

Interagency **TASK FORCE** ON **Drunk Driving**

Meeting Minutes
November 15, 2013

Opening Comments – 9:04 – Chief Ticer

Introductions

15 of 17 in attendance, therefore we have a quorum

Public Comments

Elliott – Education working group meeting that city of Denver is putting together. Working towards putting a website together for marijuana education. Targeted towards tourists, land owner, how to safely transport, etc. 45 days until retail marijuana businesses open. Department of Revenue has received 130 applications as of the end of October. City of Denver has a different process that takes longer, public hearings that may delay openings. Possibly over 100 businesses opening up, primarily in Denver. Additional conversations with law enforcement in regards to security. Banking is still an issue. Likely more cash and more security issues that will be coming up. Wanting to be cautious in protecting businesses as well as customers.

Minutes of Previous Meeting

- Correction under media, strike pedestrian campaign - incomplete information. Will clarify with Emily Wilfong.
 - Clarification: CDOT will be administering a pedestrian safety campaign with NHTSA funds in FY14. Ms. Wilfong will provide the task force updates on the campaign, especially since a large number of the pedestrian fatalities are alcohol-related (either the driver or the pedestrian).
- Motion to approve minutes by Hooper, second by Alymer, all in favor, motion passes

Statistics

- a. Summary of Key Performance Indicators (CSP) – Captain Fisher
 - October 2013 an increase in DUI/D impaired driving arrests
- b. Data on 5ng marijuana arrests by CSP – see handout
 - Suspected marijuana arrests -5ng results

- Reminder, if someone is intoxicated by alcohol and have also been consuming other drugs, often the alcohol will be primary test, there would not be additional drug testing. Cost prohibitive to administer multiple tests.
- Not representative of poly drug users
- Hooper – Refusal column – some office have high refusal rates
- Hahn – see notation on data reported, refusal information was not specifically requested
- Hernandez – we will take a look at the refusal rates in the future and collect that information
- Hooper – refusal rate at 27% statewide
 - Concerns about HB1240 inflating that number
 - Need to educate enforcement on how to get the offender to participate in the testing process
 - A continuing issue that we need to address. Need to address refusal rate. A lot of friction as a result of HB1240 if the offender feels that they may be blindsided with interlock and treatment
- Groffe – by the time a DRE evaluation is performed & if a test is administered. Active metabolite drops off quickly. Not a slow elimination rate like alcohol. The real issue is how they record impairment at the time of stop. Crux of evidence will be evaluations by law enforcement. Roadside detection technology for drugs is in its infancy.
- Elliott – State of Washington 5ng per se law, Washington not enforcing it. Has anyone else heard that there is an enforcement issue with it?
- Hernandez – Washington & Colorado laws are not the same. Issues that come up are different. Need data to start understanding fully so that we have the timing down. Will take time to get the data to start developing the next piece.
- Fisher – point of 5ng to deal with DOR administrative sanctions. Too early to tell.
- Ticer – next step to find out what is happening with those that aren't testing above 5ng. We were told those would get prosecuted. Having to change protocols in DRE program encouraging blood testing as quickly as possible.
- Fisher – Is that something that Colling could track?
- Colling – it would be manual, but we could as long as it was filed.
- Fisher – yes they were filed
- Hooper – also gather data on the probable cause of stop – Was it due to impaired driving or an unrelated traffic stop? Useful information for policy makers.
- Groffe – common feedback from law enforcement that they are very much concerned about compounding effect on someone who has been drinking and smoking. If further indications by subject that using both substances, is law enforcement compelled to just gather alcohol data and not drugs
- Ticer – nearly 7000 DRE in the US, 284 in state of Colorado. ARIDE training is coming to law enforcement as well. If level of impairment is not consistent with BAC testing, proceed with drug testing.
- Alymer – is that true if BAC is higher? Would you also do drug testing?
- Ticer – probably not & that is part of the problem with the data. Unless a serious case with aggravated assault, SBI, etc?

- Fisher – may be something that the ITFDD looks into additional funding to gather that data for the purposes of studying the issue if we feel that is important.
- Aylmer – from a public safety standpoint, makes a lot of difference from a punishment standpoint.

c. State Fatality Numbers (CDOT)

- Total fatalities – 418 – one above this point last year. 9 months to a year to get alcohol numbers
- Motorcycles fatalities has exceed prior years
- Likely trend upwards
- CDOT doesn't lose sight that those are not just numbers and relates to an individual victim.

