

California Highway Patrol
Impaired Driving Task Force
Best Practice Protocols Subcommittee Meeting Minutes

April 17, 2019

601 N. 7th Street

Sacramento, CA 95811

MEMBERS PRESENT

California Narcotic Officers' Association – Vaughn Gates

California National Organization for the Reform of Marijuana Laws – Ellen Komp

Kern County Deputy District Attorney – Michael Yraceburn

California State Sheriffs' Association – Marcus James

Department of Veterans Affairs – Dr. Anthony Albanese

Pharmacist – Dr. Phillip Drum

Medical Examiner, San Francisco – Dr. Luke Rodda

California Department of Justice – Harinder Kapur

MEMBERS ABSENT

Alcohol Beverage Control – Joseph McCullough

National Highway Traffic Safety Administration – Chris Murphy

California District Attorneys Association – Amanda Martin

Office of Traffic Safety – Nicole Osuna

International Association Chiefs of Police – Chuck Hayes

GUESTS

California Highway Patrol – Sergeant Oscar Chavez, Officer Spenser Smith, Mallory Khamchanh, Sarah DeFazio, Vanessa Martinez, Noah Sherman

OPENING COMMENTS

Mr. Michael Yraceburn called the meeting to order. Mr. Vaughn Gates made a motion to approve the January 24th, 2019 subcommittee meeting minutes, the motion was seconded by Dr. Phillip Drum, and all members in attendance voted to approve the meeting minutes without change.

Public Comment

No member of the public attended.

Educating the Public

Mr. Michael Yraceburn opened the discussion to educating the public on impaired driving and what best practices would be regarding the topic. There was a request that all subcommittee meeting minutes be shared with the entire task force. Sergeant Oscar Chavez noted the request.

Ms. Ellen Komp questioned the topic of educating First 5 and pre-adolescence because the task force is to combat impaired driving. She brought up the point that the D.A.R.E. Program no longer exists because multiple studies showed that it increased alcohol and drug use. Mr. Yraceburn disputed this and argued that the discussion was regarding making smarter choices at a younger age. Starting at First 5 would impact impaired driving most, since children between 2 and 5 years old have the most elastic brain wiring to affect behavior modification. A group discussion began on the target groups the task force should be focusing on and what would be age appropriate. Mr. Yraceburn requested inquiries regarding education go directly to the education subcommittee so that the best practice subcommittee can make more informed recommendations. Ms. Harinder Kapur made a recommendation for drug impairment curriculum be part of the health classes in middle school and high school. Ms. Komp noted that Proposition 64 has funds that are earmarked for funding drug prevention. The discussion moved to fact-based education of drug impairment regarding the consumption of cannabis in all its forms (i.e. edibles). Dr. Drum stated all passengers, regardless of age, should express themselves when they feel like they are in a dangerous situation like getting into a vehicle with impaired drivers.

Dr. Anthony Albanese summarized the topic by re-stating the focus on fact-based education for adolescence and how to extricate yourself from a dangerous situation involving impaired driving.

Dr. Albanese posed the discussion of differences for adult education on impaired driving. Ms. Komp noted the difference is the legality of using cannabis as an adult. Ms. Kapur suggested a warning label be added to cannabis products by cannabis retailers and retailers should be responsible for training “budtenders” to educate the public at the point of sale. The topic of using warning materials within dispensaries and cannabis lounges was discussed amongst the members. Dr. Drum emphasized the

importance of consumers seeking advice from medical professionals before the use of cannabis with other drugs and operating a vehicle. Ms. Kapur clarified the type of warning labels and signs on cannabis products would educate consumers on the effects of consuming cannabis.

Mr. Gates stated there is increased impairment when there is a combination of cannabis and alcohol. Dr. Luke Rodda stated two-thirds of driver in San Francisco with cannabis in their system, also had alcohol. With the licensing of lounges for onsite consumption of cannabis, the education of impairment needs to be a requirement for staff. Mr. Albanese reiterated the education of cannabis and its symptoms and peak levels at the point of sale. Mr. James stated Colorado's Traffic Safety Program utilizes a video game incorporating safety warnings concerning the consumption of cannabis. Consumers must play the game and utilize the safety warnings before moving to the next level. At the end of the game, you would be entitled to a discount.

