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| Gold LA State Seal | State of Louisiana  **Office of the Governor**  **DRUG POlicy** |  |
| **John Bel Edwards**  Governor | **Dr. Chaunda Mitchell**  Director, Drug Policy &  Executive Director,  Diversity and Inclusion  **Kristy Miller**  Project Director |

**GOVERNOR’S DWI TASK FORCE**

**August 14 2019; 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 10:12 AM. She announced that there were 12 members in attendance at the time of meeting commencement.

**Welcome and Introductions**

Lisa asked all attendees to introduce themselves. She began with the members and proxies, and then asked guests to introduce themselves.

**Unfinished Business**

Lisa stated that there was no unfinished business.

**New Business**

1. *Discuss and Approve: Minutes from May meeting*

Lisa reminded everyone that the minutes were emailed to the prior to the meeting. She asked that the members review them now and offer any edits or feedback as appropriate. Dr. Beau Clark, At-Large Member and President of the LA Coroners Association, made a motion to the approve the minutes as written. Chief Jerrod Kind, LA Association of Chiefs of Police appointee, seconded the motion. All members approved the minutes.

1. *2019 Legislative Update*

Lisa turned the meeting over to Kristy Miller, Project Director for the Governor’s Office of Drug Policy, for a brief presentation on the outcome of the 2019 Legislative Session as it relates to drug policy bills. Kristy reported that ODP tracked a total of 59 legislative instruments breakdown House Bills – 39, House Resolutions – 4, Senate Bills – 12, Senate Resolutions – 4). Kristy provided highlights on bills of relevance to the DWI Task Force under the headings of Tobacco and Vapor Products, Illicit Drugs, Opioids, Alcohol, Impaired Driving, and Marijuana and Hemp.

During the review of bills under the heading of Tobacco and Vapor Products, Lisa mentioned that what we are seeing now in terms of what is happening with electronic nicotine devices is that they are being used to vape marijuana products and other illicit drugs. Lisa went on to share her experience that she recently attended an incredibly informative and scary presentation by the “Tall Cop” Jermaine Galloway. Paul Toups, Enforcement Director for the Office of Alcohol and Tobacco Control, stated that he attended the same session and was blown away by the information. He turned to Representative John Stefanski and Senator Dan

Claitor to ask them how we could go about getting information like this into the hands of legislators.

Rep. Stefanski acknowledged that it can be difficult to convene many legislators together for a meeting when session is not in. He suggested sending emails – whether they are invites to attend future presentations or educational/informational pieces – to legislators’ district office emails. He noted that he reads all emails that come to his district office and many others do, too. Sen. Claitor shared that there are sometimes joint meetings of the various standing committees as well as joint meetings of the budget. There could be an opportunity to schedule presentations immediately following those joint meetings. Coordinating with the chairs of the committees would help to generate interest.

Kerry Lentini, Director of Specialty Courts Office with the LA Supreme Court, shared that Jermaine is booked until May 2020. The Supreme Court is bringing him to New Orleans in June; he will be in Baton Rouge on January 17.

Finally, Rep. Stefanski shared that we could request to conduct a brief presentation during a committee meeting. He recalled that happened often when he served on the House Transportation Committee and there were major DOTD projects going on that they wanted to update legislators. Sen. Claitor further shared that the first week is a particularly good time to get on the agenda for a committee meeting presentation. Not much is happening at that time, but legislators are in the Capital. That may inspire a legislator to file a late bill even.

During the legislative review under the Marijuana and Hemp section, Sen. Claitor mentioned that HB169 was done in conjunction with the State Board of Medical Examiners who provided data about the importance of tracking outcomes. This focused the legislation on data collection to drive science instead of anecdotes and hearsay. Lisa mentioned that, speaking of data, the LSP Crime Lab conducted analysis of blood draws from impaired driving cases in Baton Rouge and New Orleans, the two municipalities that further decriminalized possession of small amounts of marijuana. The Crime Lab found a huge spike in blood draws containing marijuana as well as alcohol after the passage of local ordinances compared to before passage of the laws. Lisa asked the legislators if they thought this would be important information to share with the legislators as well as local elected officials for those municipalities.

Major Jim McGuane, LA State Police, followed up by sharing that virtually every single person that the State Troopers encounter in New Orleans are in possession of small amounts of marijuana so he knows firsthand that some municipalities in the state do not consider it an enforcement priority. He then shared that, when he was Commander of the LSP Crime Lab, he spent time communicating with his counterparts in other states such as Colorado where marijuana is legal for recreational use. Those colleagues shared stories, and eventually data, on the increased societal costs associated with marijuana legalization compared to the return on actual revenue for the state coffers. Rep. Stefanski asked Major McGuane to detail some of those costs. Jim provided examples such as increased costs to fire departments, EMS, and police departments. He also shared that traffic fatalities increased due to drivers with marijuana present in the blood. Rep. Stefanski argued that their state DWI laws should still cover marijuana as an impairing agent, however, the big problem is a device that can read marijuana levels and determine impairment. It just doesn’t exist. Chief King offered that property crime rates have gone through the roof as well as robbery crimes. People are stealing to get the cash to buy marijuana. Tom Travis, Director of the LA Property and Casualty Insurance Commission, states that insurance rates have spiked as well for businesses and for vehicles in legalization states. Sen. Claitor shared that he personally does not see legalization of marijuana for

