



REPORT TO THE LEGISLATURE

SENATE BILL No. 94

IMPAIRED DRIVING

TASK FORCE

California Highway Patrol

January 2021

**REPORT TO THE LEGISLATURE  
SENATE BILL No. 94**

**IMPAIRED DRIVING TASK FORCE**

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**January 2021**

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## *The Impaired Driving Task Force*



Commissioner Stanley addresses the Impaired Driving Task Force members at their first meeting.



## EXECUTIVE SUMMARY

Alcohol and drug-impaired driving continues to be a leading cause of traffic fatalities and injuries in California. In 2017, 869 people were killed, and 20,185 people were injured as a result of impaired driving crashes statewide.<sup>1</sup> Given the Passage of Proposition 64, the Adult Use of Marijuana Act (AUMA), and the increasing availability of legal cannabis,<sup>2</sup> the California Legislature identified a need to further evaluate the issue of impaired driving.

Senate Bill 94, Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017: Medicinal and Adult Use, added California Vehicle Code (CVC) Section 2429.7, requiring the California Highway Patrol (CHP) Commissioner to appoint an Impaired Driving Task Force (IDTF), with specified membership, for the purpose of developing recommendations for best practices, protocols, and proposed legislation; and other policies addressing issues related to impaired driving, including prescription drugs, cannabis, and other controlled substances. The IDTF was also charged with examining the use of technology, including field testing technologies, and validated field sobriety tests. The recommendations and findings included in this report represent the work of the IDTF and are submitted to the California State Legislature for consideration as required by Section 2429.7 CVC.

Established in October 2017, the IDTF met a total of nine times, with the last meeting held on July 31, 2020. In order to focus the efforts of the task force, three subcommittees were established which included Best Practices and Protocols; Education and Prevention; and Technology, Research and Data. These subcommittees met a total of 19 times. Each of the subcommittees generated a series of recommendations, which were merged and presented to the entire IDTF membership for additional feedback, final modifications, and consensus approval.

The following is a listing of each of the final recommendations, which have been grouped into associated categories. Additional context and background information for each of these recommendations is contained in this report. In developing these recommendations, the task force focused on high-level policy issues. As such, this report does not address any associated implementation considerations, including required statutory changes or funding. These recommendations are being offered for further policy discussion and review by interested stakeholders and do not reflect an official position or endorsement of the Administration.

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<sup>1</sup> Information from the Statewide Integrated Traffic Records System.

<sup>2</sup> The terms cannabis and marijuana are used interchangeably in this report.

Ultimately, it is the hope of the task force these recommendations will help shape future conversations and help policymakers and other traffic safety stakeholders appropriately focus resources and efforts in order to improve highway safety.

### Data Recommendations

As outlined in the following recommendations, the IDTF identified the need for uniform, accurate, timely, and comprehensive California driving under the influence (DUI) and driving under the influence of drugs (DUID) specific data:

- 1. The state should track all DUI and DUID arrest outcomes, including case filing charges, diversion outcomes, plea agreements, trial outcomes, and the final case dispositions.*
- 2. The state should track all DUI and DUID toxicology outcomes from all laboratories, including the number of samples submitted, the number of samples tested, and all sample results.*
- 3. The state should ensure all DUI and DUID involved crashes<sup>3</sup> are reported in a uniform manner to the CHP.*
- 4. The state should analyze all collected DUI and DUID data. The data used in the analysis should be published in an annual statewide report and guide the future direction of DUI policy decisions. This report may be used for a variety of purposes including, but not limited to, education; training; and developing better methods to screen for and prevent DUI and DUID.*

### Research Recommendations

As outlined in the following recommendations, the IDTF recognized the importance of funding ongoing DUI and DUID research for the purposes of better identifying impairment, to include projects which improve toxicology and behavioral testing; identifying drug trends among those arrested for impaired driving; and creating better public education and information campaigns aimed at preventing impaired driving.

- 1. Annual impaired driving research projects should be considered for the purposes of learning new information, including toxicology and behavioral testing, related to how best to detect and test DUI and DUID drivers.*

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<sup>3</sup>The terms crash and collision are used interchangeably in this report.

2. *Annual impaired driving education and prevention research projects should be considered for the purposes of reducing impaired driving.*
3. *New DUI and DUID research studies should consider key issues in the study design, including the time elapsed since the substance use; the method of administration; dosage; and most importantly, how test results relate to impaired driving, including the best methods to identify impaired drivers.*
4. *Behavioral, physiological, and chemical testing research should address issues of validity and reliability; performance under various environmental conditions; and follow best practices for test development as established by relevant academic and/or professional entities.*
5. *The state should consider undertaking an ongoing DUI and DUID research project analyzing drug prevalence and trends with respect to impaired driving. This project would request selected laboratories, with specified equipment, to examine all, or a randomized selection of, blood samples taken from DUI and DUID incidents for Tier I<sup>4</sup> drugs, using a standardized procedure, for a specified time period. These results will identify trends and provide information to policy makers. The data used in the analysis should be published in an annual statewide report to help guide future DUI policy decisions.*

### Toxicology Recommendations

As outlined in the following recommendations, the IDTF noted the importance of collecting evidence in a uniform and timely manner, encouraging laboratories to meet nationally recommended standards, and abstaining from adopting per se limits for drug use until there is sufficient support from the scientific community.

1. *Additional funding should be considered for state and local government laboratories conducting forensic toxicology testing to purchase efficient and sensitive testing equipment capable of testing for Tier I drugs and provide funding for personnel to conduct forensic toxicology testing.*
2. *The state should consider the creation of evidence collection criteria and procedures for DUID.*

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<sup>4</sup> As defined by the current National Safety Council.

3. *Laboratories conducting forensic toxicology testing should test blood samples for alcohol and all Tier I compounds, in at least one recommended matrix, at the prescribed threshold concentrations, for both screening and confirmation testing.*
4. *Laboratories conducting forensic toxicology testing, including screening and confirmatory testing, should continue to evaluate National Safety Council recommendations related to forensic toxicology testing and when new standards are recommended, laboratories should strive to implement those recommendations.*
5. *Drugs affect people differently depending on many variables. A per se limit for drugs, other than ethanol, should not be enacted at this time as current scientific research does not support it. However, the state should continue to advance research in this area, to include methods of evaluating impairment.*

### Education Recommendations

As outlined in the following recommendations, the IDTF emphasized the importance of broad-based, age appropriate, public education and information campaigns aimed at changing social norms and preventing impaired driving.

