

INTRODUCTION

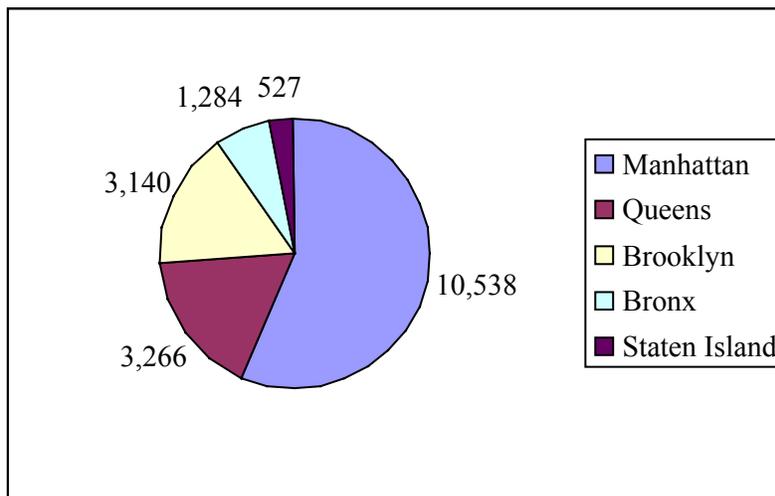
Too many bars in Manhattan get away with blasting loud music and disrupting neighborhood calm without repercussions. While most bars are responsible community members, some have little consideration for their residential neighbors. This report contains a never-before-seen list of the ten most complained about bars in Manhattan. The report exposes the dysfunctional process by which liquor licenses are granted and noise complaints are addressed.

The report establishes once and for all that the notoriously ineffective New York State Liquor Authority, which grants liquor licenses, has essentially never seen a bar it didn't like and has for years failed the residents of Manhattan. From 1990 to 1995, the New York City Council issued five resolutions calling for State Liquor Authority reform. In both 1996 and 2004, The City Council issued resolutions calling for the creation of a City Liquor Authority. Unfortunately, all these calls for reform have fallen on Albany's deaf ears.

In addition, the report confirms that noise is by far the number one complaint to 311, with an astounding 18,755 calls about noisy bars this year alone. New information obtained through a query from New York City's 311 database confirms what many Manhattanites have long suspected – their complaints are going unheard.

WHERE ARE THE NOISY BARS?

Number of Noisy Bar Complaints Citywide July 2004 through May 2005:



As the chart above shows, the number of complaints made in Manhattan dwarfs those of other boroughs. All of the other boroughs' noisy bar complaints combined does not match Manhattan's singular noisy nightlife. That many people are drawn to Manhattan's nightlife is a good thing. It contributes to our vibrant cultural life and economy. However, the quality of life in residential neighborhoods suffers when bar and restaurant

owners do not responsibly manage the noise coming from their establishment.

To put together the following chart of the ten noisiest bars in Manhattan, a substantial body of raw 311 data was converted. The wealth of data that exists is a testament to the fact that 311 does a good job recording complaints. (*Note:* 311 does not record the name of the bar, only the address. The names were obtained through independent searches.)

Ten Bars with the Most Noise Complaints in Manhattan:

| | Bar Name | Bar Address | Number of Complaints July '04- May '05 | Community Board | Is There Still a Bar at this Location? |
|----|-----------------------------------|----------------------|---|------------------------|---|
| 1 | THE FLAT CLUB/SUTRA CLUB* | 16 FIRST AVENUE | 235 | 3 | Yes |
| 2 | OPEN AIR/MORISSEY PARK* | 121 ST MARKS PLACE | 131 | 3 | Yes |
| 3 | ROTHCO | 116 SUFFOLK STREET | 130 | 3 | Yes |
| 4 | 11TH STREET BAR | 510 EAST 11 STREET | 128 | 3 | Yes |
| 5 | THE DOOR | 508 9 AVENUE | 124 | 4 | Yes |
| 6 | GROOVE | 125 MACDOUGAL STREET | 114 | 2 | Yes |
| 7 | XES LOUNGE | 157 WEST 24 STREET | 104 | 4 | Yes |
| 8 | YE WAVERLY INN | 16 BANK STREET | 96 | 2 | Yes |
| 9 | LE SOUK | 47 AVENUE B | 95 | 3 | Yes |
| 10 | DENIZEN LOUNGE | 73 THOMPSON STREET | 87 | 2 | Yes |

