities (73%) responded negatively, even though the Commission's investigation revealed otherwise in some of the municipalities surveyed, including Elizabeth, Edgewater, Garfield, Camden, Bayonne and Vineland.

THE SURVEY

The survey consisted of the following questions.

- Is there an investigative file maintained on each license? On each applicant?
- Is a personal history questionnaire required of the applicants, including stockholders and officers?
- Is an investigative file maintained on each license? Each applicant?
- What types of forms are used?
- How long are records retained?
- Who does the applicant investigation?
- Are applicants fingerprinted and photographed?
- Are there any local ordinances that pertain to violations of ABC law?
- Have there ever been any occasions of recommendations for license denial?
- Does anyone look at sources of funding? If so, does the investigator seek documentation of the source of funds?

- Are there any licensed establishments which are suspected of organized crime control/influence?
- How often are inspections held? What is done? Is a report written?

Table 2 lists each municipality and its responses to each question.

RECOMMENDATION

The issues raised by the results of this survey, viewed in the light of the testimony at the Commission's public hearing, compel the Commission to conclude that the state must assume responsibility for all background investigations of applicants for liquor licenses. It is clear that reliance on municipal governments to guarantee the suitability of licensees as required by the statute has been, whether the result of neglect, lack of expertise or lack of resources, a failure.

Consequently, the Commission believes that the Governor and the Legislature should consider eliminating all local authority to pass on the fitness of applicants, leaving municipalities to pass on purely local related issues, such as zoning. Short of that, however, the Commission recommends that municipalities retain only limited responsibilities in the licensing process. For instance, applications should continue to be filed locally but then would be forwarded to an investigative/enforcement unit at the state level. The results of the backgrounds would be sent to the State Division of Alcoholic Beverage Control, which would make recommendations to the municipalities regarding licensure. A town could deny licensure, based on local issues, to an

applicant that the State has found no problems with. However, if a town decides to issue a license in the face of a contrary recommendation by the State, that action would be reviewed by the ABC, presumably at a hearing conducted by the Office of Administrative Law. The final decision would be made by the State ABC.

A model for a state takeover of background investigations is N.J.A.C. 13:2-3.7, by which the State took over license applications filed in Atlantic City. Using this authority, the Atlantic City Joint Task Force was created in 1977 to determine if a "front" situation exists; to ensure that all persons involved in a license are free of criminal convictions and organized crime influences; to verify the legitimacy of the source of all funds utilized in the transactions; to conduct on-site inspections of all proposed premises; to forward to the Director of ABC all violations disclosed during the course of an investigation, and to interview and fingerprint all applicants for rehabilitation permits and disqualification removals in the southern New Jersey area. By all accounts, the Task Force, which is still in place, has been an unqualified success and has been a vital tool in keeping criminal elements out of bar businesses in Atlantic City.

* * *

Obviously, the new State responsibilities suggested here will result in additional costs. The Commission recognizes that state government remains hard pressed to fund even existing

programs but believes, nevertheless, that background investigations can be supported without any drain on the general treasury. The funds to conduct this program should come from three sources, additional applicant fees for investigative costs, increased penalties for violations and the assessment of costs in administrative cases.

A liquor license permits its holder to conduct a potentially very lucrative business. It is entirely reasonable, therefore, that an applicant should bear at least a substantial portion of what it costs the State to determine its suitability to enjoy that opportunity. The Commission recommends that the Division of Alcoholic Beverage Control establish a fee schedule for this purpose, based on the length and complexity of the background investigation. Since this fee would have to be paid regardless of whether or not an application is approved, some persons of questionable background might even be discouraged from making application in the first place.

Additional revenue to support investigation of licensee applicants, as well as other ABC enforcement responsibilities, would be generated by a revision of the schedule of penalties for violations of regulations. Even in the absence of the need to support the program recommended here, the penalty structure is outdated and unrealistic and should be updated.

There is some risk, of course, that increasing penalties could result in a greater number of contested cases, thus reducing the additional revenues. Therefore, the Commission recommends that a licensee be assessed the State's costs when a contested case results in a penalty.

