

**Impaired Driving  
Technical Assessment**  
*of the*  
**STATE OF CALIFORNIA**



**September 16 – 21, 2007**

National Highway Traffic Safety Administration  
Technical Assistance Team

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The team believes this report will contribute to the State's efforts to enhance the effectiveness of its impaired driving program in preventing injuries, saving lives, and reducing economic costs of motor vehicle crashes on California's roadways.

Although the team realizes the assessment is a review of all impaired driving activities, the team wishes to commend and encourage all who are involved in the day-to-day functions of reducing impaired driving in California.

**TABLE OF CONTENTS**

**ACKNOWLEDGEMENTS ..... 2**

**INTRODUCTION/BACKGROUND ..... 8**

**PRIORITY RECOMMENDATIONS..... 14**

**I. PROGRAM MANAGEMENT AND STRATEGIC PLANNING ..... 17**

**1-A. State, Local and Tribal DWI Task Forces or Commissions ..... 17**

        Advisory ..... 17

        Status ..... 17

        Recommendations ..... 19

**1-B. Strategic Planning ..... 20**

        Advisory ..... 20

        Status ..... 20

        Recommendations ..... 22

**1-C. Program Management ..... 23**

        Advisory ..... 23

        Status ..... 23

        Recommendations ..... 25

**1-D. Resources ..... 27**

        Advisory ..... 27

        Status ..... 27

        Recommendations ..... 29

**1-E. Data and Records ..... 30**

        Advisory ..... 30

**1-F. Communication Program (see Section IV) ..... 31**

        Advisory ..... 31

**II. PREVENTION..... 32**

**2-A. Responsible Alcohol Service ..... 32**

|  |           |
|--|-----------|
| <b>Advisory</b> .....  | 32        |
| <b>Status</b> .....  | 33        |
| <b>Recommendations</b> .....   | 34        |
| <b>2-B. Transportation Alternatives</b> .....                        | 35        |
| <b>Advisory</b> .....  | 35        |
| <b>Status</b> .....  | 35        |
| <b>Recommendations</b> .....   | 36        |
| <b>2-C. Community-Based Programs</b> .....                           | 37        |
| <b>2-C-1. Schools</b> .....  | 37        |
| <b>Advisory</b> .....  | 37        |
| <b>Status</b> .....  | 37        |
| <b>Recommendations</b> .....   | 39        |
| <b>2-C-2. Employers</b> .....  | 40        |
| <b>Advisory</b> .....  | 40        |
| <b>Status</b> .....  | 40        |
| <b>Recommendations</b> .....   | 41        |
| <b>2-C-3. Community Coalitions and Traffic Safety Programs</b> ..... | 42        |
| <b>Advisory</b> .....  | 42        |
| <b>Status</b> .....  | 42        |
| <b>Recommendations</b> .....   | 43        |
| <b>III. CRIMINAL JUSTICE SYSTEM</b> .....                            | <b>44</b> |
| <b>3-A. Laws</b> .....   | 44        |
| <b>Advisory</b> .....  | 44        |
| <b>Status</b> .....  | 45        |
| <b>Recommendations</b> .....   | 49        |
| <b>3-B. Enforcement</b> .....  | 50        |
| <b>Advisory</b> .....  | 50        |
| <b>Status</b> .....  | 51        |
| <b>Recommendations</b> .....   | 54        |
| <b>3-C. Publicizing High Visibility Enforcement</b> .....            | 55        |

|  |           |
|--|-----------|
| <b>Advisory</b> .....  | 55        |
| <b>Status</b> .....  | 55        |
| <b>Recommendations</b> .....   | 56        |
| <b>3-D. Prosecution</b> .....  | 57        |
| <b>Advisory</b> .....  | 57        |
| <b>Status</b> .....  | 57        |
| <b>Recommendations</b> .....   | 60        |
| <b>3-E. Adjudication</b> .....   | 61        |
| <b>Advisory</b> .....  | 61        |
| <b>Status</b> .....  | 62        |
| <b>Recommendations</b> .....   | 64        |
| <b>3-F. Administrative Sanctions and Driver Licensing Programs</b> .....                           | 66        |
| <b>3-F-1. Administrative License Revocation and Vehicle Sanctions:</b> .....                       | 66        |
| <b>Advisory</b> .....  | 66        |
| <b>Status</b> .....  | 66        |
| <b>Recommendations</b> .....   | 69        |
| <b>3-F-2. Programs</b> .....   | 70        |
| <b>Advisory</b> .....  | 70        |
| <b>Status</b> .....  | 70        |
| <b>Recommendations</b> .....   | 72        |
| <b>IV. COMMUNICATION PROGRAM</b> .....   | <b>73</b> |
| <b>Advisory</b> .....  | 73        |
| <b>Status</b> .....  | 73        |
| <b>Recommendations</b> .....   | 76        |
| <b>V. ALCOHOL AND OTHER DRUG MISUSE: Screening, Assessment, Treatment and Rehabilitation</b> ..... | <b>77</b> |
| <b>5-A. Screening and Assessment</b> .....   | 78        |
| <b>5-A-1. Criminal Justice System</b> .....  | 78        |
| <b>Advisory</b> .....  | 78        |
| <b>Status</b> .....  | 78        |

|   |            |
|---|------------|
| <b>Recommendations</b> .....  | 80         |
| <b>5-A-2. Medical or Health Care Settings</b> .....                     | 81         |
| <b>Advisory</b> .....   | 81         |
| <b>Status</b> .....   | 81         |
| <b>Recommendations</b> .....  | 82         |
| <b>5-B. Treatment and Rehabilitation</b> .....                          | 83         |
| <b>Advisory</b> .....   | 83         |
| <b>Status</b> .....   | 83         |
| <b>Recommendations</b> .....  | 85         |
| <b>5-C. Monitoring Impaired Drivers</b> .....                           | 86         |
| <b>Advisory</b> .....   | 86         |
| <b>Status</b> .....   | 86         |
| <b>Recommendations</b> .....  | 88         |
| <b>VI. PROGRAM EVALUATION AND DATA</b> .....                            | <b>89</b>  |
| <b>6-A. Evaluation</b> .....  | 89         |
| <b>Advisory</b> .....   | 89         |
| <b>Status</b> .....   | 89         |
| <b>Recommendations</b> .....  | 91         |
| <b>6-B. Data and Records (see Section 1-E)</b> .....                    | 92         |
| <b>Advisory</b> .....   | 92         |
| <b>Status</b> .....   | 92         |
| <b>Recommendations</b> .....  | 95         |
| <b>6-C. Information and Records Systems (including Licensing)</b> ..... | 97         |
| <b>Advisory</b> .....   | 97         |
| <b>Recommendations</b> .....  | 98         |
| <b>APPENDIX 1 – Team Credentials</b> .....                              | <b>99</b>  |
| <b>APPENDIX 2 – Assessment Agenda</b> .....                             | <b>107</b> |



## **INTRODUCTION/BACKGROUND**

In 2006, 42,642 persons were killed and nearly 2.6 million injured in motor vehicle crashes in the United States. Motor vehicle crashes are the leading cause of death in the US. Motor vehicle crashes are the principal cause of on-the-job fatalities and are the leading cause of unintentional death in the United States. Nationwide, the economic cost of motor vehicle traffic crashes exceeds \$230 billion annually. Alcohol was involved in approximately 41 percent (17,602) of the total number of traffic fatalities and responsible for nearly 278,000 injuries in 2006.

The mission of the National Highway Traffic Safety Administration (NHTSA) is to reduce deaths, injuries, and economic and property losses resulting from motor vehicle crashes. In its ongoing pursuit to reduce alcohol-related traffic crashes and subsequent fatalities and injuries, NHTSA continues its program of providing Technical Assistance Teams to the states upon request. This approach allows the states to use highway safety funds to support the team's evaluation of existing and proposed alcohol and other drug – impaired driving control efforts.

NHTSA acts as a facilitator by assembling a team composed of individuals who have demonstrated competence in impaired driving program development and evaluation. Examples of program expertise among team members include criminal justice, enforcement, engineering, evaluation, prevention, program management, traffic records, and substance abuse prevention/treatment/rehabilitation.

The California Office of Traffic Safety (OTS) requested NHTSA's assistance in assessing the State of California's alcohol and drug impaired driving countermeasures program. NHTSA agreed to facilitate this assessment and met with the OTS to define key issues of concern to the State.

The California Impaired Driving Assessment was conducted at the Marriott Residence Inn in Sacramento from September 16 - 21, 2007. Under the leadership of Christopher Murphy, the State of California Governor's Representative, arrangements were made for program experts (see Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a three-day period. The team interviewed numerous presenters, with several being contacted following their presentations, to provide additional information and clarification.

### **California Demographics**

#### *Geography*

California is 770 miles long and 250 miles wide at its most distant points, covering land areas of 155,973 square miles. It is the third largest land mass state in the U.S. Located on the Pacific Coast of North America, it is bordered by Oregon, Nevada, and Arizona. While not well defined, the State is generally divided geographically by northern and southern regions. There are distinct geomorphic ranges from the alpine mountains, foggy coastlines, hot deserts, and a fertile central valley. California climate is varied, ranging in monthly average temperatures from a high of 92.2 degrees to a low of 14.3. The climate along the coast is mild, cooler along the central and northern coast. Southeastern California is hot and dry. Most of California has a



rainy season and a dry season. The rainy season runs from October to April in northern California and from November to March or April in southern California.

*Population*

California is the most populous state in the U.S. According to the U.S. Census Bureau Population Estimates, there were more than 36,450,000 people living in California in 2006. More than 12 percent of U.S. citizens live in California and its population is greater than that of all but 34 countries.<sup>1</sup> More than half of California residents live in the coastal region which stretches 1,264 miles from the Oregon border in the north to Mexico in the south.

Below is a demographic chart obtained from the U.S. Census Bureau, 2006 American Community Survey.

| <b>ACS Demographic Estimates</b> | <b>Estimate</b> | <b>Percent</b> | <b>U.S.</b> |
|----------------------------------|-----------------|----------------|-------------|
| Total population                 | 36,457,549      |                |             |
| Male                             | 18,225,275      | 50.0           | 49.2%       |
| Female                           | 18,232,274      | 50.0           | 50.8%       |
| Median age (years)               | 34.4            | (X)            | 36.4        |
| Under 5 years                    | 2,672,666       | 7.3            |             |
| 5 to 9 years                     | 2,514,639       | 6.9            |             |
| 10 to 14 years                   | 2,700,465       | 7.4            |             |
| 15 to 19 years                   | 2,738,727       | 7.5            |             |
| 20 to 24 years                   | 2,697,878       | 7.4            |             |
| 25 to 34 years                   | 5,232,260       | 14.40          |             |
| 35 to 44 years                   | 5,525,036       | 15.15          |             |
| 45 to 54 years                   | 5,017,599       | 13.80          |             |
| 55 to 59 years                   | 1,984,803       | 5.4            |             |
| 60 to 64 years                   | 1,445,646       | 4.0            |             |
| 65 to 74 years                   | 2,002,937       | 5.5            |             |
| 75 to 84 years                   | 1,400,449       | 3.8            |             |
| 85 years and over                | 524,444         | 1.4            |             |
|                                  |                 |                |             |

<sup>1</sup> Department of Economic and Social Affairs Population Division (2006). "World Population Prospects, Table A.2" (.PDF). 2006 revision. United Nations. Retrieved on 2007-06-30.

| <b>RACE</b>                                |            |      |       |
|--|------------|------|-------|
| White                                      | 21,810,156 | 59.8 | 73.9% |
| Black or African American                  | 2,260,648  | 6.2  | 12.4% |
| American Indian and Alaska Native          | 265,963    | 0.7  | 0.8%  |
| Asian                                      | 4,483,252  | 12.3 | 4.4%  |
| Native Hawaiian and Other Pacific Islander | 129,483    | 0.4  | 0.1%  |
| Some other race                            | 6,296,602  | 17.3 | 6.3%  |
| Two or more races                          | 1,211,445  | 3.3  | 2.0%  |
| Hispanic or Latino (of any race)           | 13,074,155 | 35.9 | 14.8% |

Source: U.S. Census Bureau, 2006 American Community Survey

According to the Modern Language Association, 60.52 percent of people over 5 years old in California speak English as the first language at home, 39.47 percent speak other languages including 25.8 percent Spanish. Forty-seven percent reported that they did not speak English “very well.”

### *Economy*

According to the Central Intelligence Agency, if California were an independent nation, it would be the tenth largest economy in the world<sup>2</sup>. In 2005, the gross state product (GSP) was approximately \$1.62 trillion, the largest in the country. California is responsible for 13 percent of the United States gross domestic product (GDP). California is also the home of several significant economic regions such as Hollywood (entertainment), the California Central Valley (agriculture), the Silicon Valley and Tech Coast (computers and high tech), and wine producing regions such as the Napa Valley, Sonoma Valley and Southern California's Santa Barbara and Paso Robles areas. The predominant industry is agriculture, (including fruit, vegetables, dairy, and wine). This is followed by aerospace, entertainment, light manufacturing, including computer hardware and software, and the mining of borax. Oil drilling has played a significant role in the development of the State. The 2005 per capita personal income in California was \$36,936 according to the U.S. Department of Commerce Bureau of Economic Analysis. The national average per capita personal income was \$34,471. However, per capita income in the State varies widely by geographic region and profession. Many coastal cities include some of the wealthiest per-capita areas in the U.S. California levies a 9.3 percent maximum variable rate income tax, with 6 tax brackets. It collects about \$40 billion in income taxes.

### *Politics*

California is divided into 58 political subdivisions or counties with population sizes ranging from approximately 1,200 in Alpine County to more than 10,000,000 in Los Angeles County.

<sup>2</sup> [Rank Order - GDP](https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html). CIA - *The World Factbook*. Retrieved on September 12, 2007. <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html>

### *Transportation*

Most California residents travel by car. According to the Federal Highway Administration Highway Statistics for 2005, California had 19,437,878 registered private and commercial automobiles and 11,755,412 licensed drivers. Drivers in California traveled a total of 329,267 million vehicle miles in 2005. California roadways are interconnected by freeways, expressways, highways, and other roadways covering nearly 170,000 miles.

### **Highway Safety**

2006 data from the National Center for Statistical Analysis, Fatality Analysis Reporting System (FARS) shows there were 4,236 motor vehicle fatalities in California. This is a 2.2 percent decrease from the previous year of 4,333 fatalities. The total motor vehicle fatalities, including alcohol-related fatalities, have steadily increased since 1997 in California. Unrestrained passenger vehicle fatalities have steadily declined in California from 46 percent of the total motor vehicle fatalities in 1997 to 37 percent in 2006.

Motor vehicle fatalities per 100 million vehicle miles traveled (VMT) in California was at 1.29, significantly lower than the national rate of 1.41. The rate of alcohol-related motor vehicle fatalities per 100 million VMT was at .54, also lower than the national rate of 0.58 and at .46 for fatalities where the highest blood alcohol concentration (BAC) levels was .08 grams per deciliter (g/dl) or greater than the national rate of .51.

In 2006, the percentage of alcohol-related to total fatalities was a percentage point higher than the national percentage rate of 41. However, this has remained fairly comparable to the national percentage since 1997.

The annual cost of motor vehicle crashes in California is \$20.655 billion.

Table 1 outlines California's fatalities in motor vehicle traffic crashes from 1997 to 2006.

Table 1<sup>3</sup>

| Fatalities in California Motor Vehicle Traffic Crashes, 1997 to 2006 |                                |                |                     |   |    |              |  |    |              |   |    |
|--|--------------------------------|----------------|---------------------|---|----|--------------|--|----|--------------|---|----|
| Crash Year   | Total Motor Vehicle Fatalities | VMT (Millions) | Fatalities/100m VMT | Total Alcohol-related Fatalities (BAC=.01+) |    |              | Fatalities Where the Highest BAC in the Crash Was .08+ |    |              | Unrestrained Passenger Vehicle Fatalities |    |
|  |                                |                |                     | Number                                      | %  | Per 100m VMT | Number   | %  | Per 100m VMT | Number                                    | %  |
| 2006   | 4,236                          | 327,478        | 1.29                | 1,779                                       | 42 | 0.54         | 1,506  | 36 | 0.46         | 1,023                                     | 37 |
| 2005   | 4,333                          | 329,267        | 1.32                | 1,769                                       | 41 | 0.52         | 1,505  | 35 | 0.46         | 1,095                                     | 38 |
| 2004   | 4,120                          | 328,917        | 1.25                | 1,667                                       | 40 | 0.51         | 1,390  | 34 | 0.42         | 1,134                                     | 41 |
| 2003   | 4,224                          | 323,592        | 1.31                | 1,629                                       | 39 | 0.50         | 1,377  | 33 | 0.43         | 1,221                                     | 42 |
| 2002   | 4,088                          | 321,696        | 1.27                | 1,628                                       | 40 | 0.51         | 1,326  | 32 | 0.41         | 1,266                                     | 44 |
| 2001   | 3,956                          | 310,575        | 1.27                | 1,552                                       | 39 | 0.50         | 1,255  | 32 | 0.40         | 1,151                                     | 42 |
| 2000   | 3,753                          | 306,649        | 1.22                | 1,450                                       | 39 | 0.47         | 1,199  | 32 | 0.39         | 1,058                                     | 41 |
| 1999   | 3,559                          | 300,066        | 1.19                | 1,397                                       | 39 | 0.47         | 1,163  | 33 | 0.39         | 1,134                                     | 46 |
| 1998   | 3,494                          | 290,630        | 1.20                | 1,367                                       | 39 | 0.47         | 1,133  | 32 | 0.39         | 1,049                                     | 44 |
| 1997   | 3,688                          | 279,096        | 1.32                | 1,348                                       | 37 | 0.48         | 1,113  | 30 | 0.40         | 1,119                                     | 46 |

As shown in the below FARS Figures 1 and 2, the highest numbers of alcohol-related motor vehicle fatalities, as well as single nighttime vehicle crashes<sup>4</sup>, occur most frequently in the southern part of the State. However, the rate of alcohol-related fatalities per population of 100,000 is highest in the northern part of the State (Trinity, Sierra, Mendocino, Amador, and Plumas counties).

Figure 2

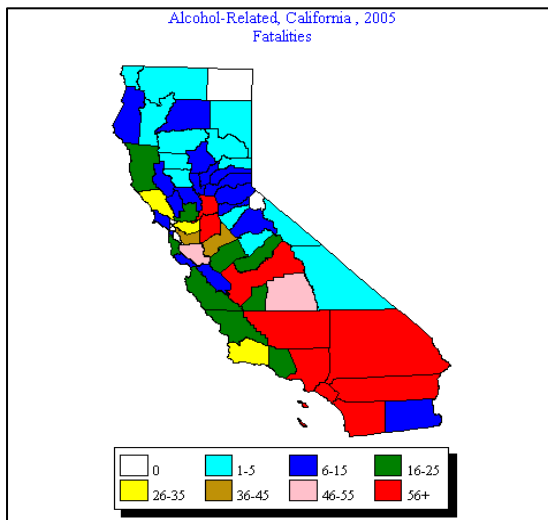
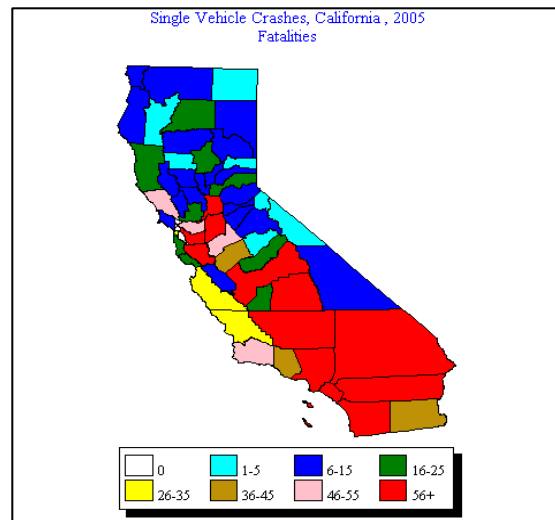


Figure 2



<sup>3</sup> †Based on the new Alcohol Methodology  
Traffic Safety Facts, California – 2006  
Traffic Safety Facts, California – 2001

<sup>4</sup> Single nighttime vehicle crashes has been used as an indicator of alcohol-related crashes.

Trinity, Sierra, Mendocino, Amador, and Plumas counties have a population less than 100,000 ranging from 3.7 to 59 people per square mile, more than 90 percent white, and a median household income lower than the State's median household income of \$49,894.

Information obtained from the California Highway Patrol's 2005 Annual Report of the Fatal and Injury Motor Vehicle Traffic Collision reveals that drivers who had been drinking in fatal crashes are predominately male between the ages of 21 to 24 followed by ages 25 to 29. The report also shows that all fatal and injury crashes, including alcohol-related, occur most often during the summer months of July and August.

## **PRIORITY RECOMMENDATIONS**

### **1-C: Program Management**

- Identify an impaired driving coordinator as a focal point for the State who would assist with communication and coordination of all impaired driving programs.
- Enhance the current system of identifying priority jurisdictions by analyzing additional and more complex factors such as the data available from the *Annual Report of the California DUI Management Information System*.

### **1-D: Resources**

- Dedicate funds to impaired driving programs, using an approach similar to those which have proven successful in other states, such as the New York “Stop DWI” program and New Mexico’s fine system.

### **2-B: Transportation Alternatives**

- Assure that all designated driver and safe ride programs avoid unintentionally enabling over consumption by those relying on the designated driver.

### **2-C-1: Schools**

- Conduct independent rigorous program evaluations of impaired driving prevention strategies.

### **2-C-3: Community Coalitions and Traffic Safety Programs**

- Integrate local traffic safety collaborative efforts with existing State Incentive Grants (SIG), Drug Free Community, and other substance abuse and/or youth development coalitions.

### **3-A: Impaired Driving Laws**

- Require by statute that all defendants convicted of Driving Under the Influence (DUI) or Reckless Driving with Alcohol or Drugs be screened to determine if they require treatment for addiction and chemical dependency.

### **3-B: Enforcement**

- Enhance Standard Field Sobriety Testing (SFST) training to provide officers with the knowledge and ability to explain the Horizontal Gaze Nystagmus (HGN) concept and prosecutors with guidance on presenting HGN evidence.

### **3-C: Publicizing High Visibility Enforcement**

- Research the extent and nature of the DUI problem among non-English speaking populations in the State, including the State's Tribal Nations.

### **3-D: Prosecution**

- Collect and review written statements filed by prosecutors in cases where non-alcohol-related reckless driving and other moving violation charges have been substituted in cases where defendants were arrested for DUI. Determine why such charge substitutions were made and undertake remedial action as needed.

### **3-E: Adjudication**

- Enact legislation requiring judges to order all DUI defendants to participate in alcohol or drug treatment, as a condition of probation, where screening and assessment verify the need.

### **3-F-1: Administrative License Revocation and Vehicle Sanction**

- Reduce the time between the request for a hearing, when one has been requested, and the time it is conducted.

### **5-B: Treatment and Rehabilitation**

- Conduct a comprehensive review and outcome evaluation of the current DUI Program.

### **5-C: Monitoring Impaired Drivers**

- Use private probation services to provide probation supervision for DUI defendants where state probation departments are unable to undertake such supervision.

### **6-A: Evaluation**

- Develop and implement impact evaluations for those projects or collection of projects for which a change in behavior should be expected and can be measured.

### **6-B: Data and Records (see section 1-E)**

- Implement the planned Citation Tracking System as proposed in the *Draft 2008 Highway Safety Plan* for Project TR0805 to establish a more comprehensive source for the DUI/MIS that will provide a more efficient means for providing a research database to support the State's DUI program.

**6-C: Information and Records Systems (including Licensing)**

- Implement the planned project TR0805, “Improve Department of Motor Vehicles Database Integrity” to improve the timeliness, accuracy and completeness of the DUI cases submitted from the courts.



## **I. PROGRAM MANAGEMENT AND STRATEGIC PLANNING**

Effective impaired driving programs begin with strong leadership, sound policy development, program management, strategic planning, and an effective communication program. Program efforts should be data driven, focusing on populations and geographic areas that are most at risk, and science based, determined through independent evaluation as likely to achieve success. Programs and activities should be guided by problem identification and carefully managed and monitored for effectiveness. Adequate resources should be devoted to the problem, and the costs should be borne, to the extent possible, by impaired drivers.

