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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**

**May 9, 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 10:10 am. She announced that there were 14 members or proxies in attendance which was more than enough for a quorum.

**Welcome and Introductions**

Lisa asked all attendees to introduce themselves. She began with the members and proxies, and then asked guests to introduce themselves. Lisa gave a special introduction to Sam Sinclair, the Regional Program Manager for the National Highway Traffic Safety Administration (NHTSA) Region 6 who was in town to conduct a site visit with the LHSC. Due to new members being appointed, Kristy Miller, Office of Drug Policy, announced that the meeting packet contains an updated contact list.

**Unfinished Business**

Lisa referenced the minutes from the February 2019 meeting and queried members and guests about any unfinished business for the Task Force. Hearing none, this topic was dismissed.

**New Business**

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

Lisa asked everyone to review the minutes from the February 2019 meeting. These minutes were emailed a week prior to the meeting and also provided in the meeting packet. Kristy mentioned that Adriane McRae, LA Department of Transportation and Development, had offered three small edits once the minutes were emailed. Kristy made those edits and indicated the specific edits to the group. No one offered any objections to the edits.

After an appropriate period, Lisa asked if there were any additional edits or overall objections to the documentation of the previous meeting’s proceedings. Hearing none, Dr. Chaunda Mitchell, Office of Drug Policy, made a motion to approve the minutes. Pat Minor, At-Large Member, seconded the motion. Lisa asked for verbal approval of the motions and received unanimous approval.

1. *Presentation and Discussion: THC impairment limits for operating a motor vehicle*

Rachel Smith, LA District Attorneys Association, and Rebecca Nugent, LA State Police Crime Lab, co-presented a presentation titled *Marijuana Impaired Driving and Per Se THC Laws*. To augment their presentation, Rachel and Rebecca developed a one-page handout with the same title. It was included in the meeting packet.

A brief summary of the presentation is provided here. Rebecca began the presentation by reminding everyone that up until 2012, LSP Crime Lab did not test for THC in the blood. Beginning in 2012, LSP Crime Lab acquired some equipment that allowed them to report out tertiary metabolites and carboxy metabolites that are non-impairing. Since July 2018 due to funding provided by LHSC and NHTSA, LSP Crime Lab has been able to test for THC active, THC-hydroxy active, and THC carboxy inactive metabolites. In terms of blood samples because that is the gold standard so that’s what she wanted to report here, 56% are at 0.08 BAC are greater. This is significant because, unless there is a fatality, the LSP Crime Lab does not conduct further testing for other drugs besides alcohol since 0.08 is a legal per se limit. So we never know what most blood samples have besides alcohol.

For those blood samples that are below 0.08, LSP Crime Lab go ahead and conduct the toxicology test automatically. And, that’s where they see the poly-drug use. Currently, they are seeing 51% of the blood samples test positive for at least one other drug in addition to alcohol (which is below the legal per se). So, in totality, 78% of all blood samples that have some positive detectable amount of alcohol also test positive for at least one other drug of impairment And, actually, LSP Crime Lab sees an average between 3 and 4 drugs present in blood samples.

Rebecca stated that she conducted an experiment in which she reviewed blood sample tests for the 18 months before Orleans parish passed a local marijuana decriminalization ordinance in 2016 and also reviewed blood samples 18 months after it passed the local ordinance. There was a 52% increase in THC-positive blood samples after the passage of the local ordinance. She conducted a similar experiment with East Baton Rouge parish blood samples at 16 months pre and post-ordinance passage. There was a 58% increase in THC-positive blood samples after passage in EBR.

Rachel began to review the physiological aspects of marijuana to illustrate how different marijuana is from alcohol to determine impairment. She referenced a study conducted on 19 people. The results of the study showed the radical difference in reductions of THC in the blood of the study participants. Despite the radical reductions in THC levels, however, impairing effects are significantly different for participants. A separate study with chronic daily cannabis users illustrates just how long a positive reading of THC is found even after abstinence. By day 22, 85% of the participants were still positive for a THC-inactive metabolite. However, that positive reading does not directly correlate to impairment.

