



**John Bel Edwards**  
Governor

# State of Louisiana

OFFICE OF THE GOVERNOR  
DRUG POLICY

**Dr. Chaunda Mitchell**  
Director, Drug Policy &  
Executive Director,  
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**Kristy Miller**  
Assistant Director

## GOVERNOR'S DWI TASK FORCE February 10, 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 10:03 am. She announced that there were 15 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.

Then, Lisa took a moment to discuss membership changes since the last meeting in August 2020. First, Lisa acknowledged that the At-Large position previously vacated has a new appointee from the Governor. His name is Judge Jules Edwards (Ret.). Secondly, Lisa acknowledged that the LA State Police Superintendent has designated a new representative, Lt. Colonel Chavez Cammon who is the Deputy Superintendent for Patrol. Thirdly, Lisa acknowledged that the LA Association of Chiefs of Police has appointed a new member, Chief David Smith from Olla Police Department. Finally, Lisa acknowledged that MADD has appointed a new representative, Kelley Dair who is both a Victims Services Specialist for MADD as well as the family member of a victim of an impaired driving crash.

#### **Unfinished Business**

*There was no unfinished business to discuss.*

#### **New Business**

##### *A. Discuss and Approve: Minutes from August 2020 meeting*

Lisa indicated that Kristy included the minutes from the August 2020 meeting in the email packet. She asked everyone to review them, and when appropriate, a motion could be made to accept them as written. Dr. Beau Clark, At-Large member, made a motion to approve the minutes. Norma Broussard DuBois, Designee of the LA District Attorneys Association, seconded the motion to approve the minutes. All members accepted the motion. None rejected the motion and none abstained.

##### *B. Discussion and Prioritization of Considerations for Addressing the Effects of Marijuana Legalization on Impaired Driving*

Lisa referenced the presentation from the August 2020 meeting conducted by Dr. Darrin Grondel. The title of Dr. Grondel's presentation was *Impacts on Legalization of Marijuana on Impaired Driving and Considerations*. Over the course of his presentation, Dr. Grondel offered 10 considerations for addressing the effects of marijuana legalization on impaired driving. These 10 considerations were (1) create a multi-disciplinary impaired driving task force and include

drug impairment as part of their scope; (2) evaluate data collection processes to ensure your state data systems are monitoring trends in use and consequences; (3) assess current DUI and DUID laws by conducting a gap analysis and finding places to improve language; (4) develop and implement a culturally aware educational campaign to help residents understand the difference between medical and recreational marijuana; (5) assess your toxicology data collection and analysis processes and, as part of that effort, shift everyone's standards for criminal evidence from urine to blood; (6) consider phlebotomy training for law enforcement to reduce time constraints on EMT, nurse, doctor, etc; (7) assess response protocol that involves blood and DRE testing for all fatal and serious injury crashes; (8) increase training for law enforcement, prosecutors, and judges on marijuana impaired driving; (9) create a regulatory agency that has full enforcement authority from seed to sale; and (10) seek dedicated funding from marijuana tax revenue for education, treatment and enforcement if your state legalizes.

Lisa went on to explain that the purpose of this meeting was to have a discussion about the each of the 10 considerations individually. The Task Force was instructed that they should discuss the merits of the recommendation, but within the context of whether each consideration falls within the purview of the Task Force. After the discussion about each consideration, the Task Force would consider those identified as being within their purview for prioritization in terms of willingness to work on the consideration. A ranking systems was offered: Priority 1 issues would be considered immediately in 2021; Priority 2 issues would be considered in 2022; and Priority 3 issues would be considered in 2023. Considerations that were not prioritized would be dismissed. Finally, the Task Force would begin action planning for those Priority 1 issues.