### **1-A. State, Local and Tribal DWI Task Forces or Commissions**

#### **Advisory**

*States, local subdivisions and tribal governments should convene Driving While Impaired (DWI) task forces or commissions to foster leadership, commitment and coordination among all parties interested in impaired driving issues. Task forces and commissions should:*

- *Enjoy active support and participation from the highest levels of leadership.*
- *Include members that represent all interested parties, both traditional and non-traditional, such as representatives of: government – highway safety, enforcement, criminal justice, liquor law enforcement, public health, driver licensing and education; business – employers and unions; the military; medical, health care and treatment; multi-cultural, faith-based, advocacy and other community groups; and as appropriate neighboring countries.*
- *Recommend goals and objectives, provide policy guidance and identify available resources, based on their wide variety of interests and through leveraging opportunities.*
- *Coordinate programs and activities to ensure that they complement rather than compete with each other.*
- *Operate continuously, based on clear authority and direction, established by law.*

#### **Status**

At the time of the last California Impaired Driving Assessment (December 1991), the California Office of Traffic Safety (OTS) required that each grant recipient form a task force or steering committee to encourage community involvement and input. It was also noted that OTS was an active member and participant in the Governor's Policy Council on Alcohol and Drug Abuse (GPC). At some point, California also had a Governor's DUI task force or advisory group.

OTS no longer mandates that each grant recipient form a task force or steering committee. However, there are numerous local enforcement task forces working in support of mobilizations. In lieu of a task force per grant recipient, some task forces are established regionally. The composition of these task forces varies according to the area; generally, these are focused primarily on enforcement and do not always represent a broad spectrum of the DUI system.

There are also State Incentive Grants (SIG) coalitions funded from the Center for Substance Abuse Prevention, U.S. Substance Abuse and Mental Health Services Administration. SIG goals are consistent with highway safety impaired driving goals; their goals include reducing binge drinking among youth and young adults, (ages 12 to 25) and reducing the impact of binge drinking on communities. As of September 2006, there were 13 active, local SIG coalitions with 305 coalition members.

The GPC has since evolved into the Governor's Interagency Coordinating Council for the Prevention of Alcohol and Other Drug Programs (otherwise known as the Governor's Prevention Advisory Council or GPAC) which operates under the auspices of the California Department of Alcohol & Drug Programs. GPAC coordinates the State's strategic efforts to reduce the incidence and prevalence of inappropriate alcohol, tobacco, and other drug use by youth and adults. GPAC also serves as the SIG Advisory Committee and as the State Policy Steering Committee for the California Screening, Brief Intervention, Referral, and Treatment Program. Members include representatives from 14 state departments, offices, and organizations – including the Office of Traffic Safety – plus a representative from the Governor's Office of Planning and Research. GPAC is chaired by the Director of the Department of Alcohol and Drug Programs. OTS is actively involved in GPAC, including staff attendance at its quarterly meetings, and participation in its workgroups.

The State also has a Traffic Records Coordinating Committee (TRCC). This committee is chaired by the California Highway Patrol (CHP) and meets quarterly. Three staff members from OTS serve on the committee. The State is currently working on a Memorandum of Understanding to define the relationships and responsibilities of the TRCC.

There are also committees and working groups which have been formed in conjunction with the development and implementation of the Strategic Highway Safety Plan (SHSP). The guiding force for the SHSP is a steering committee comprised of representatives from 18 local, state, and federal entities. This committee provided the primary guidance and input, monitored progress, and was responsible for completing the SHSP on time. This committee then was assisted by a stakeholder group composed of 80 representatives from different agencies. Subsequently, since the SHSP has been adopted, 16 Challenge Area teams were established to develop detailed implementation plans and establish priorities for Challenge Area strategies and action items.

At this point, therefore, there are several groups and task forces which include impaired driving as a priority issue. As far as impaired driving is concerned, however, there are weaknesses in these groups. The highest level state group, the SHSP Steering Committee, has responsibility for all priority traffic safety issues, and therefore does not focus solely on impaired driving issues. The impaired driving Challenge Area team, which does focus solely on impaired driving, is primarily composed of staff members from various organizations, not high level executives. The TRCC peripherally supports impaired driving and feeds into the SHSP development and implementation process, but it is not intended to focus on the broad spectrum of impaired driving issues. GPAC does include a focus on impaired driving, but also includes general alcohol, tobacco, and drug use and abuse from a prevention perspective. Local task forces, while they also may focus on impaired driving, generally do not address all aspects of the impaired driving system and do not include state-level officials and executives with policy-making authority.

In addition to committee, task force, and workgroup meetings, state conferences are held to share information across jurisdictional and professional lines.

### **Recommendations**

- Establish a state level, multi-disciplinary impaired driving task force with high level leadership involvement and support and which concentrates on impaired driving issues and systems improvements.
- Expand local task forces to include broad representation from all aspects of a comprehensive impaired driving program, including community groups, advocates, business partners, educators, media, enforcement, adjudication, probation officers, health care workers, and others.
- Continue local, regional and statewide meetings and conferences to support multi-disciplinary task forces as well as to share information across the State and raise the profile of the impaired driving problem.
- Establish a network, which might be as formal as an association or as informal as an email group, comprised of existing and new state and local committees, task forces, and working groups to provide mutual support and communicate priorities

## **1-B. Strategic Planning**

### **Advisory**

*States should develop and implement an overall plan for short and long term impaired driving activities. The plan should:*

- *Be based on careful problem identification that uses crash, arrest, conviction, driver record and other available data to identify the populations and geographic areas most at risk.*
- *Allocate resources for countermeasures determined to be effective that will impact the populations and geographic areas most at risk.*
- *Include short-term objectives and long-range goals.*

### **Status**

California has completed significant strategic and programmatic planning, culminating in three current documents: the *California Strategic Highway Safety Plan (SHSP)* issued September 2006, the California Office of Traffic Safety (OTS) *A Performance-based Strategic Plan for 2006-2010*, and the OTS *Highway Safety Plan*.

As required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), the California Department of Transportation (Caltrans) developed the SHSP using a collaborative process with the involvement of government agencies at all levels, traffic safety advocates, and other interested groups. The guiding force was a steering committee composed of representatives from 18 various agencies and organizations. A stakeholder group of 80 different organizations provided input for content. The first step in the process, data analyses, primarily used three online data sources: the Statewide Integrated Traffic Records System (SWITRS), the Fatality Analysis Reporting System (FARS), and the American Association of State Highway and Transportation Officials (AASHTO) Strategic Highway Safety Plan. SWITRS data were used to produce the summary tables and fatality trend graphics for California's SHSP. The SWITRS database is composed of three data tables: collision, party, and victim.

Using the AASHTO Strategic Highway Safety Plan and guidance from the state's stakeholders, with input from interested parties gathered at summits, the data analyses resulted in 16 Challenge Areas for the SHSP. Each Challenge Area in the SHSP includes the following four components:

1. Establishment of a goal for improving reducing traffic fatalities, thereby improving California's data safety by 2010.
2. Background information on the Challenge Area including a history of fatalities from 1995-2004.
3. Strategies being considered for implementation to achieve the Challenge Area goal.
4. Institutional and other issues that could affect the success of the implementation.

Indicative of the high priority California places on impaired driving, and the great proportion of total fatalities related to impaired driving, the number one Challenge Area for the SHSP is to reduce impaired driving related fatalities; the state goal is to reduce those fatalities by 15 percent between 2004 and 2010.

The OTS *A Performance-based Strategic Plan for 2006-2010* is a comprehensive plan that outlines OTS' mission, values, goals, objectives, and strategies. The plan presents four overarching goals:

1. Enhance OTS' support and monitoring of grantees' performance.
2. Ensure OTS' administration of grants is efficient and customer-friendly.
3. Use grant funds more strategically, effectively, and with greater innovation.
4. Strengthen communication with internal and external stakeholders.

Implementation of this strategic plan should greatly assist OTS to achieve its stated mission:

*To obtain and effectively administer traffic safety grant funds to reduce deaths, injuries and economic losses resulting from traffic collisions.*

In support of the impaired driving program, implementing the strategies of Objective 3.2 – *increase the percent of cities with disproportionate number of crashes that OTS proactively solicits for grant participation from 15 in 2005 to 25 in 2006 and to 30 through 2010* – could positively impact impaired driving crashes. Strategies 3.2.1. and 3.2.2., in particular, should help in placing grant support where the need is greatest. These strategies are:

- 3.2.1. Utilize Regional Coordinators and Law Enforcement Liaisons to proactively solicit grant proposals from high priority cities and counties*
- 3.2.2. Develop a process to help identify high priority cities and counties*

To help focus on priority geographic areas, OTS has established a ranking system for cities and counties based on victims and collisions and DUI arrests. Victim and collision rankings are based on rates of victims killed and injured or fatal and injury collisions per 1,000 daily vehicle-miles-of-travel (2005 Caltrans) and per 1,000 average population (2005-2006 Department of Finance) figures.

DUI arrest rankings are calculated for cities only and are based on rates of non-California Highway Patrol DUI arrests (2005 Department of Justice) per estimated average number of licensed drivers.

Counties are assigned statewide rankings, while cities are assigned population group rankings. Rankings are used by potential grantees to support proposals for funding and by OTS regional coordinators and law enforcement liaisons to determine which areas will be proactively approached to participate in the traffic safety grant program. A high ranking does not guarantee grant funding nor does a low ranking preclude funding.

At the time of this assessment, OTS was completing implementation of the Federal Fiscal Year (FFY) 2007 Highway Safety Plan (HSP) and will soon begin implementation of the FFY 2008 HSP. Using either number of grants (192) or amount of funds planned (\$42.6 million, approximately 52 percent of the total planned) as a measure, the “alcohol and other drugs” program area is the number one priority for OTS for FFY 2008. While the SHSP establishes long-range (to 2010) goals, this program area of the HSP establishes short-range goals (to December 31, 2008). Established goals include reductions in alcohol-related fatalities, alcohol-related injuries, alcohol-related fatalities per 100 million vehicle miles traveled, and percent of drivers at 0.08 BAC and above in fatal collisions. The HSP also establishes short-range (by September 30, 2008) goals for funded grants. The HSP outlines an extremely comprehensive, programmatic approach to the impaired driving program, incorporating enforcement, training, probation support, media and public information, underage education and prevention, alcohol-free events, community programs, and administrative support (reporting and records management).

However, the HSP does not establish statewide targets for a comprehensive DUI system, such as increasing convictions to a projected rate or increasing DUI arrests a specific amount. While these types of goals are outside the typical crash and fatality-related focus of an HSP, establishing these kinds of goals would be helpful to set expectations for specific system-wide improvements.

### **Recommendations**

- Develop specific, short- and long-range impaired driving target goals for the California DUI system for all areas of a comprehensive impaired driving program including, but not limited to, targeted increases in DUI arrests and convictions.
- Ensure the continued incorporation of rankings based on rates for cities and counties into the grant selection and funding process such that those cities and counties which rank high are assessed and given priority for grant funding and those cities and counties which rank low are recognized for achieving a measure of success.
- Implement developed plans to the fullest extent.

## 1-C. Program Management

### Advisory

*States should establish procedures to ensure that program activities are implemented as intended. The procedures should provide for systematic monitoring and review of ongoing efforts to:*

- *Designate a lead agency that is responsible for overall program management and operations.*
- *Ensure that appropriate data are collected to assess program impact and evaluation.*
- *Measure progress in achieving established goals and objectives.*
- *Detect and correct problems quickly.*

### Status

The California Office of Traffic Safety (OTS) serves as the lead agency responsible for overall program management and operation of the highway safety program. The designated Governor's Highway Safety Representative (GR) is the Director for OTS. OTS is one of 13 departments and offices which report to the Secretary of Business, Transportation and Housing who reports to the Governor. In addition to OTS, this agency includes the Department of Transportation, the Department of Alcoholic Beverage Control, the California Highway Patrol, and the Department of Motor Vehicles, among others.

The day-to-day operations of the traffic safety program are conducted by OTS with 36 full-time equivalents (FTEs). According to the OTS organizational chart, a public affairs information officer report to the OTS director. Three division heads – the manager of the Program Planning & Operations Division, the manager of the Administration & Support Division, and the head of the Information Technology Division – report to the Director. To manage projects throughout the State, OTS has divided the State's 58 counties into nine multi-county regions. Ten regional coordinators manage the grants within their designated region(s). Each coordinator possesses expertise in all priority program areas. OTS has also assigned each coordinator as a specific Program Area Expert (PAE). There are two coordinators for the alcohol and other drugs program area; one regional coordinator focuses on underage, teen programs while another coordinator addresses primarily adult impaired driving programs. Organizationally, the impaired driving program comes together with the Staff Services Manager who heads the Program Planning & Operations Division. As a result, it is not readily apparent who coordinates all impaired driving projects and issues for OTS or the State. To manage projects throughout the state, OTS has divided the State's 58 counties into nine multi-county regions.

OTS draws from several data sources to assist in planning and proposal selection. These sources include:

- The Statewide Integrated Traffic Records System (SWITRS). The California Highway Patrol receives about 500,000 crash reports annually, from their own investigations and local police agencies, which are entered into the SWITRS.

- The Traffic Accident Surveillance and Analysis System (TASAS). TASAS is maintained by the California Department of Transportation and provides roadway data for state and interstate highways.
- The Automated Management Information System (AMIS). AMIS is the database of registered motor vehicles and licensed drivers maintained by the Department of Motor Vehicles.
- Arrest and Conviction File. This file, maintained by the Department of Justice, includes arrest and disposition data.
- Census and demographic data.

The State develops an excellent and highly useful *Annual Report of the California DUI Management Information System*. It was not readily apparent that OTS makes significant use of this information to plan or evaluate the grant-funded highway safety program. The State does not yet have a functioning Citation Tracking System, which prevents the State from adequately analyzing the effectiveness of enforcement and ensuring the integrity of citation processing from issuance to disposition. A project to obtain and deploy the hardware and software for such a system is planned for federal fiscal year (FY) 2008. The State also lacks a statewide comprehensive injury surveillance system.

As part of the problem identification process, OTS develops collision rates for each California city and county. Rates are calculated for population and vehicle miles traveled. These rates become part of a jurisdiction profile which includes traffic collisions, demographic variables, DUI arrests, primary collision factors, plus population and vehicle miles traveled as normalizing variables.

According to the *OTS Operations Manual*, available data are a consideration for proposal selection. The *Operations Manual* defines six criteria as the bases for proposal selection:

1. Potential traffic safety impact?
2. How serious are identified problems?
3. Collision statistics/rankings?
4. Are time frames and costs reasonable and proportional to the identified problem(s)?
5. Number of recently funded OTS grants?
6. What has been the agency's performance on previous grants, if any?

In addition, *OTS Blueprints – Best Practices* helps potential grantees select recommended goals and “best practice” objectives that are time-tested and impact traffic problems. The *Blueprints* also facilitates grant development by providing guidelines to help assess the comprehensiveness of a traffic safety proposal. The *Blueprints* is available online or in hard copy by contacting OTS.



The *Highway Safety Plan* (HSP) 2008 reflects the alcohol and other drug program area as the highest priority for the State. This program area is planned to have the largest number of grants, 47 percent of a total 371 grants, for the coming fiscal year. This priority is equally represented in the amount of funds planned for the alcohol and other drug program area, with approximately 52 percent of the \$90 million planned for FFY 2008 dedicated to alcohol and other drug projects.

Using 2004 as the base period and December 31, 2008 as the projected end date, the State has established five measurable statewide performance goals:

1. To decrease the number of persons killed in alcohol-involved collisions 1.0 percent from 1,462 to 1,447;
2. To decrease the number of persons injured in alcohol-involved collisions 2.0 percent from 31,538 to 30,907;
3. To reduce alcohol-related fatalities per 100 million vehicle miles traveled 0.02 points from 0.50 to 0.48;
4. To reduce the percentage of drivers in fatal collisions, with a BAC of .08 or above, 1.2 percentage points from 15.2 percent to 14.0 percent; and
5. To reduce the number of Had Been Drinking (HBD) drivers age 19-25 in fatal collisions 0.5 percent from 323 to 321

In addition to overall statewide goals, OTS has established goals specific to funded grants. These goals can significantly assist OTS to determine whether funded projects are having greater, less, or equal effect compared to the rest of the State.

Previously, the amount of grantee performance reviews conducted annually has been low – only 10 percent of local grants over \$100,000 in 2005. However, OTS has established a commendable goal of 48 percent in 2006 and 70 percent through 2010.

All program management is centralized within OTS in Sacramento. OTS plans to make greater use of law enforcement liaisons to increase its outreach. However, for a state as geographically large as California, this degree of centralization requires that OTS staff travel extensively or conduct a considerable amount of work via correspondence (phone, email, or letter) and significantly limits the opportunities for a strong, visible presence of OTS throughout the State.

### **Recommendations**

- **Identify an impaired driving coordinator as a focal point for the State who would assist with communication and coordination of all impaired driving programs.**
- **Enhance the current system of identifying priority jurisdictions by analyzing additional and more complex factors such as the data available from the *Annual Report of the California DUI Management Information System*.**
- Develop and implement a statewide citation tracking system with the data incorporated into program planning.

- Develop and implement a statewide comprehensive injury surveillance system with the data incorporated into program planning.
- Increase the number of grantee performance reviews to meet the planned target of 70 percent through 2010.
- Establish an OTS presence in high priority areas of the State and to provide local program management where it's most needed.

## 1-D. Resources

### Advisory

*States should allocate sufficient funding, staffing and other resources to support their impaired driving programs. Programs should aim for self-sufficiency and, to the extent possible, costs should be borne by impaired drivers. The ultimate goal is for State impaired driving programs to be fully supported by impaired drivers and to avoid dependence on other funding sources. States should allocate funding, staffing and other resources to impaired driving programs that are:*

- *Adequate to meet program needs and proportional to the impaired driving problem.*
- *Steady and derived from dedicated sources, which may include public or private funds.*
- *Financially self-sufficient, and to the extent possible paid by the impaired drivers themselves. Some States achieve financial self-sufficiency using fines, fees, assessments, surcharges or taxes. Revenue collected from these sources should be used for impaired driving programs rather than returned to the State Treasury or General Fund.*

### Status

The extent of the impaired driving problem in California, the geographic size of the State, and its large and diverse population require that significant resources be dedicated to impaired driving programs.

The California Office of Traffic Safety (OTS) dedicates over half of its available grant funds to impaired driving projects. According to the respective Highway Safety Plans (HSPs), this amount was \$35.4 million planned for FFY 2007 and \$46.6 million planned for FFY 2008. These funds come from various sources from the National Highway Traffic Safety Administration (NHTSA), including Sections 402, 164, and 410. Despite the significant amounts of federal funds dedicated to impaired driving, the State provides nothing to OTS for impaired driving projects and a relatively very small amount to OTS for overall administration -- \$410,000 initially planned for FFY 2007 and \$426,000 planned for FFY 2008. These amounts are not specific to support impaired driving prevention efforts.

The picture for allocation of citation fine monies reflects a similar lack of dedicated state resources for impaired driving. Fine proceeds are widely dispersed among diverse systems with no specific allocation to impaired driving efforts. Some fines indirectly support impaired driving services (e.g. peace officers training). The following example represents the distribution of fine money as per the Penal Code:

*A Sacramento County violation of Vehicle Code Section 21655.5(b) results in a fine of \$320 (a base fine of \$100, \$100 in state penalties, \$70 in local penalties, 30 in court construction penalties for Sacramento County, plus a \$20 surcharge. Of the \$100 in state penalties 30 percent or \$30 remains in the county general fund and 70 percent or \$70 is transmitted to the state for deposit in the State penalty Fund. The \$70 would be distributed as follows:*

- *0.33 percent to the Fish and Game Preservation Fund*
- *32.02 percent to the Restitution Fund*
- *23.99 percent to the Peace Officers' Training Fund*
- *25.70 percent to the Driver Training Penalty Assessment Fund*
- *7.88 percent to the Corrections Training Fund*
- *0.78 percent to the Local Public Prosecutors and Public Defenders Training Fund*
- *8.64 percent to the Victim-Witness Assistance Fund*
- *0.66 percent to the Traumatic Brain Injury Fund*

*Source: California Highway Patrol*

At this time, funding for DUI courts based on the Drug Court model comes largely from OTS which is providing the financial support to initially set up the courts. However, this funding will not and is not expected to provide long-term support for the courts. Only five DUI courts currently exist in California with the presumption that more would be established if funding were available. Concern was expressed during the presentations over the lack of a steady funding stream to maintain DUI courts. Orange County does recapture some money from participants, was able to show money saved from a significant reduction in jail time, and, as a result, has been able to continue the court's operations past the end of OTS funding.

There are some additional bright spots. The DUI program of the Department of Alcohol and Drug Programs is wholly client-fee based. The California Department of Alcoholic Beverage Control (ABC) is a self-sufficient agency; license fees for the sales of alcoholic beverages are dedicated to a special fund specifically for the ABC. On a local level, the Fresno Police Department's routine traffic safety efforts (non-grant funded) are funded with fines received by the county. Thus, the cost of Fresno's traffic safety program is largely paid for by the violator. The San Diego County probation department's "SCRAM" program is paid for by asset forfeiture funds; considerable optimism was expressed over the potential of the county to eventually pick up the cost of the probation office's DUI enforcement team once OTS grant funds have ended.

Significant resources that include administrative costs, staff time, and partnership participation are provided by highway safety grantees in support of grant-funded activities. These resources are largely "match" for federal funds, however, and are generally not sufficient of themselves to conduct a traffic safety project. For example, the "AVOID" enforcement and media program is composed of those enforcement agencies receiving grant funds to implement their local program; agencies not receiving grant funds generally do not participate.

California is extremely successful in working with partners who assist with material production and distribution at their cost, but expensive media buys for traffic safety public service announcements are made with federal traffic safety grant funds.

## Recommendations

- **Dedicate funds to impaired driving programs, using an approach similar to those which have proven successful in other states, such as the New York “Stop DWI” program and New Mexico’s fine system.**
- Allocate funds to the California Office of Traffic Safety which would provide a significant rate of return for the State in lives saved and injuries and costs reduced.
- Conduct a cost-effective study on DUI courts and other programs to ensure sustainability.
- Expand grantee funding participation in federally-funded projects and corporate sponsorship.
- Pursue participation of partners and agencies, without the promise or provision of grant funds, in traffic safety activities.

## **1-E. Data and Records**

### **Advisory**

*States should establish and maintain records system that uses data from other sources (e.g., U.S. Census, Fatality Analysis Reporting System (FARS), Crash Outcome Data Evaluation System [CODES]) to fully support the impaired driving program, and that is guided by a statewide traffic records coordinating committee that represents the interests of all public and private sector stakeholders and the wide range of disciplines that need the information.*

**See Section 6-B for a discussion of Data and Records.**

**1-F. Communication Program (see Section IV)**

**Advisory**

*States should develop and implement a comprehensive communication program that supports priority policies and program efforts.*

**See Section 4 for a discussion of Communication Program.**

## II. PREVENTION

Prevention programs should aim to reduce impaired driving through approaches commonly associated with public health – altering social norms, changing risky or dangerous behaviors, and creating safe environments. Prevention programs should promote communication strategies that highlight and support specific policies and program activities, and promote activities that educate the public on the effects of alcohol and other drugs, limit the availability of alcohol and other drugs, and discourage those impaired by alcohol and other drugs from driving.

Prevention programs may include responsible alcohol services practices, transportation alternatives, and community-based programs carried out in schools, at work sites, in medical and health care facilities and by community coalitions. Programs should prevent underage drinking and drinking and driving for persons under 21 years of age, and should prevent over-service and impaired driving by persons 21 or older.

Prevention efforts should be directed toward populations at greatest risk. Programs and activities should be science-based, determined to be effective, and include a communication component.

