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A vertical photograph on the left side of the cover shows a hand holding a dark glass bottle, likely alcohol, in a retail setting. The background is blurred, showing shelves of other bottles.

Strategies for Reducing Third-Party Transactions of Alcohol to Underage Youth

Prepared by



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About This Guide

This document examines youth access to alcohol through third-party sales. It provides an understanding of what constitutes a third-party transaction, how and where these transactions happen, and enforcement strategies to deter and reduce the availability of alcohol to underage drinkers through adult providers.

State and local enforcement agencies, policy makers, and concerned citizens can use this guide to

- gain an understanding of the issues related to underage drinking and third-party transactions;
- motivate policy makers, communities, and law enforcement to place greater emphasis on underage drinking and third-party transactions;
- identify barriers to address third-party transactions in their communities; and
- learn about strategies to overcome these barriers.

I Introduction

Many people dismiss underage drinking as a normal “rite of passage” during adolescence. According to the National Highway Traffic Safety Administration (NHTSA), there were 205.7 million licensed drivers in the United States in 2007. Young drivers, between 15 and 20 years old, accounted for 6.4 percent (13.2 million) of the total, a 4.8 percent increase from the 12.6 million young drivers over the past 10 years .

All States and the District of Columbia now have minimum-legal-drinking-age laws (MLDA 21 laws), which establish 21 as the legal drinking age. In 2008, 31 percent of the young drivers (15 to 20 years old) who were killed in crashes had a blood alcohol concentration (BAC) of .01 grams per deciliter (g/dL) or higher; 25 percent had a BAC of .08 g/dL or higher. Drivers are considered to be alcohol-impaired when their BACs are .08 g/dL or higher. Thus, any fatality occurring in a crash involving a driver with a BAC of .08 or higher is considered to be an alcohol-impaired-driving fatality.

The severity of a crash increases with alcohol involvement. In 2008, 2 percent of the 15- to 20-year-old drivers involved in property-damage-only crashes had been drinking—4 percent of those involved in crashes resulting in injury had been drinking, and 22 percent of those involved in fatal crashes had been drinking.

The number of 15- to 20-year-old drivers involved in fatal crashes who had a BAC of .01 g/dL or higher dropped by 26 percent between 1998 and 2008. For young drivers (15 to 20 years old), alcohol involvement is higher among males than among females. In 2008, 26 percent of the young male drivers involved in fatal crashes had been drinking at the time of the crash, compared with 13 percent of the young female drivers involved in fatal crashes.

Drivers are less likely to use restraints when they have been drinking. In 2008, 63 percent of the young drivers of passenger vehicles involved

in fatal crashes who had been drinking were unrestrained. Of the young drivers who had been drinking and were killed in crashes, 73 percent were unrestrained.

NHTSA estimates that the MLDA 21 laws have reduced traffic fatalities involving drivers aged 18 to 20 by 13 percent and have saved an estimated 27,052 lives since 1975. In 2008, an estimated 714 lives were saved by the MLDA 21 laws (*NHTSA, 2009*)

The enforcement of laws regulating the commercial availability of alcohol to youth is critical, yet it is only one step in the process of reducing underage drinking. Reducing the availability of alcohol to youth from commercial sources is recognized as one necessary component of a comprehensive strategy for preventing underage drinking (*NRC/IOM, 2004; OJJDP, 1999*)

Despite a national minimum drinking age of 21 years, research indicates that 30 to 70 percent of alcohol outlets may sell to underage buyers, depending partially on their geographic location (*Britt et al., 2006; Forster et al., 1994, 1995; Freisthler et al., 2003; Grube, 1997; Preusser & Williams, 1992; Schwartz et al., 1998; Wolfson et al., 1996*).

Surveys of adolescents also indicate that alcohol is available from commercial sources. For example, a survey of youth in Minnesota and Wisconsin by *Wagenaar et al. (1996)* indicated that 3 percent of 9th graders, 9 percent of 12th graders, and 14 percent of 18- to 20-year-olds obtained alcohol from a commercial source before their last drinking occasion. A recent survey of 11th graders in Oregon also revealed that 30 percent of the past-30-day drinkers obtained alcohol from a commercial source (e.g., grocery, convenience, or drug store) within the past 30 days (*Dent et al., 2005*).

Another way youth access alcohol is through social sources, which also must be addressed. In many States with strong enforcement of illegal vendor sales, youth are turning increasingly to individuals aged 21 and older to obtain alcohol. Research shows that youth have no difficulty obtaining alcohol from parents, relatives, older friends, and strangers

who buy it for them as a favor or for a fee (Harrison et al., 2000; Preusser et al., 1997; Wagenaar et al., 1993, 1995). Youth report that their most common sources of alcohol are people older than age 21 (Wagenaar et al., 1996). Therefore, enforcement related to these third-party transactions clearly needs to be a high priority.

There is no doubt that underage alcohol use is an extremely serious problem. However, it is a problem we know how to address.

Environmental strategies that limit access to alcohol by youth are some of the most powerful and well-documented approaches to reducing underage drinking and related problems. Although reducing youth's social access to alcohol is often a gray area than restricting commercial availability, there are laws, statutes, ordinances, and other enforcement strategies that you can use to address third-party sales. This guide provides an overview of related issues, enforcement techniques, and examples from communities that can serve as valuable resources in deterring and reducing third-party sales in your community. This guide also discusses barriers to enforcement and some possible approaches to overcoming them.

An Overview of Third-Party Sales

What Is a Third-Party Transaction?

