



Meeting Minutes

November 21, 2014

Opening Comments - 9:00 – Chief Ticer

Introductions

21 of 24 members in attendance, therefore we have a quorum.

Legislation Sponsors' Remarks - Representative Beth McCann

House District 8 in northeast and central Denver. Last term in legislation due to term limits. Former Deputy DA for Denver County. Has done several pieces of legislation for criminal justice, juvenile justice is of particular interest. Working on felony DUI bill. The felony DUI bill last year passed the house, but did not make it through Senate. Using as initial framework, looking at ways to make it a little easier to pass. Fourth DUI within seven year period would be a potential felony. Similar framework. Issue of lifetime DUIs, how many would be for felony DUI? Co-sponsor is Lori Saine – republican from Weld County. Bills will have to have bi-partisan support to get passed through this year.

Concerns about edibles. Task force trying to come up with recommendations (CDPHE) was unable to come to consensus. Primary goal is to make them look less attractive to children.

Fran Lanzer with MADD is the contact point. Always love to hear from people, her e-mail address is:

Beth.mccann.house@state.co.us

Felony DUI is controversial, if a person gets to this point, it really is an addiction and the offender needs treatment, but they shouldn't be driving. Colorado is one of the few states that does not have a felony DUI. There is a big concern with having felony on record and are you going to be able to get a job. It is something that we will be talking about. We don't want people to be unable to get jobs. We have to think about that and how it plays out. Open up for questions:

Lanzer – One of the options discussed in the task force is the idea of increasing the assessment and screening on a previous offense to address the issues. Logistical issues, can Flavia expand?

Flavia – Screening assessment piece needs to be well thought out in terms of what is not working well with the current system and what can we do better. A coordinated effort to make sure all the elements in place to ensure the offender is getting a comprehensive screening. Sometimes the quality of assessment is questionable. Would like to plug some holes in the system.

McCann – That is everybody's goal to get effective treatment.

Davis – Studies done, self-report have driven 80 times impaired before they were caught, and that is self-reported. I have data if you would like the data.

McCann – That would be great. Thanks for all the work that you are doing and keep it up.

Ticer – Thank you Rep. McCann for your work on this and also thank you Fran Lanzer for your work on this with MADD. We are certainly willing to help with that. Potential to add into our annual report for legislative recommendations.

Public Comments

None

Minutes of Previous Meeting

Corrections: Change adjourned time from “pm” to “am”

Motion to approve made by Flavia with corrections, second by Aylmer – all in favor, motion passes.

Statistics

Summary of Key Performance Indicators (CSP) – John Ehmsen

See hand out

Wood – Are overall DUIs increasing?

Ehmsen – part of it is the focus of the agency, the last two years DUI has been a priority for CSP. POST funding, running two ARIDE classes a month. Are there more DUIs today than in the past? Can't clearly pinpoint if there are more, or our officers are being more effective in catching drunk drivers?

Statistics generated during a mandatory CSP enforcement wave in October:

- All CSP uniformed members are working on designated enforcement weekends – in 2014, there was one in April and one in October.
- 200 DUI arrests
- Smaller numbers in morning and mid-day hours
- Rise in DUIs between 4-8pm
- Peak hours were between 8pm-12am - 98 DUI arrests
- On that weekend, CSP covered 53 crashes that had a causal factor of DUI and DUID. Of those, none were fatal
- CSP did have fatal crashes that weekend, but none were caused by impaired drivers
- Five educational programs
- 737 motorist assists

Anderson – I don't think we will ever know the answer to the question or there more people driving drunk or are we catching more people. Suggest looking at the portion of the number of contacts. If you could do the number of stops and compared to how many DUIs, it might give you some benchmarks. From her time at Pitkin County S.O. – found it was 4-6% of the people stopped that were eventually convicted of DUI.

Ehmsen – Will run that up through his leadership. I do like your idea, since we do have those numbers, I don't see why it would be that difficult to add.

Ticer – When comparing to prior year's data – every month seeing an increase. October was a huge increase. Thank you to the Colonel and the men and women of the CSP for their work. In regards to Wood's question, I can tell you increased training for law enforcement to detect impaired driving is really taking off with increased funding for ARIDE and DRE classes. When you send an officer to DRE school, they are going to be one of your best officers. Spoke with an officer that went through DRE school recently and their comment was, they realized how many drivers they missed previously because they didn't have this training.

State Fatality Numbers (CDOT) - Davis

- 2013 YTD 11/19/14 - 414
- 2014 YTD 437 – down 6% - projects to 469 fatalities for the year
- Weld county 37 fatalities, now at 44 – Weld county is going to be way up this year. It is hard to make significant decreases in a state that does not have a primary seat belt law. Making some progress, but we could do more.

Media Relations & Significant Upcoming Events - Emily Wilfong (CDOT)

Recently moved to the Region One Communications manager for CDOT. She moved in to that role a few months ago. Sam Cole has recently joined the Highway Safety Office to take over her previous role. Last Call Lots, got a lot of attention on those campaigns. Next on the plate is to come up with a strategy for this next fiscal year. Issuing a press release to announce Thanksgiving enforcement wave.

Johnson – you have done a great job, we appreciate your work with us.

Cole – Looking forward to getting to know you more and diving into this issue for this important matter.

Ticer – Sincere thank you from the task force, you brought a unique perspective of media relations to this state. You have saved lives in this state and others for the work you have done.