1. *A requirement for responsible sales and consumption practices training, similar to responsible alcohol beverage service/sales training, should be considered for all cannabis retailers, cannabis consumption lounges, event organizers, license holders, and home delivery services.*
2. *A requirement should be considered for advertisers displaying cannabis-related products to include the legal consumption age for cannabis and information related to the risks of impaired driving.*
3. *A requirement should be considered for cannabis retailers, consumption lounges, event organizers, and delivery services to provide educational information to consumers, which could include pamphlets, posters, digital messaging, and/or other appropriate mediums related to the responsible use of cannabis and other drugs. Messaging should include:*
  - a. *Warnings regarding the dangers of impaired driving, the risks of underage cannabis use, and risks associated with polysubstance use.*

- b. Cannabis consumption sites should provide information regarding locally available alternate transportation to all consumers.*
- 4. Age appropriate education should be provided for youth and adults on the effects of cannabis use and impacts of impaired driving.*
- 5. Expanded training opportunities should be considered related to impaired driving for the legal and judiciary system, including:*
  - a. Within two years of being appointed and annually thereafter, all Criminal Justice Officers (judges, defense attorneys, and prosecutors) should receive training which covers addiction, drug abuse, behavior modification, factors contributing to impairment, and bias in arrest/prosecution.*
- 6. A requirement for training for persons working in the medical and pharmacy fields should be considered regarding the dangers of impaired driving by alcohol, cannabis, prescription drugs, and impairing over-the-counter (OTC) drugs.*
- 7. The California Department of Motor Vehicles (DMV) should require traffic schools to add information related to the dangers of alcohol, cannabis, prescription and illicit drugs, and impairing OTC drugs to their curriculum, as soon as possible; and include a victim impact panel component as a part of their courses.*

#### Law Enforcement Recommendations

As outlined in the following recommendations, the IDTF recognized the importance of ensuring officers receive necessary training and maintain expertise, use the best available equipment, and document their investigations appropriately to ensure impaired driving investigations are conducted fairly, accurately, and in accordance with recognized best practices.

- 1. The Commission on Peace Officer Standards and Training should consider a requirement that Standardized Field Sobriety Test training (24 hours) be taught in all law enforcement academies in California.*
- 2. All law enforcement personnel assigned to traffic enforcement responsibilities shall receive Advanced Roadside Impaired Driving Enforcement training within one year of being assigned, and bi-annual continuing education related to impaired driving.*

3. *The CHP should make all efforts to increase the number of Drug Recognition Evaluator (DRE) trained officers statewide by four percent over the next five years. As the statewide Drug Evaluation Classification Program coordinator, the CHP will be responsible for reporting the total numbers of personnel trained each year.*
4. *Law enforcement shall use Mobile Video/Audio Recording Systems (in-car cameras) and/or body worn cameras to record/capture impaired driving incidents and investigations, whenever available.*
5. *If utilized, law enforcement should use the best available, scientifically validated, roadside presumptive drug testing technology for possible drug-impaired driving investigations.*
6. *Further studies should be conducted to determine if oral fluid is a suitable medium for collection of a chemical test sample pursuant to CVC Section 23612.*

#### Additional Recommendations

Along with the preceding recommendations which were developed by the various subcommittees, the entire IDTF membership discussed a variety of other ideas which led to the development of two additional recommendations.

The IDTF members discussed the importance of testing persons killed in crashes involving DUI and DUID, including the need to require alcohol and drug testing for fatally injured persons involved in crashes, beyond what is required in California Government Code Section 27491.25. The members emphasized this should consist of alcohol testing and drug testing, as outlined in the following recommendation:

1. *The state should consider a requirement for coroners and medical examiners to perform drug and alcohol testing using the American Academy of Forensic Sciences (AAFS) Standards Board criteria for death investigation toxicology testing for all fatally injured drivers, passengers, and pedestrians involved in traffic crashes. The aggregate results should be reported to the CHP and made available to the public.*

Recognizing the evolving and fluid nature of identifying impaired driving best practices, the IDTF discussed the need to continue bringing stakeholders together to examine DUI and DUID issues in order to strategically allocate associated resources, as outlined in this final recommendation:

2. *The state should consider establishing an ongoing Impaired Driving Working Group, headed by the Office of Traffic Safety (OTS), and include the CHP, Department of Justice, DMV, Department of Health Care Services, Alcoholic Beverage Control, the Bureau of Cannabis Control, and other stakeholders identified by OTS for the purposes of improving processes, and identifying areas of need to inform funding priorities.*

# REPORT TO THE LEGISLATURE ON THE IMPAIRED DRIVING TASK FORCE

## Introduction

Alcohol and drug-impaired driving continues to be one of the leading causes of traffic fatalities and injuries in California. In 2017, 869 people were killed, and 20,185 people were injured as a result of impaired driving crashes statewide.<sup>5</sup> Given the passage of Proposition 64, the Adult Use of Marijuana Act (AUMA), and the increasing availability of legal cannabis,<sup>6</sup> there is a concern fatalities and injuries associated with impaired driving, including cannabis-impaired driving, could increase. Pursuant to Senate Bill 94, Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017: Medicinal and Adult Use, California's Legislature charged the California Highway Patrol (CHP) with forming a task force to further study the issue and make associated recommendations.

On October 3, 2017, the Impaired Driving Task Force (IDTF) convened for the first of nine meetings. Pursuant to California Vehicle Code (CVC) Section 2429.7, the IDTF was charged with developing, "*...recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. The task force shall include, but is not limited to, the Commissioner, who shall serve as chairperson, and at least one member from...*" specified experts and stakeholder groups, including:

- The California Office of Traffic Safety (OTS).
- The National Highway Traffic Safety Administration (NHTSA).
- Local law enforcement.
- District attorneys.
- Public defenders.
- California Association of Crime Laboratory Directors.
- California Attorneys for Criminal Justice.
- The California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.
- An organization that represents medicinal cannabis patients.

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<sup>5</sup> Information from the Statewide Integrated Traffic Records System.

<sup>6</sup> Cannabis and marijuana are used interchangeably in this report.



- Licensed physicians with expertise in substance abuse disorder treatment.
- Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.
- Nongovernmental organizations committed to social justice issues.
- A nongovernmental organization that focuses on improving roadway safety.

During initial meetings, in order to ensure a common understanding of existing laws and practices, the IDTF heard presentations from experts regarding current impaired driving issues. Given the scope of the issues to be considered, and in an effort to focus the work of the task force, the IDTF formed the following three subcommittees for the purpose of exploring specific issues within California's driving under the influence (DUI) and driving under the influence of drugs (DUID) process:

- Best Practices and Protocols.
- Education and Prevention.
- Technology, Research and Data.

Each subcommittee met independently to generate a series of recommendations specific to their discipline(s). Although each subcommittee met separately and identified a series of recommendations, there was substantial cross-over between the subcommittee recommendations. As such, like recommendations were merged and presented for discussion by the entire task force.

In addition to an overview of each of the final recommendations, this report includes background information relative to the recent history of cannabis in California; drug-impaired driving investigations; California specific enforcement and education efforts; national findings and recommendations; and a summary of notable IDTF presentations.