TABLE 1

POPULATION (1990)	UNDER 3,000	3,000-7,500	7,500-10,000	10,000-25,000	25,000-50,000	50,000-75,000	75,000-100,000	OVER 100,000
COUNTY								
ATLANTIC		Absecon City 7,298	BUENA VISTA 7,655	SOMERS POINT 11,216				
BERGEN		Edgewater Borough 5,001		Lodi Borough 22,355	GARFIELD 26,727			
BURLINGTON		Medford Lakes 4,462	Burlington City 9,835	MEDFORD 20,526				
CAMDEN		BERLIN TWP. 5,466				CHERRY HILL 69,348	CAMDEN 87,492	
CAPE MAY	SEA ISLE CITY 2,692	WILDWOOD 4,484		Middle Twp. 14,771				
CUMBERLAND		Fairfield Twp. 5,699		Bridgeton City 18,942		Vineland City 54,780		
DELSSEX					BELLEVILLE 34,213	East Orange 73,552		Newark 275,221
DOUGLCESTER		Woodbury Heights 3,392		DEPTFORD 24,137	Washington Twp. 41,960			
HUDSON					HOBOKEN 33,397	W.N.Y. 38,125	BAYONNE Union City 61,444 58,012	JERSEY CITY 228,537
HUNTERDON	Franklin Twp. 2,851	Flemington 4,047		Raritan Twp. 15,616				
MERCER				East Windsor Twp. 22,353	Ewing Twp. 34,185		TRENTON 88,675	
MIDDLESEX					PISCATAWAY 47,089	Old Bridge Twp. 56,475	Edison 88,680	Woodbridge 91,086
MONMOUTH				Ashbury Park 16,799	LONG BRANCH 28,658	MIDDLETOWN 68,183		
MORRIS			Chatham Borough 8,007	Roxbury Twp. 20,429	Parsippany 48,478			
OCEAN	SEASIDE HEIGHTS 2,366					BRICK TWP. 66,473	DOVER TWP. 76,371	
PASSAIC				Hawthorne Borough 17,084		Passaic City 58,041		Paterson City 140,891
SALEM		Salem City 6,883	Carneys Point Twp. 8,443	Pennsville Twp. 13,794				
SOMERSET			Montgomery Twp. 9,612	WARREN 10,830	Hillshorough 28,808			
SUSSEX		Andover Twp. 5,438	Newton Twp. 7,521	Hopatcong Borough 15,586				
UNION				Roselle Park 12,805	Linden 36,701			Elizabeth 110,002
WARREN		Lopatcong Twp. 5,052	Hackettstown Twp. 8,120	Phillipsburg 15,757				

MUNICIPALITY	NO. LICENSES	NO. TRANSFERS	PERS. HIST.-APPLIC.	PERS. HIST.-STKHLDRS.	INV. FILE-APPLIC	INV. FILE-LICENSE	FINGPRT.	PHOTO	LOCAL ORDS.	DENIALS	SOURCE OF FUNDS	DOC. REQ.*	O.C. INFL.
ABSEC.	8	<1	N	N	N	Y	N	N	Y	N	N	N	N
ANDOV. TWP.	12	<1	N	N	Y	Y	Y	N	N	Y	Y	N	N
ASB. PK.	53	7	Y	Y	N	Y	Y	Y	Y	Y	N	N	Y
BAYONNE	149	17	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N
BELLEV.	38	5	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
BERL. TWP.	10	<1	Y	Y	N	N	Y	Y	N	N	Y	N	Y
BRICK	24	<1	N	N	N	N	Y	N	Y	N	N	N	N
BRIDGTN.	24	1	N	N	Y	Y	N	N	N	Y	N	N	Y
BUEN VIS.	12	<1	N	N	N	Y	N	N	Y	N	Y	N	N
BURL. CTY.	30	2	N	N	N	Y	Y	Y	Y	Y	N	N	N
CAMDEN	129	12	Y	N	Y	Y	Y	N	N	Y	N	N	N
CARN. PT.	14	1	N	N	Y	Y	N	N	N	N	N	N	N
CHAT. BOR.	8	<1	N	N	Y	Y	Y	N	N	N	Y	Y	N
CH. HILL	52	12	Y	Y	Y	Y	Y	N	Y	N	N	N	Y
DEPTFORD	26	3-5	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y
DOVER TWP.	39	1-2	Y	Y	N	N	Y	Y	Y	N	Y	N	Y
E. ORANGE	37	VAR	N	N	Y	Y	Y	Y	N	Y	Y	N	N
E. WINDSOR	15	1	N	N	Y	Y	Y	N	Y	Y	N	N	N
EDGEWATER	18	1-2	N	N	N	Y	Y	N	Y	N	N	N	N
EDISON	53	3-4	N	N	Y	Y	Y	N	N	N	Y	N	N
ELIZABETH	234	50	N	N	Y	Y	Y	N	N	N	Y	N	N
EWING	33	2	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N
FAIRFLD	5	<1	Y	N	Y	Y	Y	N	Y	N	N	N	N
FLEM.	5	<1	N	N	N	N	Y	Y	Y	Y	N	N	N
FRANKLIN	2	<1	N	N	N	Y	Y	Y	Y	Y	N	N	N