*Name changed at some point between July '04 and May '05

NOISY BARS ARE CONCENTRATED BELOW 14TH STREET

Another query from 311 data shows that most noisy bar complaints come from Manhattan Community Boards 3 and 2, which include such bar-heavy areas as the Lower East Side, the East Village, Greenwich Village and SoHo.

Complaints in Manhattan by Community Board July '04-May '05*:

| | COMMUNITY BOARD | NEIGHBORHOOD | NUMBER OF COMPLAINTS |
|----|--------------------|--|----------------------|
| 1 | Community Board 3 | Tompkins Square, East Village, Lower East Side, Chinatown, Two Bridges | 3055 |
| 2 | Community Board 2 | Greenwich Village, West Village, NoHo, SoHo, Lower East Side, Chinatown, Little Italy | 1866 |
| 3 | Community Board 4 | Clinton, Chelsea | 944 |
| 4 | Community Board 8 | Upper East Side, Lenox Hill, Yorkville, Roosevelt Island | 624 |
| 5 | Community Board 5 | Midtown | 608 |
| 6 | Community Board 6 | Stuyvesant Town, Tudor City, Turtle Bay, Peter Cooper Village, Gramercy Park, Kips Bay, Sutton Place | 537 |
| 7 | Community Board 7 | Manhattan Valley, Upper West Side, Lincoln Square | 413 |
| 8 | Community Board 12 | Inwood and Washington Heights | 391 |
| 9 | Community Board 1 | Tribeca and Lower Manhattan | 270 |
| 10 | Community Board 11 | East Harlem and Harlem | 246 |
| 11 | Community Board 10 | Harlem and Polo Grounds | 102 |
| 12 | Community Board 9 | Hamilton Heights, Manhattanville, Morningside Heights | 92 |

*Community Board number not recorded for 1355 complaints

WHY ALL THE NOISE?

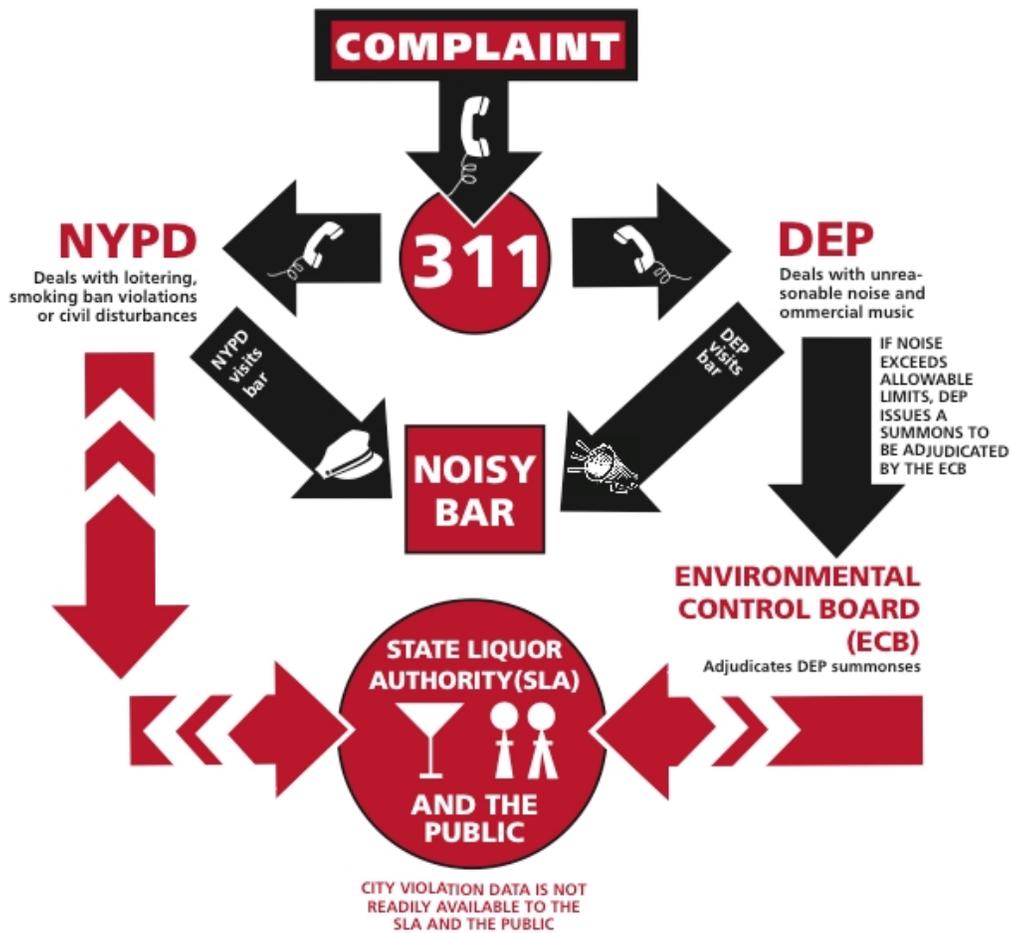
Problem #1: There is no single agency responsible for collecting comprehensive data on noise violations.