## **Cannabis in California**

In 1996, California voters approved Proposition (Prop) 215, the Compassionate Use Act (CUA), which legalized the use, possession, and cultivation of cannabis by patients with a physician's recommendation, for treatment of cancer, anorexia, acquired immunodeficiency syndrome, chronic pain, spasticity, glaucoma, arthritis, migraine, or "any other illness for which marijuana provides relief." Senate Bill 420, Vasconcellos, Chapter 875, Statutes of 2003: Medical Marijuana, established an identification card system for medical cannabis patients and permitted the creation of nonprofit collectives for the purposes of providing cannabis to patients.

Assembly Bill (AB) 266, Bonta, Chapter 689, Statutes of 2015: Medical Marijuana, enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which created a licensing and regulatory structure for administering a medical cannabis system. Additionally, AB 266 established the Bureau of Medical Marijuana Regulation. In November 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, which established a comprehensive system to control the cultivation, distribution, and sale of marijuana and marijuana products. The AUMA permitted adults 21 years of age and over to legally possess specified amounts of marijuana and cultivate specified quantities of marijuana plants for recreational use (adult-use). These activities remain illegal for individuals under 21 years of age. In addition to its legalization provisions, the AUMA also reduced the criminal penalty for certain marijuana offenses. Lastly, the AUMA allowed for the sale and taxation of recreational marijuana, beginning in January 2018, with specified funding allocated to the CHP to help address impaired driving, including the administration of grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of impaired driving laws.<sup>7</sup>

In 2017, Senate Bill (SB) 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, repealed and replaced the MMRSA and incorporated the provisions of the AUMA, creating a comprehensive system designed to implement and tax the sale and use of recreational and medicinal cannabis in California. This new regulatory system assigned new responsibilities to existing agencies and renamed the Bureau of Medical Marijuana Regulation to the Bureau of Cannabis Control (BCC). Additionally, SB 94 mandated the BCC, the Department of Public Health, and the Department of Food and Agriculture to draft administrative regulations for the purposes of providing a regulatory framework for the legal medicinal and adult-use cannabis market.<sup>8</sup>

The legalization of recreational cannabis raised concerns associated with possible increases in impaired driving, specifically cannabis-impaired driving, in California. Following legalization, many law enforcement agencies have placed a renewed focus on addressing the incidence of drug-impaired driving in California.

## **Drug-Impaired Driving Investigations**

Drug-impaired driving has long been a challenge for law enforcement. In the early 1970s, officers with the Los Angeles Police Department (LAPD) began

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<sup>7</sup> Pursuant to Section 34019 of the Revenue and Taxation Code.

<sup>8</sup> At the time this report was drafted, all three cannabis regulatory agencies were contemplating merging their duties and functions into one agency.

observing drivers who appeared impaired, but when tested, had a low or zero blood alcohol concentration. These officers began to suspect the impairment they were observing was caused by drugs. The LAPD collaborated with medical doctors, research psychologists, and other professionals to develop a simple, standardized procedure for recognizing impairment caused by drugs.

Their efforts culminated in the development of a multistep protocol which led to the creation of the statewide Drug Evaluation and Classification Program (DECP).

This new protocol, which eventually became known as the Drug Recognition Evaluator (DRE) protocol, categorized drugs according to certain shared symptomatology. Today, these drug categories include central nervous system (CNS) depressants; CNS stimulants; hallucinogens; phencyclidine and its analogs; narcotic analgesics; inhalants; and cannabis. Drugs from each of these categories can affect the CNS and impair a person's normal faculties, including their ability to safely operate a motor vehicle.

The LAPD DRE program attracted the attention of NHTSA in the early 1980s. During the following years, NHTSA, research groups, and others further examined the DRE protocol. The studies demonstrated that a properly trained DRE is able to successfully identify drug impairment and accurately determine the category of drugs causing such impairment.<sup>9</sup>

In 1987, NHTSA began conducting pilot programs in Arizona, Colorado, New York, and Virginia. Utah, California, and Indiana were added to the pilot program in 1988. Beginning in 1989, NHTSA, with assistance from the International Association of Chiefs of Police (IACP), expanded the DECP across the country.

In 1991, the CHP was designated as the DECP coordinator for California and began training CHP officers and local law enforcement personnel statewide with the assistance of grant funding from the OTS. All 50 states, the District of Columbia, Canada, and others now participate in the DECP. With support from the DECP coordinators, the IACP, in conjunction with NHTSA, facilitates the program nationally as well as internationally. Today, the use of DREs is widely accepted as one of the most effective ways for officers to identify drug-impaired drivers.

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<sup>9</sup> <https://www.theiacp.org/drug-recognition-experts-dres>

## **Existing California Law Enforcement Training and Selected Education Efforts**

The following represents an overview of selected efforts from IDTF member organizations to provide training, education, and awareness efforts related to DUI and DUID.

### *California Highway Patrol*

Since its inception, California's DECP has expanded to encompass Standardized Field Sobriety Tests (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE), DRE, associated instructor courses, and the Drug Impairment Training for Educational Professionals (DITEP). The CHP teaches and facilitates hundreds of DECP courses each year with assistance from allied law enforcement agencies throughout California.

The SFST is a comprehensive course designed to increase the ability of officers to detect impairment in drivers and conduct a thorough investigation. The course focuses on impaired driving detection, investigation, and administration of the three-test SFST battery (including horizontal gaze nystagmus, one leg stand, and the walk-and-turn tests), which has been shown by NHTSA to have an extremely high probability of detecting impairment.

The ARIDE course was created to address the gap in training between SFST and DRE training. The ARIDE course bridges the gap between these two courses through a review of SFST administration, providing general information related to drug-impairment, and promoting the use of DRE trained officers. Currently, 97 percent of CHP officers and sergeants have received ARIDE training.

The DRE course is the most in-depth and advanced course in the SFST, ARIDE, and DRE training series. The DRE course consists of a 72-hour classroom course, 30 hours of field certifications, and a comprehensive knowledge examination. Once certified, DRE officers must complete at least four evaluations every two years and complete one 8-hour recertification course.

The DITEP program was developed by IACP and NHTSA after the 2003 National Survey on Drug Use and Health estimated 19.5 million Americans, age 12 or older, had used an illegal drug or misused a legal prescription during the previous month. The DITEP program provides school administrators and nurses with a systematic approach to recognizing and evaluating individuals in the academic environment who may be abusing or be impaired by drugs, both legal and illegal, in order to provide early recognition and intervention.

In addition to the DECP, the CHP, in partnership with OTS, provides several public education programs designed to warn the public about the dangers of impaired driving, including:

- Every 15 Minutes
- Sober Graduation
- Start Smart
- Impact Teen Driving
- Public education booths focused on impaired driving

### California Office of Traffic Safety

As California's designated Highway Safety Office, OTS promotes safety initiatives and administers a variety of national highway safety grant programs authorized and funded through Federal legislation aimed at reducing traffic crashes, fatalities, and injuries on public roads. The OTS administers California's Highway Safety Program (HSP) which is designed to reduce deaths and injuries on the road by funding programs that target user behavior through education and enforcement campaigns. California's HSP includes an impaired driving component that specifically addresses highway safety activities related to impaired driving.