With agreement from members that this was an acceptable way to move forward, Lisa turned the presentation over to Kristy to moderate the discussion. Utilizing PowerPoint slides as visuals to display each consideration, the Task Force worked diligently through six of the ten considerations within the time allotted for the activity. Kristy scribed comments from the members and stakeholders in real time while everyone was encouraged to do the same in the "Activity Worksheet" emailed out prior to the meeting. Due to time constraints, it was determined that Kristy would transfer her notes to a centralized version of the "Activity Worksheet" and disseminate to members and stakeholders for review and any additional feedback. Then, the Task Force would pick up with discussing Considerations 7-10 at the May meeting. A contents of the centralized version of the "Activity Worksheet" is included as an Addendum to these minutes.

### *C. Potential Policy Actions: 2021 Legislative Session*

Due to time constraints, we were not able to address this agenda item.

### **Other Business**

#### *A. Office of Drug Policy update*

Dr. Mitchell had no updates.

#### *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 May 12, 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 Jules Edwards. It was seconded by Rebecca Nugent. All favored. No members dissented or abstained from approving the motion. Meeting adjourned at 12:06 PM.

### DWI TASK FORCE MEMBERS

<b>Member Agency</b>	<b>Appointee/Designee</b>	<b>Present</b>
Attorney General's Office	Amanda Martin	Yes
Governor's Office of Drug Policy	Dr. Chaunda Mitchell	Yes
House of Representatives member	Rep. Marcus Bryant	No
Office of Behavioral Health	Dr. Leslie Freeman	Yes
Office of Motor Vehicles	Kelly Simmons	Yes
Louisiana District Attorneys Association	Norma DuBois	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Office of Alcohol & Tobacco Control	Deatrice Henderson (for Ernest Legier)	No
Department of Transportation and Development	Adriane McRae	Yes
Louisiana Sheriffs' Association	Sheriff K.P. Gibson	Yes
Louisiana State Police Crime Lab	Rebecca Nugent	
Louisiana State Police	Capt. Cordell Williams (for LTC Chavez Cammon)	Yes
Property and Casualty Insurance Commission	Tom Travis	Yes
Senate member	Sen. Rick Ward	No
Mothers Against Drunk Driving	Kelley Dair	Yes
Louisiana Restaurant Association	Jeff Conaway	No
LA Association of Chiefs of Police	Chief Daniel Smith	Yes
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**

Joey Jones - North Louisiana Crime Lab  
 Chela Mitchell - Louisiana Highway Safety Commission  
 Rachel Smith – LA District Attorneys Association  
 Robyn Temple – Office of Motor Vehicles  
 Dortha Cummins – Louisiana Highway Safety Commission  
 Autumn Goodfellow-Thompson – Louisiana Department of Transportation and Development  
 Jared David - LSP Applied Tech/DECP State Coordinator  
 Cathy Childers – Louisiana Highway Safety Commission  
 Bobby Breland – Louisiana Highway Safety Commission  
 Mike Barron – Louisiana Highway Safety Commission  
 David Whitchurch – LSU Center for Analytics and Research in Transportation Safety (CARTS)  
 Betsey Tramonte – Federal Highway Administration  
 Dr. Aimee Moles – LSU Social Research and Evaluation Center (SREC)  
 Leann Cupit – LSU Social Research and Evaluation Center (SREC)  
 Frank Marrero – National Highway Traffic Safety Administration (NHTSA)

**FEEDBACK WORKSHEET FOR DISCUSSION AND PRIORITIZATION**

Considerations for Addressing the Effects of Marijuana Legalization on Impaired Driving  
DWI Task Force Meeting □ February 10, 2021

<b>CONSIDERATION</b>	<b>RELEVANT TO DWI TASK FORCE (Y, N)</b>	<b>PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)</b>	<b>COMMENTS &amp; NOTES FROM MEETING</b>
CONSIDERATION #1: Create a multi-disciplinary statewide impaired driving task force and include drug impairment prevention as part of its scope	Yes		The consensus of the group was that this consideration falls under the purview of the DWI Task Force. Actually, most everyone posited that the DWI Task Force already does this.  Similarly, most everyone posited it would be acceptable, and likely advisable, to strengthen the consideration by moving beyond an Executive Order as the genesis for this Task Force and actually have a statute passed that designates clear direction to include drug impairment as well as alcohol impairment, designate some authority for the Task Force, and possibly, funding for the DWI Task Force. The Chair suggested that since we do have legislators on the Task Force, it may not be such a heavy lift to get the Task Force codified.

