CALIFORNIA HIGHWAY PATROL

IMPAIRED DRIVING TASK FORCE

TECHNOLOGY, RESEACH AND DATA SUBCOMMITTEE

MEETING MINUTES, EIGHTH MEETING

December 11, 2019

University of California, San Diego

220 Dickinson Street, Suite B

San Diego, California 92103

California Highway Patrol

601 North 7th Street

Sacramento, California 95811

Ventura Police Department

1425 Dowell Drive

Ventura, California 93003

MEMBERS PRESENT

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

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

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

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

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

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

Ms. Jennifer Harmon - Sab Diego County Crime Laboratory, Laboratory Director – San Diego Location

Mr. Leslie McMillan - California Public Defenders Association – San Diego Location

MEMBERS ABSENT

None.

CALIFORNIA HIGHWAY PATROL STAFF ASSINGED TO ASSIST

Lieutenant Eric Jones

INVITED GUEST

Dr. Curt Harper, Chief Toxicologist, Alabama Department of Forensic Science

SUMMARY

This meeting was conducted as a teleconference, with the primary location in San Diego and secondary locations in Sacramento and Ventura. All locations were open to the public and included in the public notice as required.

Ms. Kristen Burke and Dr. Thomas Marcotte welcomed the attendees to the eighth Impaired Driving Task Force (IDTF) Technology, Research and Data (TRD) subcommittee.

The meeting began with a review of the subcommittee notes from the August 5, 2019, and the October 14, 2019, subcommittee meetings. Ms. Burke noted some possible errors, which were discussed with the group. After discussing the potential corrections in detail, the subcommittee voted to approve the meeting minutes once the corrections were completed. Ms. Burke agreed to work with Lieutenant Eric Jones to correct the notes prior to posting them.

DATA DISCUSSION

In a follow-up to a previous meeting and as requested by Mr. Dale Gieringer, Lieutenant Jones provided the subcommittee with California Department of Justice arrest data (which consisted of de-identified, aggregate arrest information), California Highway Patrol 2018 suspected drug-involved crash data, and a document summarizing the legislative changes made to specified driving under the influence vehicle code sections

over the past several years. Lieutenant Jones noted some of these changes have made data comparison difficult and led to possible under/over reporting in some areas.

Several members of the group expressed concern regarding the data as the data sets do not capture a complete account of the arrest, toxicology, prosecution decisions, and ultimate case disposition. Many in the group noted that without careful consideration of all factors, this data could skew the impacts of drug-impaired driving. Others noted possible intangibles that could not be captured in data, including the number of persons who may have consumed an impairing substance or may have been under the influence of an impairing substance, but were never tested or charged. Additionally, those who tested positive for alcohol above the legal limit and were never screened for drugs due to cost considerations would not be captured in the data. Ultimately, the group concluded the data is important to understanding the information currently available to policy makers and researchers; however, without a more complete data set the information presented at this meeting likely does not present a complete picture of impaired driving related issues. The group specifically asked that a note be placed on the data prior to posting indicating the data is incomplete and should not be used to draw substantive conclusions. The group then discussed how this information may be useful as they continue to craft additional recommendations for consideration by the IDTF.

Public Comment

No members of the public commented.

ALABAMA ORAL FLUID EFFORTS

The group then discussed other possible recommendations, including oral drug fluid drug screening. As part of this discussion, the group asked Dr. Curt Harper about Alabama's efforts in this area.

Dr. Harper provided an overview of the Alabama Department of Forensic Sciences related to oral fluid drug testing (refer to presentation for additional information). During his presentation, Dr. Harper noted approximately 10 percent of their driving under the influence (DUI) cases involve possible drugs. Dr. Harper indicated officers currently use a combination of standardized field sobriety tests, preliminary alcohol screening devices, and oral fluid drug screening devices to detect persons suspected of being under the influence. Alabama has approved the use of three oral fluid drug screening devices, including the Abbot SoToxa, Drager Drug Test 5000, and Randox Evidence MultiSTAT. Additionally, Alabama uses a combination of a blood test and oral fluid test (e.g., Quantisal) for drug conformation testing.

