



**John Bel Edwards**  
Governor

# State of Louisiana

OFFICE OF THE GOVERNOR  
DRUG POLICY

**Dr. Chaunda Mitchell**  
Director, Drug Policy &  
Executive Director,  
Diversity and Inclusion

**Kristy Miller**  
Project Director

## DRUG POLICY BOARD November 18, 2019; 10:00 AM - 12:00 PM

### MINUTES

#### **Call to Order**

Dr. Chaunda Mitchell, Director of the Governor's Office of Drug Policy and Chair of the Drug Policy Board, called the meeting to order at 10:09 am.

#### **Welcome and Introductions**

Chaunda asked everyone to introduce themselves. After that, she announced that there were 12 members present which means that we have a quorum.

She reminded everyone that this meeting was called specifically to discuss the recommendations made by the Prevention Systems Committee to the Drug Policy Board regarding several specific issues related to marijuana. The recommendations were first presented at the regular fourth quarter business meeting of the Drug Policy Board in October, but due to time constraints, no decisions were made whether to support the recommendations. Instead, a vote was approved to schedule an additional business meeting of the Drug Policy Board with the intent of making decisions about these recommendations. Because of the narrowly defined purpose of this meeting, Chaunda explained that we will not present and vote on minutes from the October meeting. Rather, minutes from October's meeting as well as this meeting will be presented for review and approval at the January 2020 meeting.

#### **New Business**

##### *PSC recommendations to DPB*

At this time, Chaunda turned the meeting over to Kristy Miller, Project Director, LaPFS for the Office of Drug Policy. Kristy reminded everyone that part of her role is to facilitate the Prevention Systems Committee (PSC), one of two subcommittees of the Drug Policy Board. As part of that role, Kristy explained that she is representing the Co-Chairs of the PSC during this presentation. Kristy acknowledged that the Co-Chairs, Dr. Murrelle Harrison and Mrs. Catherine Childers, are in attendance at the meeting.

She referred everyone to the meeting packet, specifically the updated memo from the Co-Chairs to the Drug Policy Board and a companion document titled Should Recreational Marijuana Be Legal? excerpted from ProCon.org website. Kristy explained that since the October 10<sup>th</sup> meeting of the Drug Policy Board during which the original recommendations were presented, the Co-Chairs and other core members of the PSC convened and took action to revise their recommendations. In summary, the PSC decided to prioritize recommendations most relevant to the present so they removed one recommendation. Thus, the recommendations before the Drug Policy Board are as follows: Issue 1: Oppose establishment of THC per se limits and Issue 2: Differentiate between botanical marijuana and marijuana concentrates in possession laws.

Kristy suggested that we begin with the first recommendation, oppose the establishment of THC per se limits. She briefly reminded everyone about the vast differences between the physiology of alcohol and marijuana which makes it very difficult to establish an agreed-upon limit or range for legal impairment by marijuana similar to the blood alcohol concentration limit for alcohol. Based on this challenge, both proponents and opponents of marijuana legalization have declared that setting a THC per se limit is ill-advised. Thus, the first recommendation calls for the Drug Policy Board to oppose any legislation that would set a limit until there is consensus within the scientific community as to what that limit should be.

Alfreda Tillman Bester, Representative of DCFS, asked how marijuana impairment during traffic stops should be determined if not by a per se limit. Several members responded that law enforcement have the Drug Recognition Expert (DRE) program to depend on for assessing impairment by substances other than alcohol. Based on the DREs assessment and the initial report from the initial officer, law enforcement can determine marijuana impairment on a case-by-case basis. Alfreda expressed concern that this sounded like the DRE evaluation is a subjective test for drug impairment as opposed to the objective standard of a per se limit. Further, she described the systemic and implicit bias toward minorities that have historically occurred when law enforcement carries out drug policies. Alfreda followed up by asking about what assurances are in place or could be required to ensure that people of color were not unduly targeted. She expressed concern about cultural differences and a lack of competency by enforcement to understand, recognize, and respect those differences. Alfreda wanted to make it clear that she does not support drug impaired driving, but she also cannot support unfair and subjective methods for evaluating drug impaired driving. Nick Burtanog, Proxy for DA Warren Montgomery and LDAA, explained that he was a law enforcement officer before moving over to the DA's office as an investigator so he has seen a DRE evaluation conducted. He described that the evaluation is not subjective, but rather due to the rigor and step-by-step procedure for the evaluation, it is considered an observable objective assessment.