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #2: Evaluate data systems, e.g. Traffic Crash Data, Toxicology, Poison Control, Hospital, Drug Seizure, etc.</p> <p>a. What information is collected? How is collected? Who has access for analysis?</p> <p>b. Is anything missing such as arrest data, public perceptions/attitudes on driving, healthy youth surveys, etc.?</p> <p>c. Can we establish baselines with current data available?</p>	<p>Yes</p>		<p>DOTD rep shared that traffic crash data system is being improved to align with MMUCC which will help better provide drug impairment data. Crime Lab rep shared that tox data is robust and gets better all the time.</p> <p>A question was raised about attitudinal data because that seems to be missing. LHSC reps agreed; they offered that their evaluation and research efforts don't ask about attitudes toward marijuana use and driving now (just alcohol), but offered that their instruments could be modified. OBH rep offered that CCYS does collect some attitudinal and perception data from 6<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> graders. Data could be culled to see what relates to impaired driving and/or marijuana use. Further, OBH rep agreed that her department could work with the CORE survey data administrator to analyze current questions and potentially add to the survey. MADD rep offered that The Sudden Impact program gives surveys to students who go through their program and may be able to incorporate a marijuana question if not already included.</p> <p><b><u>Action items suggested:</u></b></p> <ul style="list-style-type: none"> <li>• Create a data subcommittee.</li> <li>• Conduct a gap analysis of currently known data systems.</li> <li>• Poll agencies to confirm what they currently have and ask about what other data is collected regarding impaired driving.</li> <li>• Ask agencies about feasibility and willingness to add question(s) about drug/MJ impairment.</li> <li>• Check with agencies outside of the DWI Task Force members and stakeholders (e.g., LSBME and their data collection on MMJ adverse effects)</li> </ul>

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #3: Assess current DUI and DUID laws – definitions, laws, gap analysis</p> <ul style="list-style-type: none"> <li>a. What Driving Under the Influence of Drugs (DUID) laws will be considered?</li> <li>b. Zero Tolerance – Illegal to drive with any amount of specified drugs in the body</li> <li>c. Per se: illegal to drive with amounts of specified quantification in the body exceeding set limits (e.g. 5 ng) delta 9 THC or carboxy</li> </ul> <p>What does judicial process look like - review current laws, sanctions, and training?</p> <p>What does Incarceration environment look like – SUD treatment, mandatory minimum sentences, re-entry support?</p>	<p>Yes</p>	<p>Sooner rather than later</p>	<p>While there was strong consensus that our law to address DUID is clearly and strongly worded, there was not consensus on how to achieve that.</p> <p>On one hand, a LHSC stakeholder suggested that we need to have a separate statute for DUID and even referenced that this has been a recommendation by NHTSA in the past.</p> <p>On the other hand, a LDAA stakeholder was hesitant to tackle a separate law because of increased polysubstance use. Our law is good in that it currently encapsulates everything. The LDAA rep agreed by saying that impairment is impairment so our law should be about driving while impaired regardless of substance. There is a concern that if a driver tests positive for alcohol as well as one or more other drugs and there are two separate laws, prosecutors will ask, “which statute should I charge under?” and go with the easiest to prove. Instead, a strong comprehensive impaired driving law will allow for prosecution regardless of substance, and/or with a mix of drugs in system. We still have to prove impairment regardless.</p> <p>The Crime Lab rep shared that the consensus of LSP Applied Tech folks say the ideal law would be about failure of SFST, ARIDE, DRE test and positive result of drugs in blood. Another Crime Lab stakeholder shared that the state where he worked previously had per se laws for a number of other drugs including cannabis, and that was really dangerous and caused many problems. What he thinks would be a better idea is failure of a SFST/DRE and a positive test for drugs in the system.</p>