A third-party transaction occurs when a person provides alcohol to someone aged 20 and younger for his or her consumption. Sometimes, the adult may ask for or accept a fee and/or a portion of the alcohol in exchange for buying or providing the alcohol. The amount of alcohol obtained by underage drinkers from these transactions can range from a drink in a bar to numerous kegs of beer for a field party.

How Much Do These Transactions Contribute to Underage Drinking?

How youth obtain alcohol probably varies considerably from place to place. In one study, youth reported that adults aged 21 and older are their most common sources of alcohol (Wagenaar et al, 1996). For drinkers aged 18 to 20, 68 percent stated that they obtained alcohol from someone aged 21 and older on their last drinking occasion. By comparison, only 14 percent in this same age group obtained their alcohol most recently from a commercial outlet (Wagenaar et al, 1996). Clearly, it is important to regulate the commercial availability of alcohol to youth aged 20 and younger. Youth report that their access to alcohol from social sources also contributes significantly to underage drinking. Effective approaches to reducing underage drinking must therefore include enforcement activities to address third-party transactions.

Who Purchases Alcohol for Underage Youth?

In a 2003 survey of drinkers aged 10 to 18, 65 percent said they got the alcohol from family members or friends. Some took alcohol from their

own homes or a friend's home without permission; others obtained the alcohol from adults, siblings, or friends provided the alcohol. (U.S. Federal Trade Commission, 2012)

Sometimes underage drinkers seek out a stranger to purchase alcohol. When strangers are involved in a third-party transaction, the practice is often referred to as “shoulder tapping.” In some locations, the request is known as “Mr. Please.” In a Shoulder Tap operation, youth wait outside off-sale retail outlets, approach adults who are about to enter, literally tap them on the shoulder, and ask the adults to purchase alcohol for them. The underage drinker may offer the adult a fee or a portion of the purchased alcohol in exchange for making the buy. Adults who purchase alcohol for those aged 20 and younger as part of a Shoulder Tap request have clearly shown their disregard for the law that makes providing alcohol to those youth illegal. It is not surprising that some of these individuals have prior criminal records or outstanding warrants for their arrest for other illegal behavior.

Definitions

The following words and terms, when used in this guide, have the following meanings unless the context clearly indicates otherwise:

Shoulder Tap operation: An undercover investigation into the identification and apprehension of adults who purchase or attempt to purchase liquor or malt or brewed beverages for underage operatives under the supervision of an officer.

Buy money: U.S. currency that may be documented (recorded serial numbers) for use in alcohol purchase attempts during an operation.

Officer: Commissioned law enforcement officer certified by POST or State Training Commission.

Liquor: Includes any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combinations of liquors and mixed liquor a part of which is spirits, vine, fermented beverage or any part alcoholic,

including all drinks and drinkable liquids, preparations or mixtures. These include reused, recovered, or redistilled denatured alcohol usable or taxable for beverage purposes with more than .5% of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

E Enforcement of Laws and Ordinances Related to Third-Party Transactions

As enforcement officers, the laws and ordinances on the books in your jurisdiction are your primary tools for addressing issues that occur in your communities. Statutes are clearly the basis for enforcement efforts to reduce underage drinking. For third-party transactions of alcohol to youth, the tools provided to you in your area may be a blend of statutes that directly and indirectly deal with the issue.

Laws and Ordinances That Directly Address Third-Party Sales

All States and local jurisdictions have laws and ordinances that restrict underage youth's ability to obtain alcohol. These statutes often include provisions that directly address third-party sales. Other States and communities have complemented their basic laws regarding underage drinking with specific laws and ordinances constructed with the reduction of third-party sales in mind.

State Statutes

All States restrict the ability of people younger than age 21 to acquire alcohol through noncommercial sources. Therefore, your State's statute on the issue can often be the foundation for your efforts to address third-party transactions. It is important, however, that you are familiar with any exceptions provided in your State law. Some statutes include some exceptions, particularly for parents, spouses, and guardians.

These exceptions may be limited to private residences or may extend to bars and restaurants. Many States have created ambiguity in their

statutes by prohibiting any noncommercial furnishing of alcohol to youth, but allowing those younger than age 21 to possess alcohol in private residences or under the direction of an adult parent, spouse, or guardian. Other exceptions may involve medicinal and religious uses of alcohol. Being aware of these exceptions can help your department tailor efforts to address third-party transactions. It is important that you have a clear understanding of the law, exceptions to the law, and any relevant case law decided in your State that addresses the issues related to the questions of underage possession and furnishing of alcohol to those younger than age 21 via a special exception provision. We suggest you consult with your legal advisor to ensure you have the most current perspective on the legal issues in your State.

Keg Registration Laws

Wagenaar et al. (1993) reported that beer kegs are a popular source of alcohol for teens. Youth usually obtain kegs through third-party transactions from older friends. Historically, police and other enforcement agencies have had difficulty tracing the original purchasers of kegs and thus the direct providers of alcohol to underage drinkers. Keg registration laws require retailers to attach to the keg a tag, sticker, or engraving with an identification number. When a keg is purchased, the retailer requires a refundable deposit (Pratt et al., 1997, recommended a \$50 minimum) and records the buyer's name, address, telephone number, and driver's license or other identification information. If police or other enforcement officers confiscate a keg from underage drinkers, they can trace the purchaser who provided the keg to the youth and impose appropriate sanctions. Because of-age friends and relatives are often the purchasers, keg registration laws are valuable tools for addressing familiar third-party exchanges. Therefore, the ability to address this type of third-party exchange of alcohol between adults and youth aged 20 and younger can help deter third party provision. However research has not supported keg registration as a singular effective strategy but rather part of a comprehensive approach to limiting access.