### 2-A. Responsible Alcohol Service

#### Advisory

*States should promote policies and practices that prevent underage drinking by persons under 21 years of age and over-service to persons 21 and older. States should:*

- *Adopt and enforce programs to prevent sales or service of alcoholic beverages to persons under the age of 21. Conduct compliance checks and “shoulder tap” activities and support the proper use of technology in alcohol retail establishments, particularly those catering to youth, to verify proper and recognize false identification.*
- *Adopt and enforce alcohol beverage control regulations to prevent over-service. Prohibit service to visibly intoxicated patrons, restrict alcohol sales promotions (such as “happy hours”), limit hours of sale, establish conditions on the locations of establishments to limit impaired driving (e.g., zoning restrictions) and require beer keg registration.*
- *Provide adequate resources (including funds, staff, and training) to enforce alcohol beverage control regulations. Coordinate with traditional State, county, municipal and tribal law enforcement agencies to determine where impaired drivers had their last drink and use this information to monitor compliance with regulations.*
- *Promote responsible alcohol service programs, written policies, and training.*
- *Encourage alcohol sales and service establishments to display educational information to discourage impaired driving and to actively promote designated driver and alternative transportation programs.*
- *Provide that commercial establishments and social hosts may be held responsible for damages caused by a patron or guest who was served alcohol when underage or visibly intoxicated.*



## Status

Per capita consumption of alcohol in California is slightly above the national average. Californians consume the equivalent of 2.43 gallons per year of ethanol compared to the national average of 2.23 gallons.

The California Department of Alcohol Beverage Control (ABC) is charged with administering provisions of the Alcohol Beverage Control Act. California is a license state, that is, alcohol is sold for on- and off-premise consumption through retailers licensed by the State. There is limited local control over licensing through density formulas, conditional use permits, and local zoning.

California ABC has approximately 150 investigators to monitor over 79,000 licensees.

California prohibits the sale of alcohol between 2:00 a.m. and 6:00 a.m.

Alcohol promotions, such as Happy Hours, are permitted; however, licensed outlets may not provide alcohol for free. While “two-for-one” promotions are prohibited, 50 percent discounts are not.

California law requires beer keg registration.

California does not have comprehensive Dram Shop statutes and limits dram shop liability to cases involving alcohol sales to obviously intoxicated minors.

California has no broad social host liability statutes. However, parents of an underage drinker can face misdemeanor charges for allowing their child, a person in the company of their child, or both, who are under the age of 18 years, to consume an alcoholic beverage or use a controlled substance only if the young person reaches a blood alcohol concentration of .05 or greater or, if the parent allows the child to leave the premises in a motor vehicle or, if the underage person causes a motor vehicle crash.

California does not require responsible service training for employees of licensed outlets. However, ABC conducts the Responsible Beverage Service training program providing server training to over 100,000 employees of licensed establishments.

The Minor Decoy Program, conducted by ABC, uses young people to attempt purchase of alcohol in retail outlets in order to assure compliance with prohibition of sales to minors. California Rule 141 sets out guidelines for use of individuals younger than 21 to attempt to purchase alcohol. Compliance checks are complemented by media coverage before and after checks. As the number of compliance checks increased between 2002 and 2007, compliance rates improved steadily.

The Target Responsibility for Alcohol Connected Emergencies (TRACE) program uses ABC investigators to determine the source of alcohol in fatal or serious injury crashes or other violent crime involving a minor. A program in the California Department of Justice complements the TRACE program with a major media campaign.

## **Recommendations**

- Enact legislation to restrict promotions such as Happy Hours.
- Enact comprehensive Dram Shop legislation.
- Enact broad Social Host Liability legislation.
- Expand project TRACE to include investigation of the source of alcohol in all impaired driving fatal and injury crashes.

## **2-B. Transportation Alternatives**

### **Advisory**

*States should promote alternative transportation programs that enable drinkers 21 and older to reach their destinations without driving. States should:*

- *Actively promote the use of designate driver and safe ride programs, especially during high-risk times, such as holidays or special events.*
- *Encourage the formation of public and private partnerships to financially support these programs.*

### **Status**

For Federal Fiscal Year (FFY) 2008, the California Office of Traffic Safety (OTS) plans to provide over \$300,000 to the city of Los Angeles to provide 10,000 safe rides to alcohol-impaired individuals plus distribute traffic safety information to 100,000 persons. These funds also include an evaluation of the project.

OTS has also planned over \$400,000 for a designated driver program for males between the ages of 21 and 34. It includes a statewide anti-DUI media campaign. This project is to be implemented by the California Highway Patrol.

OTS has established an important partnership with the Department of Alcoholic Beverage Control (ABC), which in turn is partnering with Recording Artists, Actors and Athletes Against Drunk Driving (RADD). In FFY 2008, this partnership, with funding from OTS, will develop and implement a campaign to promote designated drivers among the 21 through 34 age group, particularly during high-incidence times, such as holidays. This project will unite celebrities, retailers, the media and entertainment industry, the hospitality industry, government, and law enforcement.

The California Designated Drivers Association (DDA) is a non-profit organization intended to provide alternatives to driving after drinking. The program offered by DDA is actually a “safe-ride” program using volunteers to drive patrons of bars home in their own vehicle. A second volunteer follows to pick up the DDA volunteer. Volunteers are screened and subjected to criminal and driving background checks. The program does not collect personal information on those who use the service but volunteers are trained to notice patrons who use the service frequently. There is no formal procedure for providing such users with information on alcohol abuse or referral to services. The program is promoted by and supported by a variety of sources including alcohol retailers and college fraternities.

## Recommendations

- **Assure that all designated driver and safe ride programs avoid unintentionally enabling over consumption by those relying on the designated driver.**
- Assure that all designated driver and safe ride programs avoid unintentionally enabling consumption by underage drinkers.

## **2-C. Community-Based Programs**

Community-based programs implement prevention strategies at the local level through a variety of settings, including in partnerships involving traffic safety, schools, employers, medical and health care professionals and community coalitions and traffic safety programs.

### **2-C-1. Schools**

#### **Advisory**

*School-based prevention programs, beginning in elementary school and continuing through college and trade school, can play a critical role in preventing underage drinking and impaired driving. These programs should be developmentally appropriate, culturally relevant and coordinated with drug prevention and health promotion programs. States should:*

- *Implement K-12 traffic safety education, with appropriate emphasis on underage drinking and impaired driving, as part of a comprehensive health education program.*
- *Promote alcohol-and drug-free events throughout the year, with particular emphasis on high-risk times, such as homecoming, spring break, prom and graduation.*
- *Establish and support student organizations that promote traffic safety and responsible decisions; encourage statewide coordination among these groups.*
- *Provide training to school personnel (such as resource officers, health care providers, counselors, health educators and coaches) to enable them to provide information to students about traffic safety and responsible decisions, and identify students who may have used alcohol or other drugs (Drug Impairment Training for Education Professionals).*
- *Encourage colleges, universities and trade schools to establish and enforce policies to reduce alcohol, other drug, and traffic safety problems on campus, and to work with local businesses and law enforcement agencies to reduce such problems in neighboring communities.*

#### **Status**

The California State Board of Education and the California Department of Education publish the *Health Framework for California Public Schools*, adopted by the State Board of Education in 2002. The Framework provides information on curriculum development, health literacy, positive asset development among youths, research-based programs, school safety, and special student populations. There are recommendations for content related to traffic safety, including impaired driving as well as alcohol and substance use for all levels K-12. A specific curriculum is not mandated.

There are numerous impaired driving prevention strategies implemented in schools throughout California.

The California Friday Night Live (FNL) Program began in 1984 as a pilot program intended to reduce the number of deaths and injuries caused by teen motorists driving under the influence of

alcohol and other drugs. In 1988 a statewide office was established and the main focus of the program began to shift from one of just preventing drinking and driving among teens to promoting healthy lifestyles free of alcohol, tobacco, or other substance abuse among youth. Recent expansion and refinements to Friday Night Live have been driven by the risk and protective framework of prevention and science-based principles of youth development. Friday Night Live includes numerous strategies such as a middle/junior high school component named Club Live (CL) and the Friday Night Live Kids (FNL Kids) Program which focuses on youth in the 4th through 6th grades. Many counties have implemented the CL Program and /or the FNL Kids Program while chapter locations have also broadened from school campus-based programs to recreation facilities, housing projects, youth centers, and youth in detention centers. FNL is estimated to reach nearly one million youth throughout California.

In 1998, the partnership began a pilot process for FNL Mentoring. The primary focus of the Mentoring Programs is to form youth/adult partnerships with young people, providing programs rich in opportunities and support, so young people will be less likely to engage in problem behaviors, more likely to achieve in school, and more likely to attend higher education or secure a full-time job.

The California Highway Patrol (CHP) implements the “Every 15 Minutes” program in 120 schools. The program was developed by the Chico Police Department in 1996. It is a two-day program involving students, parents, and other adults in the students’ lives. The program is intended to use a “shock” approach to increasing young people’s awareness and concern about impaired driving. The program uses such activities as mock crashes and a costumed “Grim Reaper” appearing in classrooms to remove students who represent victims of impaired driving crashes.

Wheel Smarts is an educational theater program intended to increase awareness of the consequences of impaired driving. Middle and high school students produce, write, and perform original productions that address impaired driving. An emphasis and intended benefit of the program is the dialog that develops as students investigate and discuss the issue of impaired driving.

The California Administrative Office of the Courts implements a program of Courts in the Schools. In this program actual trials are held at schools in front of student audiences. The program can offer a full trial, generally requiring three to four hours, or a shorter program with sentencing only.

Peer Courts, also known as Youth Courts, provide the opportunity for young offenders to be held accountable for their actions while being sentenced by their peers. In California, ten participating Peer Courts have added the DUI Prevention Strategies Program, an educational component intended to alter behaviors and attitudes toward reckless activities, including impaired driving. The program goals include altering at-risk juveniles’ behavior by making them aware of the consequences of DUI before rather than after a driving arrest, crash, or injury. The project uses the strengths of collaboration by involving schools, communities, families, educators, law enforcement, and the courts. This project is an excellent example of an impaired driving prevention strategy that is consistent with the risk and protective framework of

prevention. It recognizes that factors such as sensation seeking and risk taking are common to substance abuse, violence, criminal behavior as well as impaired driving.

The California State University Alcohol and Traffic Safety (ATS) Program provides multi-component impaired driving prevention programs on ten campuses. The project relies heavily on a Social Norms campaign. In addition, ATS collaborated with the California Department of Alcohol Beverage Control (ABC) to provide server training, sponsor on-campus presentations by law enforcement officers, and develop 23 campus-community coalitions.

The Governor's Prevention Advisory Council (GPAC) coordinates the State's strategic efforts to reduce the incidence and prevalence of inappropriate alcohol, tobacco, and other drug (ATOD) use by youth and adults. GPAC is intended to develop and implement unified and integrated statewide ATOD prevention coordination plans and to identify means of working more efficiently with ATOD prevention-related resources to reduce fragmentation and redundancy at all levels. GPAC consists of representatives of 15 agencies including the Office of Traffic Safety (OTS). The Director of the Department of Alcohol and Drug Programs (ADP) chairs the GPAC. ADP provides staff support for the GPAC.

The GPAC serves as the State Policy Steering Committee for the California Screening, Brief Intervention, Referral, and Treatment Program.

California and the Office of Traffic Safety have made an impressive commitment to impaired driving prevention programs. The level of support and the breadth of implementation of innovative programs are far greater than most states. However, with the exception of Friday Night Live, these strategies have generally not been developed from state-of-the-art science-based principles of prevention that address youth development and underlying risk and protective factors. In addition, impaired driving prevention programs have not been evaluated with rigorous standards used to develop model and evidence-based substance abuse prevention strategies. California, because of the size of its youth population and number of potential program sites, is in a unique situation to conduct demonstration programs and evaluation studies.

## **Recommendations**

- **Conduct independent rigorous program evaluations of impaired driving prevention strategies.**

## 2-C-2. Employers

### Advisory

*States should provide information and technical assistance to employers and encourage them to offer programs to reduce underage drinking and impaired driving by their employees and their families. These programs should include:*

- *Model policies to address underage drinking, impaired driving and other traffic safety issues, including safety belt use and speeding.*
- *Employee awareness and education programs.*
- *Management training to recognize alcohol and drug use and abuse, and appropriate responses*
- *Screening and brief intervention, assessment and treatment programs for employees, as appropriate, such as through an employee assistance program.*
- *Underage drinking and impaired driving prevention programs for youthful employees and programs that address use of prescription or over-the-counter drugs that cause impairment.*

### Status

California Network of Employers for Traffic Safety (Cal-NETS) is a non-profit organization intended to help employers develop and implement comprehensive workplace traffic safety programs designed to help reduce the incidence and costs associated with motor vehicle-related crashes. According to their website, this is to be accomplished by assisting private companies and other concerned entities with the implementation of policies, on-site employee programs, and community activities through training and the formal and informal exchange of information. Cal-NETS has set the objective of developing collision prevention programs and intervention policies for implementation by employers that will reach both high-risk employees and the general workforce targeting driver compliance with traffic laws (speed limits, impaired, reckless) and safe driving practices. Cal-NETS implements workplace safety programs at worksites and through worksite seminars to assist employees in improving on the job driver compliance with traffic laws. NETS members include the Office of Traffic Safety (OTS), NHTSA, California Department of Transportation (Caltrans), and CHP, AT&T, Airborne Express, Farmers Insurance, NEC, Orkin Pest Control, Radisson Hotels, PG&E, and others. Cal-NETS were previously funded, in part, with OTS highway safety funds.

A variety of Employee Assistance Programs (EAPs) offer prevention, intervention, and Drug Free Workplace services to public and private employers in California. It is not known if any EAPs offer traffic safety or impaired driving specific programs.



## **Recommendations**

- Provide EAPs with current, accurate, and effective impaired driving related information for use with employees.
- Establish employee awareness and education programs throughout California.

## 2-C-3. Community Coalitions and Traffic Safety Programs

### Advisory

*Community coalitions and traffic safety programs provide the opportunity to conduct prevention programs collaboratively with other interested parties at the local level and provide communications toolkits for local media relations, advertising and public affairs activities, and may include representatives of government - highway safety, enforcement, criminal justice, liquor law enforcement, public health, driver licensing and education; business – employers and unions; the military; medical, health care and treatment communities; multi-cultural, faith-based, advocacy and other community groups; and as appropriate neighboring countries.*

*States should:*

- *Encourage communities to establish community coalitions or traffic safety programs, comprised of a wide variety of community members and leaders.*
- *Provide information and technical information to these groups, including data concerning the problem in the community and information identifying science-based underage drinking and impaired driving programs.*
- *Encourage these groups to provide support for local law enforcement and prevention efforts aimed at reducing underage drinking and impaired driving, including designated driver and alternative transportation programs for persons 21 or older.*
- *Encourage professionals, such as prosecutors, judges, nurses, doctors, emergency medical personnel, law enforcement officers and treatment professionals, to serve as community spokespeople to educate the public about the consequences of underage drinking and impaired driving.*

### Status

California, like most states, has limited direct support for traffic safety community coalitions. However, several coalitions are still in operation and numerous community coalitions address injury control, e.g., Safe Communities and substance abuse, e.g., State Incentive Grant (SIG) and Drug Free Communities. These organizations generally operate within the Strategic Prevention Framework, a science-based model that develops effective and sustainable prevention efforts that reduce the risks of alcohol and substance abuse related problems including impaired driving. In addition, these programs utilize the same disciplines, organizations, and agencies needed to address impaired driving, e.g., law enforcement, education, health, and community members.

Traffic Safety Communities Network (TSCN) of Santa Clara County is one of several coalitions that continue to function. The TSCN Alcohol and Impaired Driving Workgroup developed and provided programs such as “DUI Court in the School” in which actual trials (not mock trials) take place in the school in front of student audiences.

The California State Incentive Grant (SIG) is a three-year project administered by the California Department of Alcohol and Drug Programs. SIG is intended to use environmental prevention strategies in selected counties to reduce binge drinking among 12 to 25 year olds. Projects are funded in 13 counties.

California has approximately 40 federally funded local Drug Free Communities Coalitions. This is not a large number for a state the size of California. For example, New York State has nearly 50 Drug Free Community Coalitions. These coalitions address the risk and protective factors related to alcohol and substance use, violence, school drop-out, and teen pregnancy. These same factors are predictors of impaired driving.

There are a number of resources available to assist community coalitions in California. SIG coalitions receive technical support from the Community Prevention Initiative (CPI) administered by the Center for Applied Research Solutions and funded and directed by the California Department of Alcohol and Drug Problems. CPI has web-based ([www.ca-cpi.org](http://www.ca-cpi.org)) and other resources for substance abuse service providers that can be useful to local coalitions. The California Prevention Collaborative (CPC) is a non-profit organization charged with increasing the advocacy and promotion of prevention in California. The primary objectives and purposes of the CPC are:

To unite prevention efforts in the common cause of ensuring that all Californians may live free from direct and indirect adverse effects of alcohol, tobacco, and other drug (ATOD)-related problems;

To establish ATOD prevention conditions under which the health, safety, and well-being of individuals, families, schools, and communities can be sustained;

To support ATOD prevention policies and actions appropriately applicable to persons of all cultures and identities within our State; and

To afford ATOD prevention organizations and youth a direct voice in the development of prevention policy; and to collectively promote policies consistent with these objectives and purposes.

The Annual CPC Summit provides an opportunity to bring together young people, community coalitions, educators, law enforcement, health professionals, community-based organizations, county alcohol and drug administrators, and community members to take action to strengthen the alcohol and other drug prevention field and showcase evidence-based practices.

## **Recommendations**

- **Integrate local traffic safety collaborative efforts with existing SIG, Drug Free Community, and other substance abuse and/or youth development coalitions.**
- Utilize existing technical assistance to develop and implement impaired driving prevention strategies through local coalitions.

### III. CRIMINAL JUSTICE SYSTEM

Each State should use the various components of its criminal justice system – laws, enforcement, prosecution, adjudication, criminal and administrative sanctions and communications, to achieve both specific and general deterrence.

Specific deterrence focuses on individual offenders and seeks to ensure that impaired drivers will be detected, arrested, prosecuted and subject to swift, sure and appropriate sanctions. Using these measures, the criminal justice system seeks to reduce recidivism. General deterrence seeks to increase the perception that impaired drivers will face severe consequences, discouraging individuals from driving impaired.

A multidisciplinary approach and close coordination among all components of the criminal justice system are needed to make the system work effectively. In addition, coordination is needed among law enforcement agencies, on the State, county, municipal and tribal levels to create and sustain both specific and general deterrence.

#### 3-A. Laws

##### Advisory

*Each State should enact impaired driving laws that are sound, rigorous and easy to enforce and administer. The laws should clearly: define the offenses; contain provisions that facilitate effective enforcement; and establish effective consequences. The offenses should include:*

- *Driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter), and treating both offenses with similar consequences.*
- *A Blood Alcohol Concentration (BAC) limit of 0.08, making it illegal “per se” to operate a vehicle at or above this level without having to prove impairment.*
- *Zero Tolerance for underage drivers, making it illegal “per se” for persons under age 21 to drive with any measurable amount of alcohol (e.g., 0.02 or greater).*
- *High BAC (e.g., 0.15 or greater), with enhanced sanctions above the standard impaired driving offense.*
- *Repeat offender, with increasing sanctions for each subsequent offense.*
- *BAC Test refusal, with sanctions at least as strict as the state’s highest BAC offense.*
- *Driving with a license suspended or revoked for impaired driving (DWS), vehicular homicide or causing personal injury while driving impaired as separate offenses, with additional sanctions.*
- *Open container, which prohibits possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way.<sup>5</sup>*
- *Primary seat belt provisions that do not require that officers observe or cite a driver for a separate offense other than a safety belt violation.*

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<sup>5</sup> Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

***Laws should include provisions to facilitate effective enforcement that:***

- *Authorize law enforcement to conduct sobriety checkpoints, in which vehicles are stopped on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs.*
- *Authorize law enforcement to use passive alcohol sensors to improve the detection of alcohol in drivers.*
- *Authorize law enforcement to obtain more than one chemical test from an operator suspected of impaired driving, including preliminary breath tests, evidential breath tests and screening and confirmatory tests for alcohol or other impairing drugs.*
- *Require mandatory BAC testing of drivers involved in fatal and serious injury-producing crashes.*

***Effective penalties should include:***

- *Administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test.*
- *Prompt and certain administrative license suspension of at least 90 days for first offenders determined by chemical test(s) to have a BAC at or above the State's "per se" level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock.*
- *Enhanced penalties for test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide or causing personal injury while driving impaired, including: Longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and threat of imprisonment.*
- *Assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstention from use of alcohol and other drugs, and frequent monitoring.*
- *Driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs.*

**Status**

The briefing materials as well as the information provided by those who presented at the assessment indicated that California statutes are in substantial compliance with this advisory with these exceptions:

- Enhanced penalties in high Blood Alcohol Concentration (BAC) cases begin at .20 percent or higher according to Sections 23538(b)(1) and (2), Section 23556(3) and 23575(a)(1) of the California Vehicle Code (CVC). These are outdated enhancement levels related to laws previously in effect that established the "per se" level at .10 percent. The current law, as in other states, has established .08 percent as the "per se" level. Accordingly, a level of .15 percent or greater is generally regarded as the level at which

enhanced penalties and compliance requirements should begin to apply.

- Section 23578 of the CVC refers to certain penalties in cases where the person's BAC is .15 percent or higher. It does not prescribe mandatory penalties for elevated BACs. It only refers to .15 percent or higher BACs as a "special factor" that "may justify" enhancing the penalties in sentencing.
- California law provides courts with the option of not placing first, second, third, and even fourth-time Driving Under the Influence (DUI) offenders on probation. When probation is not ordered, defendants face longer incarceration penalties. Without probation, the failure to complete requirements, such as completion of assessment, treatment, Ignition Interlock Device (IID) installation, abstinence, or restricted driving simply causes the defendant's license to be suspended. Probation is the most frequently applied court sanction among all convicted DUI offenders in California, being ordered in 96.8 percent of all cases. In many states, probation is mandatory in all DUI cases. Probation allows active supervision of DUI defendants and provides more effective control over certain repeat impaired driving offenders who require a structured and closely monitored rehabilitation plan.
- California's "zero tolerance" laws are confusing. Section 23136 provides that it is a violation, if the person is under the age of 21 years, has consumed alcohol and was driving with a BAC of .01 percent or greater. A violation of this section is an infraction, it carries no other penalty other than possible license sanctions, for which one must refer to §§13352.1 and 13353.2. Section 23140 provides that it is unlawful for a person under 21 years who has a .05 percent or higher BAC to drive a vehicle. Section 23140 describes a violation of the DUI laws whereas §23136 is the zero tolerance law. The latter section permits a court to find a violation regardless of whether a chemical test was made to determine the person's BAC. The confusion regarding the "zero tolerance law" is based on a reading of the two laws, which both refer to the act of driving, the fact that both provisions appear under the "Article 1 Driving Offenses" section of the Vehicle code and that §23136 is titled, "PAS Persons Under 21, Preliminary Screening Device" and §23140 is titled "Alcohol: Persons Under 21". Placement of these two sections next to one another, without designating that §23140 is a true DUI law and the other §23136 is not, is confusing. Neither title clearly delineates the intent of the legislature as to the application of these Code provisions.
- California's Open Container statute (Section 23222 CVC) prohibits not only the possession of an opened container of alcohol, but also prohibits the possession of more than one ounce of marijuana while driving. In the latter case, the person is not subject to booking if they sufficiently identify themselves and promise in writing to appear in court. In cases where a defendant has been convicted three or more times of the possession of marijuana while driving within two years preceding the latest offense, they then qualify for a diversion for "education, treatment, or rehabilitation" in which case they are not subject to a fine. Drug offenders appear to be given more lenient treatment than alcohol offenders under California Motor Vehicle Code provisions.

- California’s Motor Vehicle Code Section 23646 (b) (1) provides that the court shall order a person to participate in an alcohol and drug problem assessment program if the person was convicted of a violation of DUI that occurred within 10 years of a separate violation for DUI. The provisions of this Section do not mandate that courts shall order such participation where the person does not have a prior violation, although the court has the discretion to do so. If the program assessment recommends additional treatment, the court may order a person, who is sentenced to probation, to enroll, participate, and complete a program(s). Alcohol assessments are a valuable adjunct in the sentencing process. Without a mandatory requirement that all persons convicted of DUI be assessed, regardless of prior conviction status, judges may fail to require treatment of defendants addicted to drugs or alcohol.
- A court, sentencing a person convicted of reckless driving together with consumption of alcohol or ingestion of drugs (wet reckless), may place the defendant on probation and may exclude the 12 hour DUI education program. A first offense DUI (under .20 percent BAC) requires completion of a 30-hour alcohol and drug education and counseling program. Many states require the same penalties and alcohol education programs for wet reckless convictions as are imposed upon a DUI conviction.
- Section 23575 of the CVC gives judges the discretion whether to order installation of an Ignition Interlock Device (IID) on vehicles that first-time DUI offenders own and operate. It only requires “heightened consideration” of this sanction where the first-time offender’s BAC is .20 percent or higher. It does not mandate court-ordered IID installation in the case of second or third-time DUI offender within a 10-year period. Section 23575(f)(1) allows second and third-time offenders to obtain restricted licenses when their vehicles are IID equipped, but the only sanction for improper or non-use of the IID is loss of the restricted driving privilege. Other states require judges to order IID installation in the cases of second and third time offenders, and for first-time offenders in cases with elevated BACs or where a minor was present in the vehicle at the time of the offense.

