

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

Meeting Minutes February 18, 2011

Chief Wolfenbarger (Chair) called the meeting to order.

Attendees:

- Emily Tompkins
- Raymond Fisher
- Jennifer Gray
- Christine Flavia
- David Timken
- Glenn Davis
- Tom Quinn
- Stephen Hooper
- Steve Wrenn
- Paul Wood
- James Wolfenbarger
- Hannah Seigel
- Heather Halpape
- Tom Kissler
- Shane Bahr
- Tammy Lovejoy
- Jill Hart
- Lisa Finch
- Jeff Groff
- Ed Casias
- Kris Johnson

Introductions and Initial Comments:

All present introduced themselves. There were no legislative or public comments.

Update on Breath Alcohol Testing Program – Jeff Groff, CDPHE

The Intoxilyzer came out in 1985, and their service life is promoted to be 7 years. Our oldest ones in use are from 1998. An extensive maintenance protocol has allowed for this extension of useable life, but the equipment is now 2 generations behind current technology. The machines are starting to have support issues and high error rates. Last year, the lab received about 300 subpoenas (up from previous year by about 50) because of challenges to results. This was partially because of a change in staff, but also because of error messages recorded. (Internal checks can involve over 3000 tests.) Replacement of all Intoxilyzers will take about 18 months (goal of 7/1/12), and CDPHE staff are currently soliciting funding. They plan to get all instruments in for evaluation by July, 2011. By September, the bid process could be underway. In January of 2012, they hope to start getting new instruments in. By July, they will do installations and trainings on site across the State. The rule in statute must also be revised. The stakeholder process will be started in the fall for implementation of a new rule in July, 2012. There are approximately 200 models in Colorado right now. The current models require analog, dial-up access. Rules require that logs be kept for 5 years, but right now about one fourth can't communicate. New instruments are all Ethernet-based with the ability for immediate communication and a more effective download system. The cost is anywhere from \$6,000 to \$10,000 (options such as card-swipe capability for operator and driver, stylus to sign, standardize keyboard, etc. raise the price.) If agencies can set aside some funds, as well as CDOT pledge of funds, we may be able to get into the bid process. Certification as an operator requires an 8 hour class. Certification for instructors (do weekly maintenance as well as cert. class for operator) is 16 hours. For new instrumentation with current operators & instructors, it may be different. There may be only 1 day needed because of some of the rules being the same. Operators may be 4 hours. (NHTSA recommends 72 hours for operators & week for instructors) Because all of the lab staff are certified &

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“factory authorized,” they have been able to work with the equipment to keep these in use. Replacement instruments could last another 15 years. Failure rates for new components are really low after 7-8 years in field. Last time, the transition was phased in. That would be problematic because of having 2 sets of rules & maintenance procedures. The best approach is to get them all and have a switch date for all of them. Precedent & legal challenges are really already addressed because this is already in place in other states. “Unstable reference” has caused test results to be weakened to the extent that charges were dropped in recent cases. There are also gaps in backup of data. When data is given out, it includes all of it, so that there is access to errors, maintenance, class testing, etc. If there is a problem with reliability, it goes to weight rather than admissibility. Judge Casias asked if there has been any thought of funding through a surcharge? Right now, there is LEAF funding, but it has been pulled back to general fund since 9/09. This would require decision item, going through departmental processes, going to the legislature, and would only be possible for July of 2013, so it would not work. If there is a surcharge, it should be a different surcharge rather than trying to do re-routing of LEAF or PDD funds. Chief Wolfenbarger added that CDPS, DOR, and CDPHE (with Sheriffs & Chiefs) should work together on the funding. The plan should be that everyone be within a specified time radius of an instrument.

Legislative Update – Trooper Juchem, CSP

Trooper Robert Juchem is willing to be the conduit for legislative issues this year. He can be reached at 303-927-8351 or rob.juchem@cdps.state.co.us and will continue to provide information in spreadsheet. Trooper Juchem could send updates on Monday nights. If you see anything that you want addressed, please let him know. The reauthorization of ITFDD has passed Senate and been assigned to House Transportation Committee. Testimony will now be needed again.

An agriculture bill would allow for teenagers to get a permit at age 14 and a license at age 14.5. If funding for business group in Revenue goes through, this bill will probably pass, but it would be an unfunded mandate as it is right now. It may be a big public safety issue, putting the least experienced, least mature, drivers behind the wheel of the heaviest, least maintained equipment, on the least engineered, maintained roads. From a research perspective (re: human brain development), this is dangerous. CSP testified, and the Governor’s Office has expressed concern over safety. This represents a significant step back from progress made on GDL.

Christine Flavia stated that the PDD redefinition seems to be stalled. Chief Wolfenbarger added that next summer may be our best opportunity to move this issue since the interim committees will meet this summer. The TLRC could be a great place to get that strength going forward. Proposing PDD redefinition to the TLRC will be added in the work plan.