“Attempt to” Laws

Some States have laws that prohibit a person aged 20 and younger from

attempting to purchase alcoholic beverages. Generally, these laws do not distinguish between retail and nonretail sources. These laws could therefore provide a tool for addressing youth alcohol purchases via Shoulder Tap operations. You should check with your legal advisor or prosecutor for their interpretation of these laws before engaging in any unusual application of the laws in your State.

As mentioned, you must be aware of any exceptions provided by your State's law regarding underage drinking. Additionally, it also is critical to know the context and the history of your State's "attempt to" law to understand its utility in addressing third-party sales. For example, the "attempt to" clause may be contained in a larger provision in the law that singularly addresses retail vendors; a court also may have ruled specifically that the provision did not apply to nonretail events.

Retailers' Responsibility Laws

Some States make retailers responsible for activity within the immediate vicinity of their establishments. This area may include the curtilage or any property leased or rented by the licensed business. Check your licensing authority regulations to ensure you understand the limits of licensee control. If retailers witness a shoulder-tapping incident or if shoulder tapping occurs repeatedly in close proximity but not in direct view, they may be responsible for taking steps to stop the activity, including reporting it to law enforcement. Retailers should refuse any sale for which a reasonable person in their position would conclude that the adult is purchasing the alcohol on behalf of an underage person. Therefore, this responsibility offers enforcement officers leverage in gaining retailers' cooperation in reducing third-party transactions.

Adult Responsibility Laws

Laws vary from State to State regarding the terms (if any) for parents providing alcohol to their own children. However, "social host laws" have become increasingly popular with communities and have been enacted in some States in recent years. These laws hold people criminally and/or civilly liable for providing alcohol to youth who are not their own children. Generally, these laws allow people to bring civil

suits against adults who provide alcohol to other youth or knowingly allow underage drinking in their home. Again, each State varies in the language and provisions of its law. Informing parents of these laws and the potential civil consequences in your State may deter them from providing alcohol to underage youth..

Other Laws and Ordinances to Indirectly Address

Third-Party Transactions

In addition to or in the absence of strong statutes regarding the transfer of alcohol to youth, the enforcement of other laws and ordinances on the books in your area can assist efforts to deter and address third-party sales. These laws are often called “quality-of-life ordinances” and exist in all communities.

Loitering

Ordinances prohibiting loitering are not likely to contain specific language about underage drinking or access to alcohol. These laws, however, can be effective as part of a comprehensive plan to address third-party transactions. Loitering ordinances allow enforcement officers to disperse people, both adults and youth, who linger outside of retail establishments, on street corners, and in other public places. Depending upon your community’s “hot spots” for third-party sales, this enforcement activity may reduce the opportunities for underage drinkers to connect with willing adult purchasers.

Curfews for Youth

Many jurisdictions have ordinances that limit the hours youth aged 17 and younger can be on the streets. These curfews generally range from 10 p.m. to midnight. The enforcement or even the heightened awareness of these ordinances may reduce opportunities for underage drinkers to approach potential adult purchasers. It is imperative, however, that you are aware of any exceptions provided by your area’s law (e.g., curfew exceptions for youth traveling to and from employment). The

effectiveness of your area's curfew laws in reducing third-party sales also may be limited if the hours of restriction do not overlap with the operating hours of your community's retail alcohol outlets.

At a glance: Laws and ordinances related to third-party transactions

Laws and ordinances that directly address third-party sales

State statutes: All States restrict the ability of those younger than age 21 to obtain alcohol through noncommercial sources. Some statutes include exceptions, particularly for parents, spouses, and guardians.

Keg registration laws: Keg registration laws require retailers to attach to the keg a tag, sticker, or engraving with an identification number and to record identification information about the purchaser when the keg is sold. This tracking process allows law enforcement to trace the keg's adult purchaser and impose appropriate sanctions.

"Attempt to" laws: These laws prohibit a person younger than age 21 from attempting to purchase alcohol, providing a tool for law enforcement to address youth access to alcohol.

Adult responsibility laws: These statutes allow adults to be held criminally and/or civilly liable for providing and/or allowing alcohol to be consumed by underage youth in an adult's residence or a residence over which an adult has control.

Retailers' responsibility laws: Some States hold retailers responsible for unlawful activity occurring in the immediate vicinity of their establishments.

Laws and ordinances that indirectly address third-party sales

Loitering: Ordinances prohibiting loitering allow law enforcement to disperse people, both adults and youth, who linger outside of retail establishments and other public places.

Curfews for youth: The enforcement or heightened awareness of these ordinances limiting the hours during which youth can be on the streets may reduce opportunities for underage drinkers to approach adult buyers.

Open containers of alcohol: Laws that prohibit open containers of alcohol in public can help enforcement officers to address third-party sales by offering proof of intent to consume by a person aged 20 and younger.

Official closing hours and prohibiting alcohol in parks and other public areas: Enforcement of closing hours and alcohol prohibitions in public parks, beaches, and other regulated public sites may discourage youth and their adult alcohol providers from conducting transactions in these possible "hot spots."

Nuisance abatement: In many jurisdictions, nuisance abatement laws address the illegal sales of alcohol.