Task Force Business & Presentations –

How many of Colorado's DUIs are DUIDs? – Ed Wood

- Limitations from what you have heard in the past
- Study done in 2012 vehicular homicides and assaults
- Reviewed file folders at courthouse
- Chematox and CDPHE – gave guidance how to change
- Limitations of study –
 - Did not have the resources to do all the cases
 - Did 21% of the cases
 - Court records are incomplete
 - Interviews with prosecutors and arresting officer
 - Changed to from DUI alcohol to DUI
 - Youthful offenders records are sealed and not available to the public
 - Lab results only available for 2/3 of
 - Casias – Was that refusal?
 - Wood – Good question, they did not give a reason for not having lab results, could not determine if it was a refusal.
 - Lab results only for what requesting agency asked for
 - Sampling delays can make the testing irrelevant
 - Anderson – Did you say presence of marijuana that it is only the psychoactive form or metabolite?
 - Wood – FARs does not differentiate, my work does. Marijuana acting alone rarely.
- Current laws cannot effectively deal with DUI DUID
- Single statute that combines alcohol and drugs

- Marijuana experiment – it is not an experiment. Experiments you measure outcomes. Current system cannot measure the outcome.
- Increase in number of people found with confirmed THC
- Only 2/3 of those suspected, DUI
- Poly drug use is a big problem, not single drug use or alcohol only.
- Message here – we are not doing ourselves much good if we are viewing our DUID problem as only marijuana. It is profoundly difficult to determine. Poly drug use is additive at least and may be compounding.
- DUID is a large portion of our DUIs in our state. We don't know what it is. We don't manage and measure DUID.

McEvoy – Do you have advocates that might take some of your suggestions to legislation

Wood – No, just me. I am looking for help.

Casias – Is there a reason why coroners aren't required to report? Seems like a simple request.

Wood – No

Casias – Perhaps

Flavia – For the three states that have a separate statute for alcohol and drugs, do they have the same problem with being charged with alcohol.

Flavia – What is the mechanism for funding the blood test?

Wood – Varies by jurisdiction.

Casias – In Colorado, they pass that cost on to the offender.

Groff – The data showing the drop off, the average time for initial contact to a time a test is performed is about 65 minutes. If we have the laboratories reporting all data, even if that were reported, going back to the collection of data is still going to be a problem because of the time frame. Maybe that is more of a messaging, if someone is going to use marijuana, wait a specified amount of time to drive.

Wood – Lab results are problematic, blood isn't impaired, only the brain is. Blood testing is a good surrogate for testing alcohol, but is a poor surrogate for marijuana. Caution against putting too much weight on blood testing.

Johnson – Isn't there a way for the delay in getting the tests done to calculate back to the time of stop?

Wood – For felony blood draw they do multiple draws at timed intervals. Works for alcohol, but cannot do that for drugs.

Melander – Are there roadsides testing that are more effective for impairment by drugs?

Wood – SFST are modestly effective for impairment by drugs. Very good for alcohol. What needs to be done in addition to the SFSTs, they need to test mental impairment. Drugs affect mental impairment more than physical impairment.

Ticer – SFSTs can be used to detect drug impairment, but not as effective. Some SFSTs divide attention to pick up on mental impairment. That is where ARIDE and DRE will provide additional training. There are discussions out there with researchers to create additional roadside testing for impairment as a result, but it is in the infancy.

McEvoy – Is it possible to get a copy of the presentation?

Wood – Yes, I will get that to Brenda to distribute.

Break: 10:26 am

Reconvene: 10:40 am

Annual Report

Legislative Recommendations:

#1 – Endorses passage of primary safety restraint law

#2 – Supports statutory changes that would allow for LE to use preliminary roadside testing equipment for drug impairment.

#3 – Accomplished – change of task force name

#4 – General statements – supports creation of new statistical tracking to distinguish drug categories

Wood – suggestion, separate DUI alcohol and DUI drugs. Fund a state organization to do DUI/DUID analysis. General statement support completely, but prefer things a bit more specific.

Perea – Change to coroners reporting system, easy suggestion. That would be something that could be more specific. Low hanging fruit that maybe we can deal with. Until roadside testing is further expanded, from a prosecution stand point, it wouldn't be that helpful.

Gray – From a data view point, it would be helpful.

Perea – From a prosecution view point, alcohol is what the juries understand.

Melander – Second Wood's recommendation, we are missing opportunities with the blended data.

Casias – Challenge when you play with the statute, with subsections, you can do an (a) and a (b) in statute. The problem is with both, if charging one or the other, you can't come back and charge both – would this be a third subsection? Maybe getting the detection part fine-tuned would be a better way to start. It does make a difference in how it is filed and presented to the court.

Groff – Does it make a difference now?

Casias – It is all under one.

Wood – California has used three sub-parts. However we choose to do it, I think there is merit to be able to measure the impact. You can't measure the impact because you don't have a starting point.

Davis – You would have to create three statutes. I still don't think it will solve the issue as to what law enforcement will collect. As long as 1/3 or more of the population refuses, you won't get the entire picture. Governor's Office released a Gap Analysis.

Johnson – In terms of prosecution, would it be beneficial to have more DRE to give testimony for separating DUI / DUID cases?

Perea – I think the more DREs that you have, the better it is going to be, but the availability of DREs in Weld County just isn't there yet. Without an expert to testify what the effect of the drug is on their system, it will be difficult for the jury and alcohol is easier to prosecute.

Johnson – Would it be beneficial to train more DREs to get a more consistent

Perea – A lot of small jurisdictions in Weld County, difficult to send an officer to DRE school for two weeks.

Davis – The state did come up with money for additional DRE training in the last year. All law enforcement contact people all the time. A lot of officers do not know what they are looking for.

Ehmsen – If nearest DRE is not available form 90 minutes, officer is likely going to proceed with charging for alcohol. Run with what they can at the time as to what will be the most successful to serve for prosecution.

Gray – There are a lot of steps that need to be served. Need some recommendations as to what the first step should be and work to accomplish the first step. What is the first step?

Melander – Is it an easier lift to focus on quality of FARs data?

Ticer – We can support the Governor’s Gap Analysis.

Davis – Recommendation #7 from Gap Analysis – we can tie into CTFDID recommendation #4 and be a resource when they decide to take action on it.

New mission to look at SFST – developed in 80s, a lot has changed since then. As far as FARs, belongs to NHTSA and they are very rigid. There are now four states that have legalized marijuana. Good recommendation, but our state legislators wouldn’t get involved in that as it comes at a higher level.

