

**CALIFORNIA HIGHWAY PATROL**  
**IMPAIRED DRIVING TASK FORCE**  
**TECHNOLOGY, RESEACH AND DATA SUBCOMMITTEE**  
**MEETING MINUTES, THIRD MEETING**

**June 4, 2019**

**601 North 7th Street**

**Sacramento, CA 95811**

**MEMBERS PRESENT:**

Ms. Kristen Burke - California Department Justice, Laboratory Director (Chair)

Dr. Thomas Marcotte - University of California, San Diego, Center for Medicinal Cannabis Research, Professor of Psychiatry (Co- Chair)

Dr. Robert Fitzgerald - University of California, San Diego, Center for Medicinal Cannabis Research, Director of Toxicology Laboratory

Mr. Dale Gieringer - California National Organization for the Reform of Marijuana Laws, Director

Mr. Scott MacGregor - National Highway Traffic Safety Administration, Regional Law Enforcement Liaison

Chief Ken Corney - California Police Chiefs Association and Ventura Police Chief

Ms. Jennifer Harmon - Orange County Crime Laboratory, Laboratory Director

**MEMBERS ABSENT:**

None.

**INVITE GUESTS:**

Dr. Nick Anderson - University of California, Davis

Dr. Luke Rodda - San Francisco, Office of the Chief Medical Examiner; and member of the Best Practices Subcommittee

## **CALIFORNIA HIGHWAY PATROL STAFF ASSIGNED TO ASSIST:**

Captain Helena Williams

Lieutenant Eric Jones

Associate Governmental Program Analyst Sarah Defazio

Associate Governmental Program Analyst Jason Le

## **SUMMARY:**

Ms. Kristen Burke and Dr. Thomas Marcotte called the meeting to order and welcomed the members. Ms. Burke then provided a summary of the last meeting, an overview of the agenda, and noted this meeting should conclude the subcommittees focus on impaired driving data collection.

Before moving on with the meeting, Ms. Burke made a motion to approve the March 6, 2019, meeting minutes. The motion received a second and the meeting minutes were approved.

## **Public Comment**

None.

## **ARREST DATA PRESENTATION**

Mr. Marc St. Pierre from the California Department of Justice (DOJ), Bureau of Criminal Information and Analysis (BCIA), and Dr. Randy Chance from the DOJ Research, Analysis, and Data Center, presented an overview of the arrest information reported to and collected by DOJ.

The BCIA publishes violation reference tables for law enforcement, criminal justice, and other regulatory agencies to use when reporting information to DOJ. These tables contain the proper violation code for crimes and a brief description of the offense. These tables are published annually on the DOJ's California Law Enforcement Web site. It should be noted, although the purpose of these tables is to standardize data reporting and collection, there is no requirement to use these tables. As such, some agencies may be using outdated tables or modified tables. Additionally, keeping these tables current with law is an unfunded mandate, and updates may be delayed due to limited resources and other workload priorities. Ultimately, these issues have created data standardization issues which has made research and data analysis more difficult.

The BCIA has taken proactive steps to improve data they collect by establishing a stakeholder working group to review existing tables. Currently, the working group is reviewing Penal Code violations, but they plan to move to Vehicle Code violations next.

There are currently 17 different violations associated with impaired driving in the tables, including Vehicle Code Sections 23152 and 23153, and their associated subsections.

The group then discussed how data is collected from the arresting agency, jail, and court. Ms. Burke reminded the group the charging offenses recommended by the arresting agency may be different than charges the prosecutor moves forward. Additionally, charges can change during pre-trial negotiations as part of a plea or even during the trial.

Mr. Dale Gieringer discussed the possibility of the subcommittee requesting the data or asking the California Highway Patrol (CHP) to request the data and conduct an analysis. Lieutenant Eric Jones noted the CHP has limited staff with the capabilities to conduct complex statistical analysis. Dr. Chance noted arrest data is not public as it contains public identifying information, and any report created that contained detailed arrest data would not generally be available to the public. Mr. St. Pierre indicated that general findings about the information could be made publicly available. Dr. Chance and Mr. St. Pierre then explained the process by which public agencies and researchers could request data.