Lisa Freeman, Representative of LHSC, described how her agency supports the DRE program and how important it is to figure out how to deal with drug impaired driving, especially marijuana impairment. Alfreda responded that she has utter respect for Lisa and her agency, but she still can't see how there are provisions for ensuring uniform implementation regardless of color. Chaunda Mitchell, Representative of the Office of Drug Policy, expressed her appreciation to Alfreda for challenging the group on this important issue. She reminded everyone around the table that we should embrace these opportunities to weigh the hard questions like the ones Alfreda is raising. Finally, she reminded the group that these are recommendations only and that there are lots of actions that can be taken by the Drug Policy Board regarding this proposal.

Alfreda also raised the question about what defense attorneys think about this action. She pointed out that the narrative accompanying the recommendation states that opponents and proponents do not support the setting of a per se limit. However, she'd like to hear the other side. Kristy pointed out that Richard Pittman, Interim Director of the LA Public Defenders Board, is present and may be interested in weighing in. Richard introduced himself and did point out that the issue of implicit bias mentioned by Alfreda is a real issue. Further, Richard echoed others comments that findings of a DRE evaluation that conclude marijuana influence is established does not necessarily mean that the impairment level reaches a legal threshold for impaired driving.

Dr. Janice Williams, Representative of LDH, asked a clarifying question...Isn't the purpose of this recommendation to keep the legislature from haphazardly accepting a per se limit without any scientific support, and thus, for the Drug Policy Board to oppose the setting of a limit to

bring attention to the lack of scientific support? Kristy responded that Dr. Williams' assessment is completely accurate, and the intent to Recommendation 1 is do just that.

Malcolm Broussard, Representative of the Board of Pharmacy, expressed his appreciation to the PSC for being this issue to light. He acknowledged that the concerns about implicit bias are real and were here before and will be here afterwards. However, his understanding of the recommendation by the PSC is in line with Dr. Williams's understanding. Thus, Malcolm offered a motion to support the recommendation when appropriate to be considered. In offering his motion, Kristy was reminded and shared with everyone that a purpose of this recommendation is to provide some additional cover for those legitimate medical marijuana patients who may get stopped and have accumulated amounts of THC in their systems.

Alfreda asked if there is any way the Drug Policy Board can require the collection of video evidence when DRE evaluations are being conducted. Then, the video evidence can be utilized during court cases. Kristy responded that the Drug Policy Board could make that recommendation. Whether it would be accepted is completely up in the air.

Chaunda recognized Michael Comeaux, Representative of LDOE. Michael seconded the motion offered by Malcolm. The motion is for the DPB to oppose any legislation that sets any THC per se level in blood for impaired driving until there is a consensus within the scientific community to support a defined level. Alfreda offered a substitute motion that the DPB should further recommend as part of this effort for there to be video evidence collected for any suspected drugged driving impairment evaluation. There was no second offered for the substitute motion. Thus, the original motion by Malcolm was recognized as still being on the floor. There were 11 yeas and 1 nay. The dissenting vote was from Alfreda Tillman Bester.

Before closing out the conversation on Recommendation 1, Rebecca suggested that the Prevention Systems Committee could be charged by the DPB with looking at other sources of objective evidence to be used when we are looking at prosecuting DWI from drugs other than alcohol to see what the PSC can find. She is anticipating that the suggestion of collecting video evidence would not be well-received because there would likely be a fiscal note for law enforcement agencies. However, the PSC could investigate other areas of evidentiary procedure to address implicit bias concerns. Chaunda asked Rebecca if she wanted to make an official motion on this suggestion. Rebecca responded that she did and clarified that her motion is to request that the PSC investigate other sources of objective evidence to be used when looking at drug impaired driving prosecution. Paul Toups, Representative of ATC, seconded the motion. All members approved. No members objected. No members abstained.

Moving on to the second recommendation, Chaunda noted that the time is 11:45 and the meeting is scheduled to end in fifteen minutes. She asked Kristy to briefly read the recommendation and then for the group to decide if discussion and decision on Recommendation 2 should be tabled until the January meeting. Kristy read the recommendation...the PSC recommends that the Drug Policy Board research other state laws and provide supportive data and/or research with the intent to eventually advocate for a change to Louisiana's marijuana possession laws.

