

**Driving Under the Influence Advisory Group
Meeting Minutes
April 22, 2013
10:00am – 2:00pm**

Members present at the meeting:		
Millicent Tidwell	Marchetta Dycus	Teri Kerns
Maleah Novak	Francine Byrne	Mark Dandeneau
Jayne Wise	Luky Maldonado	Patrice Rogers
Anna Flores	Bret O'Brien	Rick Sullivan

Millicent Tidwell convened the meeting at 10:00 am. She welcomed the Committee Members and guests. After introductions, she gave the following updates:

Committee Membership

- Millicent announced that Nancy Taylor from the Administrative Office of the Courts (AOC) has joined the Advisory Group. However, Nancy was not able to attend the meeting, so Francine Byrne, Senior Research Supervisor, was representing the AOC. Millicent thanked Francine for attending in Nancy's place and welcomed representation from the AOC.
- Claude Scheiner, a DUI program provider, has resigned his position on the Advisory Group. He has been appointed as a Rabbi and has moved to Arizona. She thanked Claude for his service to the Committee and the DUI field, and extended best wishes to him in his new endeavors.
- Mark Dandeneau is the new Executive Director of Mothers Against Drunk Drivers (MADD), and has replaced Brenda Frachiseur.

Internal Department Changes

Marlies Perez has moved to the Licensing and Certification Division (LCD) and Kevin Wortell is back in the Office of Criminal Justice Collaboration to handle Branch Chief duties over DUI, PSN and Criminal Justice Units. Kelly Cowger, Rachel Biron, and Kevin Masuda have also transferred to LCD. Recruitment is underway to fill the vacant supervisor position. Also, Mary Skorka is on medical leave and in her absence, Syd Treat, is serving as the acting supervisor. These changes took effect in March.

Budget Update

Budget hearings have been completed and both the Senate and Assembly voted to approve the transfer of all Department functions, except the Office of Problem Gambling,

over to the Department of Health Care Services (DHCS). Both committees added a caveat to require continued reporting to the legislature regarding the transition, including progress, barriers, or unintended consequences of the transfer. An evaluation will also be conducted regarding the transition as a whole.

CADPAAC Update

- CADPAAC's Criminal Justice Committee reviewed the DUI Definition of Treatment at the January meeting. There was a great deal of discussion, however there was no consensus on a final recommendation, and they will continue to work on this topic.
- In March, CADPAAC tasked the Criminal Justice Committee to review existing DUI regulations and statutes and identify recommended revisions. They will provide a progress report at the May meeting.

CADDTP Forum

The CADDTP Spring Forum will be held on May 22-23, 2013 in Anaheim. Kevin Wortell will be in attendance and provide a department update and Jose Gonzalez is scheduled to provide a presentation on the Court Referral Pilot Project.

DUI Program Training

Syd Treat and Maleah Novak conducted a training session for Monterey County regarding county responsibilities as well as training for the programs regarding Title 9 requirements. They also met with the county fiscal department to develop a DUI revenue tracking and collection system. The DUI Branch, in conjunction with Ms. Novak, is developing regional training materials to provide future trainings. Maleah stated that the joint training effort of state and county representatives was very effective.

Legislation

SB 289 (Correa) - Amends the Vehicle Code to add language *"It is unlawful for a person to drive a vehicle if his or her blood contains any detectable amount of a drug ...unless the drug was consumed in accordance with a valid prescription issued to the person by a licensed health care practitioner".* This bill is on our watch list.

DMV Data Sharing Update

The Department met with DMV and is happy to report that they were very receptive to exploring options for data sharing. ADP will be meeting with them in the near future and provide updates on our progress.

ADP/AOC Draft Correspondence

The Department drafted a letter to the AOC requesting they inform judges, who in turn inform DUI offenders at sentencing, that DMV does not accept on-line DUI Programs and only accepts completion certificates from ADP licensed programs. Francine Byrne stated that they are exploring ways to get the information out in addition to the letter, such as posting it on the educational website. Maleah added that some counties have added that information directly on the court referral form.

Workforce Development

As we near implementation of the Affordable Care Act (ACA), the Department created a Workforce Development workgroup in January, 2013, consisting of staff with subject matter expertise. A report of findings and recommended strategies will be developed. Specific areas will include:

1. Environmental Assessment

- Review the goals, objectives and priorities established by the federal government and determine the emerging requirements for providing AOD/SUD services.
- Review the certification levels offered by the eight certifying organizations. Identify the educational requirements and the sources available for obtaining them.
- Identify strategies to address the administrative and infrastructure building aspects of workforce development for health reform. (i.e., EHRs, electronic billing).
- Identify the location of the current workforce, i.e., urban, rural, neighborhoods. Identify the professional capability of the current workforce to establish the baseline of existing capability compared to the needed capabilities and requirements resulting from health reform.