The BICA is acutely aware the nature of law enforcement data is changing. Historically, arrest data was primarily reserved for law enforcement and researchers. Additionally, the data contains sensitive information, including a person's arrest history. However, some expect high level summary data to be available to the public in a way that promotes transparency.

Lieutenant Eric Jones noted the DOJ continues to publish the annual Crime in California report; however, the report does not breakdown Sections 23152 and 23153 by subsections.

Several members of the subcommittee asked if it would be possible for the Impaired Driving Task Force (IDTF) to formally request the data. Dr. Chance noted she would need to review the statute that authorized the creation of the IDTF to determine if data could be released. (It was later determined the subcommittee would still need to go through a law enforcement agency or research group to obtain the data).

Mr. Scott MacGregor noted the CHP or the Center for Medical Cannabis Research (CMCR) could request the data, but it may take time to analyze. Dr. Marcotte noted CMCR could conduct the analysis, provided they have the funding and resources necessary to complete this project.

Dr. Robert Fitzgerald asked the DOJ to clarify the information they could provide if appropriately requested. Mr. St. Pierre noted arrest data is broken several different ways, including by county and by arresting agency. The group then discussed possible ways to analyze the data, specifically using county level data to possibly see trends, and possible data limitations. Mr. St. Pierre cautioned about trying to use the data to answer questions it was not intended to answer.

Mr. Gieringer then asked how the subcommittee could obtain the arrest data. Ms. Jennifer Harmon noted the data may not contain the information the group is looking for

and could paint a skewed or incomplete picture. Dr. Marcotte then reminded the subcommittee their purpose is to make recommendations.

*After some additional discussion surrounding the value of the data, Dr. Marcotte made a motion to request the data. Dr. Fitzgerald seconded the motion and the motion passed.*

Public Comment

None.

**CRIME LABORATORY STANDARDIZATION EFFORTS**

Ms. Harmon provided an overview of national standardization efforts for crime laboratories. This included a review of the *Recommendations for Toxicological Investigation of Drug-Impaired Driving and Motor Vehicle Fatalities – 2017 Update*. This document summarizes the National Safety Council's (NSC) efforts to update their recommendations. The NSC's recommendations are based on a survey of practices of laboratories in the United States and Canada that conduct alcohol and drug testing, current crash data, drug usage, available technology, and expert opinions. Although there is no requirement to follow these recommendations, they are considered best practices.

Ms. Harmon then discussed efforts by the Governors Highway Safety Association, Center for Disease Control, Substance Abuse and Mental Health Services Administration, and the National Highway Traffic Safety Association are talking about laboratory standardization efforts. However, Ms. Harmon noted a legislative solution would likely be very complicated.

Ms. Harmon then discussed California Assembly Bill 551 and Senate Bill 283 related to the testing of fatally injured drivers. However, these bills do not address drivers who are not killed in fatal collisions. Additionally, although these bills are likely to increase testing, local funding and resource concerns will continue to dictate testing.

Public Comment

None.

**ORAL FLUID PRESENTATION**

In the interest of time, the subcommittee decided to discuss this topic at a future date.

Public Comment

None.

## **GROUP DISCUSSION, RECCOMENDATIONS, NEXT STEPS**

The group then discussed general data standardization efforts. Dr. Marcotte asked Dr. Nick Anderson, from the University of California Davis, about how to best to collect and standardize impaired driving arrest, laboratory, and other relevant data. Dr. Anderson briefly talked about his extensive experience with medical data standardization. In the case of the laboratory data, Dr. Anderson described a data standard where each part of the testing sequence was assigned a number. For example, a blood test where cannabis would have a specific corresponding number sequence. This Lonk system creates numeric codes that can be later translated for reference, research and other purposes.

