State of Louisiana

OFFICE OF THE GOVERNOR
DRUG POLICY

John Bel Edwards
Governor

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GOVERNOR'S DWI TASK FORCE
August 11, 2021; 10:00 AM - 12:00 PM

MINUTES

Call to Order
Lisa Freeman, Chair of the DWI Task Force and Executive Director of the Louisiana Highway Safety Commission (LHSC), called the meeting to order at 10:02 AM. She announced that there were 13 members or proxies in attendance which was more than enough for a quorum.

Welcome and Introductions
Because the meeting was being held virtually, Lisa asked Kristy Miller, Assistant Director of the Office of Drug Policy, to verbally identify all voting members on the Zoom meeting. Additionally, Kristy requested that interested stakeholders and members of the public type their names and organizations in the chat so they could be recognized in the minutes. A complete list of meeting attendees is included at the end of this document.

Old Business
Discuss and Approve: Minutes from May 2021 meeting

Lisa indicated that Kristy included the minutes from the May 2021 meeting in the email packet. She asked everyone to review them, and when appropriate, a motion could be made to accept them as written. Tom Travis, Property and Casualty Insurance Commission, made a motion to approve the minutes. Jules Edwards, At-Large Member, seconded the motion. All members accepted the motion. None rejected the motion and none abstained.

New Business
A. Presentation: An Individualized Approach to Combating Impaired Driving

The first item in this section was a presentation conducted by Pam Shadel Fisher. Pam Fischer is a leader in the highway safety field who has brought national visibility to the myriad causes of and solutions to behavioral-related traffic crashes during her 30 plus years of experience. Currently, Pam is the Senior Director of External Engagement at the Governor's Highway Safety Association, also known GHSA. In that position, she manages GHSA's many partnerships and external collaborations. In addition, Pam oversees the fee-based consulting program whereby state members to GHSA can obtain programmatic assistance by seasoned traffic safety professionals. Pam has researched and written 10 best practices publications for GHSA on a variety of topics including high-risk impaired driving.

Prior to joining the GHSA staff, Pam served the traffic safety community in New Jersey through her advocacy, education, enforcement, grassroots outreach, policy, and planning efforts. Specifically, she spent 20 years with AAA New Jersey as well as four years as the Director of the New Jersey Divisions of Highway Traffic Safety during which time she also held the position of Governor's Highway Safety Representative for New Jersey. After that, Pam established her

own consulting firm which for nearly a decade helped state and federal agencies address the behavioral safety issues that put all roadway users at risk. **Slides for this presentation are available upon request.**

Pam explained that the focus of her presentation was to talk briefly about the impact of the pandemic on alcohol and other drug use and our mental health and the progress we've made in addressing impaired driving and how we move forward. Then she discussed some of the recommendations in GHSA's report, *High-Risk Impaired Drivers: Combating a Critical Threat*, which she researched and wrote with input from criminal justice, judicial, prevention and treatment, and traffic safety experts from across the country, and why they're even more important for effectively addressing ALL impaired drivers in a COVID and post-COVID world.

Pam dived in by talking about reports of significant upticks in online and off-premise alcohol sales along with warnings from prevention and treatment experts that the combination of the pandemic, its economic fallout and stay-at-home mandates meant conditions were tailor-made for drinking among other risky behaviors. All are triggers for substance use and abuse. And marijuana sales spiked at the onset of the pandemic, according to cannabis data intelligence company Headset, as people rushed to stock up. Over time, sales normalized, but some retailers pointed to the benefits of cannabis during these stressful times.

A lack of control and uncertainty about what will happen next has put us all on edge. A survey conducted by the American Psychological Association during the height of the pandemic, found that the virus seriously affected our mental health – with half of U.S. adults indicating they had high levels of anxiety. It's important to point out though, that the APA survey also found that the majority of people were reacting appropriately with fear and anxiety at normal levels. To cope with mental health issues, people turn to prescription drugs such as antidepressants and benzodiazepines – common anti-anxiety medications.

