Driving Under the Influence Advisory Group  
Meeting Minutes  
September 24, 2012  
10:00am – 3:00pm

I. Welcome and ADP Update

Millicent Tidwell, Deputy Director for the Department of Alcohol and Drug Programs (ADP), Office of Criminal Justice Collaboration opened the meeting.

There have been a few changes to the membership since the last meeting. Chief Don Meyer has regretfully withdrawn from the Advisory Group due to his schedule and Linda Dyer will no longer serve due to changes in assignment in Los Angeles County. But we would like to welcome Leslie Witten-Rood who comes to us from the Office of Traffic Safety. We look forward to the participation in the group discussions.

Millicent gave announcements with regards to training and policy that has taken place at ADP since the last meeting in June. In August, ADP held the 2012 Training Conference. Fifty-six workshops focused on prevention, treatment and recovery from alcohol and other drug (AOD) abuse and problem gambling. With health care reform in mind, the conference focused on ideas for integrating AOD services with primary care and mental health services, as well as California’s social service, education, and criminal justice systems. For the next conference, a goal is to have a track dedicated to DUI.

Since the last DUI Advisory Group meeting, Marchetta Dycus and Vivian Iriarte from the Department of Motor Vehicles came to ADP to meet about DUI and the partnership between the two departments. They have been extremely helpful and informative and we would like to thank them for coming and we look forward to working with them on DUI issues. A handout of Frequently Asked Questions that resulted from that meeting is included in the folder.

Members raised a concern about one of the questions relating to clients in treatment receiving a subsequent DUI. Terri Kerns and Linda Bridgeman-Smith volunteered their services to create a ‘Best Practices and Suggestion’ document.
In the areas of legislation, Millicent reviewed AB 452 and AB 2552. AB 452 would prohibit any DUI program activities from being completed through an online, distant learning, or remote learning method. The bill was set to be heard in the Senate Committee on Public Safety on July 2, 2012, but was canceled at the request of the author. Because it failed to meet the deadline of July 6, 2012, to pass a policy committee, the bill is now considered dead. It was brought to ADP’s attention that on-line classes are advertised on a website as being accepted in California.

With AB 2552, existing law prohibits a person under the influence of any alcohol beverage or drug, or under the combined influence of any alcohol beverage and drug, or who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person. AB 2552 revises and recasts throughout by separating alcohol and drug from the wording “substance”.

Instead of “Vehicles: driving under the influence: controlled substances” it is recast as “Vehicles: driving under the influence: alcoholic beverage or drug.” The revision also separates impairment under alcohol, drugs, or combination of both alcohol with other drugs. This bill allows for a chemical test to be given within three hours after the driving. As of September 13, 2012 the bill was enrolled and presented to the Governor for signature. This bill is a result of the Strategic Highway Safety Plan efforts with the California Highway Patrol.

Steve Bloch also brought attention to AB2020 which was signed by the Governor in August. This bill would require that if a person is arrested for a DUI, the person only has the choice of either a blood or breath test. The bill would delete the option of a urine test. Patrice Rogers stated that urine tests result in only 8% conviction rate versus the blood test.

DUI Policy Letter number 12-05 was released July 12 and provides clarification regarding additional fees and an attachment that has the definition of allowable additional program fees with ADP approval. ADP was asked that consideration be given for transfer of non-enrolled participants and allowing programs to charge for work involved. ADP is researching options and this may be limited as regulations are specific in the description.

DUI Policy Letter number 12-06 was released July 19 and advises program providers on the enactment of the changes to regulations relating to the assessment of participants’ alcohol or drug problem. DUI programs must complete an assessment of each participant’s alcohol or drug use within the first 60 days of participation. The assessment shall address patterns and history of alcohol and other drug use, addiction treatment history, gender, age, work status, family substance abuse history, legal history, and current health status. All participants including those charged with wet and reckless must have an assessment completed within the first 60 days of enrollment. Program providers may continue the use of currently utilized assessment tools, however if the assessment tool used does not include all required elements, an addendum to the tool may be used to be compliant with
regulations. There is also a sample of an assessment that contains all the required elements delineated in the regulations.