### Friday Night Live

The California Friday Night Live (FNL) Partnership has supported programs across the state aimed at reducing impaired driving by partnering with youth to lead, develop, and implement underage impaired driving prevention campaigns. These campaigns, along with Casey's pledge to not drive impaired or be a passenger in a vehicle with an impaired driver, have positively impacted California's youth and their communities statewide.

### Recording Artists Against Drunk Driving

Recording Artists Against Drunk Driving (RADD) is an award-winning nonprofit, founded in 1986, focused on reducing deaths and injuries by promoting responsible alternatives to drinking and driving. Over the years, 500 actors, athletes, and recording artists have pledged their support of RADD in the cause against drunk driving.

## California Narcotic Officers' Association

For over 50 years, the California Narcotic Officers' Association (CNOA) has offered training to law enforcement agencies from across the country and around the world. Recognizing the nexus between drugs and crime, CNOA Training Programs provide relevant information to all law enforcement officers regardless of primary assignment. Currently, CNOA provides a variety of training, including: Drugged Driving Investigations, Narcotic Specialized Unit Supervisors Course, and other related courses.

### **National Findings and Recommendations**

In developing recommendations, the IDTF reviewed similar work from other states to better understand the impacts of impaired driving. At the time this report was drafted, several states have either legalized the medicinal and/or recreational use of cannabis or decriminalized the use of cannabis. As cannabis continues to be legalized and decriminalized at the state level, there are some indications cannabis use is becoming more prevalent, especially among drivers. The following is an overview of reports, research, and recommendations from national organizations and other states relating to impaired driving.

The NHTSA conducted National Roadside Surveys (NRS) in 1973, 1986, 1996, 2007, and 2013. These surveys questioned volunteer drivers at the time of driving regarding their drug and alcohol use and requested breath and blood samples for testing. According to the report, results were "...compared to the 2007 National Roadside Study, for the first-time presenting trend data on drug-positive driving. Using data from both oral fluid and blood samples, overall, 22.3 percent of daytime drivers and 22.5 percent of nighttime drivers were drug positive. Delta-9-tetrahydrocannabinol (THC), the active component of marijuana, was the most frequent drug, with 8.7 percent of daytime drivers and 12.7 percent of nighttime drivers testing positive. When comparing the 2013-2014 results to the same drugs tested for in 2007, an increase in nighttime drug prevalence was found between the 2007 and 2013-2014 NRS, from 16.3 percent to 20.1 percent, a statistically significant finding. This study estimated drug prevalence. A positive result for any drug does not necessarily mean the driver was impaired at the time of testing, only that the drug was present in the body."<sup>10</sup> Due to the fact drug presence does not necessarily equate to impairment, the report cautions against drawing conclusions about impaired driving from these findings.

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<sup>10</sup> [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13013-nrs\\_drug\\_092917\\_v6\\_tag.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13013-nrs_drug_092917_v6_tag.pdf)

In 2016, the National Institute on Drug Abuse noted more than 12.2 million Americans drove after using marijuana, cocaine, heroin, hallucinogens, inhalants, or methamphetamines. Among people killed in motor vehicle crashes, 43.6 percent of drivers tested positive for at least one illegal drug. Furthermore, more than half tested positive for at least two or more illegal drugs. Approximately 22.2 million Americans use marijuana at least once per month.<sup>11</sup>

The Substance Abuse and Mental Health Services Administration published a report entitled *Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health* which found 53.2 million Americans, aged 12 and older, used or misused: marijuana; prescribed pain reliever, tranquilizer, sedative, or stimulant; hallucinogens; cocaine; inhalants; methamphetamine; or heroin. Marijuana use accounts for 43.5 million users, all other drugs 9.7 million, and the use of marijuana increased significantly from 2017 to 2018 from 15.0 percent to 15.9 percent. The study also found adults aged 26 and older who use marijuana once per day increased from 1.9 percent in 2015 to 2.8 percent in 2018 and monthly use increased from 6.5 percent in 2015 to 8.6 percent in 2018<sup>12</sup>. This study provides important insight into the prevalence of alcohol and drug use, including potential cannabis use among drivers nationally.

With the increase in legalization of cannabis, NHTSA, in conjunction with the state of Colorado, released the *Colorado DUID Picture* in March 2018, which indicated statewide fatalities increased 29 percent since the legalization of cannabis.<sup>13</sup> The report included the following two recommendations:

- The report recommended the Colorado General Assembly enact House Bill 13-1114, Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs, which would have allowed any DUI prosecutor to obtain a sample of a driver's blood and prosecute if it contained five nanograms or more of THC, per milliliter in whole blood, as shown by analysis of the defendant's blood. Ultimately, this bill was not passed into law.
- Additionally, the report recommended the Colorado General Assembly require ARIDE training as a mandatory training element and encouraged local law enforcement agencies to have all peace officers trained in ARIDE, to increase and enhance the ability of law enforcement officers in detecting impaired driving.

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<sup>11</sup> <https://www.drugabuse.gov/drugs-abuse>

<sup>12</sup> <https://www.samhsa.gov/data/quick-statistics>

<sup>13</sup> <https://www.nhtsa.gov/es/document/colorado-duid-picture-presentation>

In 2018, the Washington Traffic Safety Commission released a report entitled, *Marijuana Use, Alcohol Use, and Driving in Washington State, Emerging Issues with Poly-Drug Use on Washington Roadways*, which found the number of drivers involved in fatal crashes testing positive for more than one drug (poly-drug) was more than double the number of alcohol-only drivers, and was five times higher than the number of THC-only drivers. Additionally, it was estimated approximately one out of every five drivers may be impaired by marijuana, an increase from one out of every ten drivers in 2012. In fatal crashes, 44 percent of drivers tested positive for two or more substances, with an alcohol and THC combination being the highest for combined drugs. The Revised Code of Washington, Section 46.52.065 requires a blood sample be taken from all drivers and all pedestrians who are killed in any traffic crash where a fatality occurred within four hours after the accident, for toxicology testing of alcohol and drugs. Within one year of legalization, Washington has seen an increase of drivers testing positive for THC from 14.6 percent to 21.8 percent.<sup>14</sup>

The Governors Highway Safety Association (GHSA) report, *Drug-Impaired Driving, Marijuana and Opioids Raise Critical Issue for States*, 2018, reported from 2006 to 2016 drivers testing positive for drugs increased from 27.8 percent to 43.6 percent while drivers testing positive for alcohol decreased from 41 percent to 37.9 percent. In their report, GHSA recommended implementing public education campaigns for the public, physicians, pharmacists, prosecutors, and judges. Additionally, GHSA encouraged investing in forensic laboratories to provide adequate testing for DUID cases, to test all fatally injured drivers, and to test all surviving drivers involved in fatal crashes for drugs and alcohol. The GHSA also recommended research to develop messaging related to how long drivers should wait before driving after using cannabis. The GHSA further requested NHTSA develop and publish a list of recommended, approved oral fluid devices for states to use, and national recommendations for standard laboratory testing procedures.<sup>15</sup>

The March 2019 Report from the Impaired Driving Safety Commission in Michigan found, from 2013 to 2017, drug involved crashes increased 44 percent and fatalities increased 56 percent. Meanwhile, crashes involving drivers testing positive for THC increased 120 percent. Recommendations from this report included expansion of DRE and SFST programs, while making ARIDE mandatory for all licensed officers.