The latest draft of the California Office of Traffic Safety’s *Highway Safety Plan 2008* discloses proposed impact programs and strategies that include funding for probation departments to target repeat DUI offenders who violate probation terms or who fail to appear in court. Proposed funded strategies would include intensive supervision, unannounced home contact and searches, surveillance operations, highly publicized warrant service operations, alcohol and drug testing, and the distribution of “Hot Sheets” to local law enforcement agencies.

California does not have statutory law that authorizes sobriety checkpoints; however, the California Supreme Court has upheld the constitutionality of such checkpoints provided that certain requirements are observed. These requirements include: (1) decision making at the supervisory level; (2) limits on discretion of field officers as to who is to be stopped; (3) maintenance of safety conditions; (4) reasonable location of the checkpoint; (5) a reasonable time and duration of the checkpoint; (6) indicia of the official nature of the roadblock; (7) the length and nature of the detention; and (8) advance publicity regarding each checkpoint. See: *Ingersoll v. Palmer*, (1987) 43 Cal.3d 1321, 241 Cal. Rptr., 42, 743 P.2d 1299. The latest draft

of the California Office of Traffic Safety's *Highway Safety Plan 2008* discloses a proposal to fund the University of California to administer a \$4.46 million Sobriety Checkpoint Program for local law enforcement agencies.

Preliminary alcohol screening (PAS) breath test results are admissible as evidence of intoxication upon a showing of compliance with California Code of Regulations' provisions governing procedures for breath alcohol analysis. PAS results are also admissible if foundational elements of (1) properly functioning equipment, (2) a properly administered test, and (3) a qualified operator are proven. Non-compliance with California Code of Regulations' PAS breath analysis provisions goes only to the weight of the evidence, not its admissibility at trial.

In any prosecution under the California DUI law, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving. *People v. Williams*, 28 Cal.4th 408, 49 P.3d 203, 121 Cal.Rptr.2d 854 (Cal.2002). Many states only acknowledge a rebuttable "inference" when the BAC is .08 percent or higher. California's law is more strongly worded.

California's expungement law is a set of rules in which the legal record of a criminal conviction is "sealed," or erased in the eyes of the law, after the passage of a certain amount of time or the fulfillment of certain obligations. After an expungement in California, a criminal conviction (and in some cases even an arrest) ordinarily need not be disclosed by the person convicted, and no first DUI offense or conviction shows up if a potential employer, educational institution, or government agency conducts a background search of an individual's public records. The wisdom of permitting expungement in DUI cases is questionable.

In 2004, 14 percent of repeat DUI offenders were required to use IIDs compared to 12.9 percent in 2003, 10.9 percent in 2002, 8.1 percent in 2001, 7.5 percent in 2000, 13.3 percent in 1999 and 22.3 percent in 1998. California's old mandatory interlock law for all repeat offenders took effect on July 1, 1993; however, judges routinely did not require IID use by those offenders. "Mandatory" assignments were not made in over 75 percent of cases. The mandatory law was repealed in 1998, and a new ignition interlock law and program was enacted and implemented July 1, 1999. The new law established mandatory IIDs for DUI suspension/revocation violators, while providing incentives for repeat offenders to gain early reinstatement with IIDs. As quoted from the 2007 Annual Report of the California Management Information System to the Legislature of the State of California, "Judicial assignments to the new mandatory provisions have steadily risen since the law was implemented, and proportionally more DUI suspension violators are now assigned to IIDs than were repeat offenders under the old "mandatory" law."

Ordering IIDs in only 14 percent of repeat DUI offenders' cases misses the opportunity to use this device effectively in the cases of defendants who would most benefit from it. IIDs have been shown to significantly reduce recidivism and crash involvement while installed on DUI offenders' vehicles. The provisions of California law that mandate judges to order use of IIDs only for DUI suspension or revocation violators overlooks the benefit that installation would have for repeat offenders and those with high BACs.



California's appellate courts and the United States Supreme Court have upheld the forcible extraction of blood from DUI arrestees who refuses to provide a breath sample pursuant to the implied consent law (*See Schmerber v. California 384 U.S. 757 (1966)*). This, coupled with California statutory law providing criminal penalties for refusals as well as increased suspension/revocation periods, has contributed to a very low refusal rate of 5.2 percent in California in 2006.

Effective January 1, 2007, new applicants for driver licenses, as well as individuals who renew licenses, will be advised of the dangers of impaired driving. For individuals who are placed on probation for impaired driving, a condition of probation will be that they not operate a motor vehicle with any measurable amount of alcohol in their system. Violation of this condition constitutes a violation of probation which may subject the probationer to additional sanctions.

### **Recommendations**

- Revise all motor vehicle code provisions that currently require enhanced penalties or compliance requirements in cases with BAC levels of .20 percent or higher to reflect the reduced level of .15 percent or higher.
- Replace motor vehicle code provisions that allow courts to avoid imposing enhanced penalties in cases of defendants with BAC levels of .15 percent or higher with provisions that mandate enhanced penalties in such cases.
- Revise CVC Sections 23136 and 23140 to establish .01 percent or greater as the sole threshold BAC level at which a person under 21 years of age is prohibited from operating a motor vehicle.
- **Require by statute that all defendants convicted of DUI or Reckless Driving with Alcohol or Drugs be screened to determine if they require treatment for addiction and chemical dependency.**
- Require by statute that require all defendants convicted of DUI or Reckless Driving with Alcohol or Drugs, who have been assessed to require treatment, to complete such treatment as a condition of probation and to obtain full reinstatement of driving privileges.
- Require by statute that all defendants convicted of Reckless Driving with Alcohol or Drugs to complete the same probation conditions and education requirements as are required in the case of a conviction for DUI.
- Increase funding for probation departments to supervise repeat DUI offenders.
- Revise expungement rules and laws to prohibit expungement of convictions for DUI.

### **3-B. Enforcement**

#### **Advisory**

*States should conduct frequent, highly visible, well publicized and fully coordinated impaired driving (including zero tolerance) law enforcement efforts throughout the State, especially in locations where alcohol-related fatalities most often occur. To maximize visibility, the State should conduct periodic heightened efforts and also sustained efforts throughout the year. Both periodic and sustained efforts should be supported by publicity. To maximize resources, the State should coordinate efforts among State, county, municipal and tribal law enforcement agencies. To increase the probability of detection, arrest and prosecution, participating officers should receive training in the latest law enforcement techniques. States should:*

- *Ensure that executive levels of law enforcement and State and local government make impaired driving enforcement a priority and provide adequate resources.*
- *Develop and implement a year round impaired driving law enforcement plan (coordinated with a complimentary communication plan), which includes:*
  1. *periods of heightened enforcement (e.g., three consecutive weekends over a period of 16 days) and frequent (e.g., monthly), sustained coverage throughout the year*
  2. *high level of participation and coordination among State, county, municipal and tribal law enforcement agencies, such as through law enforcement task forces*

*Use law enforcement professionals to serve as law enforcement liaisons in the State and help enhance coordination and the level of participation, and improve collaboration with local chapters of police groups and associations that represent diverse groups to gain support for enforcement efforts.*

- *Deploy enforcement resources based on problem identification, particularly at locations where alcohol-related fatal or other serious crashes most often occur.*
- *Conduct highly visible enforcement that maximizes contact between officers and drivers, including sobriety checkpoints and saturation patrols, and widely publicize these efforts - before, during and after they occur.*
- *Coordinate efforts with liquor law enforcement officials (see section II.A. Responsible Alcohol Service).*
- *Use technology (e.g., video equipment, portable evidentiary breath tests, passive alcohol sensors and mobile data terminals) to enhance law enforcement efforts.*
- *Require that law enforcement officers involved in traffic enforcement receive state-of-the-art training in the latest law enforcement techniques such as Standardized Field Sobriety Testing (SFST), emerging technologies for the detection of alcohol and other drugs; selected officers should receive training in media relations and Drug Evaluation and Classification (DEC).*
- *Expedite the arrest process (e.g., by reducing paperwork and processing time, from the time of arrest to booking and/or release).*
- *Measure success, emphasizing quantitative data, including the level of effort (e.g.,*

*number of participating agencies, checkpoints conducted, arrests made), public awareness (e.g., of message and actual enforcement), reported change in behavior (e.g., reported number of drinking driving trips) and outcomes (e.g., alcohol-related fatalities, injuries and crashes).*

## **Status**

With 23.2 million licensed drivers and 33.9 million registered vehicles, traffic safety has an immense impact on quality of life, including the public safety of Californians and the vitality of the State's economy. There were 1,779 alcohol-related traffic fatalities in California in 2006 (FARS). This means that of the 4,236 total traffic fatalities in the State that year, alcohol was involved in 42 percent.

The California Office of Traffic Safety (OTS) has provided California law enforcement officers with extensive support for DUI enforcement. The OTS introduced “Grants Made Easy” in 2006. This is a grant proposal process designed specifically for local law enforcement agencies. “Grants Made Easy” significantly reduces the paperwork and time required to submit a proposal and finalize a grant agreement. The OTS offered this new process to over 400 law enforcement agencies in the State.

In another attempt to make applying for grants easier, the California OTS divided the State into nine regions. Each of these regions is assigned an OTS staff member who stays in close contact with local law enforcement in his/her region. The OTS also funded and hired two Law Enforcement Liaisons (LEL) to encourage coordination and participation of local law enforcement agencies in the Sobriety Checkpoint mini-grant programs and DUI “AVOID” Campaigns. The LELs will also be used for collaboration between police groups and other associations to gain support for enforcement efforts. In addition, they will network with police departments to determine if there are gaps in best practices and funding needs that can be addressed with OTS funding.

The AVOID program is also supported by the OTS. The AVOID DUI Program began in the 1970s in Santa Clara County to bring law enforcement agencies together in countywide clusters to crack down on the drinking driver and reduce the number of deaths and injuries caused by alcohol-related crashes. Funding provided by grants from the California OTS allows counties to add overtime hours, reassign officers, and conduct public awareness campaigns during the increased enforcement periods.

The overall goal of the awareness campaign is to let drivers know about the countywide increased enforcement periods and warn drivers that the only way to AVOID the counties' law enforcement officers is to drive sober. Increased enforcement periods are planned during high traffic holiday periods, such as the Memorial Day weekend, July 4th weekend, Labor Day weekend, and the Christmas/New Year holiday period. The State follows the same enforcement schedule as the National Campaigns supported by NHTSA, plus it adds additional checkpoint and saturation patrols during high activity periods dictated by local needs thereby sustaining coverage throughout the year.

Since its inception, 41 counties have joined or will be joining the AVOID program, bringing over 500 law enforcement agencies together to fight drunk driving on California’s streets and highways. Nine Bay Area counties joined forces to become the first regional AVOID program in California with 125 participating law enforcement agencies.

The OTS also funds the University of California to administer a \$4.46 million Sobriety Checkpoint program for local law enforcement. Currently, there are approximately 450 law enforcement agencies receiving grants.

Agencies requesting impaired driving grants must demonstrate a problem and a plan to address that problem. The regional OTS representative and LELs work with law enforcement agencies to coordinate their efforts, thereby getting the most benefit from the operations. The OTS requires that agencies requesting impaired driving funding base their request on problem identification. Local and state law enforcement agencies are able to identify problems from data in their records management systems. Also, some agencies are able to rank “hot spots” using their data. The OTS verifies the problem identification before awarding grants. The State uses grant goals and objectives to measure grant success.

The state OTS funds grants that support high visibility enforcement and year round communication with the public. Sobriety check points and saturation patrols are used extensively across the State. The OTS requires that all operations they support be widely publicized before, during, and after they occur. They also require that officers participating in the operation be trained in Standard Field Sobriety Testing (SFST). The following statistics were obtained from the OTS website and illustrate their support for these functions and operations:

**ACTIVITY:**

**DUI/Driver’s License Checkpoint Activity**

|   |         |
|---|---------|
| Checkpoints Conducted                                       | 710     |
| Vehicles Through Checkpoints                                | 652,409 |
| Drivers Screened at Checkpoints                             | 403,118 |
| Field Sobriety Tests Administered at Checkpoints            | 5,416   |
| DUI Arrests from Checkpoints                                | 2,500   |
| Vehicles Impounded at Checkpoints<br>(30-day impounds only) | 14,327  |
| Criminal Arrests at Checkpoints                             | 1,704   |
| Officers Trained in SFST                                    | 2,183   |
| Officers Trained as Drug Recognition Experts                | 21      |

**Supporting DUI Enforcement Activity**

|   |       |
|---|-------|
| Court Sting Operations Conducted                          | 38    |
| Arrests from Court Sting Operations                       | 90    |
| DUI Roving/Saturation Patrols Conducted                   | 1,560 |
| DUI Arrests Resulting from DUI Roving/Saturations Patrols | 1,947 |
| Criminal Arrests from DUI Roving/Saturation Patrols       | 1,125 |
| Stakeout Operations Conducted                             | 117   |

|  |       |
|--|-------|
| Arrests from Stakeout Operations               | 21    |
| Repeat DUI Offender Warrant Service Operations | 406   |
| Warrant Service Attempts                       | 3,014 |
| Warrants Served (Citations/Arrests)            | 562   |

**Public Education**

|  |        |
|--|--------|
| Number of Education Programs   | 756    |
| Number of “Every 15 Minutes” Presentations                                       | 184    |
| Students Impacted  | 40,361 |
| Number of “Real DUI Trials” Conduct at High Schools                              | 11     |
| Students Impacted  | 3,762  |
| Number of “Live Theatrical” Middle/High School Presentations                     | 2      |
| Students Impacted  | 300    |
| Number of “Reality Check, Student Press Conference”<br>High School Presentations | 25     |
| Students Impacted  | 5,690  |
| Number of “Staying Alive from Education”<br>SAFE Programs for High Schools       | 101    |
| Students Impacted  | 16,804 |

The OTS funds SFST and Drug Recognition Expert (DRE) training every year. The statistics above show the numbers receiving this training in 2006. During presentations, a court representative expressed concern for the Horizontal Gaze Nystagmus (HGN) Test. It was reported that officers have difficulty explaining the HGN concept and are “blown out of the water” by good defense counsel. It was also reported that new prosecutors have difficulty presenting HGN evidence in prosecution.

The OTS provides extensive opportunities for training in the apprehension and prosecution of impaired drivers and other DUI-related subjects. Examples of provided training are:

- five Regional Traffic Safety Resource Prosecutors will provide specialized expertise needed for local prosecutors,
- Statewide DUI Prosecutor Training and Education Grants,
- DRE training and train the trainer programs,
- DUI enforcement and education efforts in college campus communities, education that is specifically designed to reach individuals aged 19 through 25,
- training for judicial officials to improve the adjudication process involving DUI convictions, and
- training to schools, colleges and community groups statewide to assist in the development of youth-driven anti-DUI campaigns.

The OTS also sponsors two different conferences biannually that have an extensive law enforcement training component.

The State uses the cost of a DUI as an awareness tool. The cost figures of a DUI were placed on posters, cocktail napkins, and scratch tickets (similar to lottery tickets). These resources are given to any interested partner for distribution in their communities.

The State supports technology by funding the purchase of mobile data computers, portable evidentiary breath test devices, and passive alcohol sensors. It was also reported that there have been discussions concerning the purchase of software and hardware to improve the processing time of persons arrested for DUI. This processing time can take from 45 minutes to several hours.

The Department of Alcoholic Beverage Control (ABC) Investigators and/or Licensing Representatives investigate applications for licenses to sell alcoholic beverages and report on the moral character and fitness of applicants and the suitability of premises where sales are to be conducted. ABC Investigators are peace officers under Section 830.2 of the California Penal Code and are empowered to investigate and make arrests for violations of the Business and Professions Code that occur on or about licensed premises. Investigators are further empowered to enforce any penal provisions of the law any place in the State. Licensees who violate State laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked. These licensees are entitled to a hearing before an Administrative Law Judge and an appeal process to the State Supreme Court. The ABC supports programs such as Recording Artists, Actors and Athletes Against Drunk Driving and the Minor Decoy operations.

## **Recommendations**

- **Enhance SFST training to provide officers with the knowledge and ability to explain the HGN concept and prosecutors with guidance on presenting HGN evidence.**
- Tie future grant funding to agency efforts toward the attainment of goals and objectives.
- Streamline the arrest procedure for DUIs by utilizing technology for the electronic collection and transfer of completed DUI reports.
- Continue to provide enforcement and prosecution personnel with the training and tools required to effectively enforce DUI statutes.

### 3-C. Publicizing High Visibility Enforcement

#### Advisory

*States should communicate their impaired driving law enforcement efforts and other elements of the criminal justice system to increase the public perception of the risks of detection, arrest, prosecution and sentencing for impaired driving. Publicity should be culturally relevant, appropriate to the audience, and based on market research. States should:*

- *Focus their publicity efforts on creating a perception of risk of detection, arrest, prosecution and punishment for impaired driving.*
- *Develop and implement a year round communication plan that includes:*
  1. *messages that are coordinated with National campaigns*
  2. *special emphasis during periods of heightened enforcement and high risk holiday periods (including coverage before and reports of results after)*
  3. *regular (e.g., monthly), sustained coverage throughout the year, using messages (or” media hooks”) that are law enforcement related*
  4. *paid, earned and donated advertising<sup>6</sup>*
- *Use clear, concise enforcement messages to increase public awareness of enforcement activities and criminal justice messages (e.g., that focus on penalties and direct costs to offenders such as loss of license, towing, fines, court costs, lawyer fees, insurance, etc.).*
- *Monitor and evaluate the media efforts to measure public awareness and changes in attitudes and behavior.*

#### Status

The California Office of Traffic Safety (OTS) Marketing and Public Affairs Manager is responsible for coordinating media activities and advising grantees about media issues. The Marketing and Public Affairs Manager is responsible for paid, earned, and donated media campaigns, development of public service announcements and developing plans for media coverage throughout the year.

The OTS implemented a media plan for impaired driving and other programs supported by the OTS. The AVOID program has a website called the Press Room. The Press Room is designed to provide county by county AVOID Program information and DUI statistics for members of the press. Regional and local press releases for each holiday enforcement period are available for downloading and DUI statistics are tallied and posted on the website daily by participating AVOID law enforcement agencies. There is also a list of program information representatives and links to additional resources to facilitate the development of breaking stories.

All grantees are required to have strong publicity components in their programs. These publicity components and operations must also be coordinated with national impaired driving campaigns.

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<sup>6</sup> NHTSA Research Note, March 2004, DOT HS 809 708.

California has a large Hispanic population. Accordingly, the OTS has developed media to reduce DUI within the Spanish-speaking population. There are other non-English speaking populations in the State but the extent of the DUI problem within those populations is unknown.

Some future plans from the *2006 Annual Performance Report* to improve traffic safety in California through marketing and public affairs include:

- Spotlight traffic safety programs pioneered or uniquely adapted within California. Effectively communicate the societal benefits garnered from targeting traffic safety practices to local and diverse communities.
- Develop and implement broad-based and targeted public education programs that not only enlighten, but inspire Californians to engage in prudent traffic safety practices. These efforts will also include campaign specific (e.g., DUI, seat belts, inattention/distracted driving, and teens) advertising, earned media, events, and training.
- Spotlight California's traffic safety successes and innovative grant programs, strategically linking successful programs and focusing on key program areas that make a difference.
- Develop practices and personnel within the grantee frameworks to carry the public education and promotion messages to the local and grassroots level. This will further augment and personalize the broader OTS messages.
- Conduct comprehensive public awareness campaigns, relying heavily on the media, to promote the "Click it or Ticket" seat belt enforcement effort in May and holiday anti-DUI crackdown. During the national mobilization periods, OTS will promote NHTSA's slogan "Drunk Driving. Over the Limit. Under Arrest."
- Take the lead in the introduction and promotion of the "Report Drunk Drivers. Call 911" message.
- Support "California's Child Passenger Safety Week" in February by providing media relations and technical support to Occupant Protection grantees to encourage the correct and consistent use of child safety and booster seats.
- Plan and conduct the 2007 OTS Summit "Celebrating 40 Years of Traffic Safety" in San Diego in April, drawing together hundreds of traffic safety professionals and grantees from throughout California to share best practices and discuss solutions to California traffic safety priorities.

OTS also plans the development of a Public Information Officer (PIO) program and the development of a PIO training component.

## **Recommendations**

- **Research the extent and nature of the DUI problem among non-English speaking populations in the State, including the State's Tribal Nations.**



- Continue development of the PIO Program.
- Continue development and implementation of the future plans from the *2006 Annual Performance Report*.

### **3-D. Prosecution**

#### **Advisory**

*States should implement a comprehensive program to visibly, aggressively and effectively prosecute and publicize impaired driving-related efforts, including use of experienced prosecutors, to help coordinate and deliver training and technical assistance to those prosecutors handling impaired driving cases throughout the State. Prosecutors who handle impaired driving cases often have little experience, handle hundreds of cases at a time, and receive insufficient training<sup>7</sup> States should:*

- *Make impaired driving cases a high priority for prosecution and assign these cases to knowledgeable and experienced prosecutors.*
- *Encourage vigorous and consistent prosecution of impaired driving (including youthful offender) cases, particularly when they result in a fatality or injury, under both impaired driving and general criminal statutes.*
- *Provide sufficient resources to prosecute impaired driving cases and develop programs to retain qualified prosecutors.*
- *Employ experienced prosecutors, such as State Traffic Safety Resource Prosecutors, to help coordinate and deliver training and technical assistance to prosecutors handling impaired driving cases throughout the State.*
- *Ensure that prosecutors who handle impaired driving cases receive state-of-the-art training, such as in SFST, DEC, emerging technologies for the detection of alcohol and other drugs; prosecutors should learn about sentencing strategies for offenders who abuse these substances and participate in multi-disciplinary training with law enforcement personnel.*
- *In Driving While Impaired by Drugs (DWID) cases, encourage close cooperation between prosecutors, state toxicologists and arresting law enforcement officers (including Drug Recognition Experts). Their combined expertise is needed to successfully prosecute these cases.*
- *Establish and adhere to strict policies on plea negotiations and deferrals in impaired driving cases and require that plea negotiations to a lesser offense be made part of the record and count as a prior impaired driving offense.*

#### **Status**

All criminal alcohol-related driving offenses, including Driving Under the Influence (DUI) misdemeanors and felonies, as well as Reckless Driving offenses, are prosecuted though the

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<sup>7</sup> *Robertson, Robyn D. and Herb M. Simpson “DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Foundation 2002.*

offices of the 58 elected California District Attorneys. Prosecution takes place in the Superior Courts of California.

With the assistance of grant funding in excess of three million dollars from the National Highway Traffic Safety Administration (NHTSA), through the California Office of Traffic Safety (OTS), a Traffic Safety Resource Prosecutor (TSRP) program was implemented in 2007. This program will provide for five Resource Prosecutors who will be assigned to serve in five designated geographic areas and will be available to assist in those constituent jurisdictions in training local prosecutors in trial court advocacy and the effective prosecution of DUI cases. TSRP training materials will be developed and disseminated to prosecutors with web-based resource materials exclusively for use by DUI prosecutors. One specially trained prosecutor will be assigned to each of the State's five established regions with the task of guiding and mentoring local prosecutors. They will also be available to field urgent questions on DUI issues and under certain circumstances will also provide courtroom support.