According to Express Script, use of prescription drugs to treat mental health issues increased more than 20% between mid-Feb. and mid-March, peaking the week of March 15 when the World Health Organization declared COVID-19 a pandemic. A deeper dive into sales indicates that prescriptions for anti-anxiety meds rose 34%, while antidepressants went up 18%. And during this time period – three-quarters were new prescriptions.

We all know what happened on our roads for a good portion of 2020 -- vehicle miles traveled dropped 13.2% but that did not translate into fewer crashes and deaths. In fact, the opposite happened. According to NHTSA, 38,680 people died in motor vehicle crashes in 2020 – the highest number since 2007 and an increase of 7.2% from the year before. Factoring in that 13.2% decrease in miles driven, the fatality rate in 2020 was 1.37 deaths per 100 million miles driven, up from 1.11 the year before. And the data pointed to another tragic outcome of the pandemic – more deaths on our roadways caused by risky and dangerous driving like speeding, impaired driving and not wearing a seat belt. NHTSA's analysis found the largest increases in 2020 compared to 2019 included a 9% increase in police-reported alcohol involvement crashes. In addition to the FARS data, NHTSA also released the findings of a series of special reports. I want to call one, in particular to your attention. Drug and Alcohol Prevalence in Seriously and Fatally Injured Road Users Before and During the COVID-19 Public Health Emergency (released in Oct. 2020), examined the prevalence of alcohol and selected over-the-counter, prescription and illegal drugs in the blood of seriously and fatally injured drivers and other crash victims near the time of their crashes before and during the pandemic. Data collected at Level 1 trauma centers and medical examiner officers indicated drug prevalence was high among seriously and fatally inured roadway users before the pandemic and was even higher during the emergency – especially alcohol, cannabinoids (active THC) and opioids.

Drivers, in particular, showed significantly higher overall drug prevalence, with 64.7% testing positive for at least one active drug, compared to 50.8% before. Also found an increase in testing positive for two or more categories of drugs going from 17.6% to 25.3%. Of particular note, active THC was more prevalent among drivers during the pandemic than alcohol – 32.7% versus 28.3% -- and opioids use among drivers nearly doubled from 7.5% to 13.9%.
So what's the takeaway? We should be concerned about the impact of other drugs as well as alcohol.

I think it's important to benchmark where we are when it comes to impaired driving fatalities. Alcohol fatalities accounted for 29% of US traffic deaths in 2018. That's the lowest percentage since 1982, when NHTSA began reporting alcohol data. Many groups contributed to this from MADD, NHTSA and SADD to law enforcement agencies, state highway safety offices and many others. In 2018, 10,511 people died because an impaired driver got behind the wheel. But that's only the fatalities. There are more than 111 million self-reported episodes of alcohol impairment among U.S. adults annually, or 300,000 incidents a day, according to the CDC. Drugs are also a problem. Legal drugs, which include prescription and over-the-counter medications and cannabis, as well as illegal drugs are playing a more prevalent role in traffic crashes. Between 2006 and 2016, the rate of fatally injured drivers that tested positive for drugs increased from 28% to 44%. The most commonly ingested substances included stimulants, depressants, narcotic analgesics, anesthetics, cannabis and a combination of these and other drugs. In light of the pandemic and concerns raised by prevention and treatment experts and the U.S. mental health czar, it's also important to understand the magnitude of substance use and mental health disorders in our nation. According to the Substance Abuse and Mental Services Administration or SAM-SA, in 2018 approximately 20.3 million people 12 years of age and older had a substance use disorder related to alcohol or illicit drugs including marijuana, opioids and heroin. SAMHSA also reports that an estimated 9.2 million adults 18 years of age and older had both a mental illness and at least one substance use disorder in the past year. Another 3.2 million adults had a co-occurring serious mental health issue and a substance use disorder. This mirrors the numbers in 2017, but is higher than in 2015 and 2016.