Dr. Harper emphasized oral fluid drug concentrations cannot be used to determine drug concentrations in the blood, and noted some drugs are more difficult to detect in oral fluid (e.g., benzodiazepines). Additionally, Dr. Harper talked about the importance of de-emphasizing the focus on drug concentrations in the oral fluid and examining the totality of the circumstances (e.g., driving, field sobriety tests, oral fluid results, etc.) when determining if a person was impaired at the time of the incident/arrest.

During the presentation, the group discussed how the population tested with oral fluid devices relates to the general population and the population of persons arrested for impaired driving; how long drugs remain detectable in oral fluid; the number of devices currently deployed in Alabama; the oral fluid collection process; oral fluid detection thresholds in screening and confirmation testing; how oral fluid test results compared with recency of drug use; drug prevalence in DUI arrests; and specific drug-impaired driving case studies from Alabama. Additionally, it was noted that the International Association of Chiefs of Police has not made any recommendations specific to oral fluid drug screening devices at this time.

Dr. Harper noted as Alabama collects both oral fluid samples and blood samples, they continue to see promising results with both tests detecting similar drugs a majority of the time.

Public Comment

No members of the public commented.

RECOMMENDATION DISCUSSION

Lieutenant Jones advised the group the IDTF meetings will soon be transitioning from developing recommendations and evaluating impaired driving issues, to voting on recommendations developed by the subcommittees for inclusion in the final report. With that in mind, the subcommittee began evaluating and rewording some of its existing recommendations.

Given the importance of the recommendations and the limited amount of time remaining in the meeting, the subcommittee choose to schedule an additional meeting primarily focused on finalizing the IDTF TRD subcommittee recommendations.

Although not completed and currently under development, the following represents the IDTF TRD recommendations at the end of the meeting:

Recommendation One:

Statement: Current DUI data is insufficient for clearly informing public policy regarding the prevalence and longitudinal changes in DUI-related violations and crashes, including that

there is a lack of standardized reporting forms for collecting driving under the influence of drugs data.

Recommendation: The state should pass legislation to establish standardized driving under the influence of drugs (DUID) arrest and disposition data, in part based on California Vehicle Code Sections 23152 and 23153 (including subsection) data. This should be informed by the development of a standardized approach to collecting law enforcement (arrest), prosecution (case disposition), and laboratory results (scope of analysis). This would include:

1. Evidence Collection: Currently well-defined for alcohol (Title 17); similar protocols are needed for DUID.

2. Toxicology Testing: To be informed, in part, by number four below.
    a. Responsibility to lie with the Department of Justice (DOJ), Bureau of Forensic Services, the California Association of Crime Laboratory Directors, the California Association of Toxicologists, and the California State Coroner's Association.

3. Tracking of arrest outcomes: case filing, plea, trial, final disposition.
    a. Responsibility to lie with law enforcement agencies, prosecuting agencies, DOJ, California Superior Courts.
    b. Specific workgroups should be established to address the above with representative stakeholders.
    c. Who convenes the workgroups?

Recommendation Two:

Further invest in research to assess existing and to identify new measures to detect drug impaired driving.

Recommendation Three:

Toxicology laboratories throughout California should follow a standardized procedure to develop and validate methods for analyzing drugs in bodily fluids.

Recommendation Four:

The State of California should undertake a research project analyzing drug trends. The project would request selected laboratories, with specified equipment, to examine all or a randomized selection of blood samples taken from driving under the influence incidents for drugs, using a standardized procedure, for a specified time. These results would be used to identify trends and provide information to policy makers.

Public Comment

No members of the public commented.

NEXT MEETING

The group agreed to hold the next meeting on January 6, 2019, using a teleconference link between Sacramento and San Diego. The meeting notification and agenda will be posted on the California Highway Patrol's public Web site.