Media Relations & Significant Upcoming Events - CSP – Captain Jeff Goodwin

- Recap of Halloween stats – CDOT campaign 386 arrests for DUI during Halloween enforcement wave
 - October is a big month for DUIs in Colorado. Not sure why, but it is a standout month
 - Top cities Aurora & Denver
- Public Education CSP
- Impaired Driver campaign in 2014
- Billboards in metro area and other parts of state
- Digital billboard – top two DUI arrest troopers featured on billboard
 - Through partnership with Anheuser Busch
 - 6 billboards for free at no cost, thanks to our partner Anheuser Busch
 - 270-York up now
 - I-25 mile east on I-76 westbound direction going up soon
- Not just pushing out in metro area, rural Colorado areas
- Working to make connection with local areas
- Miniature footballs with Drunk Driving Campaign
 - “Be an MVP – pass the keys to a sober driver”
 - Handed out at community events, has been successful, making that connection with local and rural Colorado
 - Also paired up with Distracted Driving with an anti-texting message
 - Upcoming event 11/19/13 at 1:00pm, press conference at CSP academy with Anheuser Busch. The two top DUI arrests troopers will be on hand to do media interviews

Task Force Business & Presentations – Recommendations for Annual Report

Presentations – Recognition of Service to ITFDD, Stephen Hooper, Department of Revenue
– retiring December 20, 2013

Hooper – Challenge to everyone; keep going, keep evaluating, and improving impaired driving in the State of Colorado. It takes everybody working from every single direction. Thank you all.

Work Group Update

Program Management and Strategic Planning – Glenn Davis

- Primary seatbelt
 - Celeste - Will send name of presenter on occupant protection from a national perspective
 - Last year 160 fatalities unrestrained
- Preliminary breath testing devices
 - Celeste – offer to contact Mike Brown to discuss concerns about approved technology, cost for states
- Analysis of groups not represented
 - P.O.S.T
 - Marijuana Industry

Criminal Justice System – Judge Celeste

- Prudent to seek name change for the organization if seeking to expand members of the task force
 - Propose “Colorado Task Force on Drunk and Impaired Driving”
 - Ticer – good opportunity if seeking additional changes to expand the task force membership. Name change alone, might not be worth legislative effort alone, but if combining.
- Expedited warrants – expressed consent and refusal
 - Assumptions
 - Currently no law that bars issuance of warrants
 - Currently being done in Weld and Larimer counties
 - Warrant is post arrest, very limited circumstances that would be pre arrest
 - McNeely prompted discussion
 - LE training may be necessary on rapid warrant
 - Warrant override refusals
 - Pros
 - New HB1240 bill incentivizes offender to refuse
 - Support intrusion for blood draws i.e. search houses, search cars
 - More data would be available to establish guilt
 - More testing needed due to increase in impaired driving
 - More data analysis would become available
 - Create uniformity for issue of legality for issuing warrant
 - Cons
 - Expedited blood draws do not lead to efficiency in impaired driving
 - Adds to coercive nature of interaction of LE and citizens
 - More intrusive
 - No data correlating decrease in refusal = decrease in traffic safety

- Giving law enforcement too much power?
- Double punishment, refusal consequences and blood still drawn
- Aren't protocols in place, no guarantee that judge would be mandated to sign it.
- Last year's recommendations – allowing additional roadside testing technology for drug impairment (Previously recommendation number 5 in 2012 ITFDD Annual Report)