As illustrated in the diagram below, there is a complicated chain of events that happen after a noisy bar complaint is made to 311. The complaint is simultaneously forwarded to both the NYPD and to the Department of Environmental Protection (DEP). If the complaint is regarding loitering, smoking ban violations or civil disturbances, the police

are sent to address the situation. The police may issue citations to both the bar owner and to noisy bar patrons. Notice of those noisy bar citations is not given to other City agencies.

If the complaint is regarding loud noise emanating from within the bar, the DEP will also be sent to inspect the bar. The inspector will take a reading with a sound meter device and determine whether there is unreasonable noise or commercial music in excess of 45 decibels. The DEP sends the violation information to the Environmental Control Board to be adjudicated. Unfortunately, once the judgment is made on the DEP-issued violation, that information is not sent back to the DEP to record. They therefore have no record of which of their violations result in a fine.

Where does your noise complaint go?



Problem #2: Information on City noise violations is not sent to the State Liquor Authority, the agency responsible for regulating bar licenses.

- **The NYPD's system of notifying the SLA is at best haphazard and at worst nonexistent.** Police reporting is inefficient and lacks consistency.
- **The DEP does not maintain a record of the violations that result in a fine,** so they do not send information to the SLA. This provides the ready excuse for the SLA's do-nothingism

Problem #3: Manhattan's liquor licenses are granted by the State Liquor Authority, a body with utter disregard for the needs of Manhattan residents.

- **None of the SLA's three commissioners lives in the City** despite the fact that 31,100 of the state's 70,000 licensed establishments are in New York City yet. It is difficult to imagine what it's like to live next to a noisy bar if you're a resident of Cattaraugus County or some other upstate residential community.
- **The SLA does not take "the public interest" into account even though it is required by law to do so.** A 1993 amendment to the ABC Law requires the SLA to determine whether or not an additional bar within 500ft of three existing bars is in the public interest or not. In 1996, SoHo residents took the SLA to court from being violation of the law when they approved a liquor license despite overwhelming public opposition. The SLA's one-line reasoning that the proposed bar was in the public interest because it would generate tax revenues and employment was struck down by the New York State Supreme Court.
- **The SLA does not take into account the recommendation of City community boards.** These boards have hearings on matters of street life and are best equipped to understand what residential neighborhoods can handle and what they can't. The SLA regularly grants licenses in neighborhoods overpopulated by bars despite fierce community opposition.
- **Noise is not one of the paramount concerns of the SLA.** Central to its mandate should be the limiting of noise from establishments whose licenses it enforces.