Pam turned to some solutions for addressing all the problems she just described. She used the basis of the report she mentioned at the beginning of the presentation as her guide. While the GHSA report focuses on high-risk, it's important to point out the following with you: Every impaired driver is a high risk to others on our roadways. Even "first-time" impaired drivers cause death and injury and most engage in the behavior often before their first arrest. Two-thirds of DUI offenders will not re-offend. One-third of DUI offenders are repeat offenders undeterred by punishment and lack the motivation to change their criminal behavior. We can and must do more to stop them.

Having said that, when it comes to dealing with ALL impaired drivers, we must move away from a conviction-centered or cookie-cutter justice approach to individualized justice, which you see defined on your screen. The second approach is comprehensive and holistic. It involves practitioners from many disciplines collaborating to identify the root cause of the offender's behavior and then determine what sanctions should be administered. This means that law enforcement, prosecution AND defense, the courts, probation and parole, treatment and driver licensing work together – not in silos – to reduce recidivism. The focus is on ensuring that punishment is combined with long-term behavior management, which may include monitoring technologies such as ignition interlocks, transdermal alcohol testing and other systems, intensive supervision that holds the offender accountable, and treatment and after-care that takes into account the offender's learning style, gender, culture and motivation.

The centerpiece of individualized justice is screening and assessment. This is done for ALL offenders to identify the risk of engaging in future impaired-driving events and to determine the most effective community supervision that will reduce that risk. And with the potential impacts of the pandemic – including increases in substance use and mental health issues – screening and assessment are even more critical! Many states require motorists convicted of a DUI to undergo screening and assessment, but there's agreement among experts that it doesn't always happen or happen early enough. It should occur in the pre-trial phase so the results along with the police report, prior offense history and previous or current probation and other key information can be used to confirm sentencing decisions, case management, supervision levels and treatment. Screening and assessment can be done multiple times during the individual's involvement in the criminal justice system to identify progress and make adjustments as needed.

Screening is the first step and involves the offender answering a brief series of questions linked to a risk scale. Screening determines if the offender should be referred for treatment and identifies substance abuse and mental health problems. It's an effective way to target limited resources by separating offenders into different categories so they receive the appropriate level of supervision and/or treatment. It also serves as a brief intervention, because it requires the offender to think about his or her substance use patterns and whether they're a problem.

It's my understanding that Louisiana does not require screening and assessment for a first DWI offense and a second offense requires participation in a court-approved substance abuse program. However, there's no mandate for screening or assessment for that second offense, so how is the offender's risk determined? A third and subsequent offense does include a mandate to undergo an evaluation to determine the nature and extent of the addictive disorder.
Also, GHSA, in partnership with Responsibility.org, awarded a grant to Louisiana to implement a pilot project in Lafayette Parish to administer screening to drivers convicted of misdemeanor driving while intoxicated through the Computerized Assessment Screening and Referral System (CARS). City and state judges will use these assessments to identify a defendant's treatments needs and make more individualized sentencing decisions, reducing the chances of recidivism.

Assessment is the second step. This is administered to an offender that screens as having a substance use or mental health issue. It's more time intensive than screening and explores individual issues to evaluate the presence of alcohol and other drugs and the extent and severity. There are many instruments to assess offenders, but only 3 are validated for use with DUI offenders.

Individualized justice calls for a strategic approach to addressing impaired driving. That means doubling down on what works by continuing to use proven tactics such as checkpoints, saturation patrols and special DUI strike or task forces. Several examples of the latter are discussed in the GHSA report, so I encourage you to check out the report.

Staying with law enforcement, it's also critical to continue and expand training so officers can quickly and effectively identify impairing substances beyond alcohol. With people using multiple impairing substances, it's imperative that drug use is captured at the time of arrest. If it isn't, there's a high probability the offender will continue to use because they're subject only to alcohol monitoring. A lack of accountability means behavior change is low and, as a result, the offender will continue to pose a threat and recidivate. In the GHSA report, I've identified four ways to mitigate. Let's consider each one.

First, continue investing in Standard Field Sobriety Testing or SFST training, ARIDE or Advanced Roadside Driving Enforcement and Drug Recognition Expert training. And keep in

mind that field sobriety tests are sensitive for THC; both DRE and non-DREs can determine impairment from the compound – although THC concentrations can't be correlated to specific impairment. These training programs are currently the most effective line of defense in a highway safety environment without scientifically validated per se limits for THC and other drugs.