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<sup>14</sup> [http://wtsc.wa.gov/wp-content/uploads/dlm\\_uploads/2018/05/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA\\_FINAL.pdf](http://wtsc.wa.gov/wp-content/uploads/dlm_uploads/2018/05/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA_FINAL.pdf)

<sup>15</sup> <https://www.ghsa.org/issues/drug-impaired-driving>



Additionally, the report recommended expanded training for prosecutors to prepare them for DUID prosecutions; expanded public education regarding the dangers of impaired driving; and the recommendation for a Drugged-Driving Commission to review new research and the developing legislation in other states related to DUID.<sup>16</sup>

The NHTSA Region Nine DUID Draft Blueprint was presented to the IDTF at the January 2020 meeting. The blueprint offers a variety of recommendations that could be undertaken by states to reduce impaired driving incidents, including:<sup>17</sup>

- Increasing public education awareness campaigns related to impaired driving.
- Increasing the number of officers trained in SFST, ARIDE, and DRE.
- Increasing the percentage of DRE evaluations entered into the National DRE Tracking System.
- Providing additional education and training for prosecutors.
- Implementing electronic search warrant systems to ensure timely collection of blood in DUID cases.
- Increasing the number of DUI checkpoints held.
- Implementing oral fluid drug screening device programs.
- Standardizing forensic toxicology testing standards.
- Improving impaired driving data collection and systems.
- Increasing communication between law enforcement, crime laboratories, and prosecutors.

### **Impaired Driving Task Force Presentations**

As previously noted, in order to ensure a common understanding of existing DUI laws and best practices, the IDTF members received a variety of presentations related to impaired driving. Each of these presentations touched on a key aspect of impaired driving and provided necessary information and background to members to help inform the development of their respective recommendations. Presentation reference documents can be found on the CHP's website.<sup>18</sup>

The CHP provided the IDTF with a detailed overview of SFST, ARIDE, and DRE standards and training, including an in-depth look at the DRE 12-step protocol. Additionally, the CHP demonstrated the use of the Dräger and Abbot (formerly Alere) oral fluid drug screening devices.

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<sup>16</sup> [https://www.michigan.gov/documents/msp/Impaired\\_Driving\\_Report\\_650288\\_7.pdf](https://www.michigan.gov/documents/msp/Impaired_Driving_Report_650288_7.pdf)

<sup>17</sup> <https://www.chp.ca.gov/ImpairedDrivingSite/Documents/IDTF-NHTSA-DUID-Blueprint.pdf>

<sup>18</sup> <https://www.chp.ca.gov/ImpairedDrivingSite/Pages/Final-Public-Notice.aspx>

Director Harmon, San Diego County Sheriffs Laboratory, provided an in-depth look into Orange County's Crime Laboratory operations, including sample screening, testing, equipment, training, trends, and studies conducted by laboratory personnel.

The FNL staff provided an overview of contemporary educational programs, including efforts to mobilize youth to provide public education and information campaigns related to impaired driving. The FNL participates in Every 15 Minutes, classroom curriculum, mock trials, and other programs.

The California District Attorneys Association provided an overview of DUI laws and provided information related to specific legal definitions. This included the legal definition of a drug provided by the CVC which includes any substance or combination of substances, other than alcohol, which could affect the nervous system, brain, or muscles of a person as to impair, to an appreciable degree, their ability to drive a vehicle in the manner that an ordinarily prudent and cautious person, in full possession of their faculties, using reasonable care, would drive a similar vehicle under like conditions.

Dr. Rodda, Office of the Chief Medical Examiner, San Francisco, provided an overview of oral fluid testing in Victoria, Australia, where all drivers involved in a motor vehicle crash are required to be tested for DUI/DUID. Dr. Rodda explained in 1996 the Parliamentary Road Safety Committee examined the issue of DUID and made 41 recommendations to the Australian Parliament. This included using roadside and standard laboratory techniques; selecting a device to detect impairment; and using laboratory testing to confirm roadside testing. This led to the creation of a specialty vehicle known as a "Drug Bus" and standardized protocols for roadside drug screening and sample collection for chemical testing. Currently, Australia uses the WIPE II oral fluid device to screen for drugs at the roadside.

Dr. Marcotte, California Center for Medicinal Cannabis Research, provided an overview of ongoing and planned cannabis impaired driving research. Current studies involve participants who are administered THC, then asked to perform specific tasks on a driving simulator. Additionally, the study participants perform selected field sobriety tests for DRE trained officers; perform cognitive/motor performance-based testing administered on a tablet; and submit to a variety of blood, saliva, and breath testing.

Dr. Bayliss Camp and Dr. Mark Fox, California Department of Motor Vehicles (DMV), Research and Development Branch, presented an overview of a planned impaired driving study that will involve real-world driving at the CHP Academy (permissible by the passage of Assembly Bill 127, Lackey, Chapter 68, Statutes of 2019: Driving Under the Influence, Research).

The study would involve administering THC to participants, having officers and driving instructors observe driving behaviors and administer DRE evaluations, and conducting oral fluid and blood testing.<sup>19</sup>

Director Burke, California Department of Justice, provided an in-depth look at how THC is processed in the body. The presentation included a detailed overview of THC absorption, distribution, metabolization, and elimination.

Ms. Katie Kincaid, Director of Public Affairs, and Mr. Peter Gigante, Director of Policy and Research, from Eaze, presented their findings on a recent public opinion survey related to cannabis use and impaired driving. Eaze is a public platform that consumers can use to access home delivery of cannabis products. The survey included a random sampling of consumers who were over the age of 18, held a valid California driver license, drove regularly, and had used cannabis within the last 30 days.

Mr. Gieringer, California National Organization for the Reform of Marijuana Laws, presented information related to the My Canary application (app) for cellular telephones. Mr. Gieringer provided an overview of how the app measures a subject's performance on a variety of tests, including: memory, tracking, reaction time, time estimation, and balance. Although the app is no longer available, Mr. Gieringer encouraged the development and evaluation of similar apps in order for individuals to gauge their impairment before driving.

Dr. Nicholas Lovrich, retired professor, presented an overview of the DRUID app. The DRUID app is a noninvasive test that can be performed in approximately two minutes on a cellular telephone. It requires the individual to complete tasks that test their reaction time, decision making, tracking, hand/eye coordination, time estimation, and balance. The DRUID app is currently being evaluated by several major universities throughout the United States.