Malcolm asked for clarification that the recommendation's intent is to conduct research. Kristy responded in the affirmative. In that case, Malcolm responded that he felt this is a reasonable recommendation and made a motion to approve it. Michael seconded the motion. Janice offered an amendment to the motion to change the recommendation to read the following...The PSC

recommends that the Drug Policy Board research other state laws and provide an analysis of supportive data and/or research with the intent to eventually advocate for a change to Louisiana's marijuana possession laws. Malcolm seconded the amendment to the motion. All members approved. Then, Alfreda made a motion to amend the amendment to the motion. Her motion was to amend the amendment to read as follows...The PSC recommends that the Drug Policy Board research other state laws and provide an analysis of ~~supportive~~ data and/or research on the pros and cons of changing Louisiana's marijuana possession laws. Lisa seconded the motion to amend the amendment. All members approved. Lisa offered a motion to amend the amendment to the amendment. Her motion would have the recommendation to read as follows...The PSC recommends that the Drug Policy Board research other state laws and provide an analysis of data and/or research on the pros and cons of change Louisiana's marijuana possession laws, specifically related to possession of marijuana concentrates versus botanical marijuana. Rebecca seconded the motion to the amendment of the amendment. All members approved. As a final move, a vote occurred on the original motion. Eleven members of the Board approved the motion. No members opposed. One member, Nick Burtanog, abstained.

### **Other Business**

#### *Agency updates*

ATC: Commissioner Lombard reported that meetings have been occurring between LDH and ATC to set forth rules and regulations for CBD products. As part of the discussions, the Commissioner explained that there was some question as to whether ATC would regulate only those CBD products that also contain hemp or all hemp products. The author of the hemp legislation expressed that it was never his intent for ATC to regulate hemp. She explained the kind of crossover products that exist and also expressed that some hemp products are not CBD products. The author expressed again that his intent was never for ATC to regulate hemp. Thus, CBD products, including hemp-derived CBD products fall under ATC's jurisdiction. Hemp products that are not also CBD products will fall under the jurisdiction of LDAF and LDH.

Office of Drug Policy: Kristy informed members that there are two pieces of useful information in their meeting packets. One is a document excerpted from ProCon.org and the second is the web address for a documentary on marijuana produced by Drug Free Idaho, Inc. Finally, Chaunda reminded everyone that they previously received an invite to attend a training called High in Plain Sight. See your email for more details.

### **Upcoming Meetings**

Chaunda reminded everyone that, at this time, the Drug Policy Board has a meeting scheduled for January 16, 2020. She explained that we would be in touch in early January if the meeting were to be rescheduled for later in the month or moved to February.

### **Adjournment**

Chaunda called the meeting to adjourn at 11:57am.

**VOTING MEMBERS**

<b>Member Agency</b>	<b>Appointee/Designee</b>	<b>In Attendance</b>
Alcohol industry representative	Kody Thompson (for Buddy Schilling)	Yes
Attorney General's Office	Alberto DePuy	No
Board of Pharmacy	Malcolm Broussard	Yes
District Court Judge	Judge Jules Edwards	No
Federal agency with AOD ed/treatment/prev responsibilities	Vacant	--
Governor's Office of Drug Policy	Dr. Chaunda Mitchell	Yes
House member, Committee on Health and Welfare	Vacant	--
Louisiana Commission on Alcohol and Other Drug Abuse	Vacant	--
Louisiana Commission on Law Enforcement	Linda Gautier	No
Louisiana Department of Children and Family Services	Alfreda Tillman Bester	Yes
Louisiana Department of Education	Michael Comeaux	Yes
Louisiana Department of Health	Dr. Janice Petersen	Yes
Louisiana Department of Public Safety and Corrections	Dr. John Morrison	Yes
Louisiana District Attorneys Association	Nick Burtanog (Proxy for Warren Montgomery)	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Office of Alcohol & Tobacco Control	Paul Touns	Yes
Louisiana Public Defenders Board	Vacant	--
Louisiana Sheriffs' Association	Shannon Dirmann	No
Louisiana State Police	Rebecca Nugent	Yes
National Guard	Major Marshall Snowden	No
Physician	Dr. Joseph Kanter	Yes
Private organization involved in substance abuse prevention	Vacant	--
Senate member, Committee on Health and Welfare	Senator Yvonne Colomb	No

**OF-COUNSEL MEMBERS**

<b>Member Agency</b>	<b>Appointee/Designee</b>	<b>In Attendance</b>
LA State Board of Medical Examiners	Dr. Vincent Culotta	Yes
LA Department of Veteran's Affairs	Barry Robinson	Yes

**STAFF**

Kristy Miller, Governor's Office of Drug Policy

**GUESTS**

Dr. Murrelle Harrison, Historically Black Colleges/Universities and Co-Chair of Prevention Systems Cmte  
 Cathy Childers, Louisiana Highway Safety Commission and Co-Chair of Prevention Systems Cmte  
 Richard Pittman, LA Public Defenders Board  
 Dr. Leslie Freeman, LDH/Office of Behavioral Health  
 Dortha Cummins, Louisiana Highway Safety Commission  
 Mike Barron, Louisiana Highway Safety Commission  
 Amy Thomas, LA National Guard  
 Ernest Johnson, NAACP  
 Will Belton, NAACP