The majority of relevant information right now is about medical marijuana. Steve Hooper stated that the *THC Per Se* bill is significantly different than what was considered. It may have been changed to avoid a fiscal impact. Conviction will not carry a mandatory revocation which could seriously diminishes the purpose of having the law. The CCJJ voted to withdraw its support from the law as it is written. Judge Casias noted that Rep. Levy is beginning to see a grass-roots effort to say that 5 nng was not based on science and there is going to be a big fight from users. Jeff Groff added that 5 nng is a pretty low number. Because of the new products, we

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are seeing 25-30 nng in tests. There needs to be more study to develop a protocol, but it would require a study & re-categorization of plants. Chief Wolfenbarger asked that all members review the legislation, and added that it may be prudent to vote (after consideration) via e-mail to withdraw support. Steve Hooper mentioned that it might be an opportunity to establish something that could get through court vetting. Dr. Timken addressed a question about the science, noting that quality & timing of the studies is important. From what he has seen in the Holland study in 2009 & 2010, 5 nanograms is completely supportable. Laura Spicer stated that there was a controlled study with actual road studies, and the 5 nng level was a compromise with defense attorneys (since impairment is shown at 1-2 nng.) Supporters are looking to try to get savings from a parole bill to fund this bill, but they are looking into the potential costs. Christine Adams stated that the CCJJ did withdraw its support because of the administrative issues, but Rep. Levy is trying to get that provision put back in. The administrative revocation would allow CCJJ to support again.

Problem Solving Courts Advisory Committee - Shane Bahr, Judicial

The committee serves as a resource for problem-solving courts, helping to sustain, evaluate, and help expand them around the state. There are currently 60 plus problem solving courts in Colorado and the number is growing. Capt. Fisher will attend the next Problem Solving Court Advisory Committee meeting. Denver County Court is in the process of implementing a DUI court and Christine Flavia is working with the group. San Miguel County is doing an alcohol and drug court. DUI courts are relatively new. DUI court data collection has not been robust or uniform. The committee has identified what data needs to be collected and where it resides now. They have established an intake and discharge document with specific DUI questions, in order to evaluate DUI and Adult Drug Court programs. The tool has been implemented as of 10/1/10 in a web-based system known as "PSC3D" (Problem Solving Court Data Drives Dollars). Christine Flavia added that a big problem with problem-solving courts has been a lack of outcome data. There have been statewide conferences for 4 years (some drug court, probation, etc.), and there will be a collaborative conference on April 26-28 with slots available for ITFDD members. Five DUI court teams were trained in Firestone three years ago with CDOT funds and are now having requests for follow-up training. Districts have started talking to each other and sharing ideas. The ITFDD Goal C included an evaluation of DUI courts, and Brenidy Rice will be taking on the "painting of the picture" for us. Glenn Davis mentioned that District 11 is going to Georgia only if CDOT can get approval. Christine Flavia mentioned that she was glad to see MIP history information.

Michael Elliott, Medical Marijuana Industry Group

Mr. Elliott introduced himself and stated that his group has high standards for members, including full compliance with the law. Although his group has not taken a position on the marijuana *per se* legislation, he will be happy to answer questions from the ITFDD.

Continuation of Membership by Current Representatives

All members and representatives names and organizations were read, and all indicated a willingness to continue to serve. Steve Hooper moved to ratify continuation of current members/representatives. The motion was seconded and passed unanimously.

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Nominations for Representative of Students under 24 to be voted on in March

There were no nominations at this time. We will need to continue to work on this representative.

Review of work plan and timelines & assignments for any unfinished items

This agenda item has been postponed to the March meeting.

Updates on recent/upcoming enforcement and Lightning Round

Heather Halpape - Super Bowl weekend saw 303 DUI arrests (last year was 574.) St. Patrick's Day enforcement is next. For the last 3 years, there has been a "Heat is On" float in the parade (March 12). CDOT would like volunteers to ride, dress in green, and pass out information. Jennifer Gray & her girls would be willing. Shared drugged driving information.

Capt. Fisher – Troop 1D had successful weekends for both Super Bowl and New Year's Eve in spite of weather.

Steve Hooper – On March 30 and 31, they will have a session with the interlock provider workgroup and are welcoming a new provider. There will be an intense group session with Dr. Timken to work on protocols.

Steve Wrenn – Weld County is celebrating the one year anniversary of its DUI court. The program is full (20 participants) with no relapses, and it is considered a big success and well received by all. Participants are all high risk (one was .447 BAC, driving the wrong way on 85, one week later tested at .261, showed up at court drunk.)

Hannah Seigel – It is exciting to see the Denver DUI Court coming together.

Kris Johnson – Standard Sales is gearing up for prom & spring season with letters, signs, and information to remind about vendors about underage sales.

Dr. Timken – The new DUI risk assessment will be presented shortly to the American Probation and Parole Association. His group has received a preliminary invitation to present on ignition interlock in Germany.

Emily Tompkins – MADD Colorado is having a candlelight vigil on April 10th at 4:30 pm at the Space Gallery on Santa Fe. Their new "power of parents" program is doing 30 minute workshops on communication on April 21st. Parent engagement network is working with MADD.

Glenn Davis – St. Patrick's Day generates more arrests per day than any other holiday other than Halloween. CDOT is following the Federal appropriations closely. Colorado and Wyoming are combining efforts for a DRE school.

Chief Wolfenbarger – Next year, the CSP is going to run every trooper through ARIDE training. We had a trooper hit by a drunk driver last week.

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Laura Spicer – The Boulder County District Attorney’s Office, Sheriff’s Office, Police Dept., Schools, and Probation all got together to discuss DUI & continuation of care. They all appreciate the model of ITFDD.