Dr. Anderson then discussed the importance of establishing definitions and ranges, including units of measurement. For example, a blood test, where cannabis was detected, and where the concentration in the blood was greater than five nanograms per milliliter, would have a specific number sequence identifying each action taken and result obtained. Establishing definitions and ranges ensures standardization.

Ms. Harmon talked about creating a system that could track sample collection times, toxicology tests conducted, drug recognition expert opinion, search warrant status, and possibly test results. Ms. Burke indicated we should quantify everything possible to ensure the best data available for analysis.

The group then talked about the possibility of linking existing DOJ and laboratory databases. However, Ms. Burke and Ms. Harmon indicted laboratories use different tracking software, which is not standardized.

The group then talked about how you could link disparate systems. Ms. Harmon mentioned that the criminal identification and information (CII) number is a unique identifier assigned to an individual. However, not all agencies regularly record or have access to a suspect's CII number. Mr. St. Pierre suggested it may be necessary to develop a unique identifying number that would be required to be used across systems.

The group then discussed the need to develop a statewide database where all information could be collected. The group discussed the need for such a database and its value. Dr. Anderson provided an example of how to develop systems, to include: standardization, training, deployment, and maintenance. Ms. Harmon noted, it would be best of the data could be tied to DOJ's existing systems.

The group then shifted to talk with Dr. Luke Rodda. Dr. Rodda shared information from the Best Practices Subcommittee, which may be better suited for the Technology, Research, and Data Subcommittee.

The discussion began with a possible recommendation to test all impaired driving blood samples for drugs. Ms. Harmon noted, at her laboratory, approximately 15 percent of the cases are tested for drugs. Implementing the recommendation would be costly, and most laboratories would need to significantly increase staff, testing budgets, and purchase new equipment. The group then discussed how current law has not kept pace with the cost of chemical testing and the potential cost of implementing this

recommendation. Although the group supports the idea in concept, it may not be realistic due to the cost and resources necessary.

Dr. Rodda talked about a possible recommendation to use oral fluid testing as a presumptive test with blinded results. The group discussed the use of oral fluid in the investigation of possible impaired driving cases. The group generally agreed that using oral fluid as a presumptive test, similar to a preliminary alcohol screening (PAS) device, would be beneficial. However, some of the members did not support the use of blinded testing as it may make evidence collection more difficult. Some members pointed out officers are not currently blinded to PAS blood alcohol content results. Mr. Gieringer asked about the possibility of false positive oral fluid tests. Dr. Rodda indicated there are some negative studies involving oral fluid testing; however, he questioned the validity of some of those studies and cited two studies he believed used flawed methodology. The group plans to take up the use of oral fluid devices at a future meeting.

Dr. Rodda then presented a possible recommendation requiring the collection of a blood sample within one hour of arrest in impaired driving cases. Although the group generally supported this idea in concept, it was considered impractical. Some members pointed out current law requires a sample to be collected within three hours of arrest. Other members point to the difficulty of obtaining a blood sample due to a lack of services, the necessity of obtaining a search warrant, instances where a suspect's medical treatment takes priority, and instances where a small law enforcement agency or small CHP office with limited staff would necessitate a single officer to complete multiple tasks. Ultimately, the group agreed obtaining a blood sample as quickly as possible after arrest is preferable but requiring a blood sample be taken within one hour of arrest may not be realistic.

Lastly, Dr. Rodda indicated the Best Practices Subcommittee suggested recording all field sobriety tests using body worn cameras or other recording devices. Some in the group indicated that recording, when possible, was preferable. However, there are many instances that may preclude the recording of field sobriety test. Additionally, the group briefly discussed the cost of body worn cameras, including the patience of data, and how only a few agencies had the funding necessary to implement and maintain a program.

#### Public Comment

None.

#### **NEXT MEETING**

The meeting concluded at approximately 4:00 P.M. The next meeting will occur on June 5, 2019, during the IDTF main meeting. The meeting was noticed on the CHP public Web site.