



John Bel Edwards  
Governor

# State of Louisiana

OFFICE OF THE GOVERNOR  
DRUG POLICY

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## GOVERNOR'S DWI TASK FORCE November 10, 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 10:04 AM. She announced that there were 11 members or proxies in attendance which achieved 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. 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 August 2021 meeting*

Lisa indicated that Kristy included the minutes from the May 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. Jules Edwards, At-Large Member, made a motion to approve the minutes. Leslie Freeman, LDH/OBH Designee, seconded the motion. All members accepted the motion. None rejected the motion and none abstained.

#### **New Business**

##### *A. Moving from Discussion to Action: Recommendations for the DWI Task Force*

By way of introduction to this topic, Lisa asked Kristy to provide a very brief overview on the Recommendations that the Task Force have been working on for almost one year. Kristy reminded everyone that, at the Aug 2020 meeting, Dr. Darrin Grondel conducted a presentation titled *Impacts of Legalization of Marijuana on Impaired Driving and Considerations*. During the presentation, Dr. Grondel offered 10 considerations for mitigating effect of marijuana legalization (and normalization of MJ use) on impaired driving.

At the next convening meeting of the DWI Task Force in February 2021, members discussed Considerations 1-6. At the May 2021 meeting of DWI Task Force, members discussed Considerations 7-10. To prepare for today's meeting, discussion notes were reviewed and distilled into Recommendations for Action. Kristy explained that the purpose of this meeting is to review how the Considerations have been converted to Recommendations for Action. Members were encouraged to deliberate on each Recommendation and make a determination to (a) reject recommendation in totality, (b) make minor changes to recommendation, (c) approve as is, or (d) agree to take a vote to formally adopt. Further, members were encouraged to volunteer to lead those recommendations formally adopted. Based on the number of recommendations adopted and potential for identifying leads, members were encouraged to prioritize adopted recommendations for action.

With those instructions in mind, Kristy reviewed Recommendation 1 - *In terms of Consideration 1, the recommendation is to ensure a statewide multi-disciplinary impaired driving task force is institutionalized in perpetuity. The best way to achieve this is to draft a bill for the 2022 legislative session so the powers and authority of the Task Force are codified in revised statute instead of depending upon an Executive Order by each new gubernatorial administration.* Lisa emphasized that this would be the most ideal way to institutionalize the DWI Task Force and not have to depend on notions of future governors and political advisors. Members expressed overwhelming agreement. Jules Edwards motioned to adopt Recommendation 1 as is. Rachel Smith, LDAA proxy, seconded the motion. With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissent were offered the floor. No members offered dissent. With a majority of present members (9) approving the motion, it passed.

Moving on to Recommendation 2 - *In terms of Consideration 2, the recommendation is to identify at least 2 people (any combo of members and stakeholders) to serve as "data leads" for this item. Their short-term actions will focus on (1) communicating with the Traffic Records Coordinating Committee about data available specific to MJ impairment, (2) communicating with OBH (and possibly other member and/or stakeholder agencies) about collecting MJ attitudinal data in the near future, (3) communicating with non-member agencies (at a minimum LSBME) to ask about possible relevant MJ data. The data group leads will be asked to report back in 6 months.* Warren Byrd, LPCIC proxy, expressed support for this Recommendation, but did express concern that six months may be too short of a period of time for item 2 (collecting MJ attitudinal data) to be implemented. Kristy expressed that her rationale behind this was that the six month period would be intended for researching possibly avenues of existing data collection processes upon which we could "piggy back" to eventually begin collecting MJ attitudinal data, not that we would have the actual data results within that time period. Warren responded that sounds very reasonable. Leslie interjected that the Caring Communities Youth Survey (CCYS) does not ask questions about riding with those who drive after consuming marijuana/driving after marijuana use, but does offer other data marijuana use behaviors. Further, she shared it can be difficult to add questions to CCYS, but adding questions to the "companion" survey administered to college-attending students called the Core Survey (and also funded by OBH) is easier to do. This survey would likely provide richer data – specifically about driving/riding behaviors - as it reaches a slightly older population. Leslie offered to facilitate conversations with the contractor for the Core Survey.

Kristy broached the topic of car insurance rates with Warren and marijuana legalization's impact on them. Warren said that it would be within the purview of LCPIIC to try to factor marijuana impaired driving into car insurance rates. He explained that the costs of alcohol-impaired driving are already factored in. He postulated that car insurance rates would not go down, and they would almost assuredly increase, if marijuana was legalized in Louisiana. Related to that, Rachel Smith asked if Warren has seen data directly connecting marijuana legalization to increased car insurance premiums in legalization states. Warren offered to check with the NAIC (Natl. Association of Insurance Commissioners) to inquire.