Testing for impairing drugs is vital; testing only what is necessary to get the conviction fails to uncover the motorist's substance use problem. Remember, this is central to the individualized justice approach. Failure to test undermines impaired driving prevention. Consider this, DWI is "the only crime where the investigation ends after a minimal amount of evidence is obtained." For states, identifying the prevalence of drugs can better inform policy decisions aimed at impaired drivers particularly those who are high-risk.

Leverage new technology, such as oral fluid testing. It can be used as an onsite screener to identify the presence of drugs roadside or in a police station to help establish probable cause. Oral fluid testing is considered comparable to a PBT, but it can't conclusively determine level of impairment. It can be used to collect evidence as part of a broader impaired driving investigation. Roadside devices cost approximately $4,000, with single-use cartridges costing $17-20 each. These tests are quick and easy to use, minimally invasive and painless. And because the sample is collected close to the time the driver was operating a vehicle, they're a more reliable indicator of the presence of drugs at the time of the stop.

Expediting investigations is also key. The longer an impaired driving investigation takes at the roadside, the greater the decline in measurable levels of impairing substances in an offender's body. By the time a blood draw occurs, critical evidence could be lost. This points to the value of training officers as phlebotomists to reduce the time between arrest and the collection of chemical evidence. Technology is also being developed and deployed to help officers obtain electronic search warrants or e-warrants in a matter of minutes, day or night, to speed up non-voluntary blood draws.

Let's briefly touch on treatment and supervision by pointing out that not all impaired driving offenders, including repeat offenders, requirement treatment. While many impaired drivers have substance use disorders, others don't and the only way to determine which offenders will likely benefit from treatment is to screen and assess every individual arrested for DWI. Many high-risk impaired drivers have a co-occurring mental health disorder. In fact, research indicates that 45% of repeat offenders have at least one major mental health disorder in addition to a substance use disorder. If we don't identify the mental health needs, we're missing the opportunity to intervene and address one of the underlying causes of high-risk driving behavior.

Increased supervision and monitoring by the court, probation and the treatment provider has to occur as part of a coordinated effort to apply tailored interventions to high-risk impaired drivers and protect against future impaired driving. This is essential for those with chronic conditions that run the risk of recidivism. Treatment should be coupled with supervision and monitoring to ensure the offender remains sober and complies with the agreed upon plan. This may include regular and random alcohol and drug use testing, and this may be part of the treatment program or handled through the courts or probation.

The last two recommendations are data and outreach. Data is vital for gauging the effectiveness of your impaired driving program and each of its components. All states have traffic record data systems – crash, driver licensing, citations, EMS/injury surveillance – but are these data linked? Imagine what you could do if you had a statewide DUI tracking system! With state budgets teetering on the brink, this data can help you make the case for you program, which is likely to

become even more important in this COVID/post-COVID world. In addition to investing in data systems, we need to continue outreach that addresses the dangers and consequences of impaired driving and work with partners who can use their voices and channels to reach critical stakeholders.

Pam concluded with the best way to move to an individualized justice approach is to leverage your statewide DWI Task Force. She explained that it your job to provide leadership and facilitation collaboration among all the stakeholders working to address impaired driving – and you are the perfect group to address the challenges and barriers in your state's current system and identify solutions. But I must ask – does your task force include representatives from all facets of the system, particularly if an individualized justice approach is your goal. When was the last time you carefully reviewed the roster to identify who isn't at the table – defense attorneys, probation and parole, treatment, monitoring technology providers? How about expanding the net even wider to include researchers, social service agencies, medical and health care, employers and unions, the military, multi-cultural, faith-based and other community groups. Everyone at the table, should have the authority to make decisions, allocate resources and get things done.