As noted previously, Regional Administrator Chris Murphy, NHTSA, presented a draft version of an upcoming blueprint for states addressing best practices, benchmarking, and target setting. Mr. Murphy detailed numerous findings and recommendations, including legislation; enforcement; toxicology; prosecution; public awareness and education; and the need to improve impaired driving data collection.

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<sup>19</sup> This study was anticipated to start in 2020; however, the start date was delayed due to the COVID-19 pandemic.

## **Subcommittees**

After several meetings involving presentations to the entire IDTF membership, subcommittees were established to focus efforts and facilitate more in-depth discussions related to the task force mandates. The following three subcommittees were formed to leverage the expertise of the task force membership and develop focused recommendations for consideration.

### Best Practices

The Best Practices Subcommittee held seven meetings and was chaired by Dr. Albanese and cochair Mr. Yraceburn. The subcommittee discussed issues including blood evidence collection procedures; law enforcement training; impaired driving investigations; body worn camera (BWC) protocols for law enforcement; and data collection for DUI and DUID.

### Education and Prevention

The Education and Prevention subcommittee held six meetings and was chaired by Ms. Travis and cochair Ms. Lorz. The subcommittee discussed issues including consumer warning information and training for responsible sales; training for judicial and medical personnel; and advertising guidelines.

### Technology, Research and Data

The Technology, Research and Data subcommittee held eight meetings and was chaired by Ms. Burke and cochair Mr. Marcotte. The subcommittee discussed gaps in data collection; the need for more impaired driving research; laboratory standardization; and oral fluid screening devices. Beyond those noted previously, this subcommittee also hosted presentations on the DMV and the DUI Management Information System (MIS) report; the CHP Statewide Integrated Traffic Records System and the Fatality Analysis Reporting System; the Department of Justice (DOJ) and Arrest Data; DOJ and Crime Laboratory Standardization Efforts; the California District Attorneys Association and the Courts and New Technology; and Alabama Department of Forensic Sciences and Oral Fluid Testing. The subcommittee discussed issues including standardized reporting of drugs throughout the state; new and emerging devices to detect impairment; new drug trends; and the need for more research to establish a baseline for DUI and DUID.

## Impaired Driving Task Force Recommendations and Discussion

After the subcommittees developed their respective recommendations, a great deal of overlap was noted between like recommendations. As such, similar recommendations were merged, categorized, and presented to the entire IDTF membership for review. During these discussions, and after receiving consensus, the final recommendations were refined and categorized for presentation in this report. In developing these recommendations, the task force focused on high-level policy issues. As such, this report does not address any associated implementation considerations, including required statutory changes or funding. These recommendations are being offered for further policy discussion and review by interested stakeholders and do not reflect an official position or endorsement of the Administration.

### Data Recommendations

1. *The state should track all DUI and DUID arrest outcomes, including case filing charges, diversion outcomes, plea agreements, trial outcomes, and the final case dispositions.*

This information could be used to track DUI and DUID trends over time and gauge the effectiveness of efforts introduced to reduce impaired driving arrests. Although some of this information is already reported to DMV pursuant to CVC Sections 1821 and 1822, this recommendation goes beyond current requirements and would provide better data for analysis and lead to a more complete understanding of the scope of California's impaired driving problem.

2. *The state should track all DUI and DUID toxicology outcomes from all laboratories, including the number of samples submitted, the number of samples tested, and all sample results.*

There is no current requirement for laboratories to track all toxicology outcomes. Tracking this information, as specified above, will provide a substantial data set for analysis, which can be used to better understand the prevalence of alcohol and/or specified drug trends involved in impaired driving arrests and crashes.

3. *The state should ensure all DUI and DUID involved crashes<sup>20</sup> are reported in a uniform manner to the CHP.*

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<sup>20</sup> The terms crash and collision are used interchangeably in this report.

The CHP develops crash reporting forms and collects crash information involving injuries and/or deaths, as specified in CVC Section 20008. However, there is no requirement for California law enforcement agencies to report noninjury (property damage only) DUI and DUID crashes to the CHP. Requiring all California law enforcement agencies to report all DUI and DUID crash data to the CHP, using CHP crash reporting forms which comply with specified reporting recommendations, will ensure relevant and meaningful crash data is available for future analysis.

- 4. The state should analyze all collected DUI and DUID data. The data used in the analysis should be published in an annual statewide report and guide the future direction of DUI policy decisions. This report may be used for a variety of purposes including, but not limited to, education; training; and developing better methods to screen for and prevent DUI and DUID.*

The DMV produces an annual report, pursuant to CVC Sections 1821 and 1822, which provides some analysis of specified DUI and DUID information. However, expanding the requirements of CVC Sections 1821 and 1822 would allow for a more comprehensive analysis and understanding of the scope of California's DUI and DUID problem. This information could be used by traffic safety stakeholders to make informed decisions when addressing issues related to DUI and DUID.

#### Data Recommendations Discussion

Current DUI and DUID data sets are insufficient for clearly informing public policy regarding the prevalence and trends in impaired driving related arrests, crashes, toxicology and court dispositions. As such, the state should require timely and standardized reporting and collection of all DUI and DUID arrest, crash, toxicology, and court disposition data, which may also be used to ensure enforcement is being conducted in the most equitable manner possible. To help inform policy decisions, this data should be reported annually by the state. Pending available resources, involved state agencies may include the DMV, which collects and publishes an annual DUI MIS Report pursuant to CVC Sections 1821 and 1822 (the report includes some, but not all, of the key elements noted in the recommendations); the DOJ, which collects all California arrest statistics and compiles the annual Crime in California Report (which does not include 23152 and 23153, misdemeanor and felony DUI subsection data); or the CHP, which collects injury and fatal crash information.

## Research Recommendations

1. *Annual impaired driving research projects should be considered for the purposes of learning new information, including toxicology and behavioral testing, related to how best to detect and test DUI and DUID drivers.*

Despite recent research efforts, there is still much to learn about impairment, particularly drug-involved impairment. As such, the state should continue to fund efforts to better understand how drugs, including cannabis, can cause impairment and what law enforcement can do to better detect drug-impaired drivers.

2. *Annual impaired driving education and prevention research projects should be considered for the purposes of reducing impaired driving.*

Traffic safety stakeholders have made significant efforts in changing social norms surrounding alcohol-impaired driving. However, there are limited public education and awareness efforts related to the dangers of drug-impaired driving, including cannabis. As such, the state should study how to best message these dangers to the public for the purposes of creating and implementing effective public education and information campaigns aimed at changing behavior.

3. *New DUI and DUID research studies should consider key issues in the study design, including the time elapsed since the substance use; the method of administration; dosage; and most importantly, how test results relate to impaired driving, including the best methods to identify impaired drivers.*
4. *Behavioral, physiological, and chemical testing research should address issues of validity and reliability; performance under various environmental conditions; and follow best practices for test development as established by relevant academic and/or professional entities.*

In addition to conducting research, it is critical that research entities adhere to established best practices to ensure findings will be relevant and applicable to addressing impaired driving.