As in most states, the prosecution of misdemeanor DUI offenses (first, second, and third DUI offenses) in California are generally assigned to relatively inexperienced, novice prosecutors who do not have extensive courtroom or trial experience. These prosecutors frequently are outclassed by experienced criminal defense attorneys that specialize in DUI defense. Inexperienced DUI prosecutors benefit by specialized DUI prosecution training and mentoring programs in which they can look to more seasoned DUI prosecutors for advice and guidance. Some prosecutors report that law enforcement officers have difficulty presenting testimony concerning Standardized Field Sobriety Testing (SFST) evidence, particularly evidence gained from Horizontal Gaze Nystagmus (HGN) tests. Prosecutors should receive regular continuing education and training in the presentation of SFST evidence as well as the testimony of Drug Recognition Experts. They should work with law enforcement to assist officers in competently presenting testimony.

There is substantial disparity in DUI conviction rates in various California counties. The reasons for this disparity include the acceptance of pleas to non-DUI offenses such as reckless driving with or without alcohol consumption or ingestion of drugs, and non-alcohol-related moving violations. Pursuant to Section 23635 of the California Motor Vehicle Code, when the prosecution makes a motion for a dismissal or substitution, or for the striking of a separate conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives the reasons for the motion. The reasons shall include, but need not be limited to, problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice," the written statement shall specify all of the factors which contributed to this conclusion. Strict and full adherence to this provision would assist interested parties in determining the reasons for the disparity in conviction rates in those jurisdictions in which a significant percentage of DUI cases are disposed of with convictions for offenses other than DUI. This provision is being largely ignored in that written statements specifying "all the factors" which contributed to such non-DUI dispositions are not being filed with the courts.

The disparity in DUI conviction rates in certain jurisdictions has also been traced to a high incidence of failures to appear. In one jurisdiction, the lack of DUI convictions appears to be the

result of more than 40 percent of arrestees failing to appear (FTA) for court. In four jurisdictions the FTA rate exceeded 30 percent, and in ten jurisdictions it exceeded 20 percent of the cases. Little effort is made to seek out misdemeanor DUI offenders who FTA. Prosecution of defendants for failing to appear is essential to reducing the incidence of FTAs.

Prosecutors may agree to a plea to a charge of reckless driving as a substitute for an original charge of DUI under Section 23152 of the Motor Vehicle Code. When such a plea is accepted and there was consumption of alcoholic beverages or ingestion of drugs, the court is required to order the defendant to enroll in an alcohol and drug education program, if the defendant is placed on probation, unless the court finds mitigating circumstances in which case the court make an affirmative finding on the record. In 2004, 38 percent of defendants convicted of this type of reckless driving were not mandated to enroll in such programs, although they should have been. Prosecutors should not condone such oversight. They are in a position to insist on adherence to the provisions of law governing sanctions that are required to be imposed on DUI arrestees who they have allowed to plead to reckless driving.

Seventy-seven percent of the 180,957 DUI arrests in 2004 resulted in convictions of DUI offenses; 9.9 percent or 17,870 of the 2004 DUI arrests resulted in reckless driving convictions; and 17.2 percent or 3,069 of these 17,870 DUI arrestees, who were convicted of reckless driving, were improperly convicted of a non-alcohol-related reckless violation. A non-alcohol-related reckless conviction does not count as a prior conviction should the defendant be convicted of a subsequent DUI. Where a plea to a reckless driving or other moving violation charge is allowed, as a substitute for a charge of DUI, the prosecutor must set forth on the record whether alcohol or drugs were consumed by the defendant in connection with the offense.

If drugs or alcohol were announced as being involved, the reckless (wet reckless) conviction permits the court, in its discretion, to grant probation and order the defendant to complete an alcohol and drug education program. Of the 2004 DUI arrests, 1.9 percent or 3,439 have resulted in convictions of offenses other than DUI or reckless driving which do not count for purposes of enhancing a subsequent DUI conviction. Prosecutors are not prohibited from allowing pleas to reckless driving or non-alcohol-related offenses even in cases involving high BAC test results of .15 percent or higher.

Conviction rates vary greatly from county to county. Among the larger counties, 2004 DUI conviction rates varied from highs of 89.8 percent in Orange to a low of 53.6 percent in San Francisco. Los Angeles County, which accounted for almost a quarter of all DUI arrests in the State, had a DUI conviction rate of 70.7 percent. Among the smaller counties, 2004 DUI conviction rates varied from a high of 91.5 percent in Placer to a low of 37.7 percent in Sierra. The percentage of DUI arrests that were improperly adjudicated as non-alcohol-related reckless driving convictions varied from 0.0 percent (Ventura) to 9.2 percent (San Francisco). The percentage of DUI arrests adjudicated as minor convictions ("other" convictions) varied from 0.0 percent to 5.8 percent.

Statewide, the proportion of DUI arrests resulting in reckless driving convictions (alcohol and non-alcohol) was 9.9 percent in 2004. Four counties adjudicated more than 20 percent of their DUI arrests as reckless driving convictions, including Del Norte, Inyo, San Luis Obispo and San

Francisco. Improving conviction rates in counties with rates below the overall average of 77 percent requires investigation of the reasons for such divergent rates. Below average DUI conviction rates may be the result of a number of different factors including defendants failing to appear, inadequate law enforcement testimony, insufficient prosecutorial talent, and necessary plea bargaining or unnecessary charge substitutions.

Judicial presenters have emphasized the need for prosecutors to reduce the time between arrest and arraignment. Prosecutors need to make filing decisions quickly following a defendant's arrest. Extended delays in the charging process increase the likelihood that a defendant will fail to appear for arraignment.

### **Recommendations**

- Fund and employ experienced prosecutors to train and assist young prosecutors in trying contested impaired driving cases.
- Determine reasons for the disparity in DUI conviction rates in counties, particularly in large counties, and undertake remedial action to raise conviction rates to a minimum of 75 percent.
- Determine reasons why, in certain counties, more than 20 percent of DUI arrests result in reckless driving convictions and undertake remedial action.
- Require prosecutors to announce in open court, on the record, the bases for reducing or substituting non-alcohol-related reckless driving offenses for DUI offenses where there is evidence of drug or alcohol involvement.
- **Collect and review written statements filed by prosecutors in cases where non-alcohol-related reckless driving and other moving violation charges have been substituted in cases where defendants were arrested for DUI. Determine why such charge substitutions were made and undertake remedial action as needed.**
- Continue funding Regional Traffic Safety Resource Prosecutors (TSRPs) and funding for the existing Statewide DUI Prosecutor Training and Education programs.
- Encourage all prosecutors to provide training to law enforcement officers on SFST and drug recognition techniques to enhance the impact of officer testimony.
- Expedite case filing to reduce the delay between the arrest and the arraignment of a DUI defendant.

### 3-E. Adjudication

#### Advisory

*States should impose effective, appropriate and research-based sanctions, followed by close supervision, and the threat of harsher consequences for non-compliance when adjudicating cases. Specifically, DWI Courts should be used to reduce recidivism among repeat and high BAC offenders. DWI Courts involve all criminal justice stakeholders (prosecutors, defense attorneys, probation officers and judges) along with alcohol and drug treatment professionals and use a cooperative approach to systematically change participant behavior. The effectiveness of enforcement and prosecution efforts is strengthened by knowledgeable, impartial and effective adjudication. Each State should provide the latest state-of-the-art education to judges, covering SFST, DEC, alternative sanctions and emerging technologies.*

*Each State should utilize DWI courts to help improve case management and to provide access to specialized personnel, speeding up disposition and adjudication. DWI courts also increase access to testing and assessment to help identify DWI offenders and addiction problems and to help prevent them from re-offending, DWI courts additionally help with sentence monitoring and enforcement. Each State should provide adequate staffing and training for probation programs with the necessary resources, including technological resources, to monitor and guide offender behavior.*

*States should:*

- *Involve the State’s highest court in taking a leadership role and engaging judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges.*
- *Encourage consistency in the adjudication of impaired driving (including youthful offender) cases, and the imposition of effective and appropriate sanctions, particularly when impaired driving resulted in a fatality or injury.*
- *Provide sufficient resources to adjudicate impaired driving cases in a timely manner and effectively manage dockets brought before judges.*
- *Ensure that judges who handle criminal or administrative impaired driving cases receive state-of-the-art education, such as in technical evidence presented in impaired driving cases, including SFST and DEC testimony, emerging technologies for the detection of alcohol and other drugs, and sentencing strategies for offenders who abuse these substances.*
- *Use court strategies to reduce recidivism through effective sentencing and close monitoring, by either establishing DWI courts, encouraging drug courts to hear impaired driving cases, or encouraging other courts to adopt DWI/Drug court practices; these courts increase the use of drug or alcohol assessments, identify offenders with alcohol or drug use problems, apply effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs and closely monitor compliance, leading to a reduction in recidivism<sup>8</sup>*
- *Provide adequate staffing and training for probation programs with the necessary*

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<sup>8</sup> Freeman-Wilson, Karen and Michael P. Wikosz, “Drug Court Publications Resource Guide, Fourth Edition.” Alexandria, VA: National Drug Court Institute, 2002.

*resources, including technological resources, to monitor and guide offender behavior.*

## **Status**

All trial level misdemeanor and felony alcohol-related driving offenses lie within the jurisdiction of the Superior Courts of California. All judges of the Superior Courts have been admitted to practice in California Bar and have had at least 10 years of legal practice experience prior to ascending the bench. In spite of being considered by many as simple traffic matters, Driving Under the Influence (DUI) cases involve many complicated issues of law and evidence. Competent adjudication of a DUI case requires judges who have up-to-date education and training in the adjudication of such cases. New Judge pre-bench and post-bench training programs are mandatory in California and include segments on the adjudication of DUI cases. Mentors are also provided for new judges. California requires 30 hours of continuing judicial education for all judges within a 3-year period. Optional specialized “DUI Adjudication” programs for California Judges are also available. The Administrative Office of the Courts (AOC) is the staff agency to the Judicial Council of California which is the policy making body of the state court system. The AOC’s Education Division/Center for Judicial Education and Research provides comprehensive educational curricula for judges and court staff members.

DUI convictions are dependent on the adjudication of DUI offenders by judges in courts of competent jurisdiction. Conviction rates are primarily affected by factors including law enforcement competence, prosecutorial prowess, and judicial acceptance or rejection of plea negotiations that contemplate reduction to non-DUI offenses. While California had an overall DUI conviction rate of 77 percent in 2004, conviction rates varied widely from county to county. “Among the larger counties, 2004 DUI conviction rates varied from highs of 89.8 percent in Orange to a low of 53.6 percent in San Francisco. Los Angeles County, which accounted for almost a quarter of all DUI arrests in the State, had a DUI conviction rate of 70.7 percent. Among the smaller counties, 2004 DUI conviction rates varied from a high of 91.5 percent in Placer to a low of 37.7 percent in Sierra. The percentage of DUI arrests that were improperly adjudicated as non-alcohol-related reckless driving convictions varied from 0.0 percent (Ventura) to 9.2 percent (San Francisco). The percentage of DUI arrests adjudicated as minor convictions (“other” convictions) varied from 0.0 percent to 5.8 percent. Del Norte, Los Angeles, Marin, Modoc and San Luis Obispo counties had rates of 3 percent or more”.

Statewide, the proportion of DUI arrests resulting in reckless driving convictions (alcohol and non-alcohol) was 9.9 percent in 2004. “Four counties adjudicated more than 20 percent of their DUI arrests as reckless driving convictions, including Del Norte, Inyo, San Luis Obispo and San Francisco. Judges possess the discretion to reject plea negotiations that contemplate dispositions that will mask or unnecessarily minimize DUI convictions”.

Pursuant to Section 23635 of the California Motor Vehicle Code, when an allegation of a violation of the DUI law is dismissed by the court, an allegation of a different or lesser offense is substituted for an allegation of a violation of the DUI law, or an allegation of a separate conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on the record whether the dismissal, substitution, or striking was requested by the prosecution and whether the prosecution concurred in or opposed

the dismissal, substitution, or striking. This provision is not being strictly adhered to by judges in some jurisdictions. Strict adherence would help to clarify the reasons for the disparity in conviction rates, particularly in those jurisdictions where a significant percentage of DUI cases are disposed of with convictions for non-DUI offenses such as reckless driving or other nonalcohol-related offenses. Disclosure of the reasons for disparity in convictions rates will assist in determining what remedial action can be taken to reduce such disparity.

“Fourteen percent of repeat-DUI offenders were required to install ignition interlock devices (IIDs) in 2004, compared to 12.9 percent in 2003, 10.9 percent in 2002, 8.1 percent in 2001, 7.5 percent in 2000, 13.3 percent in 1999 and 22.3 percent in 1998”. California’s old mandatory interlock law for all repeat offenders took effect on July 1, 1993; however, judges routinely did not assign interlock to these offenders. Over 75 percent of “mandatory” assignments were not made by judges under the old law. The mandatory law was repealed in 1998, and a new ignition interlock law and program was enacted and implemented July 1, 1999. The new law only established mandatory IIDs for DUI license suspension/revocation violators, while providing incentives for repeat offenders to gain early reinstatement with interlock. As quoted from the 2007 Annual Report of the California Management Information System to the Legislature of the State of California, “Judicial assignments to the new mandatory provisions have steadily risen since the law was implemented, and proportionally more DUI suspension violators are now assigned to interlock than were repeat offenders under the old ‘mandatory’ law.”

IIDs have been shown to significantly reduce recidivism and crash involvement while they are installed on DUI offenders’ vehicles. The provisions of California law that mandate judges to order use of IID only for DUI suspension or revocation violators overlooks the benefit that installation would have for repeat offenders, particularly those with high BACs. Many states require IID installation for repeat offenders and those with high BAC offenses.

California has several functioning DUI Courts that utilize the Drug Court Guiding Principles. These DUI Courts have been established in local court jurisdictions, such as Orange and Butte counties. In October 2006, the California Administrative Office of the Courts (AOC) received a grant from the National Highway Traffic Safety Administration (NHTSA) through the California Office of Traffic Safety (OTS) to implement a Collaborative Justice DUI/Drug Court Pilot project. Grant funds have been awarded to four trial court pilot programs to determine whether the existing collaborative justice drug court model currently implemented throughout the State can be utilized for repeat driving under the influence (DUI) offenders as well.

DUI/Drug Courts do not offer defendants incentives, such as dismissal of charges, but appeal on the basis of offering rehabilitation and treatment and, in some cases, the avoidance of prolonged incarceration sentences. DUI/Drug courts have a proven record of reducing recidivism among hard core repeat DUI offenders. California and its AOC are to be commended for taking a proactive approach in the establishment of these Collaborative Justice Courts.

Judges throughout the State of California rarely require DUI defendants, as part of the sentencing process, to be assessed or screened for alcohol or drug abuse problems or chemical dependency. This is in spite of the fact that the California Legislature has recognized that more than half of all first-time DUI offenders are alcoholics or problem drinkers. The percentage is even higher for

second-time offenders. By failing to require assessment or screening of DUI offenders, judges miss the opportunity to order addicted defendants to participate in treatment programs in addition to the statutorily mandated alcohol and drug education programs required of all convicted DUI offenders. Meaningful sentences in DUI cases cannot be fashioned unless judges have the benefit of an assessment to reveal whether they are dealing with a defendant who is in need of treatment.

Defendants with multiple prior DUI convictions require the use of sentencing modalities different from those used with first-time offenders. Judges who are cognizant of this distinction recommend the following:

- Expedite bringing multiple offender cases to court and consider holding such defendants in custody for arraignment.
- Encourage prosecutors to reduce the time between arrest and arraignment.
- Assign multiple offender cases to one courtroom where the judge is knowledgeable about substance abuse and chemical dependency.
- Require defendants to appear at arraignment and complete a risk and needs assessment at arraignment where the defendant is personally present.
- Set pretrial release conditions, such as sober living, no alcohol, no driving, and participation in self-help programs such as a 12-step program.
- Provide resources available to defendants including lists of self-help e.g., 12-step programs, sober living facilities, and treatment programs.
- Make treatment an attractive option and order treatment programs as a part of probation.
- Utilize probation supervision for up to five years.
- Order the use of IIDs as appropriate.
- Impose, as appropriate, stayed or incremental jail sentences allowing defendants to earn jail time reductions by complying with probation conditions.

### **Recommendations**

- Ensure that comprehensive and convenient continuing DUI adjudication education programs are provided to judges who are assigned to misdemeanor and traffic divisions of Superior Court.
- Educate judges to use specialized sentencing modalities in the adjudication of DUI offenders with multiple prior convictions.



- Educate judges to use specialized pretrial release conditions in cases of DUI offenders with multiple prior convictions.
- Enact legislation requiring judges to order, obtain, and review alcohol screening and assessment results for all first-time as well as multiple offender DUI defendants.
- **Enact legislation requiring judges to order all DUI defendants to participate in alcohol or drug treatment, as a condition of probation, where screening and assessment verify the need and in addition to the alcohol education programs already required under DUI conviction penalty statutes.**
- Require judges to strictly adhere to the provisions of Section 23635 of the California Vehicle Code by specifying on the record the reasons why a different or lesser offense was substituted for a DUI offense.
- Review reasons given by judges for allowing different or lesser offenses to be substituted for DUI offenses and to determine if such substitutions were in the interests of justice. If the substitutions were not in the interests of justice, take remedial action to reduce such substitutions in the future.
- Support and expand the use of DUI Courts employing guiding principles of Drug Courts.

### **3-F. Administrative Sanctions and Driver Licensing Programs**

States should use administrative sanctions, including the suspension or revocation of an offender's driver's license; the impoundment, immobilization or forfeiture of a vehicle; the impoundment of a license plate; or the use of ignition interlock devices. These measures are among the most effective actions that can be taken to prevent repeat impaired driving offenses.<sup>9</sup> In addition, other driver licensing activities can prove effective in preventing, deterring and monitoring impaired driving, particularly among novice drivers. Publicizing related efforts is a part of a comprehensive communications program.

#### **3-F-1. Administrative License Revocation and Vehicle Sanctions:**

##### **Advisory**

*Each state's Motor Vehicle Code should authorize the imposition of administrative penalties by the driver licensing agency upon arrest for violation of the state's impaired driving laws.*

*The code should provide for:*

- *Administrative suspension of the driver's license for alcohol and/or drug test failure or refusal.*
- *The period of suspension for a test refusal should be longer than for a test failure.*
- *Prompt suspension of the driver's license (within 30 days of arrest), which should not be delayed, except when necessary, upon request of the State.*
- *Vehicle sanctions, including impoundment of or markings on the license plate, or impoundment, immobilization or forfeiture of the vehicle(s), of repeat offenders and individuals who have driven with a license suspended or revoked for impaired driving.*
- *Installation of ignition interlocks on the offender's vehicle(s) until a qualified professional has determined that the licensee's alcohol and/or drug use problem will not interfere with their safe operation of a motor vehicle.*

##### **Status**

##### **APS Suspensions**

The State has several statutes governing the imposition of sanctions and penalties, both judicially and administratively, for impaired driving. Those laws covering the judicial processing of DUI offenders are addressed in Section 3-A of this report. This section focuses on the State's authority to administratively suspend drivers' licenses under the State's DUI statute, Sections 13353.2, 23136, and 23612 of the California Vehicle Code (CVC). In California, this is referred to as an Administrative Per Se (APS) suspension.

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<sup>9</sup> Robertson, Robyn D. and Herb M. Simpson "DUI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Foundation 2002.

The Department of Motor Vehicles (DMV) is required to suspend or revoke the driving privilege of any person arrested for driving under the influence of alcohol or a combination of alcohol and drugs (DUI), who:

- Takes a chemical (blood or breath) test which shows a Blood Alcohol Concentration (BAC) level of 0.08 percent or more for drivers 21 years of age or older, .04 for commercial vehicle operators, or .01 for drivers under age 21, or
- Refuses to take or fails to complete a chemical (blood or breath) test to determine his/ her BAC level.

License suspension action is initiated upon receipt of DS Form 367, "Order of Suspension and Officer's Statement" from the arresting officer. The officer gives a copy of the DS Form 367 to the offender which serves as a temporary license valid for 30 days or, if the driver requests a hearing within 10 days, until the date the DMV issues the suspension order following that hearing if the suspension is upheld. The temporary license does not allow the person to drive if there is another DMV- or court-imposed driver license action in effect.

Driving privileges are suspended for four months for a first DUI offense if the person submitted to a chemical test and one year for one or more separate offenses in ten years. For persons refusing a chemical test, licenses are suspended for one year for the first offense, and revoked for two years for a second offense in ten years and for three years for three or more offenses in ten years. The APS suspension or revocation is independent of any jail, fine, or other criminal penalty imposed in court.

An offender may apply for a restricted license, if a first offense, a chemical test was taken, the person is 21 years of age or older, and the driving privilege is not suspended or revoked for some other reason.

In 2006, there were 203,696 APS actions initiated. Of this total, 18,215 were set aside for a total of 185,481 APS suspensions. Offenders who are dismissed for insufficient evidence or are never charged by the court may request an APS dismissal hearing to consider setting aside the associated APS action even if an APS hearing had already been held in accordance with due process rights.. While the number of APS actions initiated increased in 2006 (9.4 percent over 2005), the proportion of actions that were set aside decreased from a rate of 9.44% of actions initiated in 2005, to a rate of 8.94 percent of actions initiated in 2006.

About 25 percent of APS actions result in a request for hearing. A total of 51,172 hearings (both in-person and telephone) were held and/or completed in 2006. Of this number, 45,828 or 89.6 percent were sustained.

Despite the use of telephonic hearings and the assignment of overtime for hearing officers, the average time to schedule a hearing is 79 days, which far exceeds the statutorily required 30 days. This is due in part to a more than 60 percent increase in the volume of hearings in the past ten years. The DMV has assigned a very high priority to reduce these delays.

A prior study that was cited in a 2001 report by the AAA Foundation for Traffic Safety, *Unlicensed to Kill: The Sequel*, found that the APS Law had “a deterrent effect on drinking and driving in the state (Rogers, 1996, 1997).”

In addition to suspensions under the APS statute, the DMV also suspends licenses based on VC Section 13352, court ordered suspensions for other reasons, driver history records qualifying the driver as a “negligent operator,” for financial responsibility law violations, or for mental/physical disability.

### **Vehicle Sanctions**

California has both Vehicle Impound and Vehicle Seizure laws for multiple offenders. According to the 2001 study sponsored by the AAA Foundation for Traffic Safety, *Unlicensed to Kill: The Sequel* the vehicle impound law is much more frequently applied. It further states “The impound law applies regardless of whether the offender is the owner of the vehicle. If the vehicle’s owner knowingly allows a suspended or revoked driver to use their car, that vehicle is eligible for impound or seizure.”

Sections 14602.5 through 14602.8 of the California Vehicle Code (CVC) permit impoundment of motor vehicles by peace officers under various conditions. These include where the defendant’s license was suspended or revoked and the license was restricted to driving with an ignition interlock device, when the defendant does not have valid driving privileges, where the defendant has fled an officer, and where the defendant has previously been convicted of DUI or refused a chemical test.

Section 14602.8 (a) (1) of the CVC provides that if a peace officer determines that a person has been convicted of DUI, that the violation occurred within the preceding 10 years, and that one or more of the following circumstances applies to that person, the officer may immediately cause the removal and seizure of the vehicle that the person was driving:

- (A) The person was driving a vehicle when the person had 0.10 percent or more, by weight, of alcohol in his or her blood or
  - (B) The person driving the vehicle refused to submit to or complete a chemical test requested by the peace officer.
- (2) A vehicle impounded pursuant to paragraph (1) shall be impounded for the following period of time:
- (A) Five days, if the person has been convicted once of violating the DUI law and the violation occurred within the preceding 10 years or
  - (B) Fifteen days, if the person has been convicted two or more times of violating DUI, or any combination thereof, and the violations occurred within the preceding 10 years. [This section appears to be in need of revision as it makes reference to a .10 percent blood alcohol level, which is no longer relevant in light of the per se level having been reduced to .08 percent.]

Pursuant to Section 14607.6 of the Code, a motor vehicle is subject to forfeiture as a nuisance if it is driven on a highway in this state by a driver with a suspended or revoked license, or by an

unlicensed driver, who is a registered owner of the vehicle at the time of impoundment and has a previous misdemeanor conviction of California's driver licensing laws. The proceeds of the sale are used to satisfy costs of impoundment, sale, and unfunded costs of judicial proceedings and costs related to the implementation of the impound law. There are protections for lien holders and other persons who can establish an interest in the vehicle.

A study completed in 1998 by the DMV disclosed that impoundment and forfeiture yielded significant reductions in the incidence of subsequent driving on a suspended or revoked license, as well as reductions in subsequent traffic crashes and traffic violation convictions.

