CALIFORNIA IMPARIED DRIVING TASKFORCE
"Best Practices & Protocols" (BPP) Subcommittee Report

The "Best Practices & Protocols" (BPP) subcommittee of the Impaired Driving Taskforce was formed on January 24, 2019 during the full, regularly scheduled meeting. The BP subcommittee is comprised of a diverse group of Taskforce members who volunteered for this assignment*. Although offered, no public attenders were present at either of the two subcommittee meetings (1/24/19 & 4/17/19). Anthony Albanese and Michael Yraceburn were chosen by the BPP subcommittee to serve as chairman and co- chairman respectively. The primary goal of the BPP subcommittee is to identify, based on expertise, experience, and evidence**, what we consider to be "best practices & protocols" in preventing, identifying, and adjudicating cases of impaired driving related to cannabis use in the state of California. Five areas were specifically chosen, and BPP recommendations for each of the following areas is included in this report:

1) Educating the public (pre-adolescent, adolescent, and adult)
2) Educating Officers (CHP, Police, and Sheriff)
3) Educating Criminal Justice Officials (Judges, Prosecutors, Defense Attorneys, Court Officers, Probation Officers)
4) Technology to detect impairment and the presence of psychoactive drugs/metabolites.
5) Enforcement.

1) Educating the Public

We understand that there is a specific "Education and Prevention" subcommittee and solicit their ideas and opinions in developing a comprehensive education strategy. However, there may be some overlap as the educational components played a large role in BPP discussions also.

We divided public education into 3 components, pre-adolescent, adolescent, and adult. **Because drug use is often initiated in pre-adolescence and early adolescence, the BPP committee recommends that information about the psychoactive effects of cannabis, alcohol, and other drugs should begin early. The education curriculum should be included in school, be age appropriate, fact based and promote abstinence from cannabis. It should be focused on recognition of impairment, and the medical risks and consequences of underage use. Further, education should be multimodal, incorporate role-play and techniques to help children express their feelings and potentially avoid the dangerous situation of being a passenger in a vehicle with an impaired driver.** These focus areas could be expanded to include legal consequences of impaired driving should be reinforced as students learn how to drive and obtain their driver's license. Prop 64 has funds earmarked for prevention initiatives and should be used to support these programs.

Adult education should be divided into 2 components, general and specific. The general training would be for all adults, and should be focused on recognition of impairment in self and others, the legal consequences of impaired

driving, and avoiding the dangerous situation of being a passenger in a vehicle with an impaired driver. It should be broadly advertised and distributed through a variety of media in a variety of languages, with the hope of reaching all adults in the state of California. In addition to the above, the specific education would include timelines of intoxication after use, and begin at the point of cannabis sale (POS). It would require written warning labels, signs and posters at the POS that are not only cannabis specific, but include the risks of mixing cannabis with alcohol and other psychoactive substances. With licensing of lounges for onsite consumption of cannabis, education on impairment timelines and recognition should be a requirement for staff. On-site video games (such as "EndGame" used in Colorado) are a way of providing timely, targeted information to consumers about impaired driving in an attractive user-friendly format.

2) Educating Officers

Training currently available for officers includes courses in Cultural Awareness (CA), Standardized Field Sobriety Testing (SFST), Advanced Roadside Impairment Driving Enforcement,(ARIDE) and Drug Recognition Expert (DRE). The BPP subcommittee reiterated the importance of ongoing bias recognition training and cultural awareness. Both CA and SFST trainings are part of the Peace Officer Standards and Training (POST) ongoing curriculum requirements. While the most basic course (SFST) is taught in police academy to all Officers, ARIDE is not. ARIDE is a national 2 day course enhancing skills in driving impairment recognition. **The BPP subcommittee recommends that all traffic law enforcement officers (including Police and Sheriff Department Deputies) must receive training in ARIDE, and annual continuing education in driving impairment recognition.**

