



John Bel Edwards  
Governor

# State of Louisiana

OFFICE OF THE GOVERNOR  
DRUG POLICY

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Executive Director,  
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## GOVERNOR'S DWI TASK FORCE May 12, 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 10:05 am. She announced that there were 12 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. Two proxies, Rachel Smith serving as proxy for Norma DuBois and representing the LA District Attorneys Association and Lt. Barry Spinney serving as proxy for LTC Chavez Cammon representing the LA State Police were formally identified.

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. A complete list of meeting attendees is included at the end of this document.

#### **Old Business**

##### *A. Discuss and Approve: Minutes from February 2021 meeting*

Lisa indicated that Kristy included the minutes from the February 2021 meeting in the email packet. She asked everyone to review them, and when appropriate, a motion could be made to accept them as written. Rachel Smith, LA District Attorneys Association, made a motion to approve the minutes. Dr. Chaunda Mitchell, Office of Drug Policy, seconded the motion. All members accepted the motion. None rejected the motion and none abstained.

##### *B. Review Results - Discussion of Considerations 1-6 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.

During the February 2021 meeting, the Task Force had robust discussions about Considerations 1-6. Kristy summarized the discussions into the "Activity Worksheet" previously prepared to document the work of the Task Force. On April 16, she disseminated the summary to Task Force members and stakeholders via email and requested any additional input. Kristy reported that she received some additional input which was added to the document. With that explanation, Kristy briefly reviewed the summary content about Considerations 1-6. With that

context in mind, she turned the floor back over to Lisa so she could issue instructions to the Task Force regarding the next step in the process.

### **New Business**

#### **A. Continue with Activity - Discuss and Prioritize Considerations 7-10 for Addressing the Effects of Marijuana Legalization on Impaired Driving**

Lisa went on to explain that the purpose of this meeting was to complete the discussion about Considerations 7-10. As with the first six considerations, the Task Force was reminded 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. Lisa and Kristy reminded everyone that if there is time after the discussion of the remaining considerations, the Task Force would attempt to prioritize all 10 considerations in terms of willingness to work on the considerations.

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 Considerations 7-10, the Task Force worked diligently through the remaining considerations within the time allotted for the activity. Kristy scribed comments from the members and stakeholders in real time. 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. A "master" version of the "Activity Worksheet" for Considerations 7-10 is included as an Addendum to these minutes.

#### **B. Update: 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 August 11, 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 Dr. Leslie Freeman, OBH. It was seconded by Rebecca Nugent, LSP Crime Lab. All favored. No members dissented or abstained from approving the motion. Meeting adjourned at 12:07 PM.

**DWI TASK FORCE MEMBERS**

<b>Member Agency</b>	<b>Appointee/Designee</b>	<b>Present</b>
Attorney General's Office	Amanda Martin	No
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	Rachel Smith (proxy for Norma DuBois)	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Office of Alcohol & Tobacco Control	Ernest Legier)	No
Department of Transportation and Development	Adriane McRae	Yes
Louisiana Sheriffs' Association	Sheriff K.P. Gibson	No
Louisiana State Police Crime Lab	Rebecca Nugent	Yes
Louisiana State Police	Lt. Barry Spinney (proxy for LTC Chavez Cammon)	Yes
Property and Casualty Insurance Commission	Tom Travis	No
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**

Robyn Temple – Office of Motor Vehicles  
 Betsey Tramonte – Federal Highway Administration  
 Joey Jones - North Louisiana Crime Lab  
 Dortha Cummins – Louisiana Highway Safety Commission  
 Sgt. Greg Marchand – Louisiana State Police  
 Autumn Goodfellow-Thompson – Louisiana Department of Transportation and Development  
 Cathy Childers – Louisiana Highway Safety Commission  
 David Whitchurch – LSU Center for Analytics and Research in Transportation Safety (CARTS)  
 Carolin Purser - LSU Social Research and Evaluation Center (SREC)  
 Frank Marrero – National Highway Traffic Safety Administration (NHTSA)  
 Capt. Cordell Williams – LA State Police  
 LTC Chavez Cammon – LA State Police