		<p>LDAA rep said maybe the key is tightening up the definitions within our law, instead of being so specific. Impairment is impairment, so maybe we need to tighten up the definition of impairment. It can also help with polysubstance use.</p> <p>LDAA stakeholder said maybe we should look at adding the word “impairment” to our statute. Also, work with Traffic Records committee so everyone uses the same disposition codes because without a uniform court system, we still have problems. Though perhaps improving that system will allow our current law to work well for “Other drug” data collection too.</p> <p>At-Large rep expressed concern that adding a definition of impairment to the statute would be helpful. It may make prosecution even harder. Right now it just says intoxication. Perhaps we need the statute to be more clear and directive about how law enforcement should respond to an impaired driving stop to include what the evidence collection looks like and how the drug impairment determination was made (SFST vs. ARIDE vs. DRE). Further, we may want to have some changes of what happens at booking such as screening for SUD as a condition of the bond. So, the question is how much information are we collecting upfront to help make the case for prosecution?</p>
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<p>CONSIDERATION #4: Develop and implement an educational campaign with materials in multiple languages and relevant to various cultures</p> <ul style="list-style-type: none"> <li>• Public perception of harms caused by marijuana use are at all-time low</li> <li>• Need to distinguish medical from recreational marijuana</li> <li>• Do people see driving after smoking as dangerous as driving after drinking? How can we change that?</li> <li>• Drugged driving is not just a nighttime or weekend issue but is prevalent day and night</li> </ul>	<p style="text-align: center;">Yes</p>		<p>There was unanimous agreement that this consideration is relevant to the Task Force. An At-Large rep stated that this consideration should be one of the major goals for the Task Force as defined in Consideration #1. The LHSC rep agreed because she feels this is a continuation of the work many of our agencies have been doing, and advocated that we must keep doing it. We must make sure people understand that, if legalization happens, this isn't a green light to drive after using. The biggest question on the table is how to fund campaigns like this.</p> <p>Several members offered resources to assist with implementing this consideration:</p> <ul style="list-style-type: none"> <li>• PSA from Australia that was shown during a recent LDAA marijuana impaired driving webinar.</li> <li>• SHSP statewide Impaired driving EA team and regional safety coalitions would be able to support these types of educational campaigns and outreach</li> <li>• DITEP (drug impairment training for educational professionals) handled through the DRE program (From IACP website [<a href="https://www.theiacp.org/ditep">https://www.theiacp.org/ditep</a>] - This training is intended to provide school administrators and nurses with a systematic approach to recognizing and evaluating individuals in the academic environment who are abusing and impaired by drugs, both legal and illegal, in order to provide early recognition and intervention)</li> </ul>

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #5: Toxicology evidence collection and analysis – Shift everyone’s standards for criminal evidence from urine to blood</p> <ul style="list-style-type: none"> <li>• What chemical evidence is your current standard - Oral Swabs, Blood or Urine?</li> <li>• How do you increase understanding of why blood is so important?</li> <li>• Explain how blood analysis can tell active vs. inactive cannabinoids, approximately time since last use, etc.</li> <li>• If legalization occurs, you will need screening levels, sensitivity or tolerances consistent across jurisdictions.</li> </ul>	<p>Yes</p>		<p>Unanimous agreement: Combine this consideration with Consideration #6</p> <p>An At-Large member agreed that blood is way far superior in the instance of impairment for living and deceased people. Crime Lab rep agreed that until we get oral fluid testing widely used, blood is the way to go. She shared that the Crime Lab has improved the blood collection kits to make it even easier to collect it. Blood testing kits usage has increased, but with that, positive tests for THC have increased exponentially.</p> <p>A Crime Lab stakeholder advised that we be aware of the research and application being done around oral fluid testing. Also, we should be aware of the commercial push for breath tests for marijuana (major company is houndlabs.com. Looking forward to seeing some good independent research this summer.</p> <p>An LSP Applied Tech stakeholder offered that LSP is supportive of moving the standard, but cautioned that we have to give the LEs something better than tying up their time if we go to this standard. A solution offered by the LDAA rep is that for jurisdictions that have medical personnel on call at jail, add to their contracts that they should have the ability to draw blood. An At-Large rep offered another solution that DA’s offices should have some contract nurses on call so they can respond when samples need to be collected and then their contract also requires that they are available for testifying. This is very similar to what EBRP DA does for sexual assault cases as it relates to having medical professionals on contract to conduct SA investigation.</p> <p>Formal recommendation by LDAA rep to combine #5 and #6.</p>

