



**Driving Under the Influence Advisory Group  
Meeting Minutes  
January 18, 2013  
10:00am – 3:00pm**

Members present at the meeting:

Millicent Gomes

Steve Bloch

Marchetta Dycus

Teri Kerns

Patrice Rogers

Linda Bridgeman-Smith

Anna Flores

Luky Maldonado

Jayne Wise

Georgi Distefano

Brenda Frachiseur

Maleah Novak

Rick Sullivan

Millicent Tidwell, Deputy Director of the Department of Alcohol and Drug Programs' Office of Criminal Justice Collaboration opened the meeting and welcomed the group to the DUI Advisory Group meeting.

The 2013-14 Proposed Governor's Budget reflects the elimination of the Department of Alcohol and Drug Programs and the shift of \$322.4 million, \$34.1 million of which are General Fund, for the remaining Non-Drug Medi-Cal and Problem Gambling functions to the Department of Health Care Services and the Department of Public Health.

Health and Human Services Agency was required to create a transition plan for the eliminated Department of Alcohol and Drug Programs. The transition plan is on the website and is available for viewing. With the exception of the Office of Problem Gambling, all programs will be transferred under Vanessa Baird who was appointed last July and is awaiting confirmation by the Senate.

With Mental Health certification also transferring from the Department of Public Health (DPH) to the Department of Health Care Services (DHCS), the Mental Health and Substance Use Disorder Division is being created under Vanessa Baird.

DHCS will continue to have the Advisory Group meeting with no changes expected. A question was asked about the number of concerns presented about the transition of ADP. Millicent stated that all programs will be going to one department with the exception of the

Office of Problem Gambling. The biggest concern from the stakeholders was to keep ADP as a stand alone department. Because the legislature had approved the elimination, ADP would not remain as a stand alone. The next concern was splitting licensing and certification. With the initial proposal, DHCS did not do any licensing or certifications. It became apparent that through the processes and health care reform that those two functions should not be split out.

Another concern was losing the overall voice of the Alcohol and Other Drug (AOD) field. In addition, the Narcotic Treatment Program's proposed move to DPH was problematic since it is 90% drug medi-cal funded. Policies concerning drug medi-cal is mainly at DHCS.

There were different groups that wanted ADP to go to DPH and other groups that wanted DHCS. Michael Cunningham posed specific questions about moving ADP as a group and it made sense for the department to go to DHCS. DHCS is the lead for health care reform and to split drug medi-cal did not make sense. Many states have already combined mental health and substance use as well as counties. As healthcare reform is approaching, it is important to have a voice at the table.

SAMHSA is combining the Substance Abuse Prevention and Treatment's substance abuse and mental health application in the next year. The department is looking at this as an opportunity for integration.

A question was raised about how DUI fits in the transition. It has been made clear that DUI remains with the rest of the department since it is part of the continuum of care. The department is working with CADPAAC and will be having conversations with them about the Definition of Treatment for DUI services.

The department will be starting another regulations package to align with desired outcomes/outputs of DUI programs. It is important to improve services and will discuss setting priorities with the advisory group and how to fully integrate into the system.

A concern was raised that as things progress, they wanted to make sure that mandates are not placed on providers that do not apply to DUI since programs are different than outpatient and inpatient treatment programs for substance use disorders. Millicent stated that we want to be open and flexible to change in the field and hold true to what the intent of the program is and to maintain integrity of statutory requirements.

Leslie Witten-Rood from the Office of Traffic Safety was unable to attend the meeting however informed the department that she was not expecting an update on the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP 21) until they meeting with the National Highway Traffic Safety Administration in April.

The County Alcohol and Drug Program Administrators' Association of California's (CADPAAC) Criminal Justice Subcommittee will be reviewing the DUI Definition of Treatment

that was proposed and approved by the DUI Advisory Group. This is a preliminary presentation and discussion about the definition. Luky Maldonado will be in attendance.