- **The State wants the revenue from bar licenses** so they have little incentive to deny a liquor license.
- **The SLA lacks transparency.** Most hearings are closed to the public. The SLA website takes public disclosure to a new low. Not only does it not list violations, a concerned resident or community group cannot search by the name of the bar, only by license number, incorporated name, or by the exact street address. (A search of the ten noisiest bars by the name on the door resulted in nothing. In many cases, a search by address did not turn up any results either).
- **Bar owners have powerful advocacy groups on their side.** United Restaurant & Tavern Owners of Manhattan boasts on its website that central to its mission is “Working to legislatively moderate the influence of community boards in the licensing process and daily operation of our business.” The New York Nightlife Association, another influential group, reports on its website that it has lobbyists in Albany working to “stop unfair and unreasonable anti-bar and club proposals from becoming law. These bills give greater control over liquor licenses to Community Boards, make it easier to suspend and revoke liquor licenses and increase the 500 foot law to 1000 feet in New York City.” The group reports that “So far, none have passed, thanks to our efforts. Stay tuned.”

Problem #4: Once a license is granted, there is little if anything that can be done to shut down a problem bar.

- **The SLA does not effectively monitor bars.** There are not enough inspectors to deal with the overwhelming number of bars in Manhattan. For all of NYC and Westchester, there are a grand total of seven inspectors.
- **The SLA only rejects a renewal application in the most extreme of cases.** A 2003 investigation of applications found that in Manhattan, 186 out of 191 applications were granted in 2003.
- **The re-certification process is pro forma.** Even though the Alcohol and Beverage Law (ABC law) requires the SLA to deny renewal licenses to applicants who fail to comply with the required rules of the SLA, bars constantly in violation remain open.

- **The SLA does not uphold Article 8, Section 118 of the Alcohol Beverage Control Law (ABC law)** which states that licenses can be revoked in an instance when “the existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, which adversely affects the health, welfare or safety of the inhabitants of the area in which such licensed premises are located.”
- **Bars change names** making it difficult to track past complaints and sanctions. To the City’s credit, 311 tracks complaints by address to circumvent this problem.

RECOMMENDATIONS

Recommendation #1: Home Rule for Liquor Licenses

Leaders in Albany have proven that they cannot effectively deal with the problem at hand. The SLA commissioners don’t live in the City and thus turn a deaf ear to New York City residents’ complaints. The SLA doesn’t dedicate the manpower necessary to enforce regulations, and it doesn’t even follow its own mandate. The SLA is collecting fees on liquor licenses while New York City is paying the price. If New York City residents are going to have any ability to control this process, they must have home rule – the ability to shut down noisy bars, and deny establishments their liquor license.

There must be a City Liquor Authority.

Recommendation #2: Reporting Bill

The public has a right to know which bars consistently have the highest number of complaints. This information should be disclosed to the public and to their local elected officials on a quarterly basis so that it’s known whether City agencies have done their part to solve problems. I am currently authoring a bill that would require all relevant City agencies on a regular basis to disclose the name of the bar, the address, the number of noisy bar complaints, and the action City and State agencies have taken. If the state fails to do its oversight job, the public can.

Recommendation #3: State Liquor Authority Reform

In the absence of home rule, **the State Liquor Authority must adhere to its own laws**, which clearly outline the criteria that define the public interest. The SLA must listen to community boards, who are best able to identify the public interest. The SLA must have 2 out of 3 commissioners who are residents of New York City. The SLA must also hire more inspectors to effectively police the growing number of licensed establishments in New York City. The SLA must increase transparency by improving public disclosure on its website and by ensuring that all hearings are open to the public and that the surrounding community is notified well in advance of hearings. The SLA must not sidestep the 500-foot law by arguing that the issuance of a liquor license in an area saturated with bars is in the economic interest of the area. And finally, the SLA must revoke the licenses of New York City's worst offenders.

METHODOLOGY

The data included in this report was obtained through a request by my office to the New York City Department of Information Technology and Telecommunications. The list of Manhattan's ten noisiest bars is based on the number of complaints made to the 311 Call Center from July 2004 to May 2005. All information regarding the New York State Liquor Authority was ascertained from its website and from conversations with its representatives. Additional references cited.

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