Rebecca briefly touched on the potency of marijuana. The marijuana of the 1960s averaged at 3-5% THC while modern strands of marijuana are reaching 30-40% THC. There is no doubt that the marijuana of today is significantly higher in THC levels. In addition, changes to the method of consumption of marijuana can allow for the ingestion of high-potency marijuana through vehicles such as vape pens and edibles.

Rachel turned to the recent research from the past 3-4 years that point to the presence of marijuana in the blood cannot neatly correlate to impairment. Because of the poor correlation between THC levels in blood and actual impairment, Rachel outlined that several major authorities have concluded that it is not advisable to set a THC blood level for marijuana impairment, as there is no marijuana per se law that can be scientifically support. Some states, particularly those that have legalized recreational marijuana, have set marijuana per se laws either prior to the release of these studies or in spite of them. However, after a thorough review of the research, these expert presenters have concluded that it is not advisable for our state to set marijuana per se laws at this time.

A question arose regarding how “affirmative defense” (under La. R.S. 14:98 A.1.d.ii) could be used as an advantage for those driving under the influence of medical marijuana because medical marijuana is “recommended” rather than “prescribed.” Would it be treated as a controlled substance or over-the-counter drug? Will the packaging contain a warning against combining with alcohol and/or operating a vehicle while under the influence? Rachel responded that she would consult with the LA Board of Pharmacy regarding the warnings to be included on the packaging for medical marijuana. She agreed that this is an issue to monitor closely.

Dr. Beau Clark, At-Large member and EBR Coroner, asked if the DWI Task Force and/or the Governor’s Administration have an opinion about setting marijuana per se laws. Lisa responded that we are the Task Force. She reiterated that her philosophy is to identify subject matter experts who can educate the group on the emerging issues of the day, one of which is legalization of marijuana and its impact on traffic safety. Thus, based on a question about marijuana per se laws posed by a DWI Task Force member, Rebecca and Rachel were asked to look at the research and conduct the presentation today. If, based on the presentation content, the DWI Task Force would like to take some sort of action, Lisa agreed that is a discussion to be had. Kristy offered, as the staffer for the DWI Task Force, that the members could develop a position paper that would briefly outline the issue and then recommend a position that the DWI Task Force would like to take. The position paper could be shared with the Drug Policy Board, and then DWI Task Force could work with the Drug Policy Board, to raise the issue with legislators and other important stakeholders. Dr. Chaunda Mitchell, Office of Drug Policy, asked the question about whether this an issue to be framed just in terms of pending legislation that would set a marijuana per se law or whether this is a more long term issue. Lisa responded that she thinks it is a “Both/and” situation.

A discussion occurred about how we address this issue for both the immediacy of the pending legislation and also on a more long term level. A question was asked about any case law from other states as it relates to marijuana per se laws. Rachel responded that there isn’t any precedence yet. She further stated that her colleagues in many of those states are frustrated with the per se laws that were set because they were based on arbitrary limits, not evidence. Lisa suggested that we focus on asking Kristy to develop a one-page documenting detailing the state of science and state of the law as it relates to marijuana legalization and the establishment of a per se law and then asking Kristy to share the document with the author of the bill to express the concerns of the DWI Task Force. Norma asked if a motion was needed to put the suggestion into action. Lisa replied that it would be beneficial simply to have everyone understand and formally support the action. Thus, Norma made a motion to request that the Office of Drug Policy develop a one-page document on the concerns of setting a marijuana per se law and to share that document with Representative John Bagneris who filed HB509. Chief Jerrod King seconded the motion. Lisa called for a vote on the motion and received unanimous approval. There was no dissention and no abstentions. Paul Toups, Office of Alcohol and Tobacco Control, asked about the other major aspect of the bill which would legalize recreational marijuana. Lisa expressed that she assumed that is inherent in the previous motion. However, Norma expressed that directly connecting the legalization issue to traffic safety would be a good idea, and may not be a framing he’s considered yet. Thus, Norma made a motion to amend the first motion. The motion to amend the motion directed the Office of Drug Policy to include arguments against recreational marijuana legalization in a one-page document to also include research and information about setting marijuana per se laws. Rebecca seconded the motion. The vote to approve was unanimous. No dissention and no abstentions.