5. *The state should consider undertaking an ongoing DUI and DUID research project analyzing drug prevalence and trends with respect to impaired driving. This project would request selected laboratories, with specified equipment, to examine all, or a randomized selection of, blood samples taken from DUI and DUID incidents for Tier I<sup>21</sup> drugs, using a standardized procedure, for a specified time period. These results will identify trends and provide information to policy makers. The data used in the analysis should be published in an annual statewide report to help guide future DUI policy decisions.*

Understanding many research efforts can become extremely time consuming, the state could immediately undertake a research study, as described above, which would provide timely data and contemporary insights into the scope of California's impaired driving problem.

#### Research Recommendations Discussion

There is an extensive history of utilizing SFST and DRE evaluations, in combination with breath and/or blood tests, to evaluate suspected impaired drivers, particularly with respect to alcohol-related impairment. However, there are other substances that can impair driving which are much less researched. The state should support significant research efforts to expand the validation of existing testing processes, and development of new approaches for identifying impaired driving by various substances, including illegal and legal substances which includes cannabis, cannabis products, prescription, and OTC medications. As such, to complement other research currently being conducted, the state should undertake additional research projects to better understand the scope of California's impaired driving issues for the purposes of informing future public policy decisions.

#### Toxicology Recommendations:

1. *Additional funding should be considered for state and local government laboratories conducting forensic toxicology testing to purchase efficient and sensitive testing equipment capable of testing for Tier I drugs and provide funding for personnel to conduct forensic toxicology testing.*

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<sup>21</sup> As defined by the current National Safety Council.



As a part of the fines/fees collected pursuant to Penal Code Section 1463.14 for specified DUI and DUID violations, including CVC Sections 23152 and 23153, laboratories conducting testing receive between \$50 and \$100 to cover forensic toxicology testing costs, assuming defendants have the ability to pay all associated fines and penalties. With some laboratories reporting alcohol testing closer to \$150 per test, and drug testing costs between \$350 and \$500 per test, these fines/fees no longer cover current forensic testing costs, even when they are collected. Additionally, as drug trends continue to evolve, new drugs of abuse are introduced, scientific testing methods advance and best practices change, laboratories must receive the funding needed to continue upgrading their equipment and provide required training for their staff.

2. *The state should consider the creation of evidence collection criteria and procedures for DUID.*
3. *Laboratories conducting forensic toxicology testing should test blood samples for alcohol and all Tier I compounds, in at least one recommended matrix, at the prescribed threshold concentrations, for both screening and confirmation testing.*
4. *Laboratories conducting forensic toxicology testing, including screening and confirmatory testing, should continue to evaluate National Safety Council recommendations related to forensic toxicology testing and when new standards are recommended, laboratories should strive to implement those recommendations.*

California Health and Safety Code Sections 100700, 100701, 100702, and 100703, and California Code of Regulations, Title 17, provide specific requirements for the collection and analysis of forensic evidence in DUI alcohol cases. However, there are no similar specific requirements for the collection and analysis of forensic evidence in DUID cases. Notwithstanding, laboratories conducting forensic alcohol analysis generally conduct forensic drug analysis, and would meet the same requirements, including adherence to International Organization for Standardization, Standard 17025; certification by the American Society of Crime Laboratory Directors; among other requirements. It should be noted, many California forensic laboratories are voluntarily working toward meeting specified National Safety Council recommended forensic testing standards, but it remains imperative that all laboratories strive to meet established standards.

5. *Drugs affect people differently depending on many variables. A per se limit for drugs, other than ethanol, should not be enacted at this time as current scientific research does not support it. However, the state should continue to advance research in this area, to include methods of evaluating impairment.*

Although some states have proposed or introduced per se levels for drug impairment, such levels are not yet supported by existing scientific research. Notwithstanding, continued evaluation of such levels are recommended to better understand how drugs impair a person's ability to safely operate a motor vehicle.

### Toxicology Recommendations Discussion

Current forensic toxicology practices lack uniform standards making it difficult to quantify and adequately understand the scope of DUID in California. As such, evidence collection processes should be standardized, and forensic toxicology laboratories should be accredited by a nationally recognized accrediting body and follow standards currently recommended by the National Safety Council's Alcohol, Drugs, and Impairment Division. This includes working toward ensuring laboratories use equipment that meets specific minimum testing capabilities, which will enhance data collection and forensic testing statewide.

### Education Recommendations

1. *A requirement for responsible sales and consumption practices training, similar to responsible alcohol beverage service/sales training, should be considered for all cannabis retailers, cannabis consumption lounges, event organizers, license holders, and home delivery services.*
2. *A requirement should be considered for advertisers displaying cannabis-related products to include the legal consumption age for cannabis and information related to the risks of impaired driving.*
3. *A requirement should be considered for cannabis retailers, consumption lounges, event organizers, and delivery services to provide educational information to consumers, which could include pamphlets, posters, digital messaging, and/or other appropriate mediums related to the responsible use of cannabis and other drugs. Messaging should include:*
  - a. *Warnings regarding the dangers of impaired driving, the risks of underage cannabis use, and risks associated with polysubstance use.*
  - b. *Cannabis consumption sites should provide information regarding locally available alternate transportation to all consumers.*
4. *Age appropriate education should be provided for youth and adults on the effects of cannabis use and impacts of impaired driving.*

5. *Expanded training opportunities should be considered related to impaired driving for the legal and judiciary system, including:*
  - a. *Within two years of being appointed and annually thereafter, all Criminal Justice Officers (judges, defense attorneys, and prosecutors) should receive training which covers addiction, drug abuse, behavior modification, factors contributing to impairment, and bias in arrest/prosecution.*
6. *A requirement for training for persons working in the medical and pharmacy fields should be considered regarding the dangers of impaired driving by alcohol, cannabis, prescription drugs, and impairing over-the-counter (OTC) drugs.*
7. *The DMV should require traffic schools to add information related to the dangers of alcohol, cannabis, prescription and illicit drugs, and impairing OTC drugs to their curriculum as soon as possible; and include a victim impact panel component as a part of their courses.*

#### Education Recommendations Discussion

California is made up of a large, diverse population of cultures, ethnicities, age groups, and social norms with a wide range of educational backgrounds. The IDTF recognizes there is an important need for the state to educate all demographics regarding the potential risks of DUI and DUID, including the risks associated with cannabis-impaired driving. Educational efforts related to impaired driving should be done in cooperation with community stakeholders and include consideration of victims' rights, transportation alternatives, prevention, and other harm-reduction strategies.

Similar to nationally and internationally recognized underage alcohol use education programs and impaired driving awareness campaigns, dedicated messaging for illegal underage cannabis consumption and the consequences of impaired driving is a critical strategy for responsible and safe cannabis use.

In addition to promoting appropriate messaging, the state should require sales and advertising warning information, including information related to the dangers of impaired driving. It is important to note the advertising and marketing of cannabis products, including home delivery services, is growing rapidly with little or no consumer education related to the products being sold. To ensure consumers understand the risks associated with cannabis-impaired driving, there is an important need for cannabis businesses to provide educational information warning consumers about the potential impairing effects cannabis can have, and the risks of cannabis-impaired driving.