Wood – Oppose that as Gap Analysis only mentions marijuana. I would like to see us come up with a concrete suggestion for a state agency to be responsible for DUI/DUID data collection.

Davis – As far as funding for a specific agency, somebody is going to have to identify where that money is coming from.

Wood – I will keep pushing.

Davis – It also ties in with recommendation #13 from the Gap Analysis.

Ticer – We could put more DRE schools and ARIDE training in the last year under our accomplishments. A lot of this has been made possible from marijuana tax revenues.

Recommendation – General support safety and prevention programs.

Groff – Make sure outreach and prevention programs in existence remain in place and keep currently funded.

Hebner – CDPHE beginning 1/1/15 rolling out marijuana general education messaging to included impaired driving.

Anderson – Consensus that the Prevention work group wanted to stay with what we made last year. Maybe we want to put our heads together for more specifics.

Johnson – Maybe an aspect of research might want to be in that recommendation. Suggest research other states and programs on prevention and education efforts. Also for the order of things, you would think prevention would be at the top.

Ticer – Is that the first thing legislators are going to look for?

Johnson – Probably not.

Anderson – Things should be data based, what kind of prevention would you be engaged in.

Ticer – Is there anything new we would like to put into that? What are we missing for our recommendations going forward?

Davis – Difficulty in how quickly that blood needs to be drawn. Statute limits who can draw blood. I would like to see law enforcement given the ability to draw blood. Statute 42-4-1301 (1) 6 (A) –

Ticer – Arizona law reads doctor, nurse, or other qualified person. Law enforcement goes through phlebotomist training program to become other qualified person. It is very effective, to get blood drawn quicker, chain of evidence.

Groff – Colorado does not require a special license; watch one, draw one. Training could be done quickly. Most of the time, it is a paramedic or someone who has been trained in it.

Ticer – That high performing officer will jump at these opportunities.

Davis – From a legislative view point, it doesn’t require a statute change and minimal fiscal note.

Wood – Chance of having this passed is negligible but there is merit in getting this out there for discussion.

Maroney – In rural areas, ability to get a blood draw is multiple hours away.

Ticer – Big difference in Ed Wood’s data in time local versus metro draw time.

Hutt – The language that is in the statute has been there a really long time. Consensus in state legislation that cops sticking needles into people is not a good idea. When we are talking about what our priorities are, I am always encouraged when people talk about how do we change behavior? I don’t see that it should be high on the list to have cops trained as phlebotomist. How do we stop people from driving impaired? Primary task is, how do you get people to stop driving impaired? We need to be assessing the people we know because the larger issue is with recidivism. Let’s not focus on the 80% that have a one-time offense. It is difficult to send law enforcement for two weeks for DRE school, how will we be able to send them for one week of training? There is a lack of dedication in some of our goals towards really meeting what we are here to do. We want to decrease the number of people who chose to drive impaired.

Groff – Not saying training should be that simple or easier. Colorado just does not have certification requirements for phlebotomist.

Hutt – Not every EMT can draw blood

Anderson – Very uncomfortable with asking peace officers to draw blood. Officer safety concerns with hepatitis, etc. It is a huge responsibility to deal with bodily fluids. I don’t see this as the answer. It is just too risky on the medical side of it.

Gray – Are there other states doing it already?

Ticer – There are other states, some have been doing it for decades. It is proven that it is a successful program and is a professional process. It is a selection process. Officers aren’t made to do this. People know that if you refuse, a warrant will be likely issued and law enforcement will draw blood.

Davis – I am not advocating that all.

Parker – Have concerns and would need more information about it. There is a reason and health concerns. Huge concerns about quality treatment. Good and bad in every profession. Assuming repeat offenders have been through treatment, what is the quality of previous treatment? There are a lot of people that don’t have access to good, quality treatment. Offenders should have a choice of treatment and they just don’t have the money for it.

Ticer – Could we have a compromise, put into our document, but not keep as a key recommendation? Any other recommendations

Flavia – Would like it to be called “Key Recommendations” instead of “Recommendations.”

Casias – When you look at mandatory jail sentences for secondary offenses, there are options for credit for alcohol monitoring. One of the things that they should get credit for is in-patient treatment facility. That should count towards their time served. It would have to be an in-patient certified facility. It would go a long way to motivate these people to dig deeper into treatment. It would go a long ways beyond level 2 treatment.

Ticer – Would that require a statute change?

Casias – No.

Ticer – If you could write something on this? Two sentences worth and send to Brenda.

Felony DUI

Lanzer – Talking to prosecutors and judges, when they are trying to address issues with repeat offenders, they feel they don't have any options. Victims want to know, why didn't the State of Colorado take more action on a previous offense? How do we provide more options to judges and prosecutors? MADD would like to see having increased legal options for repeat offenders.

Gray – The driver of her family's crash was a three-time DUI offender, driving without a license. He was sentenced to 24 years in prison. He did not receive a felony to her knowledge. Six years for each count, two counts for vehicular homicide, and two for vehicular assault. By adding the felony to this, when someone is this sick and they have a problem, does that really change their behavior? Please help me understand why we have to link it to a felony in order to have greater consequences. By being more punitive, is that really going to be more successful? It boils down to 20% that have that problem with recidivism, will a felony help?

Casias – Each of those counts are felony counts. He didn't get a felony DUI.

Gray – Why do we need a felony DUI then?

Casias – We have always been pushing for a felony DUI. To date it has always been cut for the fiscal note. There has always been a deterrent for offenders not wanting a felony. Provide a more structured environment to receive treatment. That is something we cannot do with a misdemeanor. Nobody wants a felony conviction. We can tell them at sentencing, you pick up another one, it's a felony.

Gray – Directed to Flavia, the people that are truly sick and need that help, will the felony truly deter them?

Flavia – It will probably deter some, but for those that have a true substance abuse problem, it won't deter.