It was decided that the draft definition should not circulate until finalized. There is potential for confusion if the draft circulates as this topic has been on the Advisory Group table for several years. Members are representative of large groups. Input for definition could be sought and brought forward through members with potential for inclusion in amended regulations.

### **DUI Study in Progress**

ADP is operating under an agreement with San Diego State University to accomplish the following two tasks:

1. Compare four different DUI program models in California to identify the most effective intervention strategies for program participation and recidivism reduction; and
2. Provide technical support for ad hoc requests for data analysis from ADP's DUI Program Branch.

A decade worth of DUI program data from FY 2001-02 through FY 2010-11 from four San Diego County DUI programs was downloaded. The data includes the following elements:

- Program admission date
- Driver license state of issue
- Court identifier
- Conviction date
- Program length
- Enrollment type
- Referral source
- DMV forms completed
- First service date
- Arresting agency
- Arrest date
- Arrest zip code
- Blood alcohol level
- Other drugs
- Number of prior DUIs
- Prior treatment
- Participant demographics such as date of birth, gender, ethnicity, primary language, marital status, number of dependents, residence zip code, employment status, monthly income, source of income, years of education and military experience

- Participant attendance information (Date program completed, discharge status, pre-test score and post-test score.)

SDSU is performing the data cleaning and merging process. This will continue before formal data analysis can commence. In addition to this study, Sheldon Zhang performed an ad hoc data analysis intended to achieve two objectives. The first objective is to showcase the type of data elements that future ADP DUI program data system may include to improve its oversight function. Second, to answer a common inquiry put forth by the DUI providers with regard to the fiscal impact of general relief clients on program operation.

Statewide DUI program participation for FY 2011-2012 was downloaded to calculate the enrollment pattern of General Relief clients across the state. The data was used to ascertain the proportion of general relief clients to the general population and to estimate potential financial impact on the program providers.

In FY 2011-12, California DUI programs admitted a total of 140,718 clients and 3,830 admitted on “Waived/Reduced fees. General relief clients accounted for less than three percent of the total DUI program participants for FY 2011-12. Of those enrolled in FY 2011-12, 18-month programs carried the largest share of all clients or 56.61% of the population followed by First Offender programs.

Los Angeles County appeared to incur the most financial burden due to their large number of general relief clients admitted, followed by Contra Costa, San Bernardino, and San Diego counties. SDSU is scheduled to provide the next progress report by April 30, 2013.

Members expressed concern that the numbers may be misleading because it is possible that not all clients are enrolling into program. There was a request to compare the conviction rates versus enrollment rates. In addition it was suggested that further factors should be considered such as looking at the percentage of general relief clients in the inverse of where they live. There may be communities where counties put out a request for proposal for a program, however there is no provider willing to open a location in the area.

Another issue raised was about waived fees. It was suggested that clients who receive the waived fees should be subject to additional fees such as ‘missed class’ fee. It is a choice for the client to miss the class, why should they be rewarded when others have to pay the fee.

At the last meeting, Teri Kerns and Linda Bridgeman-Smith volunteered to create a document recommending action for program participants who receive a Subsequent DUI Conviction. ADP is currently reviewing the document and will add it to DUI’s Provider-Focused Frequently Asked Question page. ADP is in agreement that it is important to continue to provide services to clients rather than dismiss the participant who is continuing to drink and drive while in program.

## **Online DUI Programs**

ADP is working in collaboration with the AOC to draft correspondence to disseminate information that California does not sanction on-line DUI programs. The letter is asking the judges to reinforce that the DMV does not recognize on-line DUI programs as an acceptable substitute to satisfy the mandates outlined in California's Health and Safety Code. The law requires DUI offenders complete a DUI Program licensed by ADP.

The letter also asks the judges to reinforce that offenders enrolling in on-line DUI Programs will not be eligible for a restricted license or to have their license reinstated. Lastly, the letter asks that the judges refer offenders to ADP's DUI Provider directory to locate a DUI Provider that is licensed by ADP.