## Law Enforcement Recommendations

1. *The Commission on Peace Officer Standards and Training should consider a requirement that Standardized Field Sobriety Test training (24 hours) be taught in all law enforcement academies in California.*
2. *All law enforcement personnel assigned to traffic enforcement responsibilities shall receive ARIDE training within one year of being assigned and bi-annual continuing education related to impaired driving.*

Currently, California only requires law enforcement academies to provide eight hours of DUI training. The NHTSA/IACP standard SFST course is 24 hours, which should be considered the minimum training standard for traffic enforcement personnel to ensure officers are sufficiently trained to recognize impaired drivers and conduct thorough investigations. Understanding the financial burden increased training standards may cause, it should be noted the CHP provides SFST, ARIDE, and DRE courses to law enforcement agencies at no cost.

3. *The CHP should make all efforts to increase the number of DRE trained officers statewide by four percent over the next five years. As the statewide Drug Evaluation Classification Program coordinator, the CHP is responsible for reporting the total numbers of personnel trained each year.*

California currently has approximately 78,000 sworn law enforcement personnel, of which approximately only 1,700 are certified as DREs (less than three percent). Increasing the number of certified DREs will help to ensure California's law enforcement personnel are sufficiently trained to identify drug-impaired drivers before they cause an injury or fatal crash, while also allowing for the effective prosecution of drug-impaired drivers.

4. *Law enforcement shall use Mobile Video/Audio Recording Systems (in-car cameras) and/or BWCs to record/capture impaired driving incidents and investigations, whenever available.*

The IDTF and the CHP recognize the importance of recording specified law enforcement interactions with the public, including DUI and DUID investigations, for the purposes of promoting transparency and maintaining public trust.

5. *If utilized, law enforcement should use the best available, scientifically validated, roadside presumptive drug testing technology for possible drug-impaired driving investigations.*
6. *Further studies should be conducted to determine if oral fluid is a suitable medium for collection of a chemical test sample pursuant to CVC Section 23612.*

New technologies are being introduced and existing technologies are being repurposed to be used as screening devices for roadside drug testing. The IDTF recognized the need for officers to use the most advanced testing devices available. Although oral fluid has been shown to have value as a screening device, the IDTF believes additional research should be conducted before this technology is accepted as a chemical testing option pursuant to CVC Section 23612.

#### Law Enforcement Recommendations Discussion

The detection and removal of impaired drivers from the roadway is paramount to reducing fatal and injury impaired driving crashes. The IDTF members recognized the importance of ensuring officers receive proper training and maintain expertise with respect to detecting DUI and DUID drivers. Promoting SFST, ARIDE, and DRE courses, which build upon the previous certifications and advance an officer's skills related to identifying impaired drivers, would help align California's DUI and DUID training standards with nationally recommended standards and advance law enforcement's ability to detect DUID drivers using the best available, scientifically validated protocols to identify impairment. Additionally, the IDTF discussed the importance of encouraging officers to use the best available equipment, including roadside screening equipment for the purposes of detecting DUI and DUID drivers.

## **Additional Recommendations**

Along with the preceding recommendations which were developed by the various subcommittees, the entire IDTF membership discussed a variety of other ideas, which led to the development of two additional recommendations.

- 1. The state should consider a requirement for coroners and medical examiners to perform drug and alcohol testing using the American Academy of Forensic Sciences (AAFS) Standards Board criteria for death investigation toxicology testing for all fatally injured drivers, passengers, and pedestrians involved in traffic crashes. The aggregate results should be reported to the CHP and made available to the public.*

The IDTF members discussed the importance of testing persons killed in crashes involving DUI and DUID. As such, some members discussed the need to require alcohol and drug testing for fatally injured persons involved in crashes, beyond what is required in California Government Code Section 27491.25. The members emphasized this should consist of alcohol testing and drug testing.

- 2. The state should consider establishing an ongoing Impaired Driving Working Group, headed by the Office of Traffic Safety (OTS), and include the CHP, Department of Justice, DMV, Department of Health Care Services, Alcoholic Beverage Control, the Bureau of Cannabis Control, and other stakeholders identified by OTS for the purposes of improving processes, and identifying areas of need to inform funding priorities.*

As part of the lessons learned, the IDTF members discussed the desire to continue this effort for the purposes of continuing to examine DUI and DUID issues and making recommendations for the purposes of reducing impaired driving and making California's roadways a safer place to travel. This ongoing effort will continue to provide better data collection, advance research efforts, improve toxicology testing, promote educational campaigns, and improve law enforcement practices with respect to impaired driving.

## **Conclusion**

California has one of the largest and most diverse populations in the United States, and California's roadways are used every day for travel, business, commerce, and leisure. In order to safeguard the public while they travel, the law enforcement community continues to use a combination of education, enforcement, and public partnerships, such as the IDTF, to explore new and innovative solutions to mitigate the impact of impaired driving. Through cooperation between state agencies, traffic safety stakeholders, industries, advocates, and others, it is the hope of the IDTF membership the recommendations contained in this report can be used for further policy discussion and review by interested stakeholders in order to more effectively address the negative impacts of impaired driving in California.

## ANNEX A – Senate Bill 94, California Vehicle Code 2429.7

Senate Bill 94, Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017: Medicinal and Adult Use, added Section 2429.7 to the Vehicle Code, which states:

(a) The commissioner shall appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. The task force shall include, but is not limited to, the commissioner, who shall serve as chairperson, and at least one member from each of the following:

- (1) The Office of Traffic Safety.
- (2) The National Highway Traffic Safety Administration.
- (3) Local law enforcement.
- (4) District attorneys.
- (5) Public defenders.
- (6) California Association of Crime Laboratory Directors.
- (7) California Attorneys for Criminal Justice.
- (8) The California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.
- (9) An organization that represents medicinal cannabis patients.
- (10) Licensed physicians with expertise in substance abuse disorder treatment.
- (11) Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.
- (12) Nongovernmental organizations committed to social justice issues.
- (13) A nongovernmental organization that focuses on improving roadway safety.

(b) The members of the task force shall serve at the pleasure of the commissioner and without compensation.



(c) The task force members shall be free of economic relationships with any company that profits from the sale of technologies or equipment that is intended to identify impairment. Members and their organizations shall not receive pay from, grants from, or any form of financial support from companies or entities that sell such technologies or equipment.

(d) The task force shall make recommendations regarding prevention of impaired driving, means of identifying impaired driving, and responses to impaired driving that reduce reoccurrence, including, but not limited to, evidence-based approaches that do not rely on incarceration.

(e) The task force shall make recommendations regarding how to best capture data to evaluate the impact that cannabis legalization is having on roadway safety.

(f) By January 1, 2021, the task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding impaired driving. The report shall be submitted in compliance with Section 9795 of the Government Code.