recreational purposes happening any time soon in Louisiana. He feels the medical marijuana industry would object to it, but also the nature of the state doesn’t lend itself to supporting recreational legalization. However, Sen. Claitor encouraged those with the research showing the harms to states should be getting it out to legislators.

Rebecca Nugent, Chemistry Manager with the LA State Police Crime Lab, and Rachel Smith, Traffic Safety Resource Prosecutor with the LA District Attorneys Association, both mentioned that Colorado law allows for municipalities to option out of having recreational marijuana dispensaries. Since then, 60% of counties have opted out and actually passed laws to repeal the recreational marijuana laws.

Lisa raised the question to the group about whether each agency/organization represented around the table as to whether we each have briefings about the dangers of legalization of marijuana for recreational use. Tom agreed that each sector probably does have research about their silo, but no one has brought it all together. He knows for sure that his sector, Insurance, has developed a report and continues to monitor it.

Kristy concluded the 2019 legislative update and offered to share the slides with anyone who wanted them. She reminded everyone that they should have received the legislation tracking chart from her approximately two weeks after the end of the session. That document included the list of all pieces of legislation with their final judgements.

1. *2020 Policy Agenda Discussion*

Lisa segued by reminding folks that the 2019 legislative session is behind us, but the 2020 legislative session is just about seven months away. Now is the time to begin thinking about any legislative actions the DWI Task Force would like to either move forward or champion on behalf of a member agency/organization.

Lisa shared that there are three legislative issues her agency, Louisiana Highway Safety Commission, is interested in so she suggested starting with a discussion about those issues. Then, we will open the floor to other issues. To accompany this discussion, a powerpoint presentation with brief information about LHSC’s three policy concepts of interest was offered. The three policy concepts are (1) mandatory substance use disorder evaluations for 1st and 2nd DWI offenders, (2) strengthening enforcement actions by DREs through legislative action, and (3) data reporting and collecting related to ignition interlock device usage.

Regarding policy concept #1, Kristy briefly described the concept of substance use disorder evaluations such as screening and assessment within the impaired driving lens. Screening and assessment in the criminal justice setting can identify DWI offenders who have SUDs that require further intervention. She explained that there are two assessment tools that have been created and tested specifically for DWI offenders though there are many screening and assessment tools that exist in the behavioral health field. Kristy transitioned to talking about how substance use disorder evaluations would fit into Louisiana’s DWI law. Currently, La. R.S. 14:98 requires as a condition of probation upon conviction of DWI third and subsequent offensesthat the offender immediately undergo an evaluation. However, current law only allows for (i.e., suggests) that an assessment be conducted.

After providing the brief description of the policy concept and how it could be applied in Louisiana, LHSC would like to see a mandate of a post-conviction, presentence evaluation for a substance use disorder to occur at a stage earlier than a 3rd offense. Many immediately noted that often a 3rd offense isn’t even legitimately a third offense; usually it is at least a fourth, if not fifth offense, because of the many diversion programs as well as the practice of reducing the charge for a true first offense. Lisa emphasized that the fiscal note would be the biggest issue to

deal with so LHSC would be willing to negotiate on points such as whether we mandate screening (which is cheaper because it can be done by anyone) instead of a full assessment for

everyone. Then, those that screen for a disorder would be the only ones referred for more extensive assessment. Secondly, LHSC would be willing to negotiate that only 1st offenders with excessively high BACs (such as 0.15 or above) and all 2nd offenders would be mandated. Again, these negotiations could be considered if a fiscal note would be prohibitive.

Sen. Claitor suggested that we look to the savings from the criminal justice reform to address any concerns about cost. Sen. Claitor suggested that many of the diversion programs either require or strongly suggest screening and/or assessment. Rep. Stefanski isn’t convinced that we need to address this through legislation. Rather, he thinks that it’s a matter of educating judges better so they start requiring more often at 1st and 2nd offenses. For example, a Lafayette city court judge does mandate an assessment as well as the substance abuse education class. Leaving it to the judge’s discretion is a better option because they can also take cost and context into consideration.

Lisa reminded everyone that this discussion is simply to determine whether the DWI Task Force would like to see a working group formed to research this issue further. In that vein, Rachel made a motion to form a working group to research this issue including which states require it, what would it cost the state, and what would potential legislative language look like. Tom seconded the motion. All members approved; none disapproved; none abstained. The motion passed.