### **Recommendations**

- **Reduce the time between the request for the hearing and the time it is conducted.**

### 3-F-2. Programs

#### Advisory

Each state's driver licensing agency should conduct programs that reinforce and complement the state's overall program to deter and prevent impaired driving, including:

- *Graduated Driver Licensing (GDL) for novice drivers that includes three distinct licensing phases for young novice drivers (learner's permit, restricted license and unrestricted license) and provides that:*
  1. *Requires a learner's permit for a minimum of 6 months and a total combined period of one year prior to being eligible for an unrestricted license.*
  2. *Requires that drivers practice driving with parental or adult supervision for a minimum number of hours and demonstrate safe driving practices before they may drive unaccompanied by a parent or adult.*
  3. *Requires a nighttime driving restriction and limits on the number of young passengers who may be in the vehicle during phase two.*
  4. *Provides that the permit, the restricted and the unrestricted license, as well as licenses to drivers under and over the age of 21, are easily distinguishable.*
  5. *Provides for license suspension for drivers under age 21 who drive with a BAC exceeding the limit set by the State's zero tolerance law.*
  6. *Provides for primary enforcement of safety belt use laws for young novice drivers.*
- *A public information program that describes alcohol's effects on driving and the consequences of being caught driving impaired or above the State's zero tolerance limit.*
- *A program to prevent individuals from obtaining and using a fraudulently obtained or altered driver's license including:*
  1. *Training for alcoholic beverage sellers to recognize fraudulent or altered licenses and IDs and what to do with these documents and the individuals attempting to use them.*
  2. *Training for license examiners to recognize fraudulent documents and individuals seeking to fraudulently apply for them.*

<sup>7</sup> Robertson, Robyn D. and Herb M. Simpson "DWI System Improvements for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002.

#### Status

#### **Graduated Driver Licensing (GDL) and Other Youth Programs**

Under California Vehicle Code (CVC) §12814.6, driver licenses are issued to persons between 16 and 18 years of age pursuant to a provisional licensing program, known as Graduated Driver Licensing (GDL).

The program consists of three levels of licensing: provisional permit, provisional license and full or unrestricted license. Various requirements and restrictions apply during the provisional stages to progress to the next level of licensure.

To receive a provisional permit, a person must be at least 15 ½ but under 18 years of age and pass a traffic laws test. The provisional permit must be held for one year prior to applying for a provisional license and shall have completed prescribed education and training courses. Additionally, the person shall have completed 50 hours of supervised driving practice prior to the issuance of a provisional license. Not less than 10 of the required practice hours shall include driving during darkness.

The driver is subject to a number of restrictions while operating with a provisional license. During the first 12 months after issuance of a provisional license, the licensee may not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

- Drive between the hours of 11 p.m. and 5 a.m.
- Transport passengers who are under 20 years of age.

Certain exceptions are provided in the statute, including medical and employment necessities. The provisional licensee must remain conviction- and accident-free during the 12-month provisional period to be eligible to apply for an unrestricted license.

Although a May 2003 report titled, *Evaluation of California's Graduated Driver Licensing Program* by Scott Masten and Robert Hagge, found no overall reductions in teen crashes, "the 12-month nighttime restriction was associated with significant sudden-permanent reductions of 0.44 percent in total crashes and marginally significant 0.45 percent in nighttime fatal/injury crashes" and thus provides "support for passenger and nighttime restrictions."

The DMV issues a distinctive driver's license that displays a distinctive color or a distinctively colored stripe or other distinguishing characteristics, to persons at least 16 years of age and older but under 18 years of age, and to persons 18 years of age and older but under 21 years of age, so that the distinctive license feature is immediately recognizable. The features shall clearly differentiate between drivers' licenses issued to persons at least 16 years of age or older but under 18 years of age and to persons 18 years of age or older but under 21 years of age.

The State has what is commonly referred to as an administrative, or civil violation, "Zero Tolerance Law" (CVC §23136). There is also a criminal track violation handled by the courts established under VC 23140. These provisions establish blood alcohol concentrations of 0.01 percent and 0.05 percent as the degrees of impairment respectively at which persons under 21 are subject to DUI detention or arrest and Administrative Per Se license suspension under VC 23136, or arrest and criminal court imposed sanctions under VC 23140.

As an interesting and timely note, Governor Schwarzenegger recently announced the passage of a new law that prohibits teens from text messaging while operating a motor vehicle.

### **Public Information**

The DMV publishes a variety of driver safety materials on its Web site, including those related to driving under the influence of alcohol and drugs. Examples include: Arrest for Driving Under the Influence (DUI) and DUI Arrest: DMV Administrative Hearings vs. Criminal Court Trials. DMV's *Driver Handbook* also includes messages about the dangers of drinking and driving.

### **Fraudulent Document Training**

DMV provides fraudulent document recognition training to all licensing examiners. Vehicle Code Sections 12809 (c) and (d), and 13359 provide the department with the authority to refuse to issue or to revoke the driving privilege for fraudulent activity.

### **Recommendations**

- None



## IV. COMMUNICATION PROGRAM

States should develop and implement a comprehensive communication program that supports priority policies and program efforts. Communication strategies should be directed at underage drinking, impaired driving, and reducing the risk of injury, death and the resulting medical, legal, social and other costs. Communications should highlight and support specific program activities underway in the community and be culturally relevant and appropriate to the audience. States should:

### Advisory

- *Employ a communications strategy that principally focuses on increasing knowledge and awareness, changing attitudes and influencing and sustaining appropriate behavior;*
- *Adopt a comprehensive marketing approach that coordinates elements like media relations, advertising and public affairs/advocacy;  
Use traffic-related data and market research to identify specific audiences segments to maximize resources and effectiveness;*
- *Develop and implement a year round communication plan that includes:*
  1. *Policy and program priorities*
  2. *Messages that are coordinated with National campaigns*
  3. *Special emphasis during holiday periods and other high risk times throughout the year, such as New Year's, 4<sup>th</sup> of July, Labor Day, Halloween, Prom Season and Graduation*
  4. *Appropriate use of core message platforms that emphasize underage drinking, impaired driving enforcement and personal responsibility, including use of designated drivers and alternative transportation*
  5. *Messages that are culturally relevant and linguistically appropriate*
  6. *Paid, earned and donated media*
  7. *Key alliances with private and public partners*
  8. *Evaluation and survey tools*
- *Direct communication efforts at populations and geographic areas at highest risk or with emerging problems (such as youth, young adults, repeat and high BAC offenders and drivers who use prescription or over-the-counter drugs that cause impairment).*
- *Use creativity to encourage earned media coverage, using a variety of messages or "hooks" (such as inviting reporters to "ride-along" with law enforcement officers, conducting "happy hour" checkpoints or observing under-cover liquor law enforcement operations).*
- *Encourage communities, businesses and others to financially support and participate in communication efforts to extend their reach, particularly to populations and in geographic areas at highest risk.*

### Status

The high priority with which the California Office of Traffic Safety (OTS) holds public relations,

advertising, and marketing is reflected in the Highway Safety Plan (HSP), which includes this area as a module separate from the nationally established priority areas. The reasons for dedicating a separate module to this function are that it is a vital portion of the effort unto itself, rather than an “afterthought.” As such, it is considered to be on an equal footing with the other areas.

The communications and outreach efforts for traffic safety in California include public relations, paid advertising, and marketing. Public relations for the California traffic safety program is made up of several components designed to reach the public in a variety of ways. These components include:

- Statewide campaigns;
- Partnerships;
- A newsletter entitled *OTS Tracks*;
- An internet website ([www.ots.ca.gov](http://www.ots.ca.gov));
- Media relations; and
- Grantee support.

Statewide campaigns for impaired driving prevention include December’s Holiday DUI Crackdown and DUI enforcement campaigns during three major holiday periods: Memorial Day, Independence Day, and Labor Day.

Partnerships are a critically important component in all public relations efforts for impaired driving. Partners generally come from one of three categories: 1) internal sister agencies within the State, 2) local and national organizations, such as MADD, with whom are shared mutual goals and activities, and 3) commercial, private entities such as sports teams. Some examples of commercial, private organizations with which OTS enjoys productive relationships include:

- The state auto dealership association through which media is routed to the general public by use of dealer variable message signs and in-vehicle or on the sales floor distribution.
- Enterprise Rent-a-Car which will stock their vehicles with materials with the impaired driving message.
- A newly developed relationship with two grocery store chains for the Holiday mobilization which will include a spread in their weekly 4-color magazines providing recipes for non-alcoholic “mocktails” and sober driving messages. The California Highway Patrol will also do noon talk shows, preparing non-alcoholic recipes with ingredients provided from the participating stores.
- A pending agreement with the Alcoholic Beverage Association to put the “Report a Drunk Driver. Call 9-1-1” message on the backs of delivery trucks.

*OTS Tracks* newsletter reaches over 3,000 individuals and is published quarterly. It covers news from OTS, updates on grant projects, and traffic safety issues.

The OTS website is an easily accessed and user-friendly source for program and grant information, topical information, access to data, and links to other related websites. It is undergoing revisions to create an even more user-friendly format so one can find the needed information in no more than three clicks to the subsequent windows. Examples of useful information obtainable via the website are the state's highway safety plans and links such as <http://www.girlsanddrinking.org/> which leads to the new Century Council website "Girl Talk– A Guide to Mothers and Daughters to Prevent Underage Drinking."

Media and materials issued statewide from OTS are typically provided in both English and Spanish. Posters, give-aways, and press information are generally provided in both languages. California Highway Patrol (CHP) officers who are Spanish-language proficient will be tasked with speaking to Spanish language media markets. Media buys will also be made in more than English-language media outlets, primarily with Spanish-language outlets, given the size of the Hispanic population in the State and the over-representation of this population in DUIs. The largest daily Hispanic newspaper in Los Angeles is frequently approached to provide impaired driving messages. California has the advantage of having some of the largest media markets in the country, particularly in Los Angeles. The disadvantage is the significant expense of purchasing time in these media markets, which increases the importance and need to gain earned media for program support. As a result of the high cost of media, the OTS media buys tend to be heavily oriented to radio.

Other than Spanish-language media and materials, statewide public information does not generally address select or targeted audiences. This is done, however, through several local grant projects which are specifically designed and implemented to reach an extremely diverse population. One grant project planned for Federal Fiscal Year (FFY) 2008 with the California Department of Transportation (Caltrans), for example, is being developed to reach the Indian population. Given the very large and diverse Asian population, there are also local materials in Asian languages, such as the Vietnamese-language "underage drinking and driving: a parent and teen guide," a product of the Traffic Safety Communities Network (TSCN) of the Santa Clara County Public Health Department.

Two primary messages promoted by the State are "Report a Drunk Driver. Call 9-1-1" and "AVOID the [arrest]." The "Report a Drunk Driver" message is promoted statewide through a variety of mass media, print materials, the website, and events. The "AVOID" message is combined with extensive enforcement which covers 41 counties, partners with 547 law enforcement agencies, and reaches 98 percent of the State's population. The activities supported by the "AVOID" grants include checkpoints, multi-agency DUI task force operations, saturation patrols, repeat offender "sweeps," sting operations for DUI offenders driving with a suspended license, and media/public information. Enforcement and media is focused around high priority holidays with possible additional emphasis on local/regional priority times such as Halloween or Cinco de Mayo. Projects are organized according to the six major media markets in the State, each with a media coordinator who serves as the single focal point for that region. This coordinator conducts pre-project publicity, posts nightly statistics as provided by participating law enforcement agencies, and issues appropriate press releases. All relevant information is posted to a website (<http://www.californiaavoid.org.>) for the use of all other "AVOID" projects as well as for the press. This website features a "press room" where information is readily

available and constantly refreshed to make it easy for the press to find and use current information. Depending on whether the activity is in conjunction with a national mobilization, media support may include national slogans and materials, state materials (The state and partners work together to develop press packets with templates for all the “AVOID” projects.”), locally developed materials, materials from other organizations (such as MADD), or all of the above. Messages and materials may also vary to provide a new look and generate fresh interest in the issue. While this variety of materials and messages illustrates a large and widespread effort encompassing many groups and organizations, this advantage needs to be balanced with the public’s ability to see through what might be perceived as “clutter” or mixed messages.

OTS makes extensive use of National Highway Traffic Safety Administration (NHTSA) campaigns as well. In December 2006, California hosted the national kick-off of the “Drunk Driving. Over the Limit. Under Arrest.” enforcement campaign on the steps of the State Capitol with the OTS director, NHTSA regional administrator, national MADD president and 50 officers representing enforcement nationwide.

Although there is not a communications plan currently, such a plan is being developed in preparation for and conjunction with a release of a request for proposals for contracting with a public relations/advertising agency to help OTS continue its communications program.

There is no current driver opinion survey which measures driver perceptions or awareness, nor is there a plan to implement one.

OTS does not provide a mechanism by which organizations or the public can obtain materials. There is no OTS staff available who could manage a significant effort in printing and distributing materials.

## **Recommendations**

- Continue the existing extensive and award-winning media efforts.
- Develop a comprehensive communications plan which will incorporate and help coordinate national, state, and local campaigns and will address priority target audiences with audience-appropriate and culturally sensitive materials.
- Focus messages and images in impaired driving campaigns to provide the public with consistency and create the impression of a united approach.
- Implement mechanisms, such as posting .pdf files of impaired driving materials on the OTS website, to make materials more readily available without significantly impacting the workload of OTS staff.

## V. ALCOHOL AND OTHER DRUG MISUSE: Screening, Assessment, Treatment and Rehabilitation

Impaired driving frequently is a symptom of the larger problem of alcohol or other drug misuse. Many first-time impaired driving offenders and most repeat offenders have alcohol or other drug abuse or dependency problems. Without appropriate assessment and treatment, these offenders are more likely to repeat their crimes. One-third of impaired driving arrests each year involve repeat offenders.<sup>10</sup> Moreover, individuals with alcohol or other drug abuse, on average, drive within two hours of drinking several hundred times before they are ever arrested for the first time for driving while impaired.<sup>11</sup>

In addition, alcohol use leads to other injuries and health care problems. Almost one in six vehicular crash victims treated in emergency departments are alcohol positive, and one third or more of crash victims admitted to trauma centers - those with the most serious injuries - test positive for alcohol. In addition, studies report that 24-31 percent of all ED patients screen positive for alcohol use problems. Frequent visits to emergency departments present an opportunity for intervention, which might prevent these individuals from being arrested or involved in a motor vehicle crash, and result in decreased alcohol consumption and improved health.

Each State should encourage its employers, educators, and health care professionals to implement a system to identify, intervene, and refer individuals for appropriate substance abuse treatment.

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<sup>10</sup> "Repeat DWI Offenders in the United States." Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

<sup>11</sup> On average, 772 such episodes, according to Paul Zador, Sheila Krawchuck .and Brent Moore "Drinking and Driving Trips, Stops by Police, and Arrests: Analyses of the 1995 National Survey of Drinking and Driving Attitudes and Behavior" Washington DC: U.S. Department of Transportation, HHTSA Technical Report o. DOT HS 809 184, December 2000..

## **5-A. Screening and Assessment**

Each State should encourage its employers, educators, and health care professionals to have a systematic program to screen and/or assess drivers to determine whether they have an alcohol or drug abuse problem and, as appropriate, briefly intervene or refer them for appropriate treatment. A marketing campaign should promote year-round screening and brief intervention to medical, health, and business partners and to identified audiences.

### **5-A-1. Criminal Justice System**

#### **Advisory**

*Within the criminal justice system, people who have been convicted of an impaired driving offense should be assessed to determine whether they have an alcohol or drug abuse problem and their need for treatment. The assessment should be required by law and completed prior to sentencing or reaching a plea agreement. The assessment should be:*

- *Conducted by a licensed counselor or other professional holding a special certification in alcohol or other drug treatment.*
- *Used to decide whether a treatment and rehabilitation program should be part of the sanctions imposed and what type of treatment would be most appropriate.*
- *Based on standardized assessment criteria, including standard psychometric instruments, historical information (e.g., prior alcohol or drug-related arrests or convictions), and structured clinical interviews.*
- *Appropriate for the offender's age and culture (e.g., use specialized assessment instruments tailored to and validated for youth or multi-cultural groups).*

#### **Status**

The intent of the California Legislature, with respect to alcohol assessments, is clearly reflected in the following provisions found in Section 23249.50 (a) of the California Vehicle Code (CVC):

“(1) Driving under the influence of an alcoholic beverage or a drug is a serious problem, constituting the largest group of misdemeanor violations in many counties.

(2) Studies of first offenders have found that more than half of first offenders are alcoholics or problem drinkers. There are higher percentages of problem drinkers among second offenders than among first offenders.

(3) As the link between the health and legal aspects of the problem has become recognized, the courts have sought more information on a pre-sentence basis in determining the appropriate sentence.

(4) Laws relating to driving under the influence of an alcoholic beverage or a drug allow the courts to order a presentence investigation to determine whether a

person can benefit from an education, training, or treatment program. The Legislature thus finds that, to adequately assess whether an individual arrested for driving under the influence of an alcoholic beverage or a drug is chemically dependent, it is important to develop and implement screening programs in order to continue to address the problem of driving under the influence of alcoholic beverages or drugs in the State.

(b) It is therefore the intent of the Legislature to establish an additional procedure to assist the courts in the use of presentence investigations of individuals convicted of driving under the influence of an alcoholic beverage or a drug and to enable the courts to make appropriate dispositions in these cases. As part of this process, the courts should obtain and consider a pre-sentence investigation report detailing the defendant's driving and criminal record, and, where possible, an alcohol or drug problem assessment report. In all cases, an alcohol or drug problem assessment report should be completed by qualified personnel prior to the determination of an education or treatment plan and subsequent sentencing by the courts. “

Notwithstanding the Legislature’s recognition of the high incidence of addiction among first-time Driving Under the Influence (DUI) offenders, drug and alcohol assessments are not mandated for these defendants. Section 23646 (2) of the CVC provides that a court “may” order a convicted DUI offender to attend an alcohol and drug problem assessment program. Only in the case of a person convicted previously of DUI is the assessment required to be ordered by the court. Courts may also order drug/alcohol assessments where a pre-sentence investigation is ordered prior to sentencing. Pre-sentence investigations are rarely ordered prior to sentencing misdemeanor offenders. As a result, drug/alcohol assessments are rarely required as conditions of probation imposed on misdemeanor DUI offenders.

Drug and alcohol screening could be completed by DUI Program providers, licensed by the Department of Alcohol and Drug Programs. It is to those licensed providers that all first-time DUI and multiple offenders are required by law to be referred as a part of the sentencing process. These programs could report findings to the sentencing court, which, in turn, could order the probationer to complete assessment, diagnoses, and treatment in cases where the screening discloses the need. Alternatively, as in other states, the programs could inform the Department of Motor Vehicles (DMV) of the client’s need for treatment. The Department then could require completion of such treatment as a condition of reinstatement of driving privileges or as a condition of maintaining restricted driving privileges.

Judicial presenters who contributed to this DUI assessment emphasized that multiple DUI offenders (second and third time offenders) should receive a risk and needs assessments at arraignment. To ensure this, the judicial presenters recommended that defendants should be required to personally appear at arraignment so as to be able to participate in a drug/alcohol screening process. The judicial presenters further agreed that where treatment is indicated, the courts should encourage defendants to seek treatment as part case dispositions.

## **Recommendations**

- Enact legislation requiring judges to order, obtain, and review alcohol screening and assessments for all first-time as well as multiple offender DUI defendants.
- Enact legislation requiring judges to order all DUI defendants to participate in alcohol or drug treatment, as a condition of probation, where screening and assessment verify the need.
- Enact legislation requiring the Department of Motor Vehicles to reinstate full driving privileges only after DUI defendants have completed court-ordered drug or alcohol treatment.
- Educate judges as to resources available for defendants who are found to be alcoholic or drug addicted and in need of treatment.



## 5-A-2. Medical or Health Care Settings

### Advisory

Within medical or health care settings, any adults or adolescents seen by medical or health care professionals should be screened to determine whether they may have an alcohol or drug abuse problem. A person may have a problem with alcohol abuse or dependence, a brief intervention should be conducted and, if appropriate, the person should be referred for assessment and further treatment. The screening and brief intervention should be:

- *Conducted by trained professionals in hospitals, emergency departments, ambulatory care facilities, physician's offices, health clinics, employee assistance programs and other medical and health care settings.*
- *Used to decide whether an assessment and further treatment is warranted.*
- *Based on standardized screening tools (e.g., CAGE, AUDIT or the AUDIT-C) and brief intervention strategies.<sup>12</sup>*

### Status

Several innovative alcohol screening, brief intervention and referral demonstration programs have recently begun in California. While these programs are in the early phases of implementation, they have been designed with research protocols that will help determine their effectiveness. There are also some limitations to each program. Two of the projects stop short of making an actual referral to treatment when it is indicated. They rely instead on motivational interviews to encourage self-referral or self-initiated changes in drinking behaviors. One of the projects excludes impaired patients because of potential difficulty understanding or completing the screening process. However, this will eliminate impaired drivers who are admitted to the Emergency Department or Trauma Center for treatment of injuries sustained in a crash.

The University of California at Irvine's Alcohol Screening, Brief Intervention and Referral project has developed and is testing the Computerized Alcohol Screening and Intervention (CASI) kiosk. CASI allows patients to complete the screening on a touch screen computer, in English or Spanish, anonymously and with responses recorded and scores calculated automatically. CASI generates a report with recommendations for the patient as well a standardized form for patient records and billing purposes.

One site is testing the feasibility of screening DUI offenders while they are held in jail following arrest.

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<sup>12</sup> For a discussion of assessment instruments, see: Allen, John and M. Columbus (Eds.) *NIAAA Handbook on Assessment Instruments for Alcohol Researchers* (2<sup>nd</sup>) edition). Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 2003.

For an overview of alcohol screening, see: "Screening for Alcohol Problems: An Update," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 56, April 2002. For a primer on helping patients with alcohol problems, see: "Helping Patients with Alcohol Problems: A Health Practitioner's Guide," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, NIH Publication No. 04-3769, Revised February 2004.

## **Recommendations**

- Support continued development of efficient and effective alcohol screening and brief intervention programs.

## **5-B. Treatment and Rehabilitation**

### **Advisory**

*Each State should work with health care professionals, public health departments, and third party payers, to establish and maintain programs for persons referred through the criminal justice system, medical or health care professionals, and other entities. This will help ensure that offenders with alcohol or other drug dependencies begin appropriate treatment and complete recommended treatment before their licenses are reinstated. These programs should:*

- *Match treatment and rehabilitation to the diagnosis for each person based on a standardized assessment tool, such as the American Society on Addiction Medicine (ASAM) patient placement criteria.*
- *Provide assessment, treatment and rehabilitation services designed specifically for youth.*
- *Provide treatment and rehabilitation services for non-English speaking offenders and culturally relevant treatment for special populations (e.g., Native Americans or newly arrived immigrant groups).*
- *Facilitate health insurance parity treatment for alcohol and other drug abuse disorders, to permit access for persons regardless of ability to pay and encourage States to pursue legislative changes to support health insurance parity payment for alcohol and other drug abuse disorders, particularly in rural and underserved areas.*
- *Ensure that offenders that have been determined to have an alcohol or other drug dependence or abuse problem begin appropriate treatment immediately after conviction, based on an assessment. Educational programs alone are inadequate and ineffective for these offenders.*
- *Provide treatment and rehabilitation services in addition to, and not as a substitute for, license restrictions and other sanctions.*
- *Require that drivers, who either refused or failed a BAC test, and/or whose driver's license was revoked or suspended, complete recommended treatment, and that a qualified professional has determined that their alcohol or drug use problem is under control before their license is reinstated.*

### **Status**

The Department of Alcohol and Drug Programs (ADP) Office of Criminal Justice Collaboration administers the Driving-Under-the-Influence (DUI) Program. The DUI Program Branch is responsible for the licensing and monitoring of all licensed DUI Programs statewide. The objective of the DUI Program is to: (1) reduce the number of repeat DUI offenses by persons who complete a state-licensed DUI program; and (2) provide participants an opportunity to address problems related to the use of alcohol and/or other drugs.