Dr. Drum wanted to clarify the information regarding educating the public would be forwarded to the Education Subcommittee. The focus of the present task force subcommittee is policy and best practice for impaired driving. Dr. Albanese stressed the importance of voicing changes to the agenda and talking points before the meeting occurs. He also clarified education and technology are important factors to discuss when debating best practices.

Public Comment

No member of the public attended.

Educating Officers

Dr. Albanese moved the conversation to educating officers and noted there have been questions of bias and profiling in the past so there should be a recommendation for officers to receive bias training as a best practice. Ms. Komp requested more information on the bias training officers receive.

Sergeant Oscar Chavez clarified that law enforcement receives bias training. The California Highway Patrol receives continuous education on Cultural Awareness training.

Mr. Gates stated the subcommittee should be focusing on taking impaired drivers off the roadways rather than attempting to reinforce training law enforcement officers are already receiving. The Standardized Field Sobriety Testing (SFST) and Advanced Roadside Impaired Driving Enforcement (ARIDE) courses train officers to identify and reduce impaired drivers on the roadways. Mr. Yraceburn recommended all traffic law enforcement officers should be trained in ARIDE as a best practice. A discussion of required training for law enforcement officers began. There was a discussion on the level of training – SFST, ARIDE, or Drug Recognition Expert (DRE) – a law enforcement officer should receive. Mr. Yraceburn noted the cost for requiring DRE training for each

officer. Ms. Kapur suggested a best practice to be an increased percentage of DRE trained officers in each county or station and supplementing more grant funds for additional training. Mr. James noted that some officers may not find interest in DRE training. There should be education within the police departments on training officers to recognize the dangers of impaired driving.

Ms. Kapur brought up the discussion of combating law enforcement officers' attitude towards DUIs and impaired driving. Dr. Albanese suggested incentivizing a career path in the traffic division rather than using the traffic division as a stepping stone. Ultimately, the subcommittee decided to recommend training officers in recognizing impaired drivers at academies, require on-going advanced training for recognizing signs and symptoms of impaired driving for all officers, and increasing the percentage of DRE trained California Highway Patrol officers to 25% in the next 5 years.

Public Comment

No member of the public attended.

Educating Criminal Justice Officers

Ms. Kapur noted district attorneys do not want to take on cannabis offenses due to the overall cost of prosecuting drug offenses because the results are misdemeanors and infractions. Mr. Yraceburn suggested the education and punishment for driving impaired will change the behaviors of people willing to drive under the influence. Mr. Yraceburn recommended educating judges, prosecutors, and defense attorneys on drug impairment, so they understand the dangers of impaired driving. Ms. Kapur added the importance of prosecuting these cases is to hold people accountable and to prevent impaired driving. The level of impairment should not be a factor when prosecuting impaired drivers because the individual was ultimately unable to safely operate a vehicle. There was a discussion on access and requirement of continued education on impaired driving for court officials. Mr. James said extensive training for district attorneys on prosecuting cases involving cannabis may allow for more prosecutions of drug offenders.

Mr. Yraceburn recommended that all district attorneys and public defenders receive impairment training within two years of joining a district attorney's office.

The subcommittee agreed training on impaired driving is required when accepting a position in public office and continuing education on impairment and bias for criminal justice officers.

Public Comment

No member of the public attended.

Technology

There was a discussion about the available technology for roadside testing on suspected impaired drivers. Dr. Rodda made the recommendation of a standardized oral fluid testing program for the state, in addition to the blood testing program. Dr. Drum suggested all roadside tests should be videotaped by body cameras or vehicle cameras. The accuracy of roadside tests was brought into question since there are various types of oral fluid tests that provide different forms of results. Dr. Rodda suggested all roadside tests should be confirmed with a mass spectrometer. Mr. Yraceburn stated blood testing is more concrete than oral testing when prosecuting impaired drivers.

There was a discussion about the various types of oral fluid tests and their results.