Regarding policy concept #2, Kristy explained that Senator Ryan Gatti had filed SB206 which would have required for a Drug Recognition Expert (DRE) to be called out for all impaired driving crashes and would have added DUID when a certified DRE determines the person is impaired and the person refuses to submit to a chemical test to the conditions under which a person’s driver’s license should be seized and a temporary receipt issued to be good for 30 days. Concerns about this bill were expressed early on so Senator Gatti instead authored and filed a Senate Resolution to request the Governor’s Task Force on DWI to study issues related to enforcement actions by a drug recognition expert relative to the operation of a motor vehicle when impaired by drugs. His hope is that the results of the study would support the passage of a bill similar to SB206 in the future.

Major McGuane and Mike Edgar shared the statistics about the number of DREs that are currently trained in the state. Capacity is good, but the capacity isn’t spread evenly across the state which causes problems. Often, those officers who are willing to go through the training are the kind who advance quickly, thus meaning that we have to replace that expertise often. Further, DREs aren’t available on every shift. Being able to have every police department call out a DRE at any hour and have them respond in a reasonable time frame, is a serious concern. Even more important is the question about who pays for the DRE’s time. If a small police department must be charged for the DRE’s time, that would be cost prohibitive. However, the DRE’s parent agency can’t always cover the cost either. Chief King expressed that while the LACP fully supports the DRE program, they had major concerns about a mandatory call-out for these very reasons.

Lisa reminded everyone that this discussion is simply to determine whether the DWI Task Force would like to see a working group formed to research this issue further. In that vein, Major McGuane made a motion to move forward with researching how other states engage DREs, and even mandate called out for all suspected impairment investigations, and what potential legislative language would look like for the state of Louisiana. Chief King seconded the motion. All members approved; none disapproved; none abstained. The motion passed.

Due to time constraints, we were unable to get to the third policy concept.

**Other Business**

1. *Office of Drug Policy update*

Kristy reported that the legislative update served as the Office of Drug Policy update.

1. *Member agency updates*

LSP Crime Lab announced that blood samples containing cannabis and several metabolites are up by 6%.

LHSC announced that the annual Traffic Crash Data Report presentation will be held on September 17 at the LSP Headquarters.

LA Supreme Court is hosting a DWI Court Training on September 12-13 in Lafayette.

1. *Report: Marijuana Use and Highway Safety*

Kristy referred everyone to the report in their packets that was recently developed by the Congressional Research Service.

**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 November 13, 2019.

**Adjournment**

Motion to adjourn offered by Paul Toups. It was seconded by Major Jim McGuane. All favored. Meeting adjourned at 12:10 PM.

**DWI TASK FORCE MEMBERS**

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| **Member Agency** | **Appointee/Designee** | **In Attendance** |
| Attorney General's Office | Amanda Martin |  |
| Governor's Office of Drug Policy | Dr. Chaunda Mitchell |  |
| House of Representatives member | Rep. John Stefanski | Yes |
| Office of Behavioral Health | Dr. Leslie Freeman |  |
| Office of Motor Vehicles | Kelly Simmons | Yes |
| Louisiana District Attorneys Association | Rachel Smith | Yes |
| Louisiana Highway Safety Commission | Lisa Freeman |  |
| Louisiana Office of Alcohol & Tobacco Control | Paul Toups | Yes |
| Department of Transportation and Development | Adriane McRae | Yes |
| Louisiana Sheriffs’ Association | Sheriff K.P. Gibson |  |
| Louisiana State Police Crime Lab | Rebecca Nugent | Yes |
| Louisiana State Police | Sgt. Shawn Owens | Yes |
| Property and Casualty Insurance Commission | Tom Travis | Yes |
| Senate member | Sen. Dan Claitor | Yes |
| Mothers Against Drunk Driving | Valerie Cox | Yes |
| Louisiana Restaurant Association | Jeff Conaway |  |
| LA Association of Chiefs of Police | Chief Jerrod King | Yes |
| At-Large | Delia Brady |  |
| At-Large | Pat Minor |  |
| At-Large | Dr. Beau Clark | Yes |

**STAFF**

Kristy Miller – Office of Drug Policy

**GUESTS**

Mike Edgar – Louisiana State Police

Bobby Breland – Louisiana Highway Safety Commission

Mike Barron - Louisiana Highway Safety Commission

Dan Magri – Louisiana Department of Transportation and Development

Robyn Temple – Office of Motor Vehicles

Major Jim McGuane – Louisiana State Police

Mackenzie Breaux – Louisiana Governor’s Office, Office of Programs and Planning

Catherine Childers - Louisiana Highway Safety Commission

Aimee Moles – Social Research and Evaluation Center at LSU

Dortha Cummins - Louisiana Highway Safety Commission

Betsey Tramonte – Federal Highway Administration

Janice White – Smart Start of Louisiana

Kerry Lentini – LA Supreme Court, Office of Specialty Courts