Open containers of alcohol

Your jurisdiction likely has laws in place that prohibit anyone, adults or youth, from having open containers of alcohol in public. These ordinances can often help officers address third-party transactions, particularly in areas that do not prohibit the handling of alcohol by underage youth. For example, some State laws do not prohibit those younger than 21 from entering retail alcohol outlets or from carrying containers of alcohol out of a store while accompanied by an adult who is at least 21 years of age. Still other States permit those younger than 21 to sell or serve alcohol while under the supervision of an adult, or someone aged 21 or older. Laws vary considerably from State to State. Some States may require proof of intent to consume before either the youth or the adult purchaser can be cited. An open container in the possession of an underage drinker may provide the evidence needed to address a third-party transaction.

Official closing hours of parks and other public areas

Public facilities, such as parks and beaches, may be “hotspots” for third-party transactions in some communities. Therefore, limiting access to these locations may help to prevent third-party transactions from occurring. Ordinances that may be useful are those governing the hours of operation of public parks and beaches. Most community- or State-maintained areas have closing hours, after which the public is prohibited from being on premises. Enforcement of closing hours may discourage youth and their adult providers of alcohol from conducting their transactions in these locations.

Nuisance abatement

Nuisance abatement combines civil remedies and innovative problem solving with traditional policing and criminal prosecution to address chronic problems that are eroding an area’s quality of life. Issues addressed by these laws may include criminal activities, such as prostitution and drug dealing, and health code violations. In many jurisdictions, nuisance abatement laws also address illegal sales of alcohol. Again, each State varies in the language and provisions of its

laws. These statutes generally are used to address alcohol violations that occur in combination with other issues on a property. Nuisance abatement may therefore be an ineffective way to singularly address third-party transactions. However, these laws may be effective in shutting down third-party transactions in areas that have a chronic history of these and other violations. Nuisance abatement laws often apply to private property, as well as public and commercial property. These laws can help enforcement officers stop older siblings and other of-age relatives from providing alcohol to young people at residences with a combination of issues in violation of these statutes. Effective use of nuisance abatement laws involves cooperation among prosecutors, local State's attorneys, police departments, municipal agencies, and neighborhood groups to create strategies to clean up nuisance properties. Working with these members of your community will help you to gain a better understanding of where the problems are happening, the details of your area's nuisance abatement laws, and how these statutes may be most effective in reducing third-party sales.

E

Enforcement Strategies to Address

Though statutes that directly and indirectly address third-party transactions or sales are helpful, reducing the social availability of alcohol to youth requires coordination and planning by a police department departments and it's jurisdictional communities. The following section offers approaches for assessing the scope of the third-party problem in your area and for addressing the transactions of alcohol from adults to underage drinkers. These enforcement strategies are probably most effective in addressing Shoulder Taps or transaction of alcohol to youth from adult strangers.

Tips about Third-Party Sales

Third-party transactions of alcohol from adults aged 21 and older occur in every community. Parking lots and other areas in front of off-sale retail outlets are common locations for third-party sales. Other potential locations are dead-end streets, public parks, street corners, vacant lots, beaches, fields, and private residences. Tips with additional information can confirm your instincts about and enhance your knowledge of where the “hotspots” in your area are and how third-party transactions tend to happen. Information from those living and working in your area may be particularly important in addressing third-party transactions where older relatives provide alcohol to underage drinkers, as these often occur less publicly than Shoulder Taps. Tips can come from a variety of sources:

- Police officers working directly with youth. Youth officers, community police, and school resource officers (police whose “beat” is a school building) see young people daily and hear about their lives both in and out of school. These officers will often know or be told about locations where it is easy for youth to find adults to buy alcohol for them. Some resource officers

even monitor social media so they are aware of potential underage parties in the community and can alert parents or otherwise intervene before they occur.

- **Community members.** Although underage drinking remains a low-enforcement priority in the minds of many citizens, a growing number of community members understand the risks and consequences associated with youth consuming alcohol. Talking with citizens in your area may therefore offer you new information about how often third-party sales occur, where they happen, and who is involved. Several police departments and liquor control agencies report that parents' groups, community agencies, and local sponsors of nonalcoholic events for youth are frequently helpful in providing tips regarding these transactions.
- **Youth.** Whether young people chose to drink or not, they are acutely aware of the activity of their peers. Thus, they are an important resource in addressing third-party sales, as they are likely to know how, where, and from whom underage drinkers are getting alcohol. If approached as part of the solution and in a way that builds their trust with you, young people can provide important information about this important community issue.
- **Formal means of encouraging and receiving tips.** Many tips come to police departments and their officers informally. Some communities, however, have established "tip lines" as a strategy to reduce underage drinking. Currently, police are encouraging youth and others to "text" the tip lines or use Twitter to report parties, which is even less obvious than calling. These means of easy reporting to police can encourage anyone in the community who is aware of alcohol sales or events where alcohol is served, sold, delivered or given to people younger than 21 to pass this information along to enforcement agencies. These "tip lines" may be located in the police department, liquor control agency, or a community agency/ organization working closely with enforcement efforts in the area.

Surveillance

Surveillance is another strategy for assessing where and when third-party transactions are occurring in your area. This observation within your jurisdiction occurs in a variety of forms and levels of intensity. If your department and community are still trying to determine where third-party transactions occur, surveillance activity may involve asking officers on their routine patrols to be on the lookout for these transactions. Though many third-party transactions occur in open areas, such as store parking lots or street corners, other exchanges happen in remote, hidden areas of the community, such as dead-end streets, woods, and vacant lots. It is therefore important for patrol officers to include these areas in their rounds.