Gagarin – Deterrents in the form of a felony conviction appeals to someone rationally. But, for someone struggling with addiction or mental health issues, they aren't in a rational state. I don't think increased punishment will have much of an impact on the truly sick repeat offenders. He would like to see an increase in specialty DUI courts. \$32,000 a year average to incarcerate an individual a year. \$1 spent on probation much better spent to get them to not do it again than a \$1 spent on incarceration. Prison doesn't help people.

Hutt – The legislature has turned this down not just because it was too expensive, but also the question of what is the best bang for its buck. When you mention sobriety court, we know it is. We know that even with assessments not being done. This is affecting the people who are there doing it again. If we can address the addiction, and provide them the tools to not make the decision to drive, then we can make an impact. A felony doesn't come into play at that decision point of if they are going to drive. It will not impact that. When you spend the money on sobriety and a good assessment; then get them in the right treatment. There is a need to tailor the treatment. Would like to see, why is the insurance industry not at the table so we can talk about the payment for in-patient treatment? Why is there only one program for indigent people? Why aren't there incentives to put an interlock device in your car?

Perea – Needs to be a statement about felony DUI. Without specific language, we cannot ask for a vote to support. To summarize what everyone is talking about.

18-1-102.5 – Guides to the court for sentencing. #1 is to punish a convicted offender.

Punishment is part of the process. DUI is one of the most punitive offenses we have out

there. Felony DUI gives prosecutors, probation officers another tool to work with offenders. Felony DUI doesn't automatically mean prison. It provides us additional tools, community corrections.

Gray – Why can't you add that piece to what already exists?

Perea – Because DUI is a misdemeanor. There is no felony unless they harm someone. In favor of "phlebotacops."

Lemley – Could we look at giving some of the tools to misdemeanor charges?

Perea - Misdemeanor couldn't go to community corrections.

Casias – Highest level is 24 months for misdemeanor. Are we going to spend all this money on misdemeanors? With this kind of offense, the answer should be yes.

Perea – But then the county pays for it, and the county doesn't have the money for it. It would be changing one statute; or amending approximately 20 other current laws.

Maroney – Has to be consequences for repeat behavior. Necessity for prevention, but there has to be a point when you say, no more. There has to be a point, once you do have a felony, they are restricted to be less likely to drive.

Ticer – If you have any more resounding recommendations, we are at seven now, please forward to myself, Glenn Davis, and Brenda Hahn. To recap recommendation: we deter someone from driving impaired, we save a life. This gives us a tool. Our mission statement doesn't deal with costs, sometimes we get wrapped up in it. Most states have this law. Will this stop some people from driving and killing other people, and I think the answer is yes. I think we can craft this recommendation in a way that we can get this done. We don't know what the bill looks like. This would give us a general way to support.

Hutt – I am not sure what you are proposing.

Gray – Are you saying we leave out the word felony, but include the tools?

Ticer – I don't know if that is what we need.

Casias – I think you leave felony in for now. We are talking about penalties that you cannot do at the misdemeanor level.

Hutt – I would say no. I think we have covered the other points without including felony.

Ticer – I would disagree.

Hutt – How do we impact the problem?

Casias – Motion to advise and assist in providing information and comment on any felony DUI bill presented in state legislation. Second made by Davis.

McEvoy – We can't say we support the felony DUI, but we can say we support the advising and discussing of felony DUI.

Perea – Once the bill is written, we have an obligation to indicate if we support the bill beyond the annual report.

Ticer - We will have an opportunity to discuss and review in January.

All in favor, motion passes.

Upcoming Open Position – Alcoholic Beverage Distributor

- CDOT Executive Director will make the selection.
- Bryan Zebrath, represent Standard Sales in Littleton
 - Primary role is to make sure we educate and inform our sales team for prevention and awareness
- Tyler Hansen – Wine and Spirits wholesaler

- Applaud the efforts the beer distributors have brought to the table
- Could the CDOT director create a dual position so we have the input of both the beer and wine & spirits?
- Davis – The statute indicates “a person.”
- Flavia – They could choose to come as a non-member.
- Possibly some new additional information that we could have at the table with their input, and note they also distribute beer.
- We don’t serve teens, responsible driving campaigns.
- We need to figure out a way who can get all the information at the table.
- Johnson – When it comes to programs that have been in place prevention type of messages and the history of that, beer by far has been the longest in place and has practiced it much longer than the other industries. Not that that is one over the other, just speaking from an experience. It is truly a part of the lifestyle of beer distributors. Not to say that there aren’t great programs out there from every industry.
- Wine sales have exploded, beer and spirits sales have declined.
- Flavia - The positions that have been added, they have been coming for a long time on their own time. Moving forward it might be good if individuals participate.

James – Student Under 24 – if you know someone who would be a good person to be in that role. James is 18, we have spoken with him and he has an interest in this and have asked him to consider this.

James – Going to college for pre-med, always been interested in impaired driving. Father involved in accident caused by impaired driving that killed the impaired driver.

2015 Meeting Schedule

- January date is moved to 1/30/15 due to schedule conflict with the marijuana conference

Adjourned: 12:41pm

Next Meeting: Friday, January 30, 2015

In Attendance:

Chief Robert Ticer, Colorado Association of Chiefs of Police

Glenn Davis, Colorado Department of Transportation

Sgt John Ehmsen, Colorado State Patrol

Brenda Hahn, Colorado State Patrol

Jennifer Gray

Fran Lanzer, Mothers Against Drunk Driving

Brett Close, Colorado Department of Revenue

Kris Johnson, Standard Sales Compnay

Andrew Lemley, New Belgium Brewing

Susan Colling, Judicial/Probation

Katie Wells, Office of Behavioral Health

Christine Flavia, Office of Behavioral Health

Judge Ed Casias, SCAO/Judges

Wes Melander, Public

Emily Wilfong, Colorado Department of Transportation
Tom Kissler, Smart Start, Inc.
Andrew Stolz, Smart Start, Inc.
Chris Zaleski, Norchem Drug Testing Lab
Sue Parker, Colorado Association of Addiction Professionals
Ed Wood, DUID Victim Voices
Paige, Alcoholics Anonymous
Sam Cole, Colorado Department of Transportation
Paul Aylmer, Colorado Restaurant Association
Jeanne McEvoy, Colorado Licensed Beverage Association
Anthony Perea, Colorado District Attorneys' Council, Weld County, District Attorney's Office
Ben Whitney, Colorado District Attorneys' Council, Weld County District Attorney's Office
Jeff Groff, Colorado Department of Public Health and Environment
Patrick Maroney, Colorado Department of Revenue, Liquor Enforcement Division
Nikayla Mattison, Metropolitan State University
Tyler Henson, Wine and Spirits Wholesalers Association
Glen Johnson, Beverage Wholesaler
Ellen Anderson, Retired Pitkin County Sheriff's Office/Tipsy Taxi
Jill DeRoehn, Denver County Court Probation
Julie Vardiman, Scram Systems
Jack Reed, Colorado Division of Criminal Justice
Lisa Barker, Colorado Department of Public Health and Environment
Monica Phommarath, Forensic Laboratories
Rebecca Hebner, Colorado Department of Public Health and Environment
Kim Abbott, Standard Sales Company
Bryan Zebrath, Standard Sales Company
Laura Sonderup, Hispanidad
Shannon Westhoff, Hispanidad
Daniel Gagarin, Public Defenders Office
Robin Rocke, Colorado Department of Transportation
Leslie Chase, Colorado Department of Transportation
Abe Hutt, Colorado Criminal Defense Bar

Colorado State Patrol

Common Codes	January			February			March			April			May			June			July			August			September			October			November			December		
	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2012	2013	2014	2011	2012	2013	2011	2012	2013
800	325	306	330	302	280	292	354	332	403	360	272	372	400	355	490	379	331	436	456	373	417	369	410	427	353	396	382	276	321	450	324	274	375	369	296	350
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812	163	129	143	156	118	104	157	147	149	183	111	166	196	162	199	174	125	160	204	123	157	176	160	171	175	153	146	119	122	174	154	109	151	175	133	148
813	29	17	19	22	22	0	21	30	0	27	35	0	35	33	0	15	14	0	24	13	0	28	20	0	16	17	0	16	14	0	24	22	14	15	15	15
814	1	0	0	0	1	0	0	2	0	0	0	0	0	1	0	2	0	0	0	0	0	1	1	0	0	0	0	0	1	0	0	1	2	0	2	1
815	0	1	1	1	1	0	3	1	0	0	1	0	2	1	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	0	1	0	0	0	0	0
816	1	0	0	1	3	0	1	0	0	0	0	0	3	0	1	0	0	0	0	2	1	1	1	3	0	2	1	0	1	0	0	1	0	1	0	
817	0	0	0	0	0	0			0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0
818	6	7	7	9	6	11	15	9	13	11	10	19	13	10	16	15	14	18	6	15	19	11	12	17	9	8	7	10	10	14	8	12	7	12	8	13
TOTALS	568	490	531	539	476	445	607	580	624	629	459	634	707	606	765	640	530	681	750	589	667	645	698	692	608	642	579	459	517	699	560	448	607	634	494	577
Total Minus Complimentary Charges	358	328	353	342	312	323	390	368	449	397	295	433	441	389	547	427	369	490	509	408	465	413	472	472	393	443	413	309	357	503	367	276	414	414	325	382

800	Drove Vehicle While Under the Influence of Alcohol or Drugs or Both
801	Drove Vehicle While Ability Impaired by Alcohol or Drugs or Both
802	Animal Rider on Highway Under the Influence of (Alcohol/Controlled Substance)
803	Pedestrian on Highway Under the Influence of (Alcohol/Controlled Substance)
804	Habitual User of Controlled Substance Drove Vehicle
806	Vehicular Homicide - While Driving Under the Influence of Alcohol or One or More Drugs or Both, Such Conduct was the Proximate Cause of a Death to Another Person
807	Vehicular Assault - While Driving Under the Influence of Alcohol or One or More Drugs or Both, Such Conduct was the Proximate Cause of Serious Bodily Injury to Another Person
810	Person Under 21 Drove Vehicle With BAC of 0.02 but Less Than 0.05 (First Offense)
811	Minor/Provisional Driver Possessed 1 oz or Less of Marijuana
812	Drove Vehicle With Blood Alcohol Content of 0.08 or More
813	Drove Vehicle While Under the Influence of Drugs
814	Drove Vehicle While Ability Impaired By Drugs
815	Drove Vehicle With Excessive Alcohol Content in (Blood/Breath)
816	Drove Vehicle Knowingly With Ignition Interlock Device (intercepted/Bypassed/interfered With)
817	Tampered With Ignition Interlock Device
818	Drove Vehicle Other Than Vehicle Equipped With Approved Ignition Interlock Device

How many of Colorado's DUIs are DUIDs?

CTFDID

November, 2014



Myths

- Colorado's DUID problem is all about marijuana
- A 5 ng/ml THC limit is effective in reducing DUID
- 90% of DUIDs result in DUI convictions

None of the above are true.

What you're going to hear

- Review of what's known
- New data – 2012 vehicular homicides/assaults
 - MJ-impaired driving is a problem
 - But not THE problem
 - MJ *alone* rarely caused highway death or injuries
- Current laws can't deal with DUID effectively
- Proposed legislative initiatives

How many of Colorado's
~25,000 DUIs are due to drugs?

5%?

10%?

More?

We don't know!

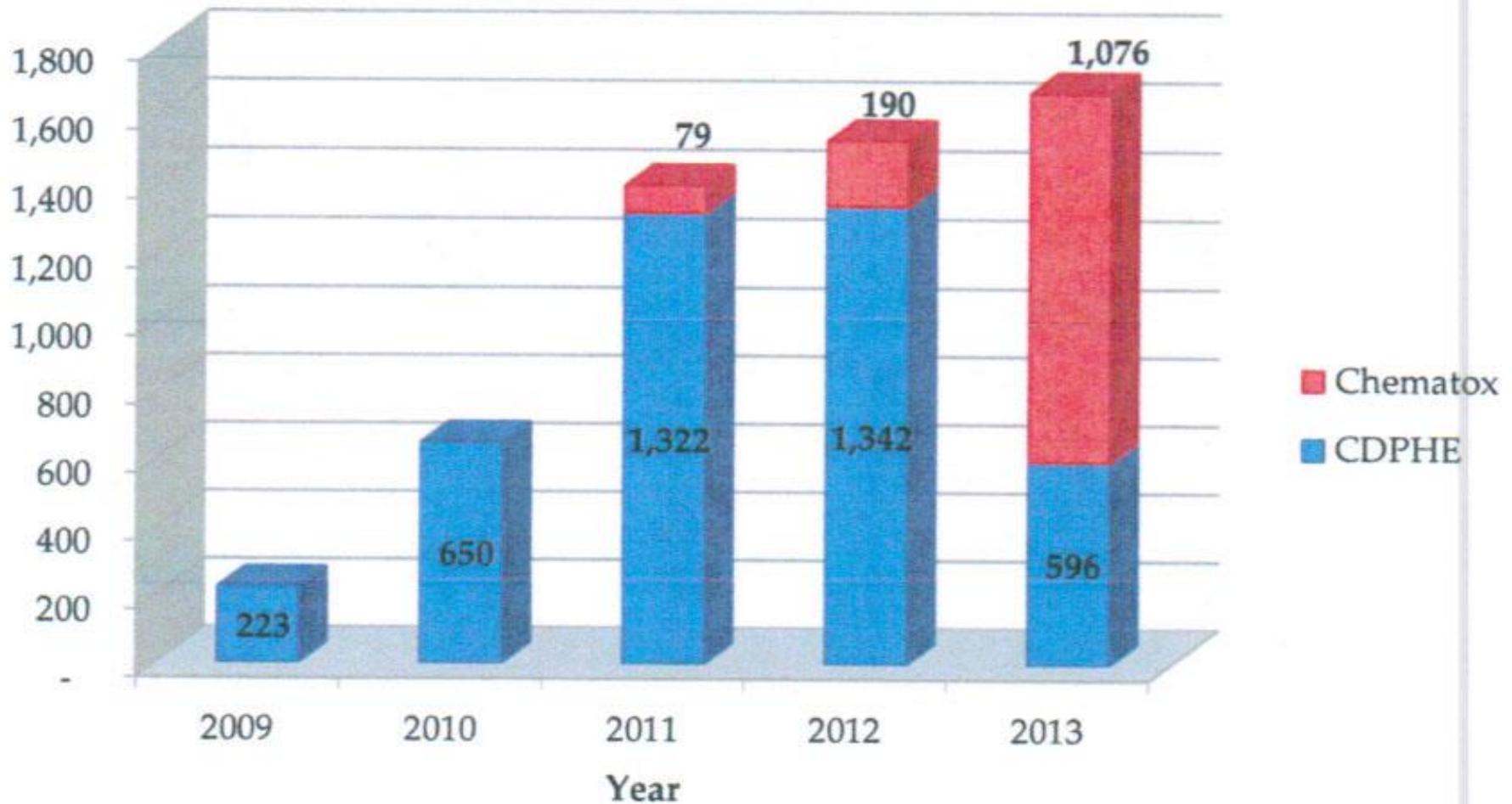
- 42-4-1301
 - 42-4-1301 (1) (a)
 - “It is a misdemeanor for any person who is under the influence of alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, to drive a motor vehicle or vehicle.”

STATES THAT SEPARATE ALCOHOL AND DRUG DUI STATUTE NUMBERS:

- Pennsylvania
 - 75-3802 (a)-(c) for alcohol (.08, .10 and .16 BAC respectively)
 - 75-3802 (d) for drugs
- California VC 23152 - effective Jan 1, 2014
 - (a) alcohol
 - (b) alcohol *per se* .08 BAC
 - (c) addicts
 - (d) commercial vehicle alcohol limit .04
 - (e) drugs
 - (f) combined alcohol and drugs
- Hawaii 291E-61
 - alcohol
 - drugs
 - DUI alcohol *per se*

Laboratory reports

DUID Blood Tests Confirmed THC



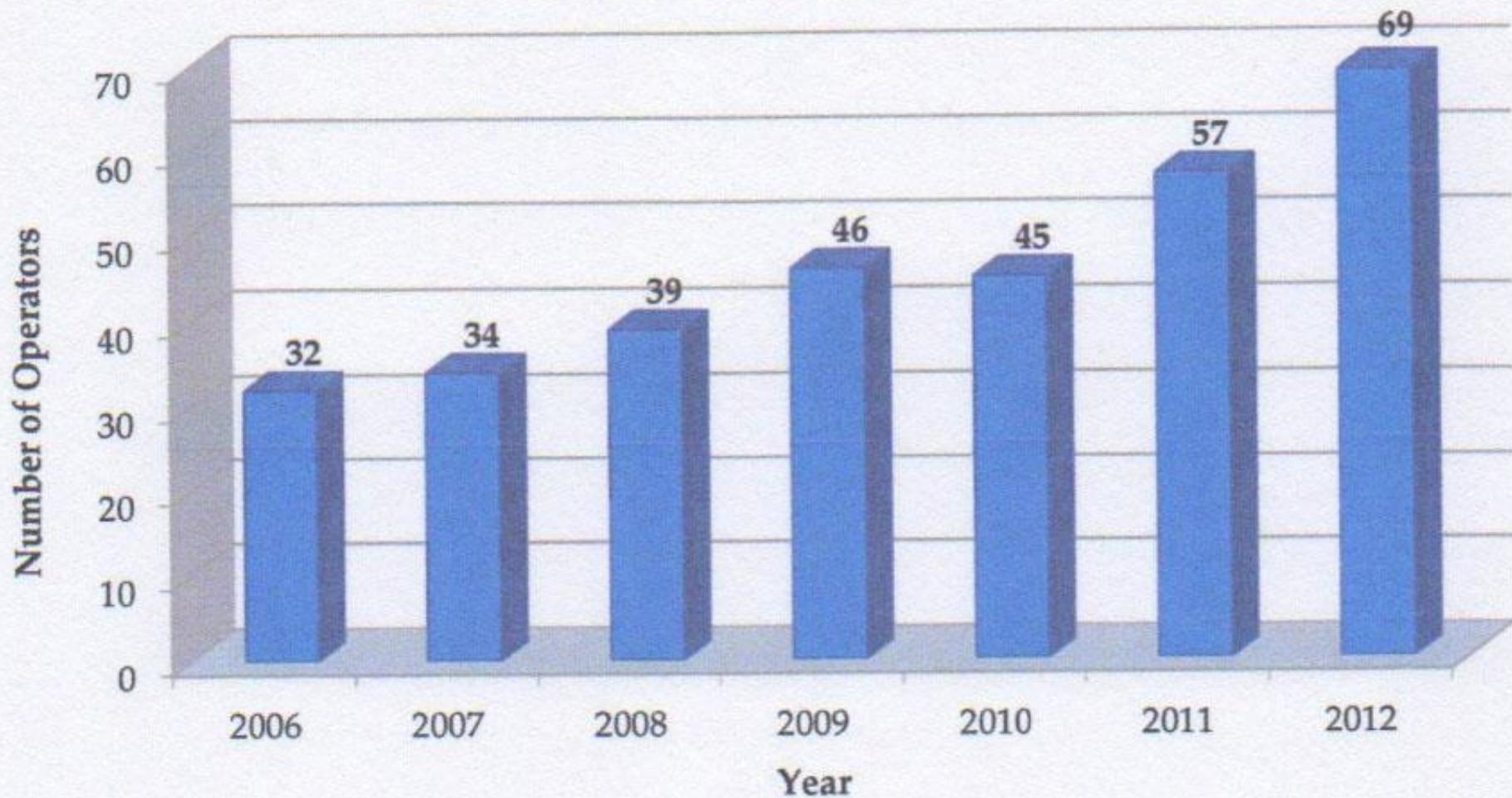
CSP Marijuana Citations

- May-Oct 2013 pilot
 - 283 DUI-MJ citations
 - 55% < 5 ng/ml permissible limit
- June YTD 2014
 - 12.4% of DUIs are DUI MJ+
 - 349 through June (~3,500/yr for entire state?)

Lakewood PD

- 2013
 - 23% of DUI citations were suspected DUIDs
 - 71% of tested DUID suspects were positive
- 2014
 - 23% of DUI citations were suspected DUIDs
 - 74% of tested DUID suspects were positive
 - 40/70 THC, 79% of those tested were polydrug
 - 22 benzodiazepines, 94% polydrug
 - Opioids, amphetamines, cocaine, 89% polydrug

Operators Testing Positive for Marijuana Involved in Fatalities



DUID Victim Voices 2012 Study

Structure

- All VH and VA in 2012 n=246
- Subset of above charged with DUI n=207
- Determine cause of DUI charges (A, D, A+D)
 - Review court records
 - Affidavit of probable cause
 - Motions, letters, plea bargain agreements
 - Lab confirmation of blood tests, if available
- First statewide estimate of % DUID in DUI

DUID Victim Voices 2012 Study

Limitations

- Only a subset of VA cases studied
 - 100% (29) of VH
 - 21% (37) of VA – (those that were pled down)
- Court records are incomplete
 - Interviews reclassified 2 DUI-A cases as DUI – D
 - Youthful offender records are sealed
- Lab results available on only 2/3 of cases
 - Drug screens are not standardized
 - Lab tests reclassified 2 DUI A cases as DUI A+D
- Sampling delays make lab tests moot

DUID Victim Voices 2012 Study

Key Finding #1 – DUI prevalence in VH/VA citations

- 83% of VH/VA defendants had DUI charges

	DUI charge	Reckless Driving	Total
VH	29	6	35
VA only	178	37	211
Total	207 (83%)	43 (17%)	246

DUID Victim Voices 2012 Study

Key Finding #2 – DUID prevalence in DUI citations

- 39% of DUIs involved drugs
- Most were combined with alcohol

	VA DUI n %	VH DUI n %	Total n %
Alcohol	25 (68%)	15 (52%)	40 (61%)
Drugs	5 (14%)	5 (17%)	10 (15%)
Alcohol+Drugs	7 (19%)	9 (31%)	16 (24%)
Total	37	29	66

DUID Victim Voices 2012 Study

Key Finding #3 – Polydrug use

- 85% of DUID cases involved polydrug use

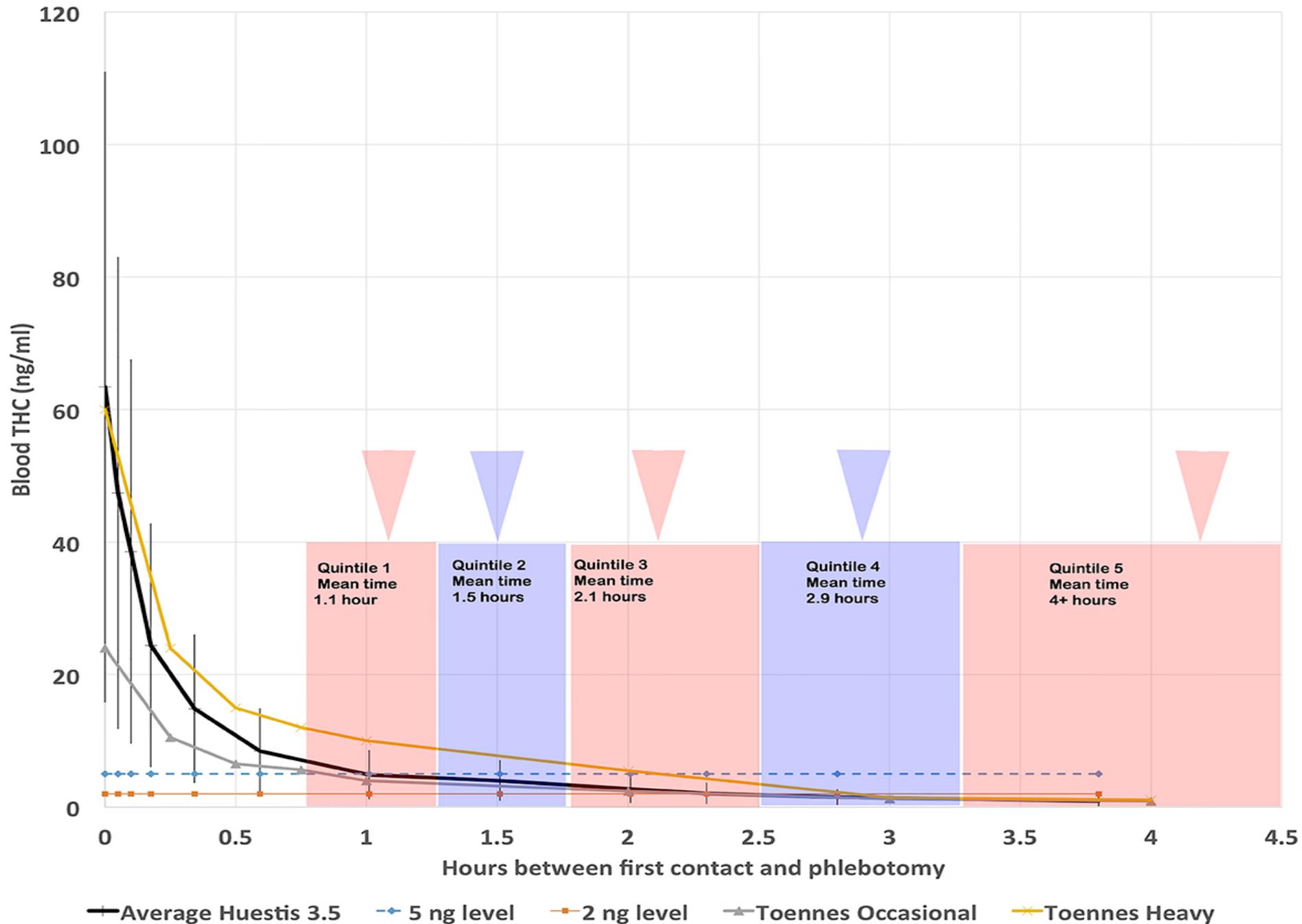
Drug class	Citations	% of DUIDs	% of DUIs
Polydrug or alcohol + drug	22	85	33
Marijuana	18	69	27
Opiates/opioids	6	23	9
Amphetamines	5	19	8
Cocaine	4	15	6
Others (antidepressants, sedatives, benzodiazepines)	6	23	9

DUID Victim Voices 2012 Study

Key Finding #4 – Delays

- Blood draw delays can make lab tests moot
- 49/66 cases recorded times: dispatch to draw
- None required warrants
- Mean 2.32 (1.31) hrs, range 0.83 – 8 hrs
 - VH>VA 2.66 vs 2.01 n.s.
 - CSP>Local 2.90 vs 1.91 p=.008
- cf: Chematox 1.2 hrs for general DUI suspects

Blood THC over Time



Labs confirm delay dilemma

Lab	Year(s)	Cannabis +	THC+	THC≥5ng	% Cannabis+ <5ng
CDPHE	2010-13	6,595	3,910	1,998	70%
Chematox	2013	2,159	1,561	1,252	42%

The 90% DUI Conviction Myth

The ability to analyze judicial outcome is an essential part of any data base used to study DUID

Defendant Class	DUI Conviction	DUI/DWAI Conviction	Data base	n
All DUIs	73%	82%	1 st half 2010, 18/64 counties	11,221
DUIDs	40%	50%	2012 DVV study	10
DUID – MJ	0%	50%	2012 DVV study	2

DUID results suggest a conviction problem may exist, but the sample size is too low to be convincing.

Example MJ cases

None convicted of DUI

- Marijuana alone
 - Arapahoe County – VA DUI charged
 - Hit & run, delayed test
 - Priors: DUI, VA, weapons, possession
 - VA Reckless, 2 years probation
 - Boulder County – VA DUI charged
 - Smoking a blunt while driving
 - VA Reckless, DWAI, probation
- Marijuana + <.05 BAC alcohol
 - Boulder County – VA DUI charged
 - .044 BAC + 3 ng THC
 - VA Reckless, probation
 - Routt County – VH DUI charged
 - .046 BAC + 8 ng THC
 - Careless driving resulting in death, 1 year

DUID Victim Voices 2013 Study

- Data collection in progress
- 100% VH & 100% VA
- April 19, 2013 *State vs. McNeeley*
- Study will explore judicial outcomes

- Why isn't this done by the state?

Legislative recommendations

- **First, get the data!**
 - 1 Separate DUI-A from DUID (Model PA, HI and CA)
 - 2 Require coroners to report to CDOT (Amend 42-4-1301.1)
 - 3 Fund DUID data collection and analysis
- **Then, act on the data we now have**
 - 1 More DREs and ARIDEs
 - 2 Make death or SBI a probable cause for testing (Model AZ, FL, HI, ME, MN, NV, NY, SC)
- **Eventually, based on the data, consider:**
 - 1 Stop presumption of innocence for $<.05$ BAC
 - 2 Statewide use of electronic warrants to reduce sample delays
 - 3 Change 5 ng/ml THC permissible limit to 1-2 ng/ml
 - 4 Enable use of oral fluid roadside testing for deterrence and “PBT”
 - 5 Zero tolerance for illegal scheduled drugs in impaired drivers (~NZ)

Thank you!

What you heard

- MJ DUI is a problem, but not THE problem
- DUID is large proportion of our DUIs
- We don't measure/manage DUIDs
- We can and should improve DUID laws