Roadside Advisement Subgroup – Steve Hooper

- *"If you refuse testing, your license will be revoked, you will be required to have a breath testing device in your car for at least 2 years, and you will be required to have DUI treatment for at least 8 months in order to get your license back."*
- Law enforcement should proceed with normal request process for testing. Recommend to do so briefly. Offer blood or breath test. If offender refuses, then provide the refusal roadside advisory statement above. Advises offender of consequences and give them the opportunity to recant their refusal.
- Entertain a motion to endorse this statement as an educational tool for law enforcement
- Anderson – would it be useful to have one more statement at the end, “Do you still want to refuse the test?” The officer can then put into report.
- Fisher - Some older officers still under the mindset that they cannot change the refusal.
- Matzke -suggest “Knowing these consequences, how do you want to proceed?”
- Groffe – need to be careful, period of time prescribed statement required to be read. Statement was cumbersome. In the event of prosecution, did you translate into Spanish?
 - Implementation, most effective way to train? How is this going to be implemented? Possible incorporate into EBATT training. That way can be consistent in training.
 - Depending on level of impairment, may not be able to cognitively understand.
 - May be most efficient and consistent for LE training
- Ticer, this is a tool for law enforcement, but not required to be read
- Perea – this allows law enforcement to provide an appropriate response if offender asks questions as to what will happen if they refuse. This provides law enforcement a way of providing information and not giving misinformation or considered giving legal advice.
- Aylmer – is there a legal requirement to give any advisement at all?
 - Hooper – no, there is not. This is just a recommendation to get someone to comply with the testing.
 - Fisher – each officer gives an advisement. This will end up cleaning some things up and reduce refusals
 - Hernandez – it will increase consistency
- Celeste – did they recant or did they not recant. Thinks this will help shore up.
- Hooper - motion to endorse this statement as an educational tool for law enforcement, with an additional statement of “Now will you take the test?”
 - Second–Groffe, all in favor of Hooper Roadside Advisement, motion passes

Prevention – Ellen Anderson

Strategic Goal: *The ITFDD Prevention Work Group supports the enhancement of responsible alcohol service and sales; promotes transportation alternatives; and promotes community-based programs. To this end, the Prevention Work Group promotes the following:*

- **Objective:** *Increased utilization of server and sales training programs, while continuing a strong enforcement of underage compliance checks and over-service investigations by state liquor enforcement and local law enforcement agencies;*
- **Objective:** *Awareness, utilization, and financial support for already-existing alternative ride programs and development of additional programs: and*
- **Objective:** *Educational programs that encourage responsible choices which reduce impaired driving and the responsible sales and service of alcoholic beverages.*
- Data on training – TiPs training in place many years. Attempted to collect data, but unfortunately do not have a good system of collecting data. Data provides information on how many trained for each state.
- Johnson – some thought on how to quantify that data. Do these trainings do any good?
- Anderson - TiPs came out against government mandated training. If mandatory, resistance to the training.
- Johnson - Benefits for insurance and liability reason
- Aylmer – has to be data. Restaurants are not going to mandate it for their employees. How many states mandate it and what are the traffic statistics that relate to it.
- Fisher – when LE stops an individual who is falling down drunk, there is a need for mandated server training. We are in the business of saving lives. Need to research incentives provided to the business for having training.
- Johnson – Texas is mandatory and run by the state. 1½ to 2 hour training. Currently 4-5 hour training a lot more detailed and one on one. Better of quality of instruction. Need to find a way to provide incentives for businesses to provide training for servers. Need for buy in from retailers. Finding ways to get them to buy into training.
- Chism - DOR-LE – responsible vendor program legislation already in existence. With compliance checks, have found the more we do these programs compliance is dropping significantly. Amount of violations is reduced.
- Flavia – PDD social norms campaigns at college campuses
 - Nocoloradodui website data
 - Talking about underage drinking, as well as underage marijuana usage
 - As a task force, we have kind of let that get pushed to the side, would like to see that get moved up in priorities
 - Possibly adding someone from OBH for underage issue

Communications – Laura Sonderup

- No legislative recommendations
- Programmatic recommendations:

GOALS

- Develop impactful advertising in culturally and linguistically ways that resonate with our target audiences
- Through PR, identify relevant third-party influencers to help spread impaired driving messages
- Develop a relevant drugged driving (marijuana-focused) public awareness campaign

STRATEGIES

- Based on Countermeasure 5.2 of *Countermeasures That Work 2013*, we recommend the continuation of a mass media campaign that consists of intensive communication and outreach activities regarding impaired driving that use radio, TV, print and other mass media, both paid and/or earned.
- Our campaign will focus on both deterrence through the publicizing of checkpoints/high visibility enforcement and behavioral changes, such as the use of designated drivers. The campaign will focus on a target audience of males between the ages of 21 and 34 because they have the highest propensity for DUI arrests. It will also be ethnically relevant, particularly with a Hispanic audience.

Alcohol and other Drug Misuse – Michael Elliott

- Recommendation public education on impaired driving related to marijuana. Additional discussion needed. Will work on coordinating with Emily Wilfong and the Communications group. By doing a website, can identify areas of ambiguity work to make the focus of education efforts. Big issue areas, general message consumption of marijuana and driving illegal. Under 21, illegal. What is going to cause problems for law enforcement, where they have marijuana located in their car. Would like to tell people, yes this is what you can do instead of negative messaging. Ticer – many comparisons of alcohol and marijuana. Both are truly different but both cause impairment.