The Advisory Group raised several concerns regarding wet/reckless clients. The first concern that some members had was that historically assessments for wet/reckless clients have not been conducted. This raised the issue of assessing fees for giving the assessments. From that discussion, the advisory group recommended that ADP create a standard form for providers to request fee increases from ADP. The other concern raised was that although many in the wet/reckless program had high BAC levels that should require longer program times their case was bargained down through the court system. DMV is able to review records and require longer programs; however the DMV receives only 52% of the reports from the courts. Also, in review of the most recent training for court clerks, the clerks are not allowed to record a BAC level unless the judge states the number aloud. Millicent acknowledged that there was a large interest in this subject and noted that the subject should have time on an agenda at a future meeting.

Several training opportunities for the DUI field were announced. The first training announced was the CADTP Fall Forum which took place in Sacramento, October 11-12. On Tuesday, December 11 from 905pm at the Administrative Office of the courts in San Francisco, Dr. Douglas Marlowe will review the basic principles of behavior modifications for improving outcomes among drug-involved offenders in the morning. Particular emphasis will be placed on identifying a specific range of sanctions and incentives that may be utilized to modify offender behavior, and describing the benefits and burdens of administering various types of reinforcers and punishers. In the afternoon, he will address the critical questions of how to match offenders to the best programs that can meet their needs, protect public safety, and do so at the least cost to taxpayers.

The National Highway Traffic Safety Administration (NHTSA) and the national Center for DWI Courts have released the application for next year’s training programs. These programs were developed and implemented to assist courts to become a DWI Court. There is a 3 ½ day course and a 1 day course available depending on the current status of the court. The 3 ½ day training is designed for teams that are not currently operating a Drug or DWI Court. The one-day training program is designed for operational drug court teams that would like to expand their target population to include impaired drivers.

NHTSA released a study in August about Traffic Safety Facts. Some of the notable findings include the following:

- The most frequently recorded BAC among all drinking drivers in fatal crashes in 2010 was .18
- One alcohol-impaired-driving fatality occurred, on average, every 51 minutes during 2010
- Sixteen percent of drivers involved in fatal crashes during the week were alcohol-impaired, compared to 31 percent on the weekends
II. Leslie Witten-Rood – Office of Traffic Safety

Leslie Witten-Rood, the Assistant Director for the Office of Traffic Safety (OTS) introduced herself to the Advisory Group. OTS administers traffic safety grant funds to reduce traffic deaths, injuries and economic losses. OTS distributes funds statewide in the form of traffic safety grants that are awarded to political subdivisions of the state based upon certain criteria. OTS receives funding through the National Highway Safety Act which provides for federal traffic safety funds to individual states. Several priority areas for grant funding includes alcohol and other drugs, police traffic services, occupant protection, traffic records, emergency medical services, roadway safety, pedestrian and bicycle safety and motorcycle safety. Leslie shared that OTS would have 252 new grants by October 1, including the Moving Ahead for Progress in the 21st Century (MAP-21) grant.

Leslie also identified related webinars by Judge Peggy Hora with subjects such as “What Judges should know about ignition interlock,” and “The Pharmacology of Alcoholism”. Information for these webinars can be found at http://www.americanbar.org/groups/judicial/conferences/specialized-court-judges/NHTSA.html

ADP looks forward to the participation of OTS on the DUI Advisory Group and future discussions.

III. California DUI Programs – Descriptive Study

This is a descriptive analysis of DUI programs 2012. There will be a more in depth focus on the next report. Sheldon Zhang was in the final stages of finalizing the report and presented at the CADTP conference in October. The objectives of the study are to provide an overview of the programs in California, identify main organizational structures of current DUI programs, describe major program activities and underlying rationales, describe Dui program service utilization patterns and examine DUI program data system housed at ADP.

The long term goals of the study include exploring strategies to achieve greater consistency and accountability in DUI program services; recommending a set of performance benchmarks that can be tracked and measured over time; explore mechanisms to track and report program activities and outcomes; and explore procedures to improve collaboration among DUI service providers and with ADP oversight functions.