DRE training requires 72 hours of classwork plus 30-32 hours of supervised field certification plus ongoing training every 2 years. This is the premier training and certification for recognizing and understanding substance related driving impairment. As we examined the logistics of increasing percentages of DRE trained officers in each county or station, we learned that many officers leave traffic enforcement for lack of an established, well defined career path in this area. **Given the magnitude of morbidity and mortality related to impaired driving, the BPP subcommittee recommends that a career path be established in this area of law enforcement**. A defined career path with advancement opportunities would allow those with much experience to stay focused in this specialized area, and mentor interested officers with less experience. **With an established career path in mind, the BPP subcommittee recommends a goal to increase the percentage of DRE trained California Highway Patrol officers to 25% in the next 5 years.**

3) Educating Criminal Justice Officers

Criminal Justice Officer (CJO) is a broad term we used to include judicial officers, district attorneys (and other prosecutors), defense attorneys, court officers, probation officers, child welfare workers, DMV hearing officers, and probation officers. **The BPP committee recommends mandatory use of educational modules aimed at increasing the overall level of understanding about addiction, drugs of abuse, bias, behavior modification, and factors contributing to impairment through an**

initial course with annual refreshers and updates through required continuing education. Goals of education would be for CJOs to assist in preventing impaired driving by successfully modifying the behavior of people who have driven under the influence of drugs while holding them accountable for harms resulting from their actions. Curriculum may differ slightly by discipline, and would be chosen or created by the agencies responsible for establishing initial and continuing education requirements. **The BPP subcommittee also recommends that the time between appointment to a CJO position and completion of the above mandatory training be as soon as possible but no longer than 2 years.**

4) Technology

We understand that there is a specific "Technology" subcommittee and solicit their ideas and opinions in developing a comprehensive strategy for addressing assessment tools to detect impairment and drug presence/level detection. The BPP subcommittee does not feel that there is currently enough evidence to establish a "***per se***" blood, serum, or oral fluid level to determine impairment from cannabis and/or it's psychoactive metabolites. Although there is no question that cannabis (as a single intoxicating agent) can cause driving impairment, evidence from national surveys suggests that impaired driving is more often related to a combination of drugs than it is to cannabis alone. Studies conducted in other states that have legalized cannabis relate similar findings**. For these reasons, it is the recommendation of the BPP subcommittee that evidence of driver impairment is needed in addition to cannabis presence/level to conclude that a driver is impaired from cannabis intoxication**.

Our discussion about technology to determine and verify roadside impairment cues primarily centered on the routine use of recording devices to be used by officers performing the standardized roadside sobriety tests. The discussion included use of audio/visual body cams and vehicle cameras combined with audio recording devices worn by the officer. The idea of consistently positioning the vehicle and the suspect to provide a video recording of the SFST was thought to be too dangerous for both the officer and the suspect. The cost of equipping every officer with a body cam was thought to be prohibitively expensive, though the up-front cost might ultimately save legal costs from frivolous cases in which officer veracity is questioned. BPP subcommittee members with courtroom experience felt that for a variety of reasons audio recordings of SFSTs are most useful in that setting. **It is the recommendation of the BPP committee, that audio/visual body cams are the preferable devices, but at a minimum, full audio recordings should be part of all SFSTs.**

Discussion about drug testing technology for cannabis (and other drugs) centered on the ability of current tests to accurately assess psychoactive compounds. Because of rapid metabolism, preliminary alcohol screening is performed within 15 minutes of a traffic stop. Likewise with cannabis, the tests to determine the presence and level of delta 9 tetrahydrocannabinol and it's active metabolite 11 hydroxy-tetrahydrocannabinol, must be done as rapidly as possible after driving impairment is suspected (by SFST cues) to achieve the greatest accuracy. Currently, commercially available oral fluid testing devices (which could be used immediately after driving impairment is suspected) can accurately determine the presence of psychoactive drugs,

but not the levels. The "gold standard" test to determine drug levels is a blood or serum test confirmed by either High Performance Liquid Chromatography (HPLC) or Gas Chromatography (GC) combined with mass spectroscopy (MS). This is usually performed at a police station after examination by a DRE. Because of drug metabolism, delays in transporting the suspect and completing the DRE limit the accuracy of the quantitative test. **For these reasons, it is the recommendation of the BPP subcommittee that Oral Fluid testing be performed within 15 min of the traffic stop, immediately after SFST cues lead the arresting officer to suspect driving under the influence (DUI). The oral fluid test should be a drug panel rather than for a single substance. The second recommendation is that blood (or serum) be collected within 1 hour of DUI suspicion, and should include an extended drug panel along with confirmatory and quantitative HPLC/MS or GC/MS for positive results.** This timeframe requires that blood be collected prior to the DRE exam.