Program Evaluation and Data – Jan Hart

Programmatic/System Recommendations:

1. Recommend development and diagramming of all data systems.
2. Coordinate with STRAC and other committees to identify specific (macro and micro) system and data elements.
 - a. i.e. – though BAC levels are not reported on the Traffic Accident Report for drivers in crashes, can this data be obtained by working with the Judicial Districts or law enforcement agencies?
3. Build analysis and evaluation models from literature and data for interventions to support problem identification (baseline) and evaluation (output and outcomes).

Legislative Recommendation

1. Separate DUI and DUID common codes in 42-4-1301. This would enable judicial data to be sorted to identify DUID charges separately from DUI alcohol charges. There may be a need for three common codes - one for DUI, one for DUID, and one for combined. Alternatively, officers could charge both DUI and DUID for combined.
 - a. If separating does not make sense from other standpoints, is it possible to revise in any way so alcohol and drugs can be differentiated? Passage of Amendment 64 is sufficient reason to revisit this.Fisher – lies in the charging language for prosecution. Need to clean up the DUI language in statute. Overly complicated and doesn't allow us what we need to do.

Legislative Sponsor Remarks

Welcome Representative Young

- Team effort to get these things done
- Heard a variety of ideas
- 3 bills by early December, 2 bills mid-January
- Late bill status can be a possibility, don't hesitate to reach out to me
 - Expedited warrants for blood testing
 - Primary seat belt law – political reality, not jumping up and down about the idea
 - Still continue to work on it

Celeste - NHTSA hot on topic of studying data as it relates to refusal rates and rapid blood draw programs.

Devices are premature for NHTSA, takes NHTSA a while to approve technology.

If you wait for NHTSA approved technology, it will be awhile

Fisher – from a law enforcement perspective, it is important to put those tools in the hands of law enforcement. Understand there would be a cost and a financial obligation to the state. There would be one or two manufacturers, not every technology out there. It is important as a state to pave the way. Doable and not too overly cost prohibitive. Plowing the road whether we want to or not.

Groffe – this technology needs to be validated and vetted. The quicker to get to blood testing, will benefit the test results. If the tools can aid law enforcement to speed up the process, this will help.

Young – felony DUI, exploring proceeding with a different direction.

Hooper – beneficial, if legislators involved with that effort would direct the issue back to ITFDD before considering because we have already gone through the issues. We would welcome the opportunity to

i.e. felony DUI, discussed for a year in the ITFDD prior to the bill being introduced.

Young – always a challenge since ITFDD does not meet in December for proposed legislation.

Flavia – we could make ourselves available if needed.

Ticer – we would be happy to be available.

Legislative Update – CSP Trooper Dave Hall – unable to attend due to illness

2014 Meeting Schedule

- Meeting date change for February meeting due to room availability, change to 2/14/13. Meeting schedule is as follows:
 - January 17, 2014
 - February 14, 2014
 - March 21, 2014
 - April 18, 2014
 - May 16, 2014
 - July 18, 2014
 - September 19, 2014
 - October 17, 2014
 - November 21, 2014

Nominations for Executive Officers

- Nomination for Secretary – Brenda Hahn
Nomination by Ticer, second by Davis
- Nomination for Chair – Chief Ticer
Nomination by Davis, second by Captain Fisher
- Nomination for Vice Chair – Glenn Davis
Nomination by Ticer, second Aylmer

Lightning Round Update

DOR-LE – over serving at bars. Working with industry more frequently and identifying problem bars in lower downtown.

Johnson – Summit County task force, focusing on developing guidelines for safe community events where alcohol is being served. Recommended list of things to do, going out to specialty event license pullers. Posters for alcohol sales booth at events as well. Going out to all the boards that approve licenses in the Summit County area. Publicly thank Stephen Hooper for all that she has learned from him over the years. Would like to charge you with one more task. Come back at this same time next year and report how post retirement has gone.

Aylmer – Colo Restaurant Association – doesn't have every bar a member, but for those that are members, concerted effort to promote safe alcohol serving as well as safe food handling. Ongoing effort. Thanks to Stephen Hooper, your insight has been invaluable and we will miss you dearly. Membership has increased, relates to economics and legislative driven as well.

Chase – DUI enforcement wave for Thanksgiving holiday.

Rocke – would like to thank Stephen Hooper for everything she has learned

Hahn – Soft deadline for annual reports 12/1/13, hard deadline 12/7/13. Draft will be coming out 12/14/13.