A person convicted of a first DUI offense must complete a state-licensed three-month, 30-hour alcohol and drug education and counseling program. A person convicted of a first DUI offense with a blood alcohol concentration (BAC) of 0.20 percent or higher must complete a state-licensed nine-month, 60-hour alcohol and drug education and counseling program. These programs are designed to enable participants to consider attitudes and behavior, support positive lifestyle changes, and reduce or eliminate the use of alcohol and/or drugs.

Second and subsequent DUI offenders must complete an 18-month multiple offender program. Program requirements are 52 hours of group counseling, 12 hours of alcohol and drug education, 6 hours of community reentry monitoring, and bi-weekly individual interviews during the first 12 months of the program. A county may elect to provide 30-month DUI programs for third and subsequent DUI offenders. Currently only three counties have these services available. Program requirements are 78 hours of group counseling, 12 hours of alcohol and drug education, 120-300 hours of community service, and close and regular individual interviews.

The 1991 California Impaired Driver Assessment noted several limitations to the DUI Program. Since that time few changes have been made. A notable change is inclusion of “wet reckless” offenders in the program.

In 1990, the State was authorized to license programs of at least three months duration for first offenders. In 1999, legislation was passed to order individuals convicted of “wet and reckless” to a DUI education program. In 2006, a nine-month program for first offenders with a BAC of 0.20 percent or higher was established. In the State fiscal years 2005 and 2006, 131,757 people participated in California’s DUI programs.

While available data do not allow a determination of the actual effectiveness of the current DUI Program, the system suffers from several critical shortcomings:

- While California requires all DUI offenders to be sentenced to the DUI Program, according to the *2007 Annual Report of the California DUI Management Information System*, 12.5% of those convicted of first offense of DUI, 38% of those convicted of wet reckless and 22.4% of second and subsequent offenders were not sentenced to the program.
- The program regulations outline number and nature of sessions, e.g., education, group therapy, and allow for assessment of extent and nature of alcohol or other substance abuse problems. However, there are no required standardized curricula or screening instruments and there is no provision requiring participation in recommended additional treatment.
- There is no structured centralized monitoring of drivers’ compliance or progress through the program.
- There is no provision for treatment matched to need or specific diagnosis. There is no prescribed screening, assessment and/or diagnosis protocol. If participants are determined to need treatment beyond the structured program, there is no mechanism to require compliance with treatment recommendations.
- Nearly a third of first offenders entering the program did not complete the program. Data were not available to determine completion rates by second and subsequent offenders. Partial completion rates are available for second offenders in Table 14 of the 2007 DUI-MIS report; the time window was limited to 21 months and is not sufficient to cover completion rates for all second offenders.

- There has been no comprehensive outcome study conducted to determine impact of the program.

Addressing these concerns appears to be problematic for several reasons. Access to treatment seems to be a problem in many areas due to lack of system capacity and lack of insurance coverage or financial resources.

Analyses of post-program crashes and DUI recidivism imply limited effectiveness of participation. However, analyses are limited by several critical factors. First, a significant proportion of DUI offenders were not sentenced to the program despite legislative mandate for participation in such programs. It is not possible to determine the nature of the bias that results from this selection process. Results indicated some difference in DUI re-arrest rates but no difference in crash involvement. Meaningful analysis of second or subsequent offenders was not feasible because the data represent a one-year time period while the program is 18 months in duration. Thus, at the time of analyses, second and subsequent offenders could not have completed the program. A comprehensive evaluation of the intervention and treatment program could answer many questions about the process and impact of the current system.

Section 5-A-1 describes the limited ability of courts to screen, assess, and sentence DUI offenders to appropriate treatment. Thus, the current systems offer minimal access to effective treatment for DUI offenders.

An innovative alternative venue for treatment for DUI offenders is DUI Court. DUI courts are based on the Drug Court model and include post-conviction intensive monitoring, screening, and referral to appropriate treatment. DUI courts are being implemented in five localities. While these programs are currently grant funded, user fees and program cost-benefits are expected to help assure sustainability.

Lack of resources for adequate probation supervision of DUI offenders was a common theme. A DUI probation demonstration program in San Diego has been established with intensive supervision. However, in the current climate of severely limited resources, it is uncertain how well such programs could be duplicated in other jurisdictions.

## **Recommendations**

- **Conduct a comprehensive review and outcome evaluation of the current DUI Program.**
- Establish research-based, standard screening, assessment, treatment, and monitoring protocols for all DUI offenders.
- Implement DUI Courts throughout California.

## 5-C. Monitoring Impaired Drivers

### Advisory

*Each State should establish a program to facilitate close monitoring of impaired drivers. Controlled input and access to an impaired driver tracking system, with appropriate security protections, is essential. Monitoring functions should be housed in the driver licensing, judicial, corrections, and treatment systems. Monitoring systems should be able to determine the status of all offenders in meeting their sentencing requirements for sanctions and/or rehabilitation and must be able to alert courts to noncompliance. Monitoring requirements should be established by law to assure compliance with sanctions by offenders and responsiveness of judicial system. Noncompliant offenders should be handled swiftly either judicially or administratively. Many localities are successfully utilizing DWI courts or drug courts to monitor DWI offenders. States should:*

- *Have an effective monitoring system for all impaired driving offenders (including out-of-state offenders).*
- *Use effective technology (e.g., ignition interlock mechanisms, electronic confinement and monitoring) and its capability to produce reports on compliance.*
- *Include driver license tracking systems as an essential component of monitoring.*
- *Generate periodic reports on offender compliance with administrative or judicially imposed sanctions.*

### Status

California statutes do not mandate the imposition of probation in Driving Under the Influence (DUI) cases. However, as a matter of course, probation is imposed in over 98 percent of cases of first-time and repeat DUI offenders. Section 23600 (b) of the California Vehicle Code (CVC) provides that any person if convicted of a violation of DUI and if the defendant is granted probation, the terms and conditions of probation shall include, but not be limited to, the following:

- (1) A period of probation not less than three nor more than five years; provided, however, that if the maximum sentence provided for the offense may exceed five years in the state prison, the period during which the sentence may be suspended and terms of probation enforced may be for a longer period than three years but may not exceed the maximum time for which sentence of imprisonment may be pronounced.
- (2) A requirement that the person shall not drive a vehicle with any measurable amount of alcohol in his or her blood.
- (3) A requirement that the person, if arrested for DUI, shall not refuse to submit to a chemical test of his or her blood, breath, or urine, for the purpose of determining the alcoholic content of his or her blood.
- (4) A requirement that the person shall not commit any criminal offense.

- (c) The court shall not absolve a person who is convicted of DUI from the obligation of spending the minimum time in confinement, if any, or of paying the minimum fine imposed by law.
- (d) In addition to any other provision of law, if any person violates paragraph (2) or (3) of subdivision (b) and the person had a blood alcohol concentration of over 0.04 percent as determined by a chemical test, the court shall revoke or terminate the person's probation as provided by Section 23602, regardless of any other proceeding, and shall only grant a new term of probation of not more than five years on the added condition that the person be confined in the county jail for not less than 48 hours for each of these violations of probation, except in unusual cases where the interests of justice would best be served if this additional condition were not imposed.

Probation is intended to provide an effective means of monitoring convicted DUI defendants. Supervised probation is more effective than unsupervised or “court” probation. Court probation relies on “other entities” than a probation department to advise judges when a defendant has failed to comply with court ordered conditions. Such “other entities” include Ignition Interlock providers, the Department of Motor Vehicles, local law enforcement, and alcohol education and treatment programs. With supervised probation, the defendant is actively monitored to insure compliance with requirements such as restitution, treatment, sobriety, and remaining law abiding. Noncompliance is promptly brought to the court’s attention for appropriate action. Supervised probation is vital to the monitoring of repeat offender DUI defendants. Some states effectively utilize private probation programs to monitor DUI and other misdemeanor defendants where state probation programs are either unwilling or unable to do so.

In California, an overwhelming number of DUI defendants are sentenced to court supervised probation. This is primarily due to the lack of resources in many counties.

Section 23575 of the CVC gives judges the discretion whether to order installation of an Ignition Interlock Device (IID) on vehicles that first-time DUI offenders own and operate. It only requires “heightened consideration” of this sanction where the first-time offender’s Blood Alcohol Concentration (BAC) is .20 percent or higher. It does not mandate court-ordered IID installation in the case of second or third-time DUI offenders within a 10-year period. It does mandate installation where a defendant has been convicted of driving while license suspended or revoked as a result of a DUI conviction. Section 23575(f)(1) allows second and third-time offenders to obtain restricted licenses when their vehicles are IID equipped, but the only sanction for improper or non use of the IID is loss of the restricted driving privilege. Other states require judges to order IID installation in the cases of second and third time offenders, and for first-time offenders in cases with a BAC of .20 percent or more or where a minor was present in the vehicle at the time of the offense.

DUI Courts that utilize the guiding principles of Drug Courts have been shown to be effective in reducing recidivism by DUI defendants with histories of multiple convictions. DUI Courts function on principles that include close monitoring of defendants to ensure sobriety and compliance with rehabilitation programs.

## Recommendations

- Enact legislation requiring all convicted DUI offenders to be placed on probation with conditions as specified in Section 23600 of the CVC.
- Utilize supervised probation programs where available to monitor DUI defendants with multiple prior convictions.
- **Use private probation services to provide probation supervision for DUI defendants where state probation departments are unable to undertake such supervision.**
- Educate judges to exercise their discretion to require installation and use of IIDs by defendants with multiple prior convictions and by those convicted of DUI with a minor in the vehicle.
- Fund and utilize DUI courts based on the Drug Court Model to monitor DUI defendants with multiple prior convictions.



## **VI. PROGRAM EVALUATION AND DATA**

### **6-A. Evaluation**

#### **Advisory**

*Each State should routinely evaluate impaired driving programs and activities to determine their effectiveness, and have access to and analyze reliable data sources for problem identification and program planning. Each State should conduct several different types of evaluations to effectively measure progress, to determine effectiveness, to plan and implement new program strategies and to ensure that resources are allocated appropriately. The evaluation should be:*

- *Planned before programs are initiated to ensure that appropriate data are available and adequate resources are allocated.*
- *Designed to use available traffic records and other injury data.*
- *Used to determine whether goals and objectives have been met and to guide future programs and activities.*
- *Organized and completed at the State and local level.*
- *Reported regularly to project and program managers and policy makers.*

#### **Status**

Evaluations within the State are conducted at various levels to various degrees and with varying complexity.

At the basic grant level, each grant includes its own goals and objectives, and the grant is measured against those goals and objectives plus its adherence to budget and time frame constraints. This monitoring is conducted by California Office of Traffic Safety (OTS) staff via phone or on-site monitoring visits.

According to the OTS' *Operations Manual*:

*Onsite GPR's [Grant Performance Reviews] must be conducted at least once during the grant period on any local agency grant with a total grant budget that exceeds \$250,000. In addition, monitoring by a Telephone or Onsite Grantee Performance Review must be conducted at least once during the grant period on local agency grants with a total grant budget between \$100,000 and \$250,000. The ADO [Assistant Director Operations] may choose to lower or adjust the threshold used to select grantees for a GPR.*

Consequences for any failure to comply are also outlined in the *Operations Manual*. For serious problems or issues, OTS may choose to work with the grantee to develop a corrective course of action and monitor compliance. Significant compliance issues or inability to meet objectives could result in denial of a request to continue the grant or cancellation of the grant.

Administratively, grant-funded projects are evaluated within the required *Annual Performance Report* which is submitted to the National Highway Traffic Safety Administration (NHTSA). The report highlights accomplishments for nine program areas identified by OTS, including the “alcohol and other drugs” program area. Information compiled and reported from the numerous grant projects includes totals, such as number of checkpoints conducted, officers trained in Standardized Field Sobriety Testing (SFST), DUI arrests, presentations and education programs conducted, and number of persons or students reached.

Evaluations which involve more complex and sophisticated techniques are also conducted for select projects. These evaluations are conducted for pilot projects, complex projects, and/or high cost projects. The evaluation is frequently incorporated within the project itself, funded by OTS, and implemented by the grantee who is also implementing the program being evaluated. These evaluations range from relatively simple, short-term, pre vs. post, self-reported changes in knowledge and behavior to long-range, analytical, complex designs. Examples which exemplify the extensive range of evaluations being conducted include:

- The Department of Motor Vehicles will begin an in-depth, four-year study for a demonstration and evaluation of a DUI court in Fresno. This study will allocate, on a random basis, 200 participants each to one of three conditions. The first is the normal adjudication process for high blood alcohol concentration (BAC) 1st DUI offenders, 2<sup>nd</sup>, and 3<sup>rd</sup> time offenders. The second will be the DUI court, including frequent contact with the judge, intense supervision under probation, several drug/alcohol tests per week, an alcohol assessment, and referral to treatment where warranted. The third option will be the DUI court plus mandatory use of the drug Naltrexone. The grant funding allows the study to produce a process analysis; at this point, an impact analysis is not funded or included.
- The Department of Emergency Medicine, University of California, Irvine, School of Medicine is piloting and testing a program for alcohol screening, brief intervention, and referral to treatment (SBIRT) in the emergency department. This program has integrated a bilingual (English and Spanish) “roll-to-the-bedside” Computerized Alcohol Screening and Intervention (CASI) kiosk prototype. Thus far, this project has shown that SBIRT is a potentially successful intervention that can occur in the Emergency Department which is providing a helpful service and generating useful data regarding patients who are screened with 464 subjects enrolled in the study. During a 6-month follow-up interview, of 79 patients who initially reported drinking four drinks or more per day for males and three or more drinks per day for females, 81 percent reported having reduced that amount by one or more drinks. A next step is attempting to bill insurance companies to help cover the cost.
- The “Wheel Smarts” program in Los Angeles consists of workshops that are interactive exercises which allow students to examine motor vehicle crash sites. “Wheel Smarts” also includes a theatrical program in which teens produce, write, and perform original productions that are performed at their school and other schools in their community. The program surveyed 5,000 teens and found an improvement in the students’ understanding of the cause of crashes and an increase in their reported safe behavior.

Although grants include impact-related goals, it appears that very little impact evaluation is being conducted. While there are several reasons for this – impact evaluations tend to be expensive; due to problems inherent in the traffic records system (archaic mainframe software, delays in recording and access to crash data, and inability to link data files), it is cumbersome to conduct broader program evaluations; and projects may not lend themselves to impact evaluations – California has the resources, expertise, population, data and information (such as the *Annual Report of the California DUI Management Information System*), and number of projects which would allow the State to conduct a level of evaluation which would not be possible in other states.

For the evaluation of the Strategic Highway Safety Plan, the California Department of Transportation (Caltrans) serves as the lead agency on tracking progress of the Challenge Areas. A consulting agency has been hired to assist with measurement and, so far, a tool has been designed to determine measurements.

### **Recommendations**

- **Develop and implement impact evaluations for those projects or collection of projects for which a change in behavior should be expected and can be measured.**
- Provide training in basic evaluation techniques to grantee personnel who are expected to evaluate their projects.
- Provide oversight and assistance to grantees to help them create and implement functional and worthwhile evaluations.
- Conduct bona fide evaluations by expert and credible evaluators; in general, grantees should not conduct evaluations of their own activities.

## **6-B. Data and Records (see Section 1-E)**

### **Advisory**

*States should establish and maintain records systems to fully support their impaired driving program. Each system should use data from other sources, such as the U.S. Census, the Fatality Analysis Reporting System (FARS) and the Crash Outcome Data Evaluation System (CODES), to fully support the impaired driving program. The State records systems should:*

- *Permit the State to quantify:
  1. *the extent of the problem (e.g. alcohol-related crashes and fatalities)*
  2. *the impact on various populations (e.g. by age, gender, race and ethnicity)*
  3. *the level of effort dedicated to address the problem (e.g. level of enforcement activities, training, paid and earned media)*
  4. *the impact of the effort (e.g. public attitudes, awareness and behavior change).**
- *Contain electronic records of crashes, arrests, dispositions, driver licensing actions and other sanctions of DWI offenders.*
- *Permit offenders to be tracked from arrest through disposition and compliance with sanctions.*
- *Be accurate, timely, linked and readily accessible to persons authorized to receive the information, such as law enforcement, courts, licensing officials and treatment providers.*
- *Be guided by a State-wide traffic records coordinating committee (TRCC) that represents the interests of all public and private sector stakeholders, and the wide range of disciplines that need the information.*

### **Status**

#### **Arrest and Conviction Data**

In order for a state to effectively manage its impaired driving problem, it must have a system to record every DUI arrest and to track all subsequent activity associated with each arrest from its issuance by a law enforcement officer, to initial court filing, to judicial disposition, to licensing action, and to completion of all sanctions. The components of this system must be able, as noted in the above extract from NHTSA's *Impaired Driving Program Advisory*, to quantify the extent of its impaired driving problem as well as the level of effort applied and the results of those efforts and programs. The State of California maintains a DUI Management Information System (DUI/MIS) that for the most part meets these goals. Legislation passed in 1989 required the Department of Motor Vehicles (DMV) to “. . . establish and maintain a data and monitoring system to evaluate the efficacy of intervention programs for persons convicted of DUI . . .” The DMV publishes annual reports “. . . to provide objective data on the operating and performance characteristics of the system for others to assess in making policy decisions, formulating improvements and conducting more in-depth evaluations” (from the *2007 Annual Report of the California DUI Management Information System*).

The system collects data through a DUI Data Extraction Module that combines and cross-references data from three main sources: crash data from the California Highway Patrol's (CHP) Statewide Integrated Traffic Records System (SWITRS), arrest data from the Department of Justice Law Enforcement Center's Monthly Arrest and Citation Register (MACR), and conviction data from the DMV's Driver Record Master File.

DUI conviction statistics are available from the driver record based on conviction abstracts received from the courts. In addition to convictions being posted on the driver history record, DUI convictions from the courts are also entered into a separate Drunk Driving database at DMV to immediately identify alcohol-reckless, first and repeat offenders for post conviction sanctions.

The DMV's Research and Development Section relies on the DUI/MIS to conduct special studies and to produce an *Annual Report of the California DUI Management Information System* to support policy decisions, to formulate system improvements and to conduct more in-depth evaluations. The annual report contains an exhaustive array of tables and statistics that quantify the State's DUI experience in terms of DUI enforcement (arrests and crash investigations), court adjudication of DUI cases, and licensing actions on DUI offenders. The report has a very broad distribution and is a very valuable data resource for the traffic safety community, especially those concerned with impaired driving issues to guide policy, countermeasure development, and general monitoring of the DUI situation in California.

Based on the 2007 *DUI/MIS Report*, there were 180,957 DUI arrests in 2004 77 percent of which resulted in convictions for DUI (misdemeanor and felony combined). An additional 11.8 percent of cases result in convictions for both other alcohol-related reckless offenses and non-alcohol offenses. However, the remaining 11.2 percent that resulted in a non-conviction is an imprecise statistic relying on the absence of a conviction abstract from the court as evidence of a non-conviction. Failure to Appear rulings, unfiled cases, not guilty verdicts, and problems matching up conviction abstracts with the correct driver record probably account for the number of non-convictions. Nevertheless, there are no precise statistics available on DUI cases that resulted in a non-conviction.

The *DUI/MIS Report* also contains tables showing the blood alcohol concentration (BAC) of DUI arrestees and their demographics. According to the *Report*, the mean BAC level of convicted offenders was .162. These statistics are derived from the Admin Per Se data, not the conviction abstracts from the courts because the officer's statement upon arrest is reported more consistently to DMV than is the BAC level, as opposed to the court abstract, that is provided following the conviction, to DMV.

While this is an impressive system, it has its limitations and opportunities for further strengthening. The 2007 *Annual Report of the California DUI Management Information System* notes several limitations including reporting errors on arrest documents by enforcement agencies, non-reporting of arrests due to errors or omissions, and a policy for entering data into the MACR for only the highest order offense where multiple offenses are charged.

To its credit, the State has several projects planned to address some of these issues. Project TR0805 in the *Draft 2008 Highway Safety Plan* proposes “. . . to develop a Citation Tracking

System (CTS).” The endorsement and approval of this project by the State’s Traffic Records Coordinating Committee (TRCC) promises to keep this project moving forward. A Citation Tracking System may provide a central and more comprehensive source of DUI arrest and adjudication data as an alternative to the current labor intensive effort required to maintain the existing DUI/MIS.

This is a unique system and the State is to be commended. As noted in the *2007 DUI/MIS Report*, it “. . . has led to numerous improvements in the California DUI system, from the identification of inappropriate dismissals in a small central valley court to major initiatives to improve the tracking and reporting of DUI cases.” The report further states that the system contributed to the design of a national model DUI reporting system by NHTSA. The 2005 Traffic Records Assessment report also recognized that “The DMV is unique in having a Research and Development activity that has historically conducted research in post licensing driver control and evaluates the effectiveness of the various types of controls applied.” It is a system of data merged from a number of diverse sources with limitations beyond DMV’s control. Nevertheless the DMV Research and Development Section staff has done a remarkable job of creating a system to support the State’s impaired driving program and to enable policy makers to make informed, data-driven decisions.

### **Crash Data**

The *DUI/MIS Report* also contains a wide array of statistics on the State’s alcohol-related crash experience. CHP produces an annual file of alcohol-related crashes and sends this information to DMV. The data are obtained from the Statewide Integrated Traffic Records System (SWITRS), the State’s official crash database maintained by the CHP. There is no mandated reporting threshold; consequently the CHP receives reports on a limited number of crashes involving property damage only unless state property was damaged in the crash. The reporting of injury and fatal crashes is more complete because law enforcement is usually brought out to the scene and completes a crash report. Data from 2005 show that 36.6 percent of all traffic crash fatalities involved alcohol and 10.5 percent of traffic crash injuries involved alcohol. An alcohol-related crash is defined as a crash where the officer has checked the “Had Been Drinking” field on the crash report as recorded in SWITRS.

The processing of crash reports into SWITRS is totally paper-based; consequently there is a several-months delay before year-end data are available. The CHP has been capturing data electronically using its in-house developed product, the California Automated Reporting System (CARS), and several allied agencies within the State have also been using electronic field data capture tools for crash data. Unfortunately, presently the State cannot accept electronic transfer of crash data, and all reports being electronically generated must also be printed and submitted in paper form for entry into SWITRS. At the time of the 2005 Traffic Records Assessment, there was no standard for data transmission for automatic entry into SWITRS. The CHP has now initiated a project titled, *Allied Agencies Collision Reporting (AACR)* that will import CARS data directly into SWITRS. The project will also develop an interface for allied agencies using other vendor supported systems to transmit data electronically into SWITRS. We commend the State for following through on what appears to be the implementation of a recommendation from the

2005 Traffic Records Assessment that the State “Create the capability to allow electronic submission of data from allied agency crash reporting systems into SWITRS.”

Crash data play a prominent role in planning and managing many projects addressing the State’s impaired driving problems. It is noteworthy that the State’s Strategic Highway Safety Plan (SHSP) includes Data Quality as “Challenge Area 16,” and acknowledges that “Collision data determined how the SHSP team selected the previous 15 Challenge Areas and data will continue to drive implementation decisions.”

The OTS selects areas for grants based on crash experience. Grantees in turn rely largely on crash data in reporting progress in meeting project objectives. However, often the grantees have to obtain data from local agencies due to the lack of timely data in SWITRS. The initiative described above should provide grantees and OTS more timely data.

### **BAC Data**

BAC recordings from DUI arrests are taken from “DMV DS 367, Officer’s Statement” documents submitted by officers and entered into the Driver Record. An annual file of arrest data from the MACR database is used to produce arrest statistics by age sex, race/ethnicity and county. The MACR records are also matched with the driver license number on the driver record to produce tables for convictions by race/ethnicity for drivers from the MACR arrest file.

Measurement of alcohol levels in fatal crashes is excellent, especially for killed drivers. The FARS analyst obtains the data from county coroners, either directly or by submitting a web query to the newly established centralized database that will eventually house all BAC coroner reports. It is noteworthy that in the 2002 survey by MADD, California was given a grade of “A” in the category of “BAC Testing, Data and Records” commenting as follows: “BAC testing rate of killed drivers of 90.9 percent is higher than the national average of 73.6 percent.”

Alcohol involvement for surviving drivers is only available if the driver was arrested for DUI. To quote the MADD survey, “BAC testing rate of surviving drivers of 22.5 percent is lower than the national average of 35.8 percent.”

Overall, the State is well positioned to continue to improve its data resources in order to monitor, manage and evaluate its DUI program.