Also included in the report are charts that illustrate the number of new participants, completions, and completion rate from 1999 through 2010, and also a break down of the number of participants by type of program entered.

Some of the main program enrollment patterns show that first offender programs enrolled the largest number of clients, about 85,000 annually. The 18-month programs were second with more than 30,000 annually. On average, more than one third of first offenders became repeat offenders during the 11-year period. 30-month programs were the least used with
1,507 offenders enrolled in 11 years. The completion rate among 30-month program participants show poor completion rates.

The research showed that 6-month programs are widely used and popular; whereas the 9-month programs were only used regularly since FY 2006-2007. Included in the report were statistics on those 18-20 in programs in addition to wet/reckless.

Sheldon Zhang also researched the deficiencies against programs. Since the early 2000s there has been a steady decline in the number of deficiency citations. More than half of all documented deficiencies fell into four categories: notice of completion, face-to-face interviews, group counseling sessions, and dismissal of participants. Fees and revenue of programs were also researched. A chart broken down by program type shows the revenue taken by programs in FY 2009-2010.

The research also shows that most DUI programs in California do not have an internet presence. Websites varied tremendously in terms of the type and quality of information posted. Most websites were rudimentary with limited information about their programs. Half of the DUI websites did not describe their services.

Less than half of the websites divulged fees or payment schedules for prospective clients. Few listed program schedules, and even fewer gave specific days and times for each type of program services. Few websites discussed their DUI intervention philosophy.

Recommendations for providers include the following:

- **Short-term measures**
  - Establish performance benchmarks.
  - Increase transparency in program and administrative fees.
  - Increase web presence of DUI programs.

- **Long-term measures**
  - Establish mechanism for outcome assessment.

Recommendations for ADP

- **Short-term measures**
  - Achieve greater consistency in curriculum development.
  - Compile and publish vital statistics for statewide DUI programs.
  - Compile and publish DUI program fees.
  - Assemble and publish an online spreadsheet containing standard programmatic information for all DUI programs.

- **Long-term measures**
  - Create a rating system using audit results to encourage self-improvement through an open and transparent grading system.
  - Increase ADP oversight through an updated data tracking system.
  - Delete programs that are rarely used and ineffective.
  - Invest in research and evaluation of DUI program services.
Recommendations for County Coordinators

- Greater involvement to mediate and assist in monitoring tasks

It is important to note that the data was retrieved from ADP’s quarterly report and the numbers were totaled per year instead of following a client through the system. After the release of the final report, Millicent stated that it was important to review the report to deal with the policy implications that would result.

Patrice Rogers from the DMV would also like to compare the data with the data in the DMV IMS report to see any correlation, if any. Marlies Perez also stated that Sheldon Zhang’s research of the data at ADP shoes huge gaps in the system. There is a need to capture better data. Sheldon Zhang provided this presentation for Kelly Cowger to present so that the Advisory Group could have a first look before it was released.

IV. Strategic Highway Safety Plan

Marchetta Dycus of DMV’s Justice and Liaison Group presented to the group about the Strategic Highway Safety Project – Pilot Program. The purpose of the program is to enhance the tracking and referral to the DUI program. There are five counties currently in the pilot.

Sacramento County is their star program and having success with the implementation. Stanislaus County has providers in the courthouse but was not using the form as of the September. Stanislaus County informed Marchetta that they will be implementing the form October 1.

Alameda County has the least participation. The referrals have risen but not as much as expected. It is difficult because there is no buy-in from the court to make the referrals and use the form. It is also noted that in one month, Alameda can have as many 683 offenders with only 324 referrals to treatment. Alameda County wanted to change the form to not include the BAC levels and they also do not want to require the judge to issue a bench warrant for no-shows at treatment.

Butte County is referring clients however there is also a big disparity of those arrested versus the number entering program. Santa Clara is referring and using the form, however there is a stop gap between the courts and county to the providers. Marchetta also noted that the judge is excited about the program.