If you already have a sense of the “hotspots” in your area, you can conduct surveillance specifically to interrupt third-party transactions as they occur. Officers placed at or near locations popular for Shoulder Taps can watch for an exchange to start and address both parties as the transaction occurs. Some enforcement agencies use officers in “plain clothes” during surveillance in order to blend into the scene and not raise the suspicions of the adult purchaser or the youth.

Shoulder Tap Enforcement Programs

Shoulder Tap enforcement programs are similar to compliance check programs except that they target the adult providers and/or the noncommercial supplier of alcohol to youth instead of the vendor. Police and other law enforcement and liquor control agencies carry out these programs, working closely with the community, youth, and local media to ensure their effectiveness.

During an operation, a minor volunteer works under the direct supervision of law enforcement officers. The volunteer solicits adults outside a licensed off-premises sales business or liquor store to buy alcohol for the minor volunteer.

Goals and Objectives

The goals of the program are (a) to reduce underage consumption of and access to alcohol by deterring adults from furnishing to minors outside of licensed premises; (b) to collaborate with police, other law enforcement, and liquor control agencies to enforce underage drinking laws; and (c) to raise public awareness about the problem of furnishing alcohol to youth.

To achieve its objectives, the Shoulder Tap enforcement program relies on police and other law enforcement and liquor control agencies around the State, the media, community members, and groups to raise public awareness of the problem.

Program components include the following:

Identify Locations of Activity

Police and other enforcement officers collect and review complaints and information about the alcohol-furnishing activity provided by citizens, parents, school officials, other police officers, community groups, and special event organizers. In addition, owners of liquor stores and other stores that sell alcohol can request to be included in the program if they believe alcohol is being furnished around their stores. Officers review all information and evidence to help plan the program.

Shoulder Tap Enforcement Program

Although Shoulder Tap enforcement programs have been effective in some areas, the use of underage volunteers for this program is not permitted in many jurisdictions. Check with local prosecutors, judges, and your legal advisor thoroughly before initiating this type of program. The Shoulder Tap enforcement program will be conducted as a joint operation among police, other law enforcement, and liquor control agencies.

Avoid Entrapment

Entrapment must not be used while conducting a Shoulder Tap operation. These actions could make adjudication difficult or impossible. In *United States v. Akinsanya*, (7th Circuit Ct, 1995) the judge stated,

“Where a defendant offers a defense of entrapment, the government must prove either that it did not induce the defendant to commit the crime, or that the defendant had a predisposition to commit the crime”.

Some relevant factors for a jury considering predisposition include (a) the defendant’s character or reputation; (b) whether the government suggested the criminal activity; (c) whether profit was involved; (d) whether reluctance was expressed that was overcome by government persuasion; and (e) the nature of the inducement or persuasion. In the *United States v. Millet*, (510 F.3d at 676); the decision stated, “No single factor is dispositive, and the central question is whether the defendant showed reluctance to participate in the crime.”

Shoulder Tap operations are broadly recognized as not constituting entrapment. However, any actions by an underage volunteer that could be seen as persuading someone to commit a crime who would not normally do so could be challenged as entrapment. An example of such improper conduct would be offering the seller/server a \$10 bribe to make the sale. It is important that law enforcement personnel, who conduct underage volunteer training, give underage volunteers clear instructions about what to say and what not to say during a purchase attempt.

Volunteer Selection

Volunteers are minors who are younger than age 20 and appear their true age or younger. They must not have been cited for any liquor violations nor have a criminal record. They must receive training from police officers before going on any operations. They should be willing to work undercover, able to prepare a written report, and willing to testify in court.

Recruiting Underage Volunteers

- Present information to community groups and faith community.
- Look to family members and friends of officers and their families.
- Notify schools and colleges about the program (community service hours).

- Select volunteers who are not yet 20 years old.
- Validate the perceived age of the buyers.
- Select an equal number of male and female buyers.
- Select volunteers who reflect your community.
- Do not use underage volunteers in the community in which they live.
- Request assistance from groups such as MADD, SADD, and community coalitions.

Validating Youthful Appearance

- Have in-person assessments of the age-appearance of those being considered as buyers.
- Use photos in place of in-person assessments, if necessary.
- Use verification testing forms.

Appearance of Underage Volunteers

- Male volunteers should not have facial hair.
- Female volunteers should not intentionally look older by using heavy makeup.
- Volunteers should dress in a manner consistent with peers in their age group.

Training the Volunteers on Shoulder Tap

- Provide specific instruction on how the volunteers are to act, what they are to say, and what they are to ask the adult buyer to purchase.
- Instruct volunteers to avoid situations that seem dangerous. Instruct volunteers as to what should be purchased (if anything) along with the alcohol.

Documenting Underage Volunteers

- Use a personal history form to capture information needed by the agency.
- Take a photograph of the volunteer each time he or she is used.
- Obtain driving and criminal checks.
- Obtain injury waivers, if applicable.
- Obtain parental liability waivers.

- Have an agreement of understanding on file.
- Have a copy of a valid ID on file.
- Keep a list of all the shoulder taps performed by the volunteer (dates, location).

Compensation and Insurance for Underage Volunteers

- If compensated, then compensate the volunteer even if a purchase attempt does not result in a sale.
- Reimburse volunteers for personal expenses incurred, such as meals or vehicle costs.
- Consider the level of liability your agency incurs by using volunteers.

How Much Alcohol Should be Purchased

- The amount of alcohol purchased is not a critical element in supporting the violation allegation; one bottle or can of beer is sufficient.
- In NO circumstance will the purchase of a larger amount of alcohol, such as a keg, be necessary.