**WORKSHEET FOR DISCUSSION AND PRIORITIZATION OF CONSIDERATIONS 7-10**

Addressing the Effects of Marijuana Legalization on Impaired Driving

DWI Task Force Meeting ☐ May 12, 2021

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>		<p>DOTD: Pretty important</p>	<p>As a beginning point, LHSC member (Freeman) asked LSP proxy (Spinney) to describe what the current response protocol looks like. LSP proxy responded that agency policy is going to play a big part in what happens in relations to tox. DREs are most important people to have onsite of these crashes, whether intoxication is suspected or not, because they are the best people to determine that. Tox exams are good, but sometimes they may contradict DRE (just because drug is in system doesn't mean it's impairing at the time). This is a very important point that we have an obligation to communicate to DAs, judges, and our own commanders and get them to understand this.</p> <p>So, when a DRE does their evaluation including spending 20-30 minutes with driver and determines no impairment, that needs to be enough and should be understood. So, if the person goes to the hospital or has blood drawn somewhere else and the tox results are positive, it is up to the DRE to explain. So, to that first bullet about do all fatal injured drivers have a tox, that is for people above me to determine, but the mindset can't be that the tox is the end all/be all; the DRE assessment is just as important.</p> <p>(Still LSP) Now, as to the second bullet point, definitely. Do all surviving drivers get assessed by a DRE? Yes, that is why LSP implemented a policy in late 2020/early 2021. The language is shall, not should due to resources. But the language says a DRE "shall be consulted" so, even if a DRE can't go out, the hope is that the responding officer speaks with a DRE and obtains some advice on what to do and look for based on the situation of the crash.</p> <p>LDAA proxy (Smith) echoed the LSP proxy (Spinney) about parts of this being an issue that they struggled with in training for a while. Some of this goes back to R.S. 32:681. The plain language of the statute indicates that any driver involved in a crash with a fatality has not withdrawn their consent to a chemical test. So, the statute, by plain language does not require probable cause. We have done</p>

		<p>a lot of training that this is a 4<sup>th</sup> amendment search so you should treat it as such. So you should have PC either to put in for a search warrant or, for exigent circumstances, or you can get voluntary consent. But even at that point, like the LSP rep said, one of the issues seen throughout the state is that, if you do get consent for that blood test and the officer didn't suspect impairment, then the only thing the prosecutor has at that point is the tox results. So, without an investigation, and without the officer documenting signs of impairment or being able to testify that the driver was impaired, all we have is the tox results and that leaves us between a rock and a hard place. At that point, you've got families involved who become aware of the tox results and you want to do something for them, but, the person may not have been impaired or you won't be able to prove it. So, there's not much we can do with those results when there was no investigation or the officer didn't believe they were impaired. A lot of the problem goes back to the law because I understand agencies want to comply with the stated law, so it's an agency policy decision at that point to what extent you are going to comply with the straight letter of the law or look at it as a 4<sup>th</sup> amendment issue which is what LDAA has been trying to push. So, they comply to the extent that they can without violating the 4<sup>th</sup> amendment, but again you have the consent issue. So, I think if that statute just required impairment, that would be helpful.</p> <p>An LHSC stakeholder (Childers) who also represents LHSC as one of the Co-Chairs for the SHSP Statewide Impaired Driving Emphasis Area reported that their current statewide plan includes a step to persuade all LEAs to adopt the same policy that LSP has which is that officers would be required to call in a DRE for all fatal and serious injury crashes and also to call in a DRE when a suspected DWI stop without a crash is made and the driving behavior is not reflected in the BAC reading. So, for example, someone driving the wrong way down the interstate and they blow a 0.04, the officer would be required to call a DRE. When an action step such as this gets to the statewide plan, the work to accomplish this is pushed out to the regional traffic safety coalitions. So, now, the coordinators for these coalitions will be responsible for meeting with local LEAs to persuade them to adopt the policy. They have the sample from LSP and one parish sheriff's office (St. Charles).</p> <p>DOTD rep (McRae) confirmed the information from the LHSC stakeholder (Childers) and echoed that they want to see other LEOs trained as DREs so as not always to have to rely on LSP.</p>
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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>		<p>DOTD: Pretty important</p>	<p>Consensus is that, while more training is always needed, the training infrastructure across the three parts of the system (law enforcement, prosecutors, and judges) is finally operating at a max level.</p> <p>LDAA proxy (Smith who is Traffic Safety Resource Prosecutor) kicked off by talking about the increased drug impaired driving, particularly MJ impairment, training offered by her agencies. They have been in for the form of webinars due to Covid. Just finished a 4-part series on MJ impaired driving. Included TSRPs from MJ legalization states. All sessions were recorded and LDAA is willing to share. Upcoming training in Monroe on July 23<sup>rd</sup>.</p> <p>NL Crime Lab stakeholder (Jones) expounded on LDAA rep's comments. Every time we think we've hit critical mass with training, new folks, particularly DAS and prosecutors, etc. come on board which can undo all the progress in a JDC. Also the evolution of data and new info from cannabis industry makes training needs a continual issue.</p> <p>A LHSC stakeholder (Childers) who also represents LHSC as one of the Co-Chairs for the SHSP Statewide Impaired Driving Emphasis Area reported that their current statewide plan includes an action step for the local traffic safety coalitions to share training resources with local LEAs, and really encourage them to attend ARIDE and DRE trainings to the extent possible. DOTD member (McRae) confirmed this priority. The LHSC stakeholder reiterated that a big part of the SHSP action step focuses on promoting the existing training while also distinguishing ARIDE from DRE among the local LEAs.</p> <p>LSP Applied Tech stakeholder (Marchand) emphasized that we have to get on the forefront of marijuana impaired driving and not allow any quantifiable amount of MJ for impaired driving cases. Other legalization states that allow for some levels of THC in the system are having major problems with huge numbers of increased drug impaired driving crashes. The LSP Crime Lab member (Nugent) commented that approximately 45% of all blood samples tested positive for carboxy and 33% are testing positive for hydroxy and THC whole molecule. So, one-third of blood samples are positive for active</p>