With that, Jules Edwards motioned to adopt Recommendation 2 as is. Rebecca Chaisson, LSP Crime Lab Designee, seconded the motion. Members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissent were offered the floor. No members offered dissent. With a majority of present members (10) approving the motion, it passed.

Moving on to Recommendation 3, Kristy admitted to taking some liberties as worked to shift the original Consideration to an actionable Recommendation based on the lengthy discussions that occurred previously. The resulting Recommendation reads as follows: *In terms of Consideration 3, the recommendation is to develop a subcommittee comprised of, at a minimum, LDAA, LSP, and the JOL. The purpose of the subcommittee is to hash out and draft language to make changes to various laws related to DUIs, including, but not limited to, (1) tightening up the definitions within our law, instead of being so specific. Impairment is impairment so maybe we need to tighten up the definition of impairment. It can also help with polysubstance use. (N. DuBois); (2) looking at adding the word "impairment" to our statute (R. Smith); (3) developing language that is more clear and directive about how law enforcement should respond to an impaired driving stop and to include what the evidence collection looks like and how*

*the drug impairment determination was made (J. Edwards); and (4) adding language to RS 32:667 to seize an arrested subject's driver's license for driving under the influence of controlled dangerous substances or a combo with alcohol when a DRE determines a person is impaired (B. Spinney).*

Rachel Smith spoke up on offered to work on this Recommendation. In particular, part 4 that addresses looking at how to hold drug impaired drivers accountable by suspending licenses is a good idea. Currently, that only happens for alcohol impaired drivers. The state of Alabama just did this; perhaps we could get a copy of their legislation as a model. Rachel reiterated that she (and the designated member for whom she is serving as proxy) don't think Louisiana needs a separate DUID law, but agrees the language changes stated would certainly improve Louisiana's current laws.

Jules Edwards motioned to adopt Recommendation 3 as is. Rachel Smith seconded the motion. With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (11) approving the motion, it passed.

In terms of Consideration 4, *the Recommendation is to continue to support the good work of the various member agencies and stakeholder groups that are using their respective resources to develop and implement education campaigns to help residents understand the difference between medical and recreational marijuana. The DWI Task Force is further recommended to continue monitoring legislative actions and MJ normalization messaging coming from the MJ Industry and proponents. The Task Force will commit to convening a working group if landscape changes.*

Jules Edwards motioned to adopt Recommendation 4 as is. Warren Byrd seconded the motion. With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (10) approving the motion, it passed.

In terms of Considerations 5 and 6, *the Recommendation (#5) is to combine them to read as "Advocate to shift standard for criminal evidence for all impaired driving crashes from urine to blood. As a way to support this shift, advocate for training and certification of state and local law enforcement as phlebotomists to support increased demand for blood draws."* The combined Considerations become Recommendation 5. In terms of action, the DWI Task Force should focus on advocacy rather than taking the lead on this action. This is because the SHSP Statewide Impaired Driving Emphasis Area Team (IDEA) has included this action in their statewide plan. Because the IDEA Team leadership overlaps well with the DWI TF, involvement is already occurring. DWI Task Force commits to expressing support to IDEA Team leadership and offering assistance as needed.

Judge Edwards moved for adoption of Recommendation 5. Kelley Dair, MADD Representative, seconded the motion. At this point, the floor was open for discussion. Cathy Childers, LHSC stakeholder, expressed a concern in the chat window that roadside oral fluid testing is emerging nationwide, so we don't want to unintentionally take away from that possibility by focusing solely on blood. For example, Wolf Labs is developing breath test for marijuana. Her recommendation was to reword that maintains a shift away from urine, but also to all other credible evidence collection processes. Jules agreed that the use of the word "standard" could unintentionally diminish the collection of breath or even urine because they are legitimate and sufficient evidence for alcohol impaired driving crashes. Warren Byrd asked about whether the current language could cause excessive challenge to breath alcohol testing.

Jules reiterated that the use of the word "standard" was his major concern. Further, he proposed that we want more to establish a practice of always collecting blood as opposed to establishing a "pecking order" for evidence preferences. What if we changed the language to "Encourage the collection of blood evidence in all impaired driving crashes?" With general agreement, Jules offered a substitute motion to have the recommendation read as *"Encourage the collection of blood evidence in all impaired driving crashes. As a way to support this shift, advocate for training and certification of state and local law*

*enforcement as phlebotomists to support increased demand for blood draws.*" The substitute motion was seconded by Kelley Dair.

During the course of the discussion, Rebecca Chaisson shared the following information in the chat window; FYI only 30% of kits sent to us in 2021 to date were urine only. LEO are getting blood!