### **Recommendations**

- **Implement the planned Citation Tracking System as proposed in the *Draft 2008 Highway Safety Plan* for Project TR0805 to establish a more comprehensive source for the DUI/MIS that will provide a more efficient means for providing a research database to support the State’s DUI program.**
- Expedite the implementation of the Allied Agencies Collision Reporting project. Continue to proceed in the concurrent and separate approaches to import CARS captured

data, and to develop the interfaces for allied agencies to transmit their crash data electronically into SWITRS as well.

- Ensure that the Citation Tracking System and the Allied Agencies Collision Reporting projects are coordinated through the TRCC.



## **6-C. Information and Records Systems (including Licensing)**

### **Advisory**

*Each State's driver licensing agency should maintain a system of records that enables the State to: (1) identify impaired drivers; (2) maintain a complete driving history of impaired drivers; (3) receive timely and accurate arrest and conviction data from law enforcement agencies and the courts, including data on operators as prescribed by the commercial driver licensing (CDL) regulations; and (4) provide timely and accurate driver history records to law enforcement and the courts. The record system should:*

- *Include communication protocols that permit real-time linkage and exchange of data between law enforcement, the courts, the State driver licensing and vehicle registration authorities, liquor law enforcement and other parties with a need for this information.*
- *Provide enforcement officers with immediate on-the-road access to an individual's licensing status and driving record.  
Provide immediate and up-to-date driving records for use by the courts when adjudicating and sentencing drivers convicted of impaired driving.*
- *Provide for the timely entry of any administrative or judicially imposed license action and the electronic retrieval of conviction records from the courts.*
- *Provide for the effective exchange of data with State, local, tribal and military agencies, and with other governmental or sovereign entities.*

### **Status**

The Department of Motor Vehicles (DMV) maintains a driver records system to support the agency's driver licensing and control functions. The driver records system contains (in addition to the DUI conviction information described in Section 6-B) a complete history of a driver's record, including all reportable previous convictions for all traffic violations and licensing actions taken on those violations, e.g., license suspensions under the State's Administrative Per Se law.

It also contains a history of DUI court convictions and the penalties and sanctions for those convictions. These driver history data are not only valuable to DMV for driver improvement and control purposes, but also to courts and prosecutors in determining a DUI offender's prior history for case preparation and sentencing purposes.

The DMV is unique in having a Research and Development (R&D) section that has historically conducted research in post licensing driver control and evaluated the effectiveness of the various types of controls applied. R&D staff analyze and evaluate programs directed to DUI offenders, teens, seniors, drivers with disabilities, etc., and DMV initiatives such as alternative testing methods.

Crash records are received from the Statewide Integrated Traffic Records System (SWITRS) at the California Highway Patrol and posted on the driver record.

Courts and prosecutors obtain driver histories through the California Law Enforcement Telecommunications System (CLETS).

One issue that needs to be addressed is the delay in processing DUI cases for posting onto the driver history record. The statistics show 69 median days adjudication time from a DUI arrest to conviction, and 16 days from conviction to posting at DMV. There is no system to identify those courts failing to submit convictions in a timely manner such as a Citation Tracking System discussed in Section 6-B.

Project TR0805, “Improve Department of Motor Vehicle Database Integrity” in the *Draft 2008 Highway Safety Plan* proposes to enhance its database for court, law enforcement, and departmental use. The project will check “the accuracy and completeness of driving under the influence (DUI) conviction reporting, and improve median court reporting time for DUI convictions.” The purpose of this project being managed by the Court Liaison unit of DMV is to identify underperforming courts by targeting those that are taking longer than 30 days after adjudication to send convictions. It will also target a sample of courts for improving the accuracy and completeness of the data on the abstracts.

Another initiative that was in the original *Draft 2008 Highway Safety Plan* involves the development of an electronic citation issuance capability which will contribute to timelier processing of DUI citations and arrests. However, the project has been deferred.

(Further discussion of DMV’s processing of DUI arrests and convictions and its administration of the State’s Administrative Per Se (APS) law is contained in Section 6-B.)

## **Recommendations**

- **Implement the planned project TR0805, “Improve Department of Motor Vehicle Database Integrity” to improve the timeliness, accuracy and completeness of the DUI cases submitted from the courts.**
- Resurrect plans for the development of an electronic citation issuance capability (see TR0810 Statewide Automative Citation System in the *Draft 2008 Highway Safety Plan*)
- Ensure that the Improve Department of Motor Vehicle Database Integrity and Statewide Automated Citation System projects are coordinated through the TRCC.

## **APPENDIX 1 – Team Credentials**

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### Brief Biography

Susan (Sue) Bryant is currently a transportation consultant for a small firm based in Austin, Texas. After almost thirty years of state employment, she retired as the director of the public transportation division of the Texas Department of Transportation (TxDOT). The public transportation division had 180 employees and an approximately \$150 million budget of federal and state grant programs to rural and small urban transportation systems, the state's medical transportation program, and public transportation planning. Prior to becoming division director, she served for over ten years as the director of the Texas traffic safety program.

During her career with TxDOT, she held the position of state traffic safety director, assistant to the deputy director for field operations, and highway safety planner and program manager. She served as secretary and member of the board of the National Association of Governors' Highway Safety Representatives and member of the law enforcement committee for the Transportation Research Board.

She has also served as chair of the City of Rollingwood's Planning and Zoning Commission.

She has taught high school and adults, has consulted for the media in major television markets, and also teaches management to state and local officials. She has been named to "Who's Who of American Women," has received the national Award for Public Service from the U.S. Department of Transportation, and is a two-time recipient of the American Association of State Highway and Transportation Officials (AASHTO) President's Modal Award for highway safety. She is also a graduate of Leadership Texas.

A Phi Beta Kappa graduate in English from the University of Iowa, she holds a master's degree in communications from Iowa and a master's degree in business administration from the University of Texas at Austin.

## JUDGE KARL B. GRUBE

Judge Grube served as a County Court Judge in St. Petersburg, Florida, since his election to that office in 1976. In 2006 he took senior status after 30 years of service. He received his Bachelor of Science degree in Business Administration from Elmhurst College, in Illinois, his Juris Doctor degree from Stetson University in Florida and in 1992 was awarded a Masters Degree in Judicial Studies from the University of Nevada.

Prior to assuming the bench, he served as an assistant public defender followed by private practice, which included being city attorney for Redington Beach, Florida. Judge Grube was elected president of the Florida Conference of County Court Judges and has served as assistant Dean of the Florida New Judges College. In 1991 he was elected Chairperson of the American Bar Association's National Conference of Special Court Judges.

Judge Grube authored law review articles related to impaired driving, motor vehicles, and constitutional criminal procedure. These include: Analyzing the Videotaping of Drunk Driving Suspects as an Act of Police Discretion, *Law/Technology*, Vol. 22 No. 2 1989, Radar Speed Measurement: The Controversy Continues, *Fla. Bar Journal* Vol. 54 No. 6. 1980, A Restitution Program for Uninsured Offenders in Traffic Court, *State Court Journal* Vol. 6 No. 1 1982, and Electronic Plea Taking at Florida's Weekend First Appearance Hearings, *Stetson Law Review*, 1992. He presently serves as a member of the Florida "DUI Programs Review Board" which monitors and conducts site inspections visits all facilities that conduct DUI programs in the State of Florida.

At present Judge Grube serves as the ABA/NHTSA Judicial Outreach Liaison for the Southeast Region (IV). He is chair elect of the American Bar Association Judicial Division's Traffic Court Program. He also serves as the Associate Dean of the Florida College of Advanced Judicial Studies and this year will celebrate 25 years as a member of the faculty of the National Judicial College. Judge Grube resides in Treasure Island, Florida together with his wife Julia.

## **CLAYTON E. HATCH**

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### **Experience**

- Consultant in Highway Safety Information Systems (1997-present) - conduct studies of state traffic records systems, including those in states of Florida and Delaware; participated in study of unlicensed drivers in fatal crashes for AAA Foundation for Traffic Safety; serve as Facilitator for NHTSA Traffic Records Assessments (state systems and Native American systems); and serve as Team Member for NHTSA Impaired Driving Assessments
- Program Manager, National Safety Council (1992-1997) - Directed projects in support of the various safety activities of the Council including administering logistical tasks in support of the annual Traffic Records Forum, and planning and executing tasks as required under various NHTSA grants to bring about overall improvement in state traffic records systems
- Chief, National Driver Register, NHTSA (1982-1992) - Administered the National Driver Register program, a nationwide records system used by a broad spectrum of authorized groups, from both the public and private sectors, to identify and control problem drivers
- Traffic Records Program Manager (1975-1982) – Planned and directed activities to improve state and local traffic records systems.
- Highway Safety Data Specialist (1968-1975) – Participated in projects to identify and acquire data to support traffic safety research, including working on the predecessor program to FARS, the Fatality Analysis File

### **Organizations/Appointments**

- Chair, Traffic Records Committee, National Safety Council
- Member, American Association of Motor Vehicle Administrators (AAMVA) Telecommunications Planning and Oversight Committee
- Member, ANSI D-16 Committee on Motor Vehicle Accident Classification
- Member, ANSI D-20 Model Motorist Database Committee

## **Larry C. Holestine**

College Station, Texas

### **Summary**

Larry Holestine has over 29 years in professional law enforcement. As District Commander of the Colorado State Patrol (CSP), he was responsible for the creation and continued success of the Colorado State Patrol Accident Reconstruction Team, which is recognized as one of the best in the nation. In addition, he played an instrumental role in moving the CSP towards a "paperless" record-keeping environment.

Mr. Holestine has served on numerous committees in the fields of traffic records and transportation safety, including his position as 2003 Chair of the Association of Transportation Information Professionals. In addition, as a member of the National Highway Transportation Safety Administration's (NHTSA) traffic records assessment team, Mr. Holestine has traveled across the US helping states to improve traffic record collection, reporting, and analysis.

### **Experience**

**August 2003 to Present**

**Data Nexus, Inc.**

#### **Director of Public Safety Services**

- Consults with public safety agencies on information systems & technology requirements.
- Manages law enforcement training and traffic records assessment activities.
- Develops training course curriculum, supporting materials, and content and validates these using proven adult learning methods.
- Represents Data Nexus, Inc. and clients' needs with federal, state, and local governments.
- Negotiates procurement of data, information, and resources in support of Polaris.
- Provides subject matter expertise to the Polaris software development team.
- Develops and delivers safety plan training, and identifies useful data resources for Federal Motor Carrier Safety Administration, District Administrators.
- Identifies, tests, and incorporates new and innovative training techniques into curricula.

**2002 to 2003**

**Private Consultant**

- Served as a law enforcement liaison for the NHTSA -- Region 8.
- Promoted data collection, traffic safety information management systems, seat belt usage, reduction of alcohol-related crashes, and other highway traffic safety issues to law enforcement in a six state region.
- Represented NHTSA and the National Safety Council (NSC) to promote the Association of Transportation Safety Information Professionals (ATSIP).
- Visited states promoting NSC, ATSIP, and the collection and management of traffic safety data.
- Explored the possibilities of sharing state traffic safety data with NHTSA and the Bureau of Transportation Statistics (BTS).

**1973 to 2002**

**Colorado State Patrol**

## **Patrol Major**

- Maintained responsibility for all phases of management of State Patrol operations in Northeastern Colorado (District Three).
- Held command over more than 100 uniformed and civilian personnel.
- Ensured an environment for subordinates to perform at their optimal level.
- Formulated long range plans for resource needs and utilizations.
- Created action plans to provide for continuously changing situations.
- Created and maintained the Colorado State Patrol Accident Reconstruction Team.
- Represented the Colorado State Patrol on numerous state & federal traffic records and technology organizations.
- Played an instrumental role in moving the Colorado State Patrol toward a "paperless" recordkeeping environment.
- Developed plans towards electronic linkage of all traffic safety related files in Colorado.
- Acted as Coordinator/Instructor for the Colorado Law Enforcement Training Academy and the Colorado State Patrol Academy.
- Acted as an Instructor for the Colorado Institute of Law Enforcement Training at Colorado State University.
- Completed project work on traffic records systems for various governmental and privately owned agencies.

## **Education**

|      |   |      |
|------|---|------|
| B.S. | Colorado State University<br>Education (Specializing in Criminal Justice) | 1990 |
|      | Certificate, School of Police Staff and Command, Northwestern University  | 1986 |
|      | Certificate, Management in State Government, State of Colorado            | 1985 |

## **Affiliations/Professional Associations**

- Executive Board, Association of Transportation Safety Information Professionals, National Safety Council – 2001 Program Chair, 2002 1<sup>st</sup> Vice Chair, 2003 Chair
- Member, ANSI D-16 Committee on Motor Vehicle Accident Classification
- Chair of Steering Committee of Law Enforcement Section, Colorado Safety Management System
- Member, Colorado State Traffic Records Advisory Committee
- Member, National Agenda for Traffic Records Committee, National Safety Council
- Member, Intelligent Transportation Systems, Archived Data User Program Committee, Federal Highway Administration
- Member, Highway Safety Program Advisory for Traffic Records Panel, Data Nexus, Inc. for National Safety Council
- Member, Project Panel/Advisory Group, Project #NCHRP 17-12 (Improved Safety Information to Support Highway Design) Northwestern University Traffic Institute
- Member, Colorado Department of Transportation RFP Review committee for Intelligent Transportation Systems
- Member, NHTSA Traffic Records Assessment Team: (\* Denotes team leader status) Kansas, South Carolina, Nebraska, Louisiana, Arizona, Iowa, New Mexico, \*Wisconsin, North Dakota, \*Connecticut, \*Idaho, \*Oregon, \*Tennessee, \*Delaware, \*San Carlos

Reservation, \*New Jersey, \*White River Reservation, \*Menominee Reservation,  
\*Kentucky, \*Mississippi, Missouri

- Member, National Safety Council, Association of Highway Safety Information Professionals, Marketing and Honest Broker Committee
- Member, Transportation Research Board – Law Enforcement Committee
- Member, Colorado State Patrol Diversity Committee
- Member of NHTSA Impaired Driving Assessment team: Vermont, Nevada
- Member and President, Northern Colorado Peace Officers Association
- Member, Committee on Guidelines for Transportation Safety Information Management Systems and files, NSC and NHTSA
- Member NCHRP Committee: Project 17-40 Model Curriculum for Highway Safety Core Competencies, Project 03-80 Traffic Enforcement Strategies for Work Zones



## **Robert P. Lillis**

rlillis@rochester.rr.com

### **CURRENT ACTIVITIES**

#### **EVALUMETRICS RESEARCH**

Mr. Lillis currently works as an independent consultant through Evalumetrics Research (DBA). He is Research Consultant to numerous State, County and local substance abuse and violence prevention programs and conducts detailed needs assessments, develops outcomes based plans and designs evaluations for numerous initiatives. He is also conducting evaluations of numerous youth development programs as well as criminal justice treatment programs working with substance abusers.

#### **PARTNERSHIP FOR ONTARIO COUNTY INC.**

Mr. Lillis is the Research Consultant and Chair of the Research Data and Evaluation Committee of the Partnership for Ontario County, Inc. a community based comprehensive substance abuse prevention task force. In this role he has conducted numerous surveys and needs assessments and developed a databased strategic planning process. He also has designed evaluations for numerous school and community-based programs and prevention activities.

#### **DRUG COURT**

Mr. Lillis is the Research and Evaluation Consultant to the Finger Lakes Drug Court and the Ontario County Juvenile Drug Court. He is responsible for all aspects of project design, data collection, database development and analysis of process and outcome data.

#### **UNIVERSITY OF ROCHESTER SCHOOL OF MEDICINE AND DENTISTRY**

From 2000 to 2001 Mr. Lillis served as Director of the Research for the Department of Emergency Medicine. From 1996 to 2001 Mr. Lillis served as Director of the Accident Investigation Team and served as Principal Investigator and was responsible for all aspects of numerous injury research projects. These include:

Detection of Drugs in Injured Drinking Drivers Project. A project funded by the National Highway Traffic Safety Administration to determine the role of drugs in selected highway crashes by measuring the presence of any of over 50 psychoactive substances in the blood of drivers injured in motor vehicle crashes.

The Identification, Enforcement and Referral Project for Injured Impaired Drivers. This Project was funded by the New York State Governor's Traffic Safety Committee to conduct an intensive assessment of the dynamics of the treatment of injured drinking drivers and how such injuries and treatment impede the process of identification, arrest, and conviction for Driving While Intoxicated and/or Driving While Ability Impaired.

### **NEW YORK STATE DEPARTMENT OF HEALTH**

From 1988 through 1991 Mr. Lillis served as Manager of Highway Safety Programs in the Injury Control Program, Division of Epidemiology, New York State Department of Health. He was responsible for the development and evaluation of state and local highway injury prevention initiatives. He was Project Director of the Comprehensive Community Traffic Injury Prevention Project. The Project provided technical assistance in needs assessment, program development, and evaluation as well as "mini-grants" to help establish coordinated community based highway safety efforts in high-risk counties in New York State.

### **NEW YORK STATE DIVISION OF ALCOHOLISM**

From 1978 to 1988 Mr. Lillis served as Project Director on numerous research projects at the New York State Division of Alcoholism and Alcohol Abuse. These included the Special Highway Safety Policy Analysis Project, supported by Federal highway safety funds through a grant from the Governor's Traffic Safety Committee. As Project Director he was responsible for development and maintenance of a comprehensive computerized data base, data analysis, research design, preparation of research reports including scientific publications and providing technical assistance to the highway safety community, the Governor's Office, the Legislature and members of the public. Other Projects he directed at the Division of Alcoholism included The Research and Evaluation Support System and the Youth Alcohol Study. In 1980 he served as research consultant to Governor Carey's Task Force on Drunk Driving. Mr. Lillis was the primary source of research and data support to Governor Cuomo and Senate and Assembly sponsors of legislation that increased New York's legal drinking age from 18 to 19 in 1982 and from 19 to 21 in 1985. Research conducted during this time and subsequent to the law's passage resulted in numerous scientific publications. His study of state border crossing by young drinking drivers was credited by the National Highway Traffic Safety Administration as a major influence in President Reagan's support for Federal legislation which directed states to increase their drinking age or face loss of Federal funds.

### **NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

Since 1991 Mr. Lillis has served as a member of the Impaired Driver Assessment consultant team for the National Highway Traffic Safety Administration (NHTSA). He has conducted reviews of impaired driving prevention and treatment activities in Maryland, California, Arizona (2), Texas, Connecticut, West Virginia, Wisconsin(2), Oregon, New Mexico, North Carolina, Minnesota, Tennessee, Missouri, Delaware, North Dakota, Montana (2), Utah, Ohio, South Carolina, Illinois, Rhode Island, Georgia, Massachusetts, Kansas as well as Puerto Rico and the Indian Nations.

### **U. S. GENERAL ACCOUNTING OFFICE**

Since 1985, Mr. Lillis has served as a Special Consultant to the U. S. General Accounting Office (GAO). During 1985 and 1986 he consulted with GAO on their review of existing research and evaluations related to minimum drinking age laws to determine the extent to which they provide empirical support for federal and state initiatives to change the legal drinking age. He was responsible for development of a procedure for classification and methodological review of research and evaluation documents and establishment of criteria for a minimum threshold of acceptability of research for policy analysis. Mr. Lillis also served on the review panels for a study of Motorcycle Helmet Law effectiveness and a study of Mandatory Seatbelt Use Laws.

## **APPENDIX 2 – Assessment Agenda**

### **California Impaired Driving Assessment**

#### **Residence Inn Sacramento at Capitol Park**

1501 L Street (corner of 15<sup>th</sup> and L Streets)  
Sacramento, California, 95814

**September 16 – 21, 2007**

#### **Sunday, September 16, 2007**

6:00 p.m. – 8:00 p.m.      **Reception and Team Meeting**  
California Office of Traffic Safety (OTS)

#### **Monday, September 17, 2007**

9:00 a.m. – 10:30 a.m.      **Strategic Planning and Program Management**  
Program Management  
- Chris Murphy, OTS  
State Local and Tribal DWI Task Forces/Commissions  
- Chris Murphy, OTS  
Data and Records  
- Chris Murphy, OTS  
Evaluation  
- Chris Murphy, OTS  
Resources  
- Chris Murphy, OTS  
Communication Strategies  
- Chris Cochran, OTS  
Strategic Planning - SHSIP  
- Jesse Bhullar, CalTrans

10:30 a.m. – 12:00 p.m.      **Prevention**  
Responsible Beverage Service/RADD  
- Steve Ernst, California Alcoholic Beverage Control (ABC)  
School Programs  
- Dr. Paul Olario, California State University Fresno (Call-in)

12:00 p.m. – 1:00 p.m.      **Lunch**

1:00 p.m. – 5:00 p.m.      **Prevention**  
Transportation Alternatives  
- Nick Yaya, Designated Driver Association

- Scooter Patrol, Home James, Tippy Taxi and Tippy Towe (printed information only)

Community Based Programs

- Matthias Mendezona, MADD California
- Pat Hines, SafeMoves

Community Coalitions and Traffic Safety Programs

- Alma Burrell and Margaret Headd, Traffic Safe Community Network

School Programs

- Every 15-Minutes Programs, Captain Art Aclaro, Sergeant Kevin Davis, Patty Sliney, CHP
- Real DUI Trials in High Schools, Nancy Taylor and Michael Roosevelt, Judicial Council of California - Administrative Office of the Courts (AOC)
- Peer Courts – Donna Strobel, AOC and Karen Green, Placer County Peer Court
- Youth Programs, Jim Kooler, Friday Night Live Partnership DUI Court (out of sequence---other DUI Court presenters will be on Wednesday)
- DUI Court Expansion, Francine Byrne and Dave Bressler, AOC

**Tuesday, September 18, 2007**

8:00 a.m. –8:50 a.m.

**Any needed follow-up interviews from Day 1**

9:00 a.m. – 12:00 p.m.

**Criminal Justice System**

Impaired Driving Laws – Captain Scott Howland, CHP Enforcement

- Captain Troy Abney, CHP
- Steve Ernst, ABC – TRACE, Minor Decoy & Shoulder Tap
- Wendy Tully & Steve Jeffries, Department of Justice
- Sergeant Eric Eide, Fresno Police Department

Publicity to Enhance General Deterrence

- Chris Cochran, OTS – AVOID

12:00 p.m. – 1:00 p.m.

**Lunch**

1:00 p.m. – 3:00 p.m.

**Criminal Justice System (cont)**

Prosecution - Creg Datig, California District Attorney's Association

Adjudication

- Judge Kenneth Shapero, Superior Court of California, County of Santa Clara
- Judge Richard Keller, Superior Court of California, County of Alameda

3:00 p.m. – 5:00 p.m.

**Alcohol and Other Drug Misuse: Screening, Assessment, Treatment, Rehabilitation and Monitoring**

Screening and Assessment in Medical or Health Care Settings

- Dr. Jason London, UC Davis Medical Center
- Dr. Leon Owens, Mercy San Juan Hospital
- Millicent Gomes, Department of Alcohol and Drug Programs

**Wednesday, September 19, 2007**

8:00 a.m. – 10:30 a.m.

**Alcohol and Other Drug Misuse: Screening, Assessment, Treatment, Rehabilitation and Monitoring**

Screening and Assessment - Diane Winn, UC Irvine

Criminal Justice System

- Judge Carl Biggs, Superior Court of California - Orange County - DUI Court
- Judge Richard Vlavianos & Nathan Werth, Superior Court of California - San Joaquin County - DUI Court
- Dave DeYoung, Department of Motor Vehicles (DMV)
- Stacy Adams – San Diego County Probation

10:30 am – 12:00 p.m.

**Administrative Sanctions and Driver Licensing Programs**

Administrative License Revocation and Vehicle Sanction Programs

- Patrice Rogers, DMV Information and Records System –
- Helen Tashima, DMV DUI MIS Report
- Chief Reggie Chappelle, CHP - State Wide Integrated Traffic Records System (SWITRS)

**Thursday, September 20, 2007**

Team Meetings All Day

**Friday, September 21, 2007**

8:00 a.m. – 10:00 a.m. Final Report Presentation

**Additional Presenters Include:**

**OTS Staff:** Michelle Meadows, Assistant Director  
David Doucette, Regional Operations Manager  
Leslie Witten-Rood, Regional Coordinator  
Ron Miller, Regional Coordinator