B. Update: Judicial Outreach Efforts Regarding Impaired Driving

In December 2020, Judge Jules D. Edwards, III retired from the 15th Judicial District as a District Court Judge. For the majority of the time, Judge Edwards worked in Lafayette Parish as the judge for both the drug court docket and mental health court docket. After retirement, Edwards was contracted as the Judicial Outreach Liaison (JOL) for the state of Louisiana. The JOL position is made possible through the American Bar Association Judicial Division.

Judge Edwards spent a few minutes explaining how he facilitated sentences for cases on the drug court docket. He championed his approach of requiring screening and assessment for individuals whose cases were heard in his court room. Then, Judge Edwards transitioned to how he has leveraged this experience into becoming the JOL. He explained that the JOL program exists to provide peer-to-peer guidance and training to state and municipal court judges. His focus is on sharing evidence-based practices for addressing offenders who have been charged with impaired driving offenses. He also spoke about the Traffic Safety Resource Prosecutor and Law Enforcement Liaison positions who work with District Attorneys and Law Enforcement Agency heads in addition to his work with Judges as a way to keep all parts of the criminal justice community well informed on best practices to address impaired driving in the state.

Judge Edwards concluded his brief presentation by providing some concrete examples of the work he has been doing since his contract was initiated in early 2021.

C. Summary of "Considerations" Activity Worksheet Results

Due to time constraints, Lisa asked Kristy Miller, Assistant Director Office of Drug Policy, if it was ok to postpone this report until the November meeting.

Other Business

A. Office of Drug Policy update

Kristy spoke briefly about the upcoming House subcommittee meeting to study the legalization of cannabis being set for August 18. He explained that she will serve as the representative for the Drug Policy Board.

B. Member agency updates
No member agencies offered updates.

Upcoming Meetings of Other Office of Drug Policy boards
Dates for the next meetings of the boards and commissions under the Office of Drug Policy were provided. Members were reminded that they are welcome to attend meetings of other boards. The next DWI Task Force meeting is scheduled for November 10, 2021.

Public Comments
No public comments were submitted in writing prior to the meeting. The floor was opened for public comments from meeting attendees. No comments were offered.

Adjournment
Lisa announced that all business was completed. A motion to adjourn was offered by Judge Edwards. It was seconded by Norma DuBois, LA District Attorneys Association. All favored. No members dissented or abstained from approving the motion. Meeting adjourned at 12:01 PM.

DWI TASK FORCE MEMBERS

Member Agency	Appointee/Designee	Present
Attorney General's Office	Amanda Martin	Yes
Governor's Office of Drug Policy	Dr. Chaunda Mitchell	Yes
House of Representatives member	Marcus Bryant	No
Office of Behavioral Health	Dr. Leslie Freeman	Yes
Office of Motor Vehicles	Kelly Sittig	Yes
LA District Attorneys Association	Norma DuBois	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Alcohol and Tobacco Control	Ernest Legier	No
Department of Transportation and Development	Adriane McRae	Yes
Louisiana Sheriffs' Association	Sheriff K.P. Gibson	No
Louisiana State Police Crime Lab	Rebecca Nugent	Yes
Louisiana State Police	Chavez Cammon	Yes
Property and Casualty Insurance Commission	Tom Travis	Yes
Senate Member	Rick Ward	No
Mothers Against Drunk Driving	Kelley Dair	Yes
LA Restaurant Association	Jeff Conaway	No
LA Association of Chiefs of Police	Chief Daniel Smith	No
At-Large	Delia Brady	No
At-Large	Dr. Beau Clark	Yes
At-Large	Judge Jules Edwards (Ret.)	Yes

STAFF
Kristy Miller, Office of Drug Policy

GUESTS
Pam Shadel Fisher, GHSA
Aimee Moles, LSU
Joey Jones, North LA Crime Lab
Robyn Temple, OMV
Autumn Goodfellow-Thompson, DOTD
Chéla Mitchell, LHSC
Dortha Cummins, Louisiana Highway Safety Commission
Catherine Childers, LHSC
Rachel Smith, LDAA
Laura Hopes Ellender, DPS-OLA
Brandy Axdahl, Responsibility.org
Bobby Breland, LA Highway Safety Commission
Barry Spinney, LA State Police