Post Shoulder Tap Operations

Participating officers should submit all required reports. Underage volunteers should provide statements as required by the supervising officer. The supervising officer should ensure that a summary of the Shoulder Tap operation is completed and submitted to the head of the law enforcement agency within the required days.

The summary report should contain (at a minimum) a list of the locations in which the Shoulder Tap operations were conducted, the number of individuals approached, and the names of individuals who purchased alcohol for the underage volunteers.

The summary report also should contain a financial report for all costs associated with the operation. The law enforcement agency's head or designee should be responsible for submitting a press release to local and regional media following completion of a Shoulder Tap operation.

Example of an UNDERAGE VOLUNTEER PERMISSION AND ACKNOWLEDGMENT FORM.

Department Letterhead

I, _____ who lives at _____ and was born on _____,

and issued a (name of State and operator's license number) _____.

I understand and agree to participate in a Shoulder Tap operation with the _____ (Police Department).

I also understand that as a part of this operation, I may be required to testify in a subsequent hearing and or court proceeding, and such testimony will be given.

SIGNED: _____ DATE: _____

WITNESSED BY: _____ DATE: _____

I, _____ (name of parent or legal guardian) give permission for my son or daughter who has signed above to participate in a Shoulder Tap operation with the _____ (Police Department). I understand that my son or daughter will be chaperoned by an officer of the _____ (Police Department) and may be required to testify in a subsequent hearing and or court proceeding.

SIGNED: _____ DATE: _____

WITNESSED BY: _____ DATE: _____

Strategies to Reduce Familiar Third-Party Transactions

Though strangers providing alcohol to youth contribute to underage access, parents, older siblings, other relatives, and friends are also a significant source of alcohol for underage drinkers. Because most of these transactions happen in private residences or other less-open locations, it is often difficult to address them. This section offers strategies for increasing community awareness and support for reducing social availability of alcohol to youth.

Working with the Community

Many of the laws, ordinances, and enforcement strategies used to address third-party sales are most effective in Shoulder Tap exchanges in which the adult provider is a stranger to the young person. It is more difficult to intervene when the providers are friends or family aged 21 and older. These exchanges mostly occur in private homes—not the parking lots of retail establishments or other public locations that are more easily monitored and accessed. Community awareness of the dangers of underage drinking and the legal consequences for adults providing alcohol to youth is critical to reducing these familiar transactions.

Barriers to Reducing Third-Party Transactions to Underage Youth

Although many enforcement agencies report successful efforts to address youth access to alcohol from adult providers, barriers still exist to further reducing these third-party transactions. Enforcement officers, department administrators, and others working on this issue identify as barriers the lack of resources, laws and ordinances, and perceptions of Shoulder Tap operations.

Lack of Resources

All enforcement agencies have budget and personnel limitations that affect their enforcement activities. Strategies to address third-party transactions require significant resources; selecting and recruiting underage volunteers, surveillance activities, and fielding tips of information are all time and staff intensive. Additionally, departments must have adequate staff to respond to the outcomes of tips and surveillance activities. Grants have been awarded to many communities to fund efforts to enforce underage drinking laws, including those related to third-party transactions. Unfortunately, if funding ends, the department's efforts often do as well. Thus, it is essential to keep records of activities to demonstrate to funders the outcomes of your activities.

Laws and Ordinances

The absence of specific laws and statutes can obviously present barriers to enforcement. Existing statutes also may contain clauses, conditions, or case precedents that can limit your departments' abilities to address

third-party transactions. How much the laws and ordinances are barriers to addressing third-party sales depends upon the statutes in your area. Some difficulties emerge consistently, however, for enforcement agencies working on this issue:

- In some areas, it is legal for those aged 20 and younger to be in a retail establishment or to handle alcohol. Therefore, enforcement may have the additional burden of proving intent to consume or provide before addressing a transaction.
- Some States may not have “attempt to purchase” laws. In the absence of this statute, enforcement officers must wait until the transaction is completed to take action, rather than responding earlier when the underage youth approaches an adult with a request to purchase alcohol.
- Laws and ordinances regarding private residences and parental provision of alcohol to youth may make it difficult for enforcement to curtail familiar purchases of alcohol for underage drinkers.

Perception of Shoulder Tap Enforcement Programs

Although many agencies have successfully addressed third-party transactions through Shoulder Tap enforcement programs, other departments struggle both within themselves and within their communities about the use of these operations. Some departments are confronted with community concerns about the safety of underage volunteers during the attempts. Other agencies struggle with the time, staff, and financial resources required to conduct this program. Additionally, some prosecutors, retailers, and officers believe that an underage volunteer’s action of approaching an adult with the request to purchase alcohol on his or her behalf borders on or constitutes entrapment.

Other prosecutors and officers feel that by training underage operatives

not to offer adults extra money for the purchase, to be honest about their ages, and to state upfront that they cannot buy for themselves avoids entrapping the adult providers.

vercoming Barriers

Addressing third-party transactions may reduce underage drinking by limiting what youth tell us is a significant source of alcohol for them—adults. As underage use of alcohol can have immediate and long-range harmful and potentially tragic consequences, your enforcement activities in this arena may be one of the most important and lifesaving activities of an enforcement agency. It is worthwhile to try to overcome the barriers to enforcement. Following are some key approaches.

Command Emphasis

All departments have financial and staff limitations and must set priorities. To the extent that departmental leaders emphasize addressing third-party sales of alcohol to youth, line officers in the agency will strenuously pursue those who buy and furnish alcohol to youth and the underage drinkers making the purchase requests. Vigorous enforcement requires that superiors encourage officers to actively address Shoulder Taps and adults providing alcohol to underage drinkers, that the enforcement of underage drinking laws is part of performance measurement, and that management take a proactive rather than reactive approach to the issue.