TABLE 2

MUNICIPALITY	NO. LICENSES	NO. TRANSFERS	PERS. HIST.-APPLIC.	PERS. HIST.-STKHLDRS.	INV. FILE-APPLIC	INV. FILE-LICENSE	FINGPRT.	PHOTO	LOCAL ORDS.	DENIALS	SOURCE OF FUNDS	DOC. REQ.*	O.C. INFL.
GARFLD.	61	4-5	Y	N	Y	Y	Y	N	Y	Y	N	N	N
HACKSTN.	10	1	N	N	N	Y	Y	Y	Y	N	Y	Y	N
HAWTHN.	22	2	N	N	Y	Y	Y	Y	Y	N	Y	Y	N
HILLSBOR.	13	1-2	Y	Y	Y	Y	Y	N	Y	N	Y	Y	N
HOBOKEN	122	UNK	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y
HOPAT.	16	2	Y	Y	N	Y	Y	Y	N	Y	Y	Y	N
JER. CTY.	>500	55-60	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
LINDEN	66	12	N	N	N	Y	Y	Y	N	N	N	N	N
LODI	37	2-3	N	N	Y	Y	Y	N	Y	Y	Y	Y	N
LONG BRCH.	71	10	N	N	N	Y	Y	N	N	N	Y	N	N
LOPAT.	4	1	N	N	N	N	N	N	Y	N	N	N	N
MED. LKS.	2	0	N	N	N	N	N	N	N	N	N	N	N
MEDFORD	9	<1	N	N	N	N	N	N	N	N	N	N	Y
MIDDLE TWP.	8	1	N	N	N	Y	N	N	N	N	N	N	Y
MIDDLETOWN	40	2-3	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
MONT. TWP.	6	<1	N	N	N	Y	Y	N	Y	Y	Y	Y	N
NEWARK	585	80-100	N	N	Y	Y	N	N	Y	Y	Y	N	Y
NEWTON	12	1	N	N	N	Y	Y	Y	N	N	N	N	N
OLD BR.	30	1	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
PAR-TROY	48	5-10	Y	N	Y	Y	Y	N	Y	N	Y	Y	N
PASSAIC	130	1	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N
PTRSON.	283	50-75	N	N	Y	Y	Y	N	Y	Y	Y	Y	N
PENNSVL.	9	2	N	N	Y	Y	N	N	Y	N	Y	N	N
P. BURG.	41	1	N	N	N	Y	Y	Y	Y	Y	N	N	Y
PISC.	21	1	N	N	N	Y	Y	N	N	N	Y	Y	N
RARIT. TWP.	11	1	N	N	N	N	Y	Y	Y	N	Y	Y	N
ROSELLE	17	3	N	N	Y	Y	Y	N	Y	N	Y	Y	N

TABLE 2

MUNICIPALITY	NO. LICENSES	NO. TRANSFERS	PERS. HIST.-APPLIC.	PERS. HIST.-STKHLDRS.	INV. FILE-APPLIC	INV. FILE-LICENCE	FINGPRT.	PHOTO	LOCAL ORDS.	DENIALS	SOURCE OF FUNDS	DOC. REQ.*	O.C. INFL.
ROXBURY	22	3	Y	Y	N	Y	N	N	Y	Y	Y	N	N
SALEM	11	1	N	N	Y	N	N	N	Y	N	N	N	N
SEA ISLE	12	<1	N	N	N	N	Y	N	N	N	Y	N	N
SEASIDE HTS.	25	2	N	N	N	Y	Y	Y	Y	N	N	N	Y
SMRS. PT.	19	1-2	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y
TRENTON	231	20	N	N	Y	Y	N	N	Y	N	Y	N	N
UN. CTY.	171	10-15	N	N	Y	Y	Y	Y	Y	Y	N	N	N
VINELND.	54	9	Y	N	Y	Y	Y	N	Y	Y	N	N	N
WARREN	12	1	N	N	Y	Y	Y	N	N	N	Y	N	N
WASH. TWP.	13	<1	N	N	N	N	N	N	N	N	N	N	N
W. N. Y.	80	5-6	N	N	Y	Y	Y	Y	Y	N	N	N	N
WILDWOOD	59	2-5	N	N	N	N	Y	N	Y	N	N	N	Y
WOODBURG.	100	5	N	N	Y	Y	Y	Y	N	Y	N	N	N
WOODBURY	3	<1	N	N	N	N	N	N	N	N	Y	Y	N

*Initial responses during interview. Follow-up interviews revealed that many locations do not require adequate documentation.

TABLE 2