## **Legislative Update from DMV**

Patrice Rogers from the Department of Motor Vehicles presented a legislative update of all bills related to DUI. The first bill reviewed is AB 2020, Pan – chapter No. 196. This bill removes from DUI law, the option for a person to choose a chemical test of his or her urine to determine the drug content when that person is lawfully arrested for DUI of drugs or a combination of alcohol and drugs. Previously, a person had the option of submitting either urine or blood to determine the drug content of the blood. Urinalysis shows the presence of drug residues that remain in the body even after the effects of the drug have worn off. For drug use, the test only indicate evidence of use at some point in the past, with, higher levels associated with more recent use and trace levels varying by the type of drug or drugs used.

AB 2552, Torres – Chapter No. 753 is effective on January 1, 2014. This law will differentiate between alcohol-only, drug-only, and the combined use of alcohol and drug arrests and convictions within the two DUI vehicle code sections. By singling out drugs with its own vehicle code section, makes it easier to track the prevalence and prosecution of drugged driving in California.

AB 1536, Miller – Chapter No. 92 allows drivers 18 years of age and over to use hands-free technology to talk and text while driving. This will require the use of a device that is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send or listen to a text-based communication. The device must be used in a voice-operated, hands-free manner to be in compliance with the law.

AB 1708, Gatto – Chapter No. 236, authorizes an insurer to provide evidence of financial responsibility to a mobile electronic device and allows a driver to provide verification of evidence of financial responsibility to a peace officer upon demand using this device.

AB 2189, Cedillo – Chapter No. 862, authorizes the DMV to issue driver licenses to individuals with legal presence in the United States pursuant to the federal Deferred Action for Childhood Arrivals program.

SB 1298, Padilla – chapter No. 570, allows for testing of autonomous vehicles by designees of an autonomous technology manufacturer, provided certain requirements are met. Prior to the public operating autonomous vehicles, a manufacturer is required to submit an application to DMV and certify that specific insurance, vehicle safety, and testing standards have been met. This law requires DMV to adopt regulations no later than January 1, 2015 to specify insurance requirements, and testing, equipment, and performance standards to ensure safe operation of autonomous vehicles. This law also authorizes regulations to specify any additional requirements deemed necessary by DMV, such as the number of autonomous vehicles deployed, special vehicle registration and driver licensing requirements, and rules for the suspension, revocation, or denial of any license or approval issued by DMV pertaining to autonomous vehicles.

AB 1567, Jeffries – Chapter No. 111, allows applicants and holders of a firefighter driver license endorsement to submit medical information to the DMV upon application every two years thereafter, instead of a report of medical examination every four years.

Patrice also brought to attention a Supreme Court case Missouri v. Tyler McNeely. United States Supreme Court justices heard on January 9, 2013 arguments on whether police should be permitted to force suspected drunken drivers to submit to a blood test without first obtaining the approval of a neutral judge. At issue in the case is whether law enforcement officials should be allowed to bypass the usual warrant requirement because any delay in collecting a blood-alcohol sample would permit the ongoing destruction of evidence through metabolism. The ruling on this case is due by the spring.

### **Cost of a DUI**

Steve Bloch of the Auto Club of Southern California presented an updated analysis of the cost of a First Misdemeanor DUI Conviction. For an adult the total approximate cost is \$15,649. That amount is approximately \$3,500 higher than two years ago. For an offender under-21, the cost is \$22,500 which is \$5,500 higher than two years ago.

Steve also gave a break down of the cost which includes the following: fine, penalties, vehicle tow/storage, alcohol education class, victim restitution fee, DMV license reissue fee, booking, auto insurance increase, and attorney and legal fees. The costs do not include the cost of bail, vehicle property damage, medical costs, lost work time and wages, transportation costs, ignition interlock device, if required, or civil liability.

The Auto Club of Southern California will be finalizing fliers and copies will be sent out to the advisory group and to others upon request.