Changes to Statutes and Ordinances

If laws do not exist or if laws insufficiently assist enforcement agencies in addressing a significant source of alcohol for underage drinkers, advocacy for new or changed statutes is needed. This is not a challenge for law enforcement alone. In many States and communities, coalitions to reduce underage drinking exist at both the State and the local levels. These groups are composed of community agency staff, State and local elected officials, the faith community, youth, law enforcement, retailers, and others concerned about alcohol use among young people. In many areas, coalitions are successfully advocating for new laws and changes

(either administratively or legislatively) to existing statutes to reduce more effectively youth's access to alcohol and to increase enforcement related to underage drinking. Your department's participation with these groups can help create support for statutes or ordinances that allow for more effective enforcement of third-party transactions.

Working with Prosecutors

Successful Shoulder Tap enforcement programs report that working with local prosecutors and judges is essential to launching these operations. Prosecutors will often have specific goals for enforcement activities that are not always evident when reading the law. Additionally, the prosecuting authorities agreeing to prosecute misdemeanor violations resulting from Shoulder Tap enforcement efforts will likely have an effect on both your department's willingness to perform these operations and the seriousness with which the community views adults providing alcohol to underage drinkers.

Community Support

Ultimately, enforcement agencies can only enforce to the level that the community will support. Enforcement must reflect the attitudes and values of the community. If the community tolerates or even condones adults providing alcohol to underage drinkers, it is difficult for enforcement agencies to invest the resources needed to enforce laws related to third-party transactions and to get the kind of follow-through that fosters vigorous enforcement. Communities that truly want to protect their youth need to provide support and incentives to law enforcement agencies to address third-party transactions. Law enforcement agencies can work with community leaders through local coalitions, PTAs, and other prevention partnerships to build working relationships and joint strategies for reducing the social availability of alcohol to youth.

Working with the Media

In any enforcement effort, it is important to use fully the power of the news media to generate support and amplify effectiveness. We often think of media coverage as something that happens to us. It is possible, however, to generate and attract positive media attention and to include the news media as valuable resources for your enforcement efforts.

(Note: For more information on working with the media, see *Strategic Media Advocacy for Enforcement of Underage Drinking Laws* prepared by the Pacific Institute for Research and Evaluation for OJJDP. See the “Resources” section at the end of this document for information on obtaining this publication.)

Using Media to Deter Third-Party Transactions

One of the most important and effective uses of the news media is to publicize enforcement efforts so that both potential adult providers and underage youth who may be tempted to break the law will be deterred by their fears of being caught. Deterring people from breaking the law is beneficial to any enforcement program. This is certainly the case for programs targeting third-party transactions of alcohol to those aged 20 and younger. Deterrence is strongest when people believe that they are likely to be apprehended and that there will be consequences for their actions. Thus, third-party sales enforcement efforts are amplified if the activities are well publicized. In addition to highlighting enforcement of statutes, the news media can inform the public about the laws, the penalties associated with providing alcohol to youth, and the underage volunteers who attempt to buy alcohol through Shoulder Taps. Working proactively with the media can ensure that coverage of your efforts and the issue of third-party transactions is positive, thorough, and accurate.

Enforcement agencies can also invite reporters to accompany them to enforcement events, such as Shoulder Tap operations. Agency leaders and line officers can give interviews emphasizing the importance of enforcement and the seriousness of providing alcohol to underage

drinkers. After the enforcement operation is completed, the results can be announced and plans for future enforcement activities publicized.

Using Media to Create and Demonstrate Community Support

As mentioned, enforcement does not occur in isolation. Enforcement agencies can only enforce to the level that the community will support. Additionally, the enforcement of laws can influence community attitudes and norms. The knowledge that enforcement agencies are working to uncover third-party transactions of alcohol to youth, to enforce related statutes, and to arrest lawbreakers helps reinforce the community's sense that underage drinking and providing alcohol to youth are socially unacceptable. Working with the news media can help you spread this message in your area. Be sure to emphasize that your goal is the safety of youth and communities.

Try to emphasize that it is adults who should collectively make youth aware of the importance of obeying laws and that the underage drinking laws are designed to protect them from harm.

Working with the media before your enforcement activities begin can also be effective in generating community support and positive public relations for your efforts to curtail third-party transactions.

C Conclusion

Enforcement activities to reduce third-party transactions of alcohol to youth are critical to reducing underage drinking. These efforts cannot occur in isolation, however. Enforcement of laws and statutes related to third-party sales must be accompanied by continuing efforts to reduce the commercial availability, other social/public availability, and the possession of alcohol by underage youth. Using comprehensive, environmental approaches to reduce underage drinking can shift community norms and expectations. This is a worthy goal. It builds community collaboration and provides participants with a sense of lasting accomplishment, both in the process and in the outcomes. The stakes are enormous: the health and safety of our young people.