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #6: Consider phlebotomy training for law enforcement</p> <ul style="list-style-type: none"> <li>• Drug impaired driving crashes are increasing</li> <li>• More roadside investigations by Drug Recognition Experts (DREs) are occurring</li> <li>• How do you reduce time spent on roadside or at station waiting for blood draw when DRE concludes drug impairment?</li> <li>• How do you ease constraints on EMTs, nurses, doctors during pandemic and also help in rural areas where medical personnel have to travel long distances?</li> </ul>	<p>Yes</p>		<p>Unanimous agreement: Combine this consideration with Consideration #5</p> <p>An LHSC stakeholder shared that the SHSP statewide impaired driving emphasis area (IDEA) plan previously included a step to research feasibility and write language of implementing law enforcement phlebotomy training. There are many examples from states that have been doing this with Arizona considered to be the gold standard state.</p> <p>The Crime Lab rep offered that previous resistance has been from agency legal teams, including but not limited to LSP. Part of our efforts to move forward with this need to be focused on helping legal departments be comfortable with this. When asked what the major concern was, an LSP stakeholder shared that legal teams are worried about liability. However, he shared that the Task Force needs to work on framing blood collection by LEs as evidence collection, because at its core, that is what it is. As long as they are trained and certified, liability is a small concern. Needs a paradigm shift in thinking.</p> <p>The LSP rep suggested that we could look at an immunity clause (to liability) as part of the initiative. He confirmed that they are still pursuing it as well. Finally, he agreed that MOUs between local LEAs and neighboring medical resources may be something to recommend until this initiative gets under way.</p>

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #7: Assess response protocol for all fatal and serious injury crashes</p> <ul style="list-style-type: none"> <li>• Do all fatally injured drivers have a toxicology examination?</li> <li>• Do all surviving drivers get assessed by a DRE?</li> <li>• If no alcohol present or detected, do you request warrants for blood to determine drug presence?</li> </ul>			

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #8:            Increase training for law enforcement, prosecutors, and judges on marijuana impaired driving</p> <ul style="list-style-type: none"> <li>• All LEs should get SFSTS &amp; ARIDE. Increase DRE base.</li> <li>• How is DRE viewed for impaired driving? Is this a priority for prosecutors for DUI cases?</li> <li>• Entire adjudication field needs to consider the totality of the circumstances and not get locked in just looking for alcohol and/or cannabis. See the whole picture; poly-drug use is on the rise nationally.</li> <li>• Prosecutors and judges need training on cannabis now!</li> <li>• Training on how to use electronic search warrants</li> </ul>			

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #9:            Create a Regulatory Agency specifically for marijuana</p> <ul style="list-style-type: none"> <li>• Must be in place prior to the implementation of a commercial marijuana sales</li> <li>• Must have a section with full enforcement authority</li> <li>• One agency needs to be responsible for tracking from seed to sale</li> <li>• Must have sections focused on packaging and consumer safety</li> <li>• Must be able to promulgate its own rules and regulations</li> </ul>			

CONSIDERATION	RELEVANT TO DWI TASK FORCE (Y, N)	PRIORITY LEVEL (FOR Y, Rank 1, 2, 3, none)	COMMENTS & NOTES FROM MEETING
<p>CONSIDERATION #10:            Seek dedicated funding from tax revenues on marijuana (when legalized) for impairing driving education and enforcement and treatment. Funds should go to state and local agencies that focus on</p> <ul style="list-style-type: none"> <li>• behavioral health/substance use disorder treatment</li> <li>• highway safety</li> <li>• enforcement</li> <li>• consumer protections</li> <li>• poison control</li> <li>• toxicology</li> <li>• other areas in the public's interest</li> </ul>			