2. Recommendations for Current Certified Counselor Requirements

- Identify the credentials, experience and/or training required to function within each tier of the scope of practice.
- Identify the method(s) in which the AOD workforce will be prepared to provide “whole health” service at the health care provider level by having the experience, training and certifications to deliver AOD services.
- Recognize prevention, SBIRT, treatment and recovery as components of the AOD workforce.

3. Other Relevant Data and Information

- Identify organizations to provide input into workforce changes.
- Identify obstacles to implement changes.

To meet the challenges presented by health reform, the workgroup will recommend short-, mid- and long- term strategies that:

- Address the need to create a uniform credentialing structure.
- Enable the workforce to work within a continuum of care that includes the full spectrum of AOD services delivered within a variety of settings.
- Demonstrate clear benefit and value for modifying the existing workforce.
- The report should be completed by June 30th, 2013.

DMV Update

Patrice Rogers, DMV. provided the following legislative and Court Referral and Tracking Pilot Project update:

- **SB 289 (Correa)** - Unlawful to drive with any detectable amount of a drug classified in Schedule I through IV of the California Uniform Controlled Substance Act, including marijuana. It would add separate subsections for under the influence and per se limits for alcohol, or for drugs, and one subsection for combination of alcohol and drugs. It was amended to define a valid prescription as issued for a legitimate medical purpose.
- **SB 55 (Hill)** – Requires an IID for 12, 24, or 36 months for a conviction of VC 23152 for second, third, or fourth or more offenses within 10 years, respectively to receive a restricted driving privilege or to reinstate a driving privilege. Requires an IID for 24, 36, or 48 months for a conviction of VC 23153 for second, third, or fourth or more offenses within 10 years, respectively to receive a restricted driving privilege or to reinstate a driving privilege. The bill would apply to convictions for drugs or alcohol, and would provide for exemptions. It would add further monthly costs to offenders.

Other Bills to watch:

- **AB 60 (Alejo)** - Would allow people living in the country illegally to obtain a license to drive in California. Indications are that the bill may pass this year.

Two bills approved by the Assembly Transportation Committee piggyback on current restrictions on drivers under 18, such as requiring a driver's education course, 50 hours of

supervised behind-the-wheel training and a year-long provisional stage in which they cannot drive with passengers under 20 or be on the road after 11 p.m.

- **AB 724 (Cooley)** – Applies to drivers who get licensed for the first time at age 18 or 19. It would require 18- and 19-year-old novice drivers to complete a 30-hour driver education course and six hours of professional driver training before being subject to the same one-year nighttime and occupancy restrictions as 16- and 17-year-olds. A provisional license would have to be held for 12 months or until age 20 to receive a full license.
- **AB 1113 (Frazier)** – Changes the existing provisional program for 16- and 17-year-olds by making the nighttime restriction to 10 p.m. and increasing the age for passengers to 21 years old. Those provisions would be lifted when a driver turns 18.
- **Supreme Court Decision: Missouri v. McNeely**

Schmerber v. California found it reasonable to take a warrantless blood test on the basis that the evidence of the alcohol level was rapidly dissipating, destroying the evidence. But, in Missouri v. McNeely, the Supreme Court just decided that police can't rely on a blanket rule, and must decide case by case if there is an emergency. Police can't consider the normal dissipation of the alcohol as an emergency in typical DUI arrests. Police in many cases will now need a search warrant before forcing DUI suspects to have blood drawn. The justices rejected Missouri's contention that police should never have to seek judicial approval. The state argued that officers can't spare the time, given how quickly alcohol dissipates in the bloodstream. The Court ruled that police need to seek a warrant when they can do so "without significantly undermining the efficacy of the search." The court acknowledged that there will be cases when anticipated delays in obtaining a warrant will justify a blood test without judicial authorization.

The ruling has required Police departments to immediately change their policies. Some have ordered police to stop using forced blood tests in all misdemeanor DUI arrests. In California, there are roughly 8,000 refusals per year amounting to 4.0% of Admin per se actions initiated. A refusal carries a longer license suspension action than does a blood test, and this decision may result in more clearly, properly, distinguishing refusal actions from blood test actions. About half of the 50 states already have laws barring nonconsensual blood draws in the absence of a warrant.

- **Update on Pilot Program**

The pilot program to improve the court referral process for DUI offenders officially ended in February. Marchetta Dycus is writing a report that will highlight the best practices and identify weaknesses. It will highlight how critical it is to improve communication between all parties, the county, courts, and providers. Patrice stated that judges were often unaware that offenders did not receive a referral to a program and that there was no follow-up for those that did not enroll. She stated

that they will submit a proposal to expand the pilot to the Strategic Highway Safety Plan committee in July.