### **Discussion of Training for the DUI field**

Through discussions about high level BACs pled down to a wet/reckless, discussions about current clients in treatment receiving a subsequent DUI conviction, and areas identified in the descriptive and provider survey it was brought to ADP's attention that there are areas in DUI where training is needed for the courts, counties and providers.

Several resources for training exist include:

- DMV's Justice and Government Liaison Branch,
- Administrative Office of the Courts,
- And Alcohol and other Drug Policy Institute.
- With MAP-21 coming, there may be funds available for training with those grants as well.
- ADP is also available to give training as well.

Millicent requested ideas from the group about training needed for the field. A member asked for training on transfer forms. Transfer forms are completed differently by all providers. It would make things easier if all completed the form the same way.

Another resource available is the Traffic Safety Resource Prosecutor (TSRP) Program. Through a three-year grant from the Office of Traffic Safety, the program is designed to enhance the ability of California's prosecutors to effectively evaluate and prosecute DUI and DUI-related vehicular homicide cases. The TSRP Program provides for intense and specialized DUI prosecution training statewide, with a direct focus on jurisdictions where the ratio of DUI arrests to DUI convictions has been less than the 77 percent statewide average conviction rate. It further provides for DUI expert witness specialized training and for the vertical prosecution of DUI offenders who either have no driver's license or were driving on a suspended or revoked license. The TSRP Program has established five regional TSRP "resource centers" combined with a DUI prosecutor mentoring program in each of the defined regions.

Members also felt that in order to know which training should be done in the field, a goal is needed. This led the discussion into the priority setting using the logic model.

### **Priority Setting – Logic Model Discussion**

In moving forward with DUI new priorities need to be set. With the release of the DUI Descriptive Study, there were recommendations for the providers, ADP, and DUI County Coordinators.

- Provider Recommendations include the following:
  - Establish performance bench marks
  - Increase transparency in program and administrative fees
  - Increase web presence of DUI programs
  - Establish mechanism for outcome assessment.

- Recommendations for ADP include the following:
  - 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
  - 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.
- In looking at the Logic Model in comparison to the recommendations made, there are strategies and work products that can be focused on which include the following:
  - Strategy 2: Ensure collection and tracking of data and information. Work products include:
    - Research and develop standardized reporting systems.
    - Revise regulation to include standard data reporting to the state to include analysis and evaluation.
  - Strategy 4: Provide curriculum and assessment objectives/best practices. Work products include:
    - Review available DUI curriculums and develop minimum standards.
    - Provide suggested resources for education sessions in order to minimize repetition and increase knowledge retention.
  - Strategy 5: Improve public safety through ongoing training.
    - Develop on-going training for judges on integral aspects of the DUI process
    - Provide on-going training for County DUI coordinators on their roles and responsibilities
    - Ensure DUI providers have efficient access to training and technical assistance that utilizes promising practices in the field to help transform their system to be in line for Health Care Reform and enhances peer learning.
  - Strategy 6: Evaluate Impact of DUI services for quality improvement.
    - Utilize evaluations methods and measures that are consistent with ADP standards and are meaningful and relevant to stakeholders
    - Collect data from evaluations that are used for continuous improvements of systems and practices at county and state levels, including to revise policies and to improve practices.

The advisory group expressed the need for clear statewide data. The conviction data was also requested. Millicent requested a meeting with Patrice Rogers, DMV, to speak about what is needed to get data from the DMV.



The group felt that the strategies presented in the Logic Model needed to be prioritized and would like to focus on Strategy 1: Improve Collaboration at the next DUI meeting. ADP is also committed to doing a new regulations package and also involving the DUI Advisory Group. Volunteers from the group and audience includes: Terri Kerns, Maleah Novak, Wendy Warwick, Sam Beasley, and Charles Horner. Members conveyed items of interest with regards to changes in regulations, included assessment tools, curriculum, and general relief clients.

The next meeting is scheduled for April 22, 2013 from 10:00am to 2:00pm located at the Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, California 95811.