With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (9) approving the motion, it passed.

In terms of Consideration 7, *the Recommendation (which is #6) is to allow the SHSP Statewide IDEA Team to take the lead on encouraging law enforcement to adopt response protocols that involves blood collection and DRE assessment for all fatal and serious injury crashes since they have included this action in their statewide plan already.* To support them, DWI Task Force is recommended to take the following actions: (a) ask LSA and LACP reps if they would work with their respective associations to get an endorsement of the concept of requesting a DRE assessment or committing to a DRE consult after the fact for all impaired driving cases. Members of Task Force who also serve as SHSP IDEA Team leads will work with assoc. reps. to coordinate a brief presentation of the situation to their assoc. as well as draft language for an endorsement. Note: endorsement does not equal policy. (b) Compile sample language of the policies from state and local LEAs that have already been adopted to "shop" to LSA and LACP members as part of the above engagement. (c) Work on change to legislation in which language is changed in RS 32:681 to better align with RS 32:666 which requires probable cause of impairment (R. Smith). (d) Formally request LHSC adopt language in future funding contracts that would "highly recommend" LEAs that receive funding become better informed about the DRE program as a resource and adopt a "DRE call out" policy for all impaired driving crashes.

Kelley pointed out that the first bullet (item a above) reads "impaired driving cases" and she thought it should read as "impaired driving crashes." Rebecca offered that between 80% and 85% of deceased drivers in Louisiana get a blood sample and that's because most of them are dead at the scene. The 15-20% is because the driver is alive at the scene, but needs major medical attention and transport to a trauma unit is the priority. Looking back, these tend to be motorcyclists. Louisiana has more data than most states which usually collects slightly over 50%. Collection rates are much higher in LA than in most states.

Kristy reminded everyone that this is really about law enforcement agencies having a clear and well-implemented policy on call out of DREs and making every effort to get blood, as opposed to trying to reach 100% collection of blood. Kristy explained that the policy adoption is part of the SHSP. Cathy Childers clarified that this isn't part of the SHSP IDEA plan now, but it was part of our past plan. She explained that it was difficult getting local agencies to adopt the recommended policy, so the support of the task force would be beneficial. She recalled that only LSP and a handful (3 or 4) local agencies implemented policies.

Jules Edwards motioned to adopt Recommendation 6. Warren Byrd seconded the motion. Jules offered that, fundamentally, it doesn't look like we have good enough support from law enforcement so they have DREs readily available on their staff. So, he recommended part of our work plan with LSA and LACP to implement this recommendation should be to "Encourage more LEAs to identify candidates for DRE training. And, provide information to LEAs on the DRE program." Rachel lamented that she wished the LACP and LSA members were present to share what they know about the concerns and how we can improve our approach. Another action as part of our work plan should be to engage LSA and LACP leadership to find out what concerns/opposition they have. Because so much of the success on this issue centers on gaining widespread law enforcement support, it was decided that the recommended action for this item be more narrowly tailored. Then, depending upon levels of success, additional actions could be taken. With that sentiment agreed, Jules made a substitute motion that read as follows, *Recommendation 6 – In terms of Consideration 7, it is recommended that the DWI Task Force engage its LSA and LACP reps to ultimately obtain an endorsement from their respective organizations of the concept of requesting a DRE assessment or committing to a DRE consult after the fact for all impaired driving arrests, where*

*breath test results are inconsistent with observed impairment or a crash that results in severe bodily injury or death.* Warren seconded the substitute motion. Members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (9) approving the motion, it passed.

In terms of Consideration 8, *Recommendation 7 is to advocate for more training for LEAs, prosecutors, and judges by taking two specific actions: (1) Investigate whether POST recertification requirements could be amended to require a course on drug impairment, and (2) encourage the Louisiana District Judges Association to request to the Louisiana Judicial College to ensure judges in Louisiana are offered training on the JOL program.* Jules clarified that the LA District Judges Association would be best situated to request trainings from the Louisiana Judicial College. With that, Jules Edwards moved for adoption of Recommendation 7. Rachel Smith seconded the motion. With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (10) approving the motion, it passed.

In terms of Consideration 9, *the Recommendation (#8) is to actively monitor legislative actions as well as continue to ensure that the Chair of the DWI Task Force represents the interests of the group through her role as the Governor's Highway Safety Representative and through her membership on the Drug Policy Board so the DWI Task Force can be well situated to advise on needed features of a regulatory agency that has full enforcement authority from seed to sale to adequately control recreational marijuana, if legalized.*

To support the recommendation, the following action steps were offered. It is further recommended that DWI Task Force members who have data and information regarding MJ legalization's impact on highway safety should share it directly with legislators as well fellow DWI Task Force members and stakeholders who can also ensure it is widely disseminated.