Transition Update

Lexi Gonzalez, ADP Project Manager, is helping coordinate the department's transition to DHCS. A joint departmental project charter was developed which identifies the programmatic, administrative, Information Technology (IT), and systematic transfer of ADP. The executive staff steering committee meets on Thursdays to discuss progress or barriers. The DUI Program will move intact and contacts will mostly remain the same. All forms, letterhead, and licenses will be updated and reprinted. Organization charts will be developed and distributed by May. The advisory workgroup will be continued. The IT systems have been assessed and will be migrating intact with no changes which will ensure a smooth transition. The ADP website will remain up until July 2014. DHCS has appointed Tonya Corral as a Department liaison to assist staff in the transition. A change management workgroup has been formed and E-mails are being sent to all staff to keep them apprised of the transition.

Regulations Subcommittee

Millicent stated that a subcommittee was formed to begin discussions about the next regulation change package. Teri Kerns recommended that somebody from ADP participate on the subcommittee. Anna Flores, Ventura County, volunteered to participate. Luky Maldonado recommended the analysts identify the top 50 areas they think need to be changed and present that list at the next meeting. Patrice suggested that the Department utilize Sheldon Zhang's report recommendations as a guideline. Maleah suggested a representative from CADPAAC participate on the subcommittee, especially since CADPAAC will be looking at the sections pertaining to fiscal integrity. Millicent accepted the recommendations and stated that a list will be developed for review and discussion at the next meeting.

Sheldon Zhang – Presentation of Report

Sheldon Zhang, Project Director, San Diego State University, has been working on a comparison study of San Diego DUI Programs and presented some preliminary findings. Mr. Zhang has also reviewed the overall trend in California using the 2012 DMV, Management Information System (MIS) report, acknowledging that the report cites many limitations to the accuracy of the data. He stated that DMV tracks two outcome measures: 1) alcohol involved crashes, 2) DUI incidences, including crashes, convictions, administrative per se suspensions, failure to appear notices.

- Alcohol involved crash fatalities decreased in the last four years.

- For eight years in a row, assignment to a DUI program was not significantly associated with one-year crash rates.
- In 2009, wet reckless offenders attending a DUI program had fewer subsequent DUI incidents in one-year follow-up, compared to those that did not complete a program.
- DMV studies show that whether it's a 3-, 6-, or 9-month program, the length of time in the program makes no difference in the outcomes. Other studies have also shown that the longer multiple offender programs also had no difference in the outcomes. This statistic has remained consistent over a period of several years of data reviewed. He acknowledged that do to statistical averaging this data outcome could be from a number of under-performing programs, which is cancelling out the well performing programs. Therefore, there is a need to identify and promote evidence based practices.
- A statewide survey was conducted and found a tremendous variation of curriculums, structures, and activities being used in programs statewide. His evaluation of programs began with an examination of the data. There is no statewide data collection mechanism for DUI Programs other than enrollment and completion activities. However, he noted that most programs are collecting a great deal of data about their clients. It's just not being submitted to the state. This creates technical challenges.
- The most recent study Sheldon conducted was focused in San Diego County, for the following reasons:
 - DUI providers are required to submit client data to the county. The data collected includes demographics, substance use history, offense and arrest information, and the participant's zip code. This data has been collected for several years and he was able to review the past 10 years.
 - Each program has clearly defined boundaries and distinct catchment areas.
 - They all charge the same program fees.
 - The programs represent different and distinct models:
 - 1) Model A – Nonprofit Organization, utilizing a well-established curriculum purchased from another non-profit organization.
 - 2) Model B - Faith-Based Community Provider, which until recently did not utilize a defined curriculum. The program was very flexible depending on the counselor's experience and delivery style.
 - 3) Model C – University Based Non-Profit Organization, using an in-house curriculum with heavy emphasis on clinical practices.