Finally, discussion turned to a more long-term solution to address this issue. Lisa said she would like to raise this issue with the Drug Policy Board. Kristy suggested that the position paper that was just approved to be developed for Representative Bagneris could be expanded to address traffic safety related issues and presented to the Drug Policy Board for consideration. The group liked the idea so Adriane made a motion to request that the Office of Drug Policy develop a position paper to be formally offered by the DWI Task Force to the Drug Policy Board. Amanda Martin, Attorney General’s Office, seconded the motion. The vote to approve was unanimous. No dissention or abstentions.

1. 2019 Legislative Update

Kristy provided a brief update on the legislation that could be of interest to the DWI Task Force. In addition to showing a PowerPoint presentation with the DWI relevant legislation, Kristy provided a complete list of all legislation being tracked by the Office of Drug Policy in the meeting packets.

**Other Business**

1. *Office of Drug Policy update*

The legislative update served as the update for the Office of Drug Policy.

1. *Member agency updates*

No agency had additional updates beyond what was offered during the course of the meeting.

1. *Resource Article:* *Worrisome statistics around medical cannabis users operating vehicles*

An article about research conducted by the University of Michigan Addiction Center found that more than half of people who take cannabis for chronic pain say they’ve driven under the influence of cannabis within two hours of using it, at least once in the last six months.

**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 including the next DWI Task Force meeting date which is August 14, 2019.

**Adjournment**

Motion to adjourn offered by Norma. It was seconded by Paul. All favored. Meeting adjourned at 12:06 PM.

**DWI TASK FORCE MEMBERS**

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| **Member Agency** | **Appointee/Designee** | **In Attendance** |
| Attorney General's Office | Amanda Martin | Yes |
| Governor's Office of Drug Policy | Dr. Chaunda Mitchell | Yes |
| House of Representatives member | Rep. John Stefanski |  |
| Office of Behavioral Health | Dr. Leslie Freeman | Yes |
| Office of Motor Vehicles | Kelly Simmons | Yes |
| Louisiana District Attorneys Association | Norma DuBois | Yes |
| Louisiana Highway Safety Commission | Lisa Freeman | Yes |
| 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 | Lt Colonel Jay Oliphant | Yes |
| Property and Casualty Insurance Commission | Julie Freeman | Yes |
| Senate member | Sen. Dan Claitor |  |
| Mothers Against Drunk Driving | Valerie Cox |  |
| Louisiana Restaurant Association | Jeff Conaway |  |
| LA Association of Chiefs of Police | Chief Jerrod King | Yes |
| At-Large | Delia Brady |  |
| At-Large | Pat Minor | Yes |
| At-Large | Dr. Beau Clark | Yes |

**STAFF**

Kristy Miller – Office of Drug Policy

**GUESTS**

Robyn Temple – Office of Motor Vehicles

Chela Mitchell – Louisiana Highway Safety Commission

Bobby Breland – Louisiana Highway Safety Commission

Judge Marion Edwards – Louisiana Supreme Court

Mike Barron - Louisiana Highway Safety Commission

Dortha Cummins - Louisiana Highway Safety Commission

Samuel Sinclair – National Highway Traffic Safety Administration

Jeannine Childers – Highway Safety Research Group at LSU

Catherine Childers - Louisiana Highway Safety Commission

Janice White – Smart Start of Louisiana

Rachel Smith – LA District Attorneys Association

Betsey Tramonte – Federal Highway Administration