5) Enforcement

Several considerations in the area of cannabis DUI enforcement were addressed by the BPP subcommittee. The first is the importance of using education as a tool to prevent recurrent problems with cannabis related DUI. **One BPP subcommittee recommendation is to add specific cannabis modules and a victim impact panel to the current mandatory DUI driving school. A second is to use drug courts for adjudication and sentencing in non-injury single vehicle arrests.** The latter would allow inclusion of an experiential educational component along with the passive learning obtained through the added cannabis module. In either case, the important elements of acknowledging responsibility and making reparations to any/all victims are included.

The second aspect of enforcement discussed was the importance of gathering data and looking at intervention outcomes. As more psychoactive, impairment producing substances are legalized, DUI has to be considered a public health issue. **The BPP committee recommends using all data collected from those convicted of cannabis related DUI to develop better methods of screening for, and prevention of, "any drug" DUI infractions. Data should guide future DUI policy revisions.**

SUMMARY OF RECOMMENDATIONS:
1) **Age appropriate, fact based education should begin early and be ongoing. It should direct children to avoid using cannabis and/or avoid riding in a vehicle with an impaired driver.**
2) **Adult focused cannabis education must be aimed generally to the public, and specifically to cannabis users (beginning at the point of sale).**
3) **Warning labels, signs, and posters must be used on cannabis containers and at the POS describing cannabis specific driving risks along with the risks of mixing cannabis with alcohol and other psychoactive substances.**
4) **All traffic law enforcement officers (including Police and Sheriff Department Deputies) must receive training in ARIDE, and annual continuing education in driving impairment recognition.**
5) **Increase the percentage of DRE trained California Highway Patrol officers to 25% in the next 5 years.**

6) **Train Criminal Justice Officers about addiction, drugs of abuse, bias, behavior modification, and factors contributing to impairment through an initial course with annual refreshers and updates through required continuing education.**

7) **The time between appointment to a CJO position and completion of initial training course be as soon as possible but no longer than 2 years.**

8) **Evidence of driver impairment is needed in addition to cannabis presence/level to conclude that a driver is impaired (at least in part) from cannabis intoxication.**

9) **Audio/visual body cams are the preferable devices, but at a minimum, full audio recordings should be part of all SFSTs.**

10) **An Oral Fluid drug testing panel including delta 9 tetrahydrocannabinol and it's active metabolite 11 hydroxy- tetrahydrocannabinol must be performed within 15 min of the traffic stop as is done with preliminary alcohol screening, immediately after SFST cues lead the arresting officer to suspect driving under the influence (DUI).**

11) **Blood must be collected within 1 hour of DUI suspicion, and should include an extended drug panel, with confirmatory and quantitative HPLC/MS or GC/MS for positive results.**

12) **Add specific cannabis modules and a victim impact panel to the current mandatory DUI driving school.**

13) **Use drug courts for adjudication and sentencing in non-injury, single vehicle arrests.**

14) **Collect data from those convicted of cannabis related DUI to develop better methods of screening for, and prevention of, "any drug" DUI infractions. Data should be statewide, and guide future revisions of DUI policy.**

* Best Practice & Protocols Sub-Committee Members

1) Anthony P. Albanese, MD – Chairman- Physician, Addiction Medicine Specialist
2) Michael J. Yraceburn, JD – Co-Chairman- Kern County Deputy District Attorney
3) Phillip Drum, PharmD – Pharmacist
4) Vaughn Gates - California Narcotic Officers' Association
5) Chuck Hayes- International Association Chiefs of Police
6) Marcus James – California State Sheriffs' Association
7) Harinder Kapur- California Department of Justice
8) Ellen Komp- California National Organization for the Reform of Marijuana Laws
9) Amanda Martin - California District Attorneys Association
10) Joseph McCullough – Alcohol Beverage Control
11) Chris Murphy – National Highway Traffic Safety Administration
12) Nicole Osuna – Office of Traffic Safety
13) Luke Rodda, MD – San Francisco Medical Examiner

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