- 4) Model D – Private for Profit Organization, using a proprietary curriculum and procedures. This is a large organization with programs throughout the state.
- The data collected by the county had never been reviewed and spent a great deal of time cleaning the data to eliminate duplicate entries and other problems. The data is now collected in two databases, one for entry/intake and the other for exit. He strongly suggests that the county only maintain the exit database. Teri Kerns explained that providers enter the information and maintain both databases. They are uploaded electronically to the county on a monthly basis. She also stated that the providers have been collecting the data since 1999.
 - Do to the distinct areas, the populations served varied greatly, based on race, education, and income, and these factors impact outcomes. Income was the highest in the southern part of the county near the border, and the lowest income was in the northern region.
 - The data shows that the 3-month program and the 18-month program have the highest enrollments countywide. The data also shows that Model C has the highest completion rate and Model D has the next highest. Sheldon stated that he expected Model B to have the lowest rate due to the flexible structure of the program, but the data shows that Model A and B have the same rate.
 - The County has a very minimal transfer rate, around 2%, with most participants staying in the program they initially enroll in.
 - Termination rates show that excessive absences and 21 days without contact are the most common reasons people are terminated. Model B has the lowest ratio of terminations for loss of contact. Model A has the lowest rate of terminations for excessive absences.
 - Terminations for non-payment were consistent with Models A and B, even though Model A is located in the highest income bracket. Model C had a very low rate and Model D was in the middle of the two extremes. However, Model D is in the lowest income bracket of the county.
 - They are still in the process of merging the data from both databases. When that is complete, more in-depth data reporting will be available.
 - Sheldon stated that he has heard a lot of complaints and problems regarding the enrollment of participants receiving general relief/assistance (GR/GA). Many providers reported that some of them have high fee waiver rates while others are not accepting those participants, causing an unfair financial burden on some providers. The San Diego County data combines participants receiving a reduced payment or a fee waiver, and does not separate them. However, ADP now has one year of data that depicts the number of fee waivers that are granted. In fiscal year 2011-12, a total of 3,830 participants, statewide, received a fee waiver. Out of the 267 program providers statewide, only 131 reported enrollments with fee waivers, which is less than half of all providers. 2.72% of total enrollments received a fee waiver. Most of

the fee waiver enrollments were enrolled in the 18-month program, followed by the 3-month program. Assuming all of the fee waived enrollments complete the programs, he estimates that \$4.8 million worth of services will be provided, and that burden was shouldered by less than half of all providers.

Next Steps – Logic Model Discussion – Strategy 1 – Improve Collaboration

Millicent discussed prioritizing the various strategies outlined in the Logic Model, in order to begin focusing on a selected strategy to address and develop a timeline. After much discussion, the workgroup decided to use the logic model in the steps that are currently laid out, starting with Strategy 1 – Improve Collaboration.

Millicent stated that having the AOC at the table is a terrific start. Francine Byrne stated that they would be able to help providers and other agencies facilitate communications with the courts. Lists of the court executive officers and presiding judges are available on their website at www.courts.ca.gov. They also have a website that only court employees have access to. Communication that needs to get to the court clerks and others should be sent to the AOC, for approval and posting on that site. The AOC also issues a newsletter and electronic announcements and bulletins. They would be able to assist in using these items to get information to the courts.

Millicent reported on the five key strategies identified in Strategy 1: Improve Collaboration, as follows:

- Improve DUI participant referral system from the court to DUI providers.
 - We are currently addressing this output through the Court Referral and Tracking System Pilot Project.
- Revise regulations to include improvements of DUI programs.
 - ADP will develop a list of areas that the field analysts identify as a priority and present to the workgroup at the next meeting.
 - We will consider the areas CADPAAC and others identify as priorities.
- Research funding opportunities for DUI courts.
 - Maintain a standing 10 minute agenda item to share available grant and/or funding opportunities.
 - Patrice stated that trainings are available to help courts and judges do some of the things that DUI courts do, without being a DUI court.

- Brett O'Brien stated that superior courts are currently facing budget cuts and asking them to do more would be challenging.
- Maleah Novak stated that a simple change in hearing DUI cases on the same day of the week can make a difference in getting offenders referred and enrolled in programs in a timely manner. Francine stated that the courts set their own calendars and that the AOC cannot ask them to change that.
- Improve the collaboration of counties, providers, courts, DMV and the state.
 - Teri stated that part of the pilot project success was in getting all parties to come together, and it was due to the state leadership. Patrice stated that some of the people involved did not know basic information regarding DUI program lengths and minimum requirements. She suggested that local field DMV representatives be invited to any local meetings. It was also stated that Community Corrections Planning Groups, led by Probation, would be a great resource for counties and providers. Millicent stated that it would be a huge undertaking for ADP to convene meetings in all 58 counties, but would explore options with CADPAAC and other groups.
- Encourage DUI providers to develop Memorandums of Understanding (MOU) or other connections with treatment programs for participant referral.
 - Teri explained that the MOUs were included in preparation of health care reform and the need for linkages with treatment providers.

Agenda Items for Next Meeting

- Logic Model – Strategy 2 will be discussed at the next meeting.
- The workgroup decided that they would like to continue having a working lunch during the quarterly meetings.

The meeting adjourned at 2:00pm.