Fisher – Thanks to Hooper, fill a void that it will take us awhile to recover from.

Davis – Would like to thank everybody for their high level of professionalism and dedication. Thank you to partners in Wyoming for coming down.

Hooper – Congratulations to the group for being able to get two years in a row legislative action based on ITFDD recommendations.

Groffe – new intoxilyzer 9000, comment in regards to challenges. Instruments are performing quite well. Performance has been good. Able to capture data. Will try to give updates on how many tests are being done in future lightning rounds. Went into effect in May 2014.

Colling – thanks to Stephen

Flavia – updated from OBH, new set of rules went into effect 11/1/13, more clarifying and encompassing behavioral health, not just substance abuse. Thanks to Stephen for collaboration, always top notch. Lots of faith in staff waiting in the wings and have every confidence in DOR moving forward.

MADD Red Ribbon campaign – Thanksgiving through New Year's. If you would like a ribbon or magnet, just let him know.

DeRoehn - January 15th – Sobriety Court graduation Open invitation for anyone who would like to attend

Anderson – as a citizen, will work towards leveraging seatbelts in Pitkin County for buses.

December 16th, TIPS taxi is celebrating 30 years and celebrating zero refusals

Teendrivingallianceco.com – marijuana impaired driving event, uploading later today

WYDOT – thank you for having us. Remarkably similar issues, approaching things in a similar way. Compounding issues of marijuana. Wyoming is approaching seatbelt legislation.

Seatbelt usage is 75%. 91% of fatals not wearing seatbelts. 2012 not wearing seatbelts.

Ticer – welcome to attend any future meetings. We look forward to working with you.

DOR – HB1240 – tight on the coding, will not go in to effect 12/13/13, law goes into effect 1/1/14. Requirements need to establish changes are in the system.

Adjourn: 12:06

Next Meeting: Friday, January 17, 2014

In Attendance:

Chief Robert Ticer, Chair, Avon Police Department

Glenn Davis, Vice-Chair, CDOT Office of Transportation Safety

Chief Scott Hernandez, Colorado State Patrol

Captain Ray Fisher, Colorado State Patrol

Captain Paul Matzke, Colorado State Patrol

Captain Jeff Goodwin, Colorado State Patrol

Brenda Hahn, Colorado State Patrol

Robin Rocke, CDOT Office of Transportation Safety

Leslie Chase, CDOT Office of Transportation Safety

Paul Aylmer, Colorado Restaurant Association

Kris Johnson, Colorado Alcohol Beverage Distributors

Jack Chism, Colorado Department of Revenue, Division of Liquor Enforcement

Liz Viscardi, CIG

Ilana Kurtzig, MADD

Rebecca Virtue, Smart Start, Inc.

Jan Hart, Colorado Department of Public Health and Environment

Jill DeRoehn, Denver County Court Probation

Joe McCarthy, Citizen

Paige J, Alcoholics Anonymous

Chris E, Colorado Alcoholics Anonymous Professional Community
Dalene Call, Wyoming Department of Transportation, Highway Safety
Stephanie Lucero, Wyoming Department of Transportation, Highway Safety
Anna Thompson, Wyoming Department of Transportation, Highway Safety
Karson James, Wyoming Department of Transportation, Highway Safety
James M Reed, Wyoming Governor's Office
Ali Maffey, Colorado Department of Public Health & Environment
Ellen Anderson, Topsy Taxi, Retired Pitkin County Sheriff's Office
Mark Ashby, Thornton Police Department
Brenna Hersey, Amelie Company
Laura Sonderup, Hispanidad
Tom Kissler, Smart Start, Inc.
Shannon Westhoff, Hispanidad
Dr. Dave Timken, CIDRE
Fran Lanzer, MADD Colorado
Daniel Gagarin, Public Defender
Anthony Perea, Weld County District Attorney Office
Judge Mary Celeste, Denver County Court
Bud Bright, Teller County Sheriff's Office
Dr. Karen Moreau, Colorado Association of Addiction Professionals / TPAC
Christine Flavia, Colorado Department of Human Services, Office of Behavioral Health
Susan Colling, SCAO / Probation
Jeff Groff, Colorado Department of Public Health and Environment
Steve Hooper, Colorado Department of Revenue, Driver's License Administration
Representative Dave Young
Michael Elliot, MMIG
Andrew Lemley, New Belgium Brewing