A question about the participation and selection of the counties was raised. The counties were selected due to their proximity to Sacramento and also a demonstrated need of process in relation to DUI. Millicent would like to have more in depth meetings about these issues outside of the advisory group to rectify the issue.
V. Moving Ahead for Progress in the 21st Century Act

In the last week of June, Congress passed the transportation reauthorization bill entitled Moving Ahead for Progress in the 21st Century Act (or MAP-21). David Wallace the Director of the National Center for DWI Courts sent us information regarding the possible impact this bill can have on DWI/DUI courts. In the fight against impaired driving, the law set out some of the authorized programs that can receive U.S. Transportation Grant Funds. The approved list includes DWI/DUI Courts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist in handling impaired driving cases, and 24-7 sobriety programs.

There is one section in the Bill, Section 405 deals with highway safety and how to reduce highway deaths by setting “National Priority Safety Programs”. That section sets out impaired driving as the main priority for funding stating: (C) Impaired Driving Countermeasures – 52.5% of the funds provided under this section in each fiscal year shall be allocated among States that met the requirements of the impaired driving countermeasures.

Of the $265 million for fiscal year 2013 set for National Priority Safety Programs, slightly over half has to be allocated for impaired driving countermeasures. The funding is distributed by NHTSA which is a division of the Department of Transportation to State Highway Safety Offices. NHTSA does not provide grants directly to any courts. NHTSA provides the money to each State Highway Safety Office and then the individual office determines how the money is distributed. The amount of money each state receives will vary based on a formula that NHTSA will use. The State Highway Safety Office is not required to give the money to DUI Courts, but they are just one of the authorized programs listed in the bill.

Other authorized activities listed in the bill include high visibility enforcement efforts, hiring Traffic Safety Resource Prosecutors, hiring Judicial Outreach Liaisons, hiring a state impaired-driving coordinator, training criminal justice professionals, alcohol ignition interlock programs, improving blood-alcohol concentration testing and reporting, and 24-7 programs.

Each state will most likely allocate the funds to a number of the activities. Also important to note that any funding coming from the state highway safety office will have to enhance or expand ongoing efforts. It cannot be used to replace or supplant current local funding. This is a great opportunity to improve DUI/DWI field since it is DUI programs in California are self-funded.

Leslie Witten-Rood from the Office of Traffic Safety (OTS) stated that application for funds depend on what California is qualified for. The funds from the OTS may not be used to fund treatment.
VI. On-line DUI Programs Discussion

Currently, California does not recognize or license on-line DUI programs. There was discussion regarding the presence of on-line DUI programs and the language on the websites that they were accepted by courts and the state. The advisory group requested that a letter be sent to the field stating that DUI programs are required to be licensed by the Department of Alcohol and Drug Programs and that these programs do not fulfill DMV’s requirements.

A specific website, gotoduischool.com, was brought to ADP’s attention. Since then ADP has sent a Cease and Desist letter to the organization to stop them from saying that their programs are accepted in California. The website has since put a disclaimer on the website that states, “If you are a California Resident with a CA Drivers License you must take in-person DUI classes to satisfy the DMV. If you live out of state, and were convicted in CA, you are allowed to take our class and we guarantee its acceptance.”

Governor’s budget- ADP status

Millicent has been assigned lead to coordinate the efforts to meet the provisions of SB 1014 for the transition plan required through trailer bill. There was a draft transition plan for the department sent to stakeholders for input and comment. The starting point is the governor’s proposal from previous year. ADP is continuing to solicit input from stakeholders. Mostly directed at licensing and cert split. There are discussions about the split of licensing and certification and also discussion of keeping them together. As the process moves through, should have more decisions around the end of it. Currently the department is in the thick of information gathering and analysis. There will be more information once the Governor’s budget is released in January.

Other concerns that members raised during the meeting included Ignition Interlock Devices (IID), and DUI courts. The federal government places a high value on IIDs and the advisory group would like to also discuss how they interrelate with the current system in California. Also, there is concern with DUI courts and unintended consequences that result from them such as referring offenders into program.

The next meeting will take place January 18, 2012 from 10:00am – 3:00pm at the Department of Alcohol and Drug Programs.

VII. Adjournment