Dr. Albanese redirected the conversation to best practices the subcommittee could recommend. He reiterated the recommendations posed to the subcommittee – administering oral fluid testing under an hour of the arrest and obtaining a blood sample as soon as possible to confirm toxicology and using body cameras when administering sobriety tests.

Mr. James stated body cameras are not standards for all law enforcement officers due to cost. Vehicle cameras are not always readily available because officers could be performing tests indoors. Vehicle cameras and other recording devices were debated for best practice. Dr. Drum noted that the recommendation is for videotape or audio recording of sobriety tests performed. Mr. Yraceburn stated the audio of field sobriety tests is more useful in a court procession.

The recommendation for technology was onsite oral fluid testing including blinded results, so DRE testing is not bias and confirming results with blood tests with multiple-drug testing as soon as possible.

Public Comment

No member of the public attended.

Enforcement

Dr. Albanese suggested best practice to be a diversion program for single vehicle crashes with no injuries involving impairment. After any DUI, you would have to go through a driving school. These driving schools can be required to have a drug impairment training. Mr. Yraceburn recommended content on drug impairment should be included in driving school. The focus should be on preventing impaired driving rather than prosecuting or penalizing offenders.

Dr. Rodda suggested testing more drivers for impairment with more comprehensive tests to collect more data on impaired driving. Observing drivers and noticing

symptoms of impairment on roadways will allow for officers to use more preventative measures to combat impaired driving.

Ms. Kapur suggested data be collected on first time offenders including the reason of their stop, results of the lab testing, prosecution, and their results in enforcement programs. Mr. James asked if there was a mandatory DUI driving school for all individuals convicted of a DUI. Mr. Yraceburn clarified that the driving schools are required for all individuals convicted of a DUI regardless of what type of impairment. Mr. James suggested a victim impact panel be included in the current driving schools available.

WRAP UP AND SUMMARY

Dr. Albanese summarized the recommendations of the various topics discussed amongst the members. Members recommended that adolescent education be focused on prevention of impairment when driving and providing fact-based information on drugs and their symptoms. For adults, the recommendation was to begin the education on impaired driving at the point of sale with committee-approved handouts and education of “budtenders” in lounges where cannabis is consumed. There would also be an interactive tool like Colorado’s impaired driving prevention videogame. The general recommendations for educating officers is to start education at the academies, require regular and ongoing training to recognize impairment, and incentivizing departments and officers to obtain DRE certifications. There is also a goal of 25% of California Highway Patrol officers to become DRE certified. Criminal justice officers should be trained in drug impairment and DAs should have training in impairment within two years of appointment to public office. Ms. Kapur recommended to include bias training for prosecutors as well.

The importance of a statewide, onsite blind oral fluid testing program that is administered within an hour of a stop. The results of the oral fluid test would then be confirmed with a blood test done in a laboratory testing for multiple drugs, if possible. The roadside sobriety tests would also require audio and/or videotape confirmation of the stops. Dr. Rodda stated the hour requested for oral fluid testing should be the time limit to get a blood sample and the oral fluids should be collected within 5-15 minutes. There was a discussion of the technology available for roadside testing and devices available to law enforcement. Sergeant Chavez clarified the process of an impaired driving roadside investigation for those suspected of driving impaired. Dr. Rodda requested oral fluid samples be collected and sent to labs in devices that do not corrupt the sample.

A recommendation for enforcement was to require driving schools to include content on impaired driving regarding drugs and cannabis. There would be a focus on public health involving more testing on suspected impaired drivers. Enforcement would also divert from a punitive stance to more education on avoiding impaired driving and there would also be a start of data collection on the success of these education programs as soon as possible.

Ms. Kapur mentioned that there are some best practices that are already in place and could be altered rather than replaced. The constant changes in policy will also affect the subcommittee's recommendations for best practices.

NEXT STEPS FOR SUBCOMMITTEE

Dr. Albanese will request meeting minutes and input from other subcommittees. Dr. Rodda to find out if there are laboratories that test both oral and blood samples for drugs.

MEETING INFORMATION

The next subcommittee meeting will be scheduled at a future date. Public posting will be uploaded to the CHP public website.