		<p>metabolites of marijuana. And, Louisiana doesn't even have legalization yet. Note that the most amount of blood samples tested by the LSP Crime Lab are related to motor vehicle crashes.</p> <p>LSP Applied Tech stakeholder (Marchand) followed up and talked about a study conducted with airline pilots who were given THC and then tested in flight simulators a day later and they still felt the effects. This is indicative of the impact on cognitive decision making and response time when under the effects of marijuana. Thus, he recommended that language be included in 32:681 that would also take away an offenders driver's license when cited for drug impaired driving due to a positive MJ tox test.</p> <p>LACP member (Smith) talked about how for small departments, training is really difficult to get...time to attend, staff to be able to get away, blood draws. He did indicate that continuing education is required for POST certification. He asked if it was possible to expand POST continuing ed/training requirements that would focus on drug impairment. Additionally, he requested for organization of training for prosecutors, judges, and patrol officers (not just admin) that helps translate what to be include in warrants and reports to ensure MJ impaired case reports are well informed. LHSC member (Freeman) pointed out that we have been talking so much about expanding the number of LEOs who have advanced training (ARIDE and DRE), but Chief Smith emphasized that we also need to get back to basics to address the needs of small LEAs and newer POs who aren't ready for ARIDE and DRE training yet. LSP Applied Tech (Marchand) stakeholder responded that between Applied Tech and LDAA (Rachel Smith), the training needs he outlined could be covered for his agency and any other smaller agencies in the NE part of the state. Chief Smith responded that LSP Troop E has always been so helpful with training and sending a DRE for suspected drug impaired driving, but the fact is that not every officer even wants to have some additional training beyond what is taught in the Academy. Thus, if POST recert included a course of drug impairment, all officers would have to get some level of advanced training on marijuana and its impact on traffic safety.</p> <p>At-Large member (Edwards) recommendation: All LEs and attorneys involved in the criminal justice process can benefit from additional instruction on SFSTs and the DRE Process. All LEs who patrol the roadways and waterways should</p>
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			<p>have to demonstrate proficiency in both administrating and explaining SFST annually. Failure to do so, should be grounds to remove them from patrol.</p> <p>At-Large member (Edwards) recommendation: We need an electronic search warrant system that is administered by the LA Supreme Court and staffed by magistrates with statewide jurisdiction who are available 24/7. Consider expanding the jurisdiction of the magistrate and commissioners of the Orleans Parish Criminal District Court.</p>
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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>			<p>At Large member (Edwards) offered the following written feedback on this consideration -- Consider expanding the authority of the Louisiana Office of Alcohol and tobacco (<a href="https://atc.louisiana.gov">https://atc.louisiana.gov</a>) to include cannabis.</p> <p>MADD member (Adair) spoke up to say that she saw the suggestion offered by an At-Large member who could not be present about expanding ATC to include cannabis. She expressed support for that action, but admitted that she didn't necessarily know the scope of all other offices within state government to know if somewhere else would be more appropriate.</p> <p>LHSC member (Freeman) responded that she felt as though the connection between Consideration 9 and 10 are aligned. She suggested that these two consideration would be best served by being the topic of a study resolution offered by the legislature. That way, members of this Task Force who are closest to these specific Considerations could be involved in those conversations and study them along with other experts. The DWI Task Force as a whole doesn't have jurisdiction to say which agency should be responsible for marijuana, but certainly there are specific member agencies who can and should be involved in those discussions.</p> <p>Kristy offered that we are discussing these issues in real time, and actually at the same time as the meeting was occurring, a House Resolution to study the legalization of marijuana was being considered in a House Committee.</p>

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>			<p>At-Large member (Edwards): And use these funds for educational programs designed to discourage the use of cannabis. There is no scientifically validated level of responsible use of cannabis.</p> <p>DOTD member (McRae): If we recommend dedicated funding, we should also recommend funds for training for "front line responders"; Also, funds for screening and assessment both on the LE side as well as behavioral health/health care side</p> <p>LDAA proxy (Smith): Expressed concern that previous legislation has been filed in such a way that tax revenue bills are separate from the bills that change the law to legalize. This can cause problems if there are multiple legalization bills and multiple tax bills because one legislator's legalization bill may pass, but another legislator's tax bill would pass. Or what if all tax bills passed? Which would supersede and would the Task Force's priorities be represented there?</p> <p>LHSC stakeholder (Childers): Could this be something that our sister commission, the Prevention Systems Committee, conducts research on and reports back to the DWI Task Force in terms of looking at other state's dedications of tax revenues?</p> <p>Consensus is that dedicated funding to address public safety is very important. Delineation of percentages and specific areas of public safety to be considered need to be studied further and assigned due to research and experience from other states.</p>