Jules Edwards brought up that Recommendation 9 is very similar to this Recommendation and suggested that we consider them together. Kristy verified that the Recommendations are indeed worded very similar and offered to defer to the members about whether to consider them together. For reference, Consideration 10 (which is Recommendation #9) reads as follows, *In terms of Consideration 10, the Recommendation (#9) is to actively monitor legislative actions as well as continue to ensure that the Chair of the DWI Task Force represents the interests of the group through her role as the Governor's Highway Safety Representative and through her membership on the Drug Policy Board so the DWI Task Force can be well situated to advise on dedicated funding priorities which would be allocated from tax revenues earned from recreational marijuana sales.*

To support the recommendation, the following action steps were offered. It is further recommended that DWI Task Force members consult with national associations, counterparts in legalization states, and other subject matter experts to begin to estimate economic costs of MJ legalization to their respective sectors and be prepared to present estimates to fellow stakeholders if landscape changes. At that time, it is recommended that this issue be reconsidered to determine the best method of weighing in on the revenue dedication discussions.

Consensus reached among the members during previous discussions was reiterated during this meeting. It was agreed that Task Force members have significant interest in the outcome of efforts to address Considerations 9&10 (which correspond to Recommendations 8 & 9), but members also felt decisions about these items are beyond the main focus of the DWI Task Force. Specific members anticipate that they will be consulted about these items as legislative actions to advance legalization are taken.

With that, Jules Edwards motioned to adopt Recommendations 8 & 9 together. Warren Byrd seconded the motion. With that, members were asked to log their votes on the motion in the chat window. Members with any concerns were asked to log their votes in the chat window as well. Also, members who wished to voice dissention were offered the floor. No members offered dissention. With a majority of present members (10) approving the motion, it passed.

With only three minutes remaining during the allotted time period, it was decided that discussions about responsible parties and priorities would be held over until next meeting. In preparation for that, Kristy suggested that members should begin considering whether they want to take a leadership (or even supportive) role to work on any of the Recommendations. Kristy clarified that interested stakeholders would be welcome to lead or support advancement of the Recommendations.

*B. DWI Task Force meeting dates for 2022*

Kristy mentioned that dates for 2022 have been determined and will be disseminated to members and stakeholders. The next meeting date is set for February 16, 2022.

**Other Business**

*A. Office of Drug Policy update*

Chaunda Mitchell, Office of Drug Policy Representative, responded that her office had no updates at this time.

*B. Member agency updates*

Trey Jesclard, DOTD proxy, mentioned that 2020 was a bad year for traffic crashes and fatalities, and further, 2021 is expected to be even worse. Final numbers will be available in January 2022.

Kelley Dair offered that, on Friday, November 5, 2021, the U.S. House of Representatives passed the Infrastructure Investment and Jobs Act which included an "Advanced Impaired Driving Technology" section mandating an advanced vehicle technology standard that is expected to prevent more than 9,400 drunk driving deaths annually and countless injuries.

**Comments from stakeholders and members of the public**

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.

**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 February 2022.

**Adjournment**

Lisa announced that all business was completed. A motion to adjourn was offered by Judge Edwards. It was seconded by Lisa Freeman. All favored. No members dissented or abstained from approving the motion. Meeting adjourned at 12:03 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	Marcus Bryant	No
Office of Behavioral Health	Dr. Leslie Freeman	Yes
Office of Motor Vehicles	Kelly Sittig	Yes
LA District Attorneys Association	Rachel Smith (proxy for Norma DuBois)	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Alcohol and Tobacco Control	Ernest Legier	No
Department of Transportation and Development	Trey Jesclard (proxy for Adriane McRae)	Yes
Louisiana Sheriffs' Association	Sheriff K.P. Gibson	No
Louisiana State Police Crime Lab	Rebecca Chaisson	Yes
Louisiana State Police	Chavez Cammon	No
Property and Casualty Insurance Commission	Warren Byrd (proxy for Tom Travis)	Yes
Senate Member	Rick Ward	No
Mothers Against Drunk Driving	Kelley Dair	Yes
LA Restaurant Association	Jeff Conaway	No
LA Association of Chiefs of Police	Chief Daniel Smith	No
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**

Aimee Moles, LSU  
 Joey Jones, North LA Crime Lab  
 Robyn Temple, OMV  
 Autumn Goodfellow-Thompson, DOTD  
 Dortha Cummins, Louisiana Highway Safety Commission  
 Catherine Childers, LHSC  
 Chela Mitchell, LHSC  
 Jessica Bedwell, LHSC  
 Austin Matthews, LSU SREC