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References

- Harrison P.A., Fulkerson, J.A., and Park, E. (2000). Relative importance of social versus commercial sources in youth access to tobacco, alcohol, and other drugs. *Preventive Medicine*, 31: 39–48.
- Institute for the Study of Social Change. (1994). Local public ordinances: Keg identification laws. Environmental Planning Strategy Sheet, EPSS #101. Berkeley: University of California, Institute for the Study of Social Change, Community Prevention Planning Demonstration Project.
- Institute of Medicine and the National Research Council. (2003). *Reducing Underage Drinking: A Collective Responsibility*. Committee on Developing a Strategy to Reduce and Prevent Underage Drinking, Richard Bonnie and Mary Ellen O’Connell, Editors. Board on Children, Youth, and Families, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academy Press .
- Minneapolis: University of Minnesota, School of Public Health, Alcohol Epidemiology Program.
- National Highway Traffic Safety Administration. *Traffic Safety Facts 2008: Young Drivers*. DOT HS 811 169. Washington DC: National Highway Traffic Safety Administration, 2009. <http://www-nrd.nhtsa.dot.gov/Pubs/811169.PDF>
- Pratt, L. Rothstein, C., Meath, J., and Toomey, T. (1997). Keeping alcohol away from underage youth: Policy solutions
- Preusser, D. F., Ferguson, S. A., Williams, A. F., and Farmer, C. M. (1997). Underage access to alcohol: Sources of alcohol and use of false identification. In *Alcohol, drugs, and traffic safety-T’97: Volume 3. Proceedings of the 14th International Conference on Alcohol, Drugs, and Traffic Safety, Annecy, 21 September–26 September 1997* (pp. 1017–1025). Annecy Cedex, France: Centre d’Etudes et de Recherches en Medecine du Trafic.

- U.S. Department of Health and Human Services. (2000). 10th Special Report to the U.S. Congress on Alcohol and Health: Highlights from Current Research. Available [On-line]: <http://www.niaaa.nih.gov/publications/10report.pdf>. References
- U.S. Federal Trade Commission (2012) <http://www.dontserveteens.gov/stoppingaccess.html>)
- Wagenaar, A., Finnegan, J., Wolfson, M., Anstine, P., Williams, C., and Perry, C. (1993). Where and how adolescents obtain alcoholic beverages. *Public Health Reports*, 106, 459–464.
- Wagenaar, A., and Holder, H. (1995). Changes in alcohol consumption resulting from the elimination of retail wine monopolies: Results from five U. S. states. *Journal of Studies on Alcohol*, 56, 566–572.
- Wagenaar, A., Toomey, T., Murray, D., Short, B., Wolfson, M., and Jones-Webb, R. (1996). Sources of alcohol for underage drinkers. *Journal of Studies on Alcohol*, 57, 325–333.



Web Sites

The Century Council

<http://www.centurycouncil.org>

FACE: Truth and Clarity about Alcohol

<http://faceproject.org>

Join Together

<http://www.jointogether.org>

Mothers Against Drunk Driving (MADD)

<http://www.madd.org>

Reducing Underage Drinking through Coalitions

<http://epihub.epi.umn.edu/alcohol/coalition/>

Coalitions with Web Sites

Connecticut Coalition to Stop Underage Drinking

http://www.drugsdontwork.org/ctcoal_home.html

Georgia Alcohol Policy Partnership (GAPP)

<http://www.macad.org/gapp>

Indiana Coalition to Reduce Underage Drinking (ICRUD)

<http://www.prevention.indiana.edu/underage/wel.htm>

The Minnesota Join Together Coalition to Reduce Underage Alcohol Use

<http://www.miph.org/mjt>

Missouri's Youth/Adult Alliance Against Underage Drinking (MYAA)

<http://www.myaa.org>

National Capital Coalition to Prevent Underage Drinking (NCCPUD)

<http://www.nccpud.com>

The North Carolina Initiative to Reduce Underage Drinking

<http://www.rudpartners.org>

The Oregon Coalition to Reduce Underage Drinking (OCRUD)

<http://www.ocrud.org>

Pennsylvanians Against Underage Drinking (PAUD)

<http://www.lcb.state.pa.us/edu/community-paud.asp>

Texans Standing Tall

<http://www.texansstandingtall.com>



Other Enforcement Operations Guides in This Series

These documents also support the OJJDP Enforcing Underage Drinking Laws Program and complement the training series:

Overview and Framework Publications

Comparison of Drinking Rates and Problems: European Countries and the United States

Environmental Strategies to Prevent Alcohol Problems on College Campuses

Guide to Evaluating Prevention Effectiveness

Guide to Responsible Alcohol Sales: Off-Premise Clerk, Licensee, and Manager Training

Guide to Zero Tolerance and Graduated Licensing: Two Strategies that Work

Preventing Sales of Alcohol to Minors: What You Should Know About Merchant Education Programs

Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices

Strategies to Reduce Underage Alcohol Use: Typology and Brief Overview

Strategies to Reduce Underage Alcohol Use: Typology and Brief Overview (Spanish)

Operational Guides for Law Enforcement

Law Enforcement and Higher Education: Finding Common Ground to Address Underage Drinking on Campus
Guide for Enforcing Impaired Driving Laws for Youth
Law Enforcement Guide to False Identification
Networking for Success

Practical Guide to Preventing and Dispersing Underage Drinking Parties

Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations

Success in Youth Alcohol Enforcement

Measuring and Monitoring Guides

Guide to Conducting Alcohol Purchase Surveys

Guide to Conducting Youth Surveys

Tips for Soliciting Cohesive Enforcement Program Plans: Writing Effective RFPs for the Subgranting Process

Other Supporting Publications

Costs of Underage Drinking

Drinking in America: Myths, Realities, and Prevention Policy

How to Use Local Regulatory and Land Use Powers to Prevent Underage Drinking

Indian Country Law Enforcement and the Challenges of Enforcing Underage Drinking Laws

Strategic Media Advocacy for Enforcement of Underage Drinking Laws

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