



# STATE OF MICHIGAN

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## **Impaired Driving Program Assessment**

**April 6 – April 11, 2014**

**Technical Assessment Team**

**Susan N. Bryant  
Robert P. Lillis  
Judge Karl L. Grube  
Larry Holestine  
Chief Scott Silverii**

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The team thanks each of the participants in the review for the time and energy invested in preparing and delivering their presentations. Their candor and thoroughness in discussing their activities to target impaired driving in Michigan greatly assisted the team in conducting a complete review.

The team thanks the National Highway Traffic Safety Administration (NHTSA) for coordinating and facilitating the assessment process. Ms. Caroline Cash, NHTSA Impaired Driving Division Program Manager, facilitated and led the onsite assessment process. Mr. Dwight Lockwood, NHTSA Region 5 Program Manager assisted in the planning process. Their support helped provide a national and regional impaired driving program perspective to the assessment. The team also thanks Evelyn Avant, Assessment Administrator, for her coordination and management of the production of the final report and support to the team.

This report is based on a review of the State's Impaired Driving Program. It is intended to assist Michigan's efforts to enhance the effectiveness of its alcohol-impaired driving program by equipping the criminal justice community and law enforcement officials with the knowledge and skills to detect, arrest, and prosecute alcohol-impaired drivers. The team believes that this report will contribute to the State's efforts to enhance the effectiveness of its impaired driving program in preventing injuries, saving lives, and reducing economic costs of motor vehicle crashes on Michigan's roadways, and commends all who are involved in the day-to-day efforts to reduce impaired driving in Michigan.

## INTRODUCTION

The mission of the National Highway Traffic Safety Administration (NHTSA) is to reduce deaths, injuries, and economic and property losses resulting from motor vehicle crashes. In its ongoing pursuit to reduce alcohol-related traffic crashes and subsequent fatalities and injuries, NHTSA offers Highway Safety Program Assessments to the States.

The Highway Safety Program Assessment process is an assistance tool that allows management to review various highway safety and emergency medical services (EMS) programs. Program assessments are provided for emergency medical services, occupant protection, impaired driving, traffic records, motorcycle safety, police traffic services, drivers education, and pedestrian and bicycle safety.

The purpose of the assessment is to allow State management to review all components of a given highway safety or EMS program, note the program's strengths and accomplishments, and note where improvements can be made. The assessment can be used as a management tool for planning purposes and for making decisions about how to best use available resources. The highway safety and EMS program assessments provide an organized approach, along with well-defined procedures, that States can use to meet these objectives. The assessments are cooperative efforts among state highway safety offices, state EMS offices, and NHTSA. In some instances, the private sector is also a partner in the effort.

Program assessments are based on the "Uniform Guidelines for State Highway Safety Programs," which are required by Congress and periodically updated through a public rulemaking process. For each highway safety program area, the criteria against which each state program is assessed have been developed through use of the uniform guidelines, augmented by current best practices.

NHTSA staff facilitates the assessment process by assembling an assessment team, a team of experts composed of individuals who have demonstrated competence in impaired driving program development and evaluation, to review all components of a given highway safety or EMS program, note the program's strengths and accomplishments, and note where improvements can be made.

The state of Michigan requested NHTSA's assistance in assessing the State's alcohol and drug impaired driving countermeasures program to comply with 23 CFR 1200.23 promulgated under Moving Ahead for Progress in the 21st Century (MAP-21) to qualify for the Impaired Driving Countermeasures Grant.

Under MAP-21, states that have an average impaired driving fatality rate that is 0.60 or higher are considered high-range states. Michigan is considered a low-range state and is therefore not required, but wishes to conduct a NHTSA facilitated assessment of the State's impaired driving program.

The Michigan Impaired Driving Program Assessment was conducted at the Ramada Lansing Hotel and Conference Center in Lansing, Michigan from April 6, 2014 to April 11, 2014. Under the direction of Michael Prince, Director of the Office of Highway Safety Planning,

arrangements were made for program experts (see Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a three-day period.

## **STATE BACKGROUND**

Michigan is comprised of two peninsulas of land separated by the Straits of Mackinac and virtually surrounded by the Great Lakes. The State covers 58,110 square miles of land with thousands of inland waters and lakes.

According to 2013 census estimates, Michigan ranks 8<sup>th</sup> in the nation with a population of nearly ten million persons (9,895,622). Michigan has 83 counties. Forty (40) percent of the total population resides in the urban centers of the southern half of the Lower Peninsula. In spite of urban expansion into agricultural lands, the state still has nearly 10 million farm acres.

According to the 2013 Census, the most populated cities were Detroit – 701,475; Grand Rapids - 190,411; Warren – 134,141; Flint – 100,515; Sterling Heights – 130,410; Lansing (Capitol City) - 113,996; Ann Arbor - 116,121; and Livonia – 95,586. Statewide, Caucasians make up 80 percent of the population, Blacks or African Americans make up 14 percent, American Indian and Alaska Natives make up 0.7 percent, Asians make up 2.6 percent and 2 percent claimed some other. Hispanics or Latinos of any race make up about 4.6 percent. In more recent migrations many African Americans, Asians, Middle Eastern and people of Spanish origin have made Michigan their home.

The three largest income-producing industries in Michigan are manufacturing, tourism and agriculture. As a four-season state the State is host to approximately 3.8 million out-of-state visitors each year.

Michigan will always be associated with the automobile, and Michigan leads the nation in automobile manufacturing. In addition to transportation-related items, Michigan manufactures a wide variety of products including non-electric machinery, furniture and appliances, cereals, baby food, chemicals, pharmaceuticals and lumber. As a four-season state, tourism is one of its largest income producers making Michigan one of the largest travel states in the United States. In spite of urban expansion into agricultural lands, the state still has over 10 million farm acres, and approximately 53,000 farms. The state ranks first nationally in the production of red tart cherries, dry beans, blueberries, pickling cucumbers, and potted Easter lilies and geraniums. It is also a major supplier of spearmint.

Michigan has a very rich history and cultural past. In 1908, the Ford Model T was first manufactured in Michigan giving rise to a long history of automotive and related industries. In 1974, Gerald R. Ford of Grand Rapids became the 38<sup>th</sup> President of the United States.

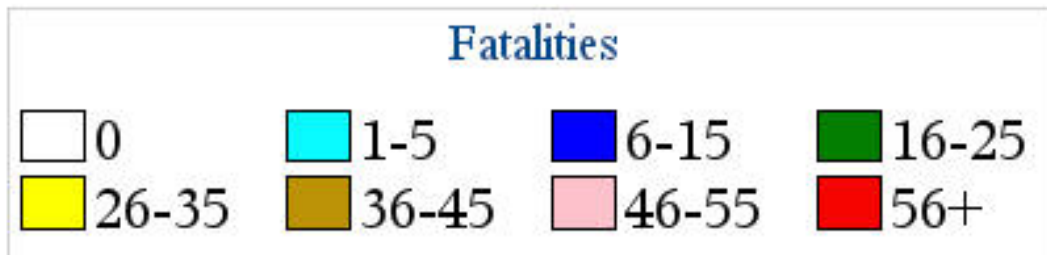
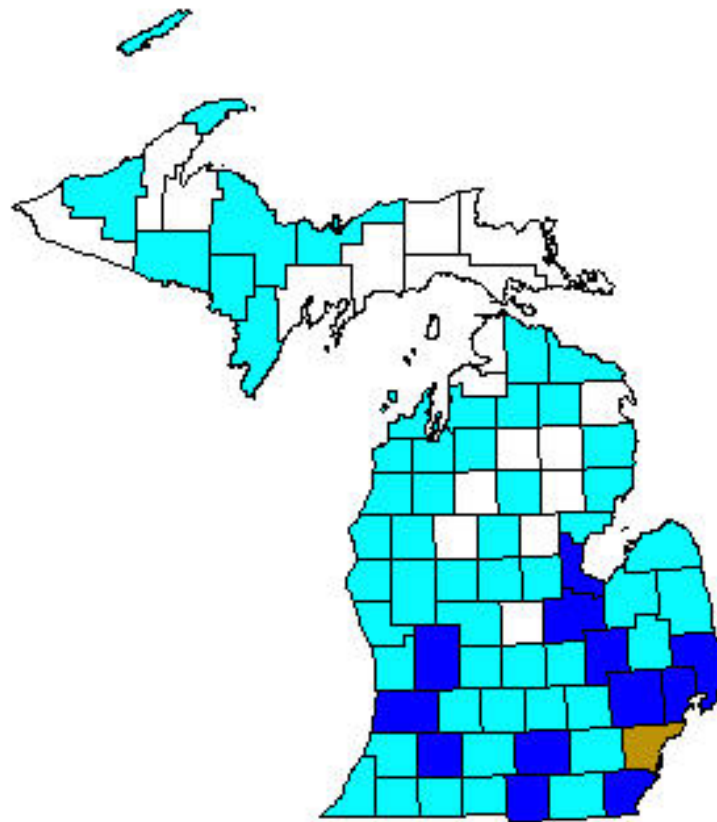
## **Highway Safety**

- Michigan has a total of 120,256 miles of paved roadway (9,716 miles of state trunk line, 89,755 miles of county roads, and 20,785 miles of city and village streets).
- More than 96 billion miles are driven on Michigan roadways every year.
- Michigan has a safety belt use rate of 93.6 percent, one of the nation's highest.
- The State's fatality rate per 100 million vehicle miles traveled (VMT) has consistently remained below the national average.
- Since 2008 annual crash fatalities have remained below 1,000.
- Fatal and serious injury alcohol and drug-impaired crashes have declined since 2008.
- The number of alcohol/drug-related crashes as a percentage of total fatal crashes has been fairly steady over the last decade but declined slightly since 2008.

An examination of State's Traffic Crash Statistics files reveals the following data for Michigan over the past 5 years:

Year	2012	2011	2010	2009	2008
Total Fatalities	936	889	937	871	980
Alcohol/Drug-Investigated Fatalities	342	319	357	351	379
Alcohol/Drug-Investigated Fatal Crashes	314	297	329	328	357

Fatalities in Crashes Involving an Alcohol-Impaired Driver (BAC = .08+)



## PRIORITY RECOMMENDATIONS

### I. Program Management and Strategic Planning

#### C. Program Management

- **Incorporate non-crash data from a comprehensive impaired driving system, such as adjudication and enforcement data, for problem identification and project development.**

### II. Prevention

#### A. Responsible Alcohol Service

- **Require responsible alcohol service training for servers at events for which temporary alcohol licenses are issued.**
- **Enact a \$.10 per drink equivalent tax on all alcoholic beverages and allocate resulting new revenues to treatment and prevention of alcohol-related problems including impaired driving.**

#### B. Community-Based Programs

##### B-1. Schools

- **Establish a consortium of college alcohol and substance abuse prevention programs.**

### III. Criminal Justice System

#### A. Laws

- **Enact legislation requiring mandatory participation in a rehabilitation or treatment program in any case of Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating With the Presence of Drugs (OWPD) where a trial court level alcohol screening or assessment discloses that a defendant is dependent on controlled substances or alcohol, and require completion of such treatment as a condition of probation.**
- **Repeal the constitutional prohibition of sobriety checkpoints.**
- **Enact legislation setting a per se presumptive tetrahydrocannabinol (THC) level of 5 nanograms per milliliter of blood, to specify when a Michigan Medical Marihuana Act (MMMA) registered patient is intoxicated and no longer entitled to the MMMA's immunity and protection provisions when charged with Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating With the Presence of Drugs (OWPD).**



B. Enforcement

- **Fund and staff Law Enforcement Liaison (LEL) positions within the Office of Highway Safety Planning.**
- **Enact provisions that provide for admission of an affidavit report, in lieu of in-person testimony by the arresting officer, to establish proof of the statutory requirements in administrative license suspension/revocation hearings.**

D. Adjudication

- **Continue funding for the implementation, utilization, and support of sobriety and drug treatment courts.**

E. Administration Sanctions and Driver Licensing Programs

E-1. Driver License Programs

- **Amend the Graduated Driver Licensing law to require all vehicle occupants to wear seatbelts.**

V. Alcohol and Other Drug Misuse: Screening, Assessment, Treatment and Rehabilitation

A-1. Medical Settings

- **Implement Screening Brief Intervention and Referral to Treatment in health care facilities throughout Michigan.**

B. Treatment and Rehabilitation

- **Sustain Sobriety/DWI courts by supplementing offender fees and charges with dedicated funds.**

VI. Program Evaluation and Data

A. Evaluation

- **Implement the Governors Traffic Safety Advisory Commission Traffic Record Improvement strategies.**

B. Data and Records

- **Enact legislation requiring Blood Alcohol Content (BAC) data to be collected and reported on all operators involved in fatal crashes.**

## **I. Program Management and Strategic Planning**

*Effective impaired driving programs begin with strong leadership, sound policy development, effective and efficient program management, and coordinated planning, including strategic planning. Program efforts should be data-driven, focusing on populations and geographic areas that are most at risk; are evidence-based; and determined through independent evaluation as likely to achieve success. Programs and activities should be guided by problem identification, carefully managed and monitored for effectiveness, and have clear measurable outcomes. Adequate resources should be devoted to the problem, and the costs should be borne, to the extent possible, by impaired drivers. Strategic planning should provide policy guidance; include recommended goals and objectives; and identify clear measurable outcomes, resources, and ways to overcome barriers.*

### **A. State and Tribal DWI Task Forces or Commissions**

#### **Advisory**

*States and tribal governments should convene Driving While Impaired (DWI) task forces or commissions to foster leadership, commitment and coordination among all parties interested in impaired driving issues. State-level and tribal task forces and commissions should:*

- *Receive active support and participation from the highest levels of leadership, including the governor and/or governor's highway safety representative.*
- *Include members that represent all interested parties, both traditional and non-traditional, such as representatives of: government – highway safety, enforcement, criminal justice, liquor law enforcement, public health, education, driver licensing and education; business – employers and unions; the military; medical, health care and treatment; multi-cultural, faith-based, advocacy and other community groups; and others.*
- *Recommend goals and objectives, provide policy guidance and identify available resources, based on a wide variety of interests and through leveraging opportunities.*
- *Coordinate programs and activities to ensure that they complement rather than compete with each other.*
- *Operate continuously, based on clear authority and direction.*

#### **Status**

##### Governor's Traffic Safety Advisory Commission

The Michigan Governor's Traffic Safety Advisory Commission (GTSAC) was established in 2002 by Executive Order. The GTSAC combined two previous efforts: the Michigan State Safety Commission (established 1941) and the Michigan Traffic Safety Management System (1995). The purpose of GTSAC is to:

Provide leadership to improve traffic safety by fostering communication, coordination, and collaboration among government and other public and private entities in Michigan.

GTSAC is comprised of 11 members representing the Governor's Office; Michigan Departments of Community Health, Education, State Police, and Transportation; Secretary of State; Office of Services to the Aging; Office of Highway Safety Planning (OHSP); Calhoun County Sheriff's Office; Van Buren County Road Commission; and Grand Blanc County Township Police Department.

Meetings are held monthly and chaired by the OHSP Executive Director. Meetings are primarily composed of information sharing among members and guests plus discussion of legislative and other issues. Discussion items range across the spectrum of traffic safety topics.

Eleven action teams operate under the auspices of the GTSAC.

### State Impaired Driving Task Force

The Michigan Impaired Driving Action Team (IDAT) is one of the GTSAC action teams. Persons from the following agencies comprise the Team:

- AAA Michigan
- Detroit Police Department
- Michigan Association of District Court Probation Officers
- Michigan Department of Community Health
- Michigan Department of State
- Michigan Department of State Police
- Michigan Department of Transportation
- Michigan Judicial Institute
- Michigan Licensed Beverage Association
- Michigan Liquor Control Commission
- Michigan Office of Highway Safety Planning
- Prevention Network Inc.
- Prosecuting Attorneys Association of Michigan
- State Court Administrative Office

The OHSP Impaired Driving Coordinator chairs this Team. Identifying gaps in membership and finding individuals to fill those gaps are a challenge for the Team. Programs for the team have included sessions on social norming and ignition interlock. Minutes for Team meetings are posted online for easy access.

### Regional Traffic Safety Committees

There are approximately 16 regional traffic safety committees that cover the State. These committees were formed about forty years ago by a partnership between AAA Michigan and the OHSP to make connections between local concerns and state policies. Membership is multi-disciplinary and varies by committee, usually consisting of law enforcement, traffic engineering, EMS, and others. OHSP provides a representative to each committee to serve as liaison between the State and the local representatives.

Committees range in size from one county to multiple counties. Meetings are generally conducted three or four times a year with a legislative meeting conducted once a year. A meeting of committee chairs is conducted every other year in conjunction with the Traffic Safety Summit.

AAA Michigan provides administrative support to the committees, assisting with scheduling and organizing meetings and providing communications to committee members. AAA Michigan also provides some funding support by donating breakfasts, lunches, or other meeting items.

#### Tribal Task Force(s)

There are 12 federally-recognized tribes in Michigan. There is some participation of tribal law enforcement in their local law enforcement task forces. The inclusion of the tribes in other state or local task forces to impact impaired driving is unknown. There does not appear to be any tribal representation on the GTSAC or the IDAT.

An online course, Working Effectively with Tribal Governments, is available for free on the Michigan.gov website. According to Executive Order 2012-2, each executive branch department shall designate an individual to be responsible for department-wide coordination of the department's interactions with the governments of Michigan's federally-recognized Indian Tribes. This individual shall be known as the department's tribal liaison. The department's tribal liaison shall report significant department interaction with the tribes to the Governor's Advisor on Tribal-State Affairs and the department director.

#### State Epidemiological Outcomes Workgroup

Michigan maintains a State Epidemiological Outcomes Workgroup (SEOW) that was implemented as part of the Strategic Prevention Framework, State Incentive Grant (SPF/SIG). The mission of the SEOW is to expand, enhance and integrate the substance use disorder needs assessment, and develop the capacity to address mental, emotional and behavioral conditions by incorporating mental health data that create state and community profiles that share common indicators, intervening variables and consequences related to mental emotional and behavioral (MEB) disorders.

Membership on the SEOW includes representatives of various state-level departments, including the Department of Community Health (MDCH), Department of Education (DOE), and Michigan State Police (MSP), as well as regional substance abuse coordinating agencies (CAs), community coalitions, and the Michigan Primary Care Association. The SEOW also includes a Centers for Disease Control and Prevention (CDC) fellow assigned to the state to research epidemiological trends related to alcohol use. The chairperson on the SEOW is the lead epidemiologist for the Department of Community Health.

#### State Coalition to Reduce Underage Drinking

The Michigan Coalition to Reduce Underage Drinking (MCRUD) is to provide leadership on state and national issues and to assist individuals, grassroots groups, and organizations to reduce underage drinking locally. MCRUD is part of the Prevention Network, administered by

Prevention Network Inc., with funding provided through the Michigan Department of Community Mental Health Office of Recovery Oriented Systems of Care (OROSC), The Skillman Foundation, and private contributions.

### Traffic Records Coordinating Committee (TRCC)

There is an active Traffic Records Coordinating Committee (TRCC) that serves as an action team within the GTSAC structure and has responsibility for addressing traffic crash record issues. The Executive Committee of the TRCC is composed of representatives from the Michigan Departments of State Police, State, Transportation, and Community Health; Michigan State Courts Administration Office; and the Michigan Office of Highway Safety Planning. The Chair of the TRCC reports status of projects, issues and accomplishments bi-monthly to the GTSAC. The TRCC will be discussed in Section VI. Program Evaluation and Data.

### **Recommendations**

- Increase key stakeholder participation in the Impaired Driving Action Team, as per Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), including driver licensing, adjudication, treatment and rehabilitation, ignition interlock programs, data and traffic records, and communication.
- Establish relationships with the Indian populations in the State by working with the Michigan State Police tribal liaison and the Governor's Advisor on Tribal-State Affairs.
- Incorporate Tribal representation and perspectives in meetings of the Governor's Traffic Safety Advisory Commission and Impaired Driving Action Team.

### **B. Strategic Planning**

#### *Advisory*

*States should develop and implement an overall plan for short- and long-term impaired driving activities. The plan and its implementation should:*

- *Define a vision for the state that is easily understood and supported by all partners.*
- *Utilize best practices in strategic planning.*
- *Be based on thorough problem identification that uses crash, arrest, conviction, driver record and other available data to identify the populations and geographic areas most at risk.*
- *Allocate resources for countermeasures determined to be effective that will impact the populations and geographic areas most at risk.*
- *Include short-term objectives and long-range goals. Have clear measurable outcomes.*
- *Be an integral part of or coordinate with and support other state plans, including the Highway Safety Plan and Strategic Highway Safety Plan.*

- *Establish or adjust priorities based on recommendations provided to the state as a result of reviews and assessments, including this impaired driving assessment.*
- *Assign responsibility and accountability among the state's partners for the implementation of priority recommendations.*

## **Status**

### Strategic Highway Safety Plan

Under the leadership of the Governor's Traffic Safety Advisory Commission (GTSAC), the Michigan *Strategic Highway Safety Plan* (SHSP) was initially developed in 2004. The SHSP identified 12 traffic safety emphasis areas. An action team was created for each of these emphasis areas and charged with the development of a plan to identify issues and short and long-term strategies.

Follow-up to this initial development process has consisted of further data analyses, a statewide survey of stakeholders in 2012, and five regional focus groups. The resulting 2013-2016 SHSP incorporates an overall state vision and goals:

Vision: Toward zero deaths on Michigan roadways

Goals: Reduce traffic fatalities from 889 in 2011 to 750 in 2016

Reduce serious traffic injuries from 5,706 in 2011 to 4,800 in 2016

The 2013-2016 SHSP consolidated the 12 emphasis areas into four, of which High-risk Behaviors is one. Impaired driving is included within this emphasis area. The SHSP has identified young male drivers and weekend crashes as prevalent for impaired driving. Six strategies are defined in the SHSP and *Michigan Impaired Driving Action Team Action Plan 2013-2016* (September 2013):

- Continue high-visibility enforcement
- Promote efforts to continue sobriety courts and the use of ignition interlocks
- Support public information and education campaigns
- Explore innovative countermeasures for impaired driving
- Provide enhanced training for all sectors of the criminal justice and substance abuse communities
- Provide recommendations related to impaired driving policies and legislative efforts based on scientific data

### Michigan Impaired Driving Action Team Action Plan 2013-2016

Goals for impaired driving are included in the *Michigan Impaired Driving Action Team Action Plan 2013-2016* (hereafter referred to as the Impaired Driving Action Plan or IDAP):

## Goals for Impaired Driving

Year	Fatal and Incapacitating Crashes Involving Alcohol	Fatal and Incapacitating Crashes Involving Drugs
2013	1,041	400
2014	968	396
2015	900	392

The IDAP identifies “short-term,” “mid-term”, “long-term” and “ongoing” activities, and lead and partner agencies. As a strategic plan, the IDAP establishes the focus and direction for impaired driving programs in the State.

IDAP is a recent and current plan, having been completed in September 2013. This strategic plan emphasizes strategies for the criminal justice system and media. An education component, primarily for training those in the criminal justice system and prevention community, is incorporated in the plan. However, other potential targets for education (the public, high risk drivers) are not, nor are other impaired driving system components, such as program evaluation and data.

The chair of the Impaired Driving Action Team reports to the GTSAC on any items related to the plan.

The Office of Highway Safety Planning intends to work with the impaired driving network, including the Action Team, to develop a current strategic plan incorporating appropriate recommendations from this assessment.

### Local Traffic Safety Plans

It is unknown whether there are local strategic traffic safety or impaired driving plans.

### State Prevention Enhancement Project and Five-year Strategic Plan

In addition to the SHSP, Michigan has developed a *State Prevention Enhancement Project and Five-year Strategic Plan* (July 2010). This plan is coordinated by the Michigan Department of Community Health, Office of Recovery Oriented Systems of Care.

## **Recommendations**

- Continue with development and implementation of an updated impaired driving strategic plan.
- Ensure that the impaired driving strategic plan meets the provisions of Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) legislation, which calls for the plan to:

- Provide a comprehensive strategy that uses data and problem identification to identify measurable goals and objectives,
  - Cover general areas that include program management and strategic planning, prevention, the criminal justice system, communication programs, alcohol and other drug misuse, and program evaluation and data,
  - Address appropriate recommendations from this assessment,
  - Include a detailed plan for spending any grant funds provided for high visibility enforcement, and
  - Describe how the spending supports the State’s impaired driving program and achievement of its performance goals and targets.
- Develop and implement impaired driving plans that support statewide goals and objectives.

### **C. Program Management**

#### ***Advisory***

*States should establish procedures and provide sufficient oversight to ensure that program activities are implemented as intended. The procedures should:*

- *Designate a lead agency that is responsible for overall program management and operations;*
- *Ensure that appropriate data are collected to assess program impact and conduct evaluations;*
- *Measure progress in achieving established goals and objectives;*
- *Detect and correct problems quickly;*
- *Identify the authority, roles, and responsibilities of the agencies and personnel for management of the impaired driving program and activities; and*
- *Ensure that the programs that are implemented follow evidence-based best practices.<sup>1</sup>*

### **Status**

#### **Organization**

The Michigan traffic safety program is administered by the Office of Highway Safety Planning (OHSP), an office within the Michigan State Police (MSP). The Governor’s Highway Safety Representative is the Director of the OHSP; this assignment allows the director to approve the *Highway Safety Plan* (HSP), including official certifications and assurances.

In addition to the director and executive secretary, four sections comprise OHSP including:

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<sup>1</sup> See “Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Offices,” Sixth Edition, 2011.



OHSP SECTIONS	NUMBER OF STAFF
Safety Planning and Administration	5
Communications	5
Financial Management	5
Program Management	7

All management functions are largely contained within the OHSP. MSP provides human resource services for the Office, and OHSP works with the MSP field services for enforcement and outreach. Technology support is provided from the Department of Technology and Budget.

One traffic safety specialist in OHSP located outside of Lansing provides grant management and liaison to the Upper Peninsula of Michigan and the Northern Lower Peninsula. All other program management staff resides in Lansing. Staff includes a designated Impaired Driving Coordinator who plans, coordinates, and implements countermeasures to prevent impaired driving in Michigan.

### Planning

The HSP is developed through a six-step planning process that begins with problem identification and concludes with project selection.

Quantitative targets are established through crash analyses conducted by the University of Michigan Transportation Research Institute based on five-year crash trends using a regressive predictive statistical model. The impaired driving performance measure is:

To decrease alcohol impaired driving fatalities in which a driver has at least a 0.08 BAC 12 percent from the normalized 2013 value of 163 to 144 by December 31, 2015.

A variety of resources are consulted to help develop the HSP. Among these resources are other strategic and state plans; national plans, programs and priorities; national publications; and participation in meetings, conferences, and associations. For example, the OHSP refers to *Countermeasures that Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices* (NHTSA) for project ideas.

### Problem Identification

The planning process depends primarily on analyses of crash data, including location and time, driver, roadway, weather, and other factors. Factors that contribute to at least ten percent of fatalities and incapacitating injuries, such as alcohol and other drugs, are highlighted and for which goals are established.

The Drunk Driving Audit provides other factors critical to a comprehensive impaired driving program, such as adjudication data and citations, but these other data do not appear to be as well-considered as the crash data in problem identification and planning. For example, no goals were

established for FYs 2013, 2014, or 2015 for impaired driving arrests made during grant-funded enforcement activities.

### Project Selection

OHSP operates a two-prong approach to selecting projects for funding. Information is distributed about the grant program for impaired driving through various partners, including the members of the Impaired Driving Action Team. Projects and program ideas are solicited from a variety of sources. For enforcement activities, OHSP proactively reviews the crash data, identifies the counties that rank the highest, solicits those counties' participation in the program, and provides a contract template to receive funding.

Several considerations are factored into recommendations for projects. These include, for example, expected effectiveness, target population, extent of problem, and available resources.

An important part of the planning process is the development of grant development plans (GDPs). A GDP helps to ensure thorough planning by documenting strategy(ies), potential grantees, funding levels and sources, goals and objectives, and project schedules.

### Project Review and Monitoring

Project review and monitoring have been conducted by Specialists within OHSP, following requirements written as OHSP *Grant Development and Management Policy Procedures*, specifically PROG 04 and PROG 12. For a fresh perspective and to ask the tough questions, OHSP has begun tasking one person, along with a fiscal staff member, with the responsibility for grant monitoring.

The priority for on-site monitoring is based on criteria within a three-tier system. For example, tier three monitoring, the lowest level, may occur at the discretion of the OHSP program coordinator. Quarterly reports are required from all grantees prior to reimbursement.

### Grant Management and Program Support

Michigan was one of the first states to implement an online grants management system (e-grants) for highway safety. Begun in 2004, the system is now considered relatively slow and antiquated. Extracting information is labor and time intensive. The system includes all NHTSA and Office of Juvenile Justice and Delinquency Prevention (OJJDP) Enforcing Underage Drinking Laws (EUDL)-funded grants. A system upgrade to e-grants is expected to begin soon. The upgrade is expected to integrate monitoring and provide automatic notices for reports and other grant requirements.

OHSP hosts an annual Traffic Safety Summit for approximately 500 attendees. Presentations are provided for a variety of audiences and are posted on the OHSP website.

All OHSP grantees are required to have a seat belt policy for their employees. This requirement is included as a grant provision, and grantees are checked to ensure this policy is in place.

## Recommendations

- Expedite the upgrade to e-grants for the traffic safety program, including impaired driving projects.
- Expand grant management outreach throughout the State through strategic location of traffic safety specialists in high priority areas outside of the State Capitol.
- **Incorporate non-crash data from a comprehensive impaired driving system, such as adjudication and enforcement data, for problem identification and project development.**
- Expand the outreach of project proposal solicitation for traffic safety grant-funded projects; use recommendations from this assessment to request proposals in prosecution and adjudication, education and communication, prevention, traffic records and evaluation.

### D. Resources

#### *Advisory*

*States should allocate sufficient funding, staffing and other resources to support their impaired driving programs. Programs should aim for self-sufficiency and, to the extent possible, costs should be borne by impaired drivers. The ultimate goal is for impaired driving programs to be fully supported by impaired drivers and to avoid dependence on other funding sources.*

*States should:*

- *Allocate funding, staffing and other resources to impaired driving programs that are:*
  - *Adequate to meet program needs and proportional to the impaired driving problem;*
  - *Steady and derived from dedicated sources, which may include public or private funds; and*
  - *Financially self-sufficient, and to the extent possible paid by the impaired drivers themselves. Some States achieve financial self-sufficiency using fines, fees, assessments, surcharges or taxes. Revenue collected from these sources should be used for impaired driving programs rather than returned to the State Treasury or General Fund.*
- *Meet criteria to enable access to additional funding through various incentive programs.*
- *Identify opportunities and leverage resources on behalf of impaired driving efforts.*
- *Determine the extent and types of resources available from all sources (local, state, and federal; public and private) that are dedicated to impaired driving efforts.*
- *Designate a position and support the individual in that position with sufficient resources to adequately serve as a focal point for impaired driving programs and issues.*

## Status

### State Budget

After experiencing a serious recession, the state of Michigan is experiencing a financial comeback. According to the *Executive Budget, Fiscal Years 2015 and 2016*, the State is leading the nation in manufacturing job growth, and in 2013 Michigan posted its first increase in labor force growth since 2006.

For the Michigan State Police, the governor's budget recommendation requests \$17.8 million to train 100 troopers and 31 motor carrier officers. This could allow state trooper strength to increase from a low of 926 in 2012 to a projected 1,184 in 2015.

As part of the Governor's Safety Initiative, \$11 million from the state budget is proposed to maintain drug treatment courts.

There is no state fund source, either from General Revenue or allocated from impaired driving citations, that provides dedicated funds for the impaired driving program.

### Federal Highway Safety Funds

The Office of Highway Safety (OHSP) plans a significant amount of funds from various state and federal funding sources to impact impaired driving. For the FY 2014 budget, OHSP planned federal funds for the following:

TASK	AMOUNT	FUND SOURCE
Enforcement		
	\$ 4,000	Section 405(d)
	\$ 675,000	Section 410
Adjudication	\$ 1,230,000	Section 405(d)
Reduce Underage Drinking	\$ 56,000	OJJDP (EUDL)
Evaluation	\$ 25,000	Section 405(d)
Program Management	\$ 544,000	Section 402
TOTAL	\$ 2,536,000	

[Note: The funds listed above do not include other funds which support impaired driving prevention but may not be solely dedicated to impaired driving, such as paid media, or locally-funded activities.]

### Fees and Fines

Fines for impaired driving (MI ST 257.625) are dedicated to the local library. Fines include, but are not limited, to the following:

OFFENSE	FINE
Refusal to take a preliminary breath test	Up to \$150

1st offense at 00.08 or any amount of a listed controlled substance	Not less than \$100 or more than \$500
1 <sup>st</sup> offense at 00.17	Not less than \$200 or more than \$700
2 <sup>nd</sup> offense within seven years of 1 <sup>st</sup> offense	Not less than \$200 or more than \$1,000
Felony – 3 <sup>rd</sup> or subsequent offense	Not less than \$500 or more than \$5,000
Misdemeanor – operating vehicle in violation with passenger less than 16 years (child endangerment)	Fine of not less than \$200 or more than \$1,000
Felony if child endangerment violation occurs within seven years of a prior or after 2 or more prior convictions	Fine of not less than \$500 or more than \$5,000
Misdemeanor – under 21 with .02 but less than 0.08	Fine of not more than \$500
Felony – causes serious impairment	Not less than \$1,000 or more than \$5,000
Felony – causes death of another person	Not less than \$2,500 or more than \$10,000

Court costs go to the State and county with the amount of court costs dependent upon the jurisdiction. The prosecutor also has the option of charging costs for prosecution; these costs vary, ranging between approximately \$50 and \$250. Each prosecutor's office makes the determination as to the cost, depending on offense and complexity of the case.

Fees may also include:

- A compensatory fee if an offender is sentenced to community service for the cost of supervising that community service.
- A reinstatement fee of \$125 if the driver's license was suspended, revoked, or restricted.
- A Driver Responsibility Fee of \$1,000 for 2 consecutive years for a driving while intoxicated conviction, including a High BAC conviction.
- A Driver Responsibility Fee of \$500 for 2 consecutive years for convictions for driving while impaired, with any presence of a Schedule 1 drug or cocaine, or child endangerment.
- No portion of these fines or fees is specifically dedicated to impaired driving programs. [Note: Montana, New York, and New Mexico are examples of states where dedicated funding programs have been established.]

Michigan allows vehicle forfeiture as a civil matter. A portion of the vehicle sales funds will revert to the police department.

## Additional Resources

Secondary Road Patrol (SRP) and Traffic Accident Program is a state grant program administered by the OHSP specifically for sheriffs' departments. In FY 2013, \$9.8 million provided for the full-time equivalent of 130 deputies for law enforcement, which can include enforcement of impaired driving.

Tribes pay eight percent to the State and two percent to local municipalities of "net win" derived from electronic gambling in accordance with the August 1993 Consent Judgment Tribal State Gaming Compacts. "Net win" means the total amount wagered minus the total amount paid to players for winning wagers at said machine. Tribal-State Gaming Compacts are written agreements between the tribal communities and the State, which are signed by the Governor. There are currently 12 State-Tribal Compacts. There is revenue sharing at the local level. For example, there is a youth alcohol program and substance abuse program funded by the "net win" allocation. According to the *Indian Gaming Section Annual Report to the Citizens of Michigan* (2012), \$29.9 million was remitted to local units of state government and local revenue sharing boards that year.

The Michigan Gaming Control & Revenue Act authorized three casinos for Detroit. Provisions in the Act call for distribution of casino tax revenue for K-12 public education in Michigan, and for capital improvement, youth programs, and tax relief in the city of Detroit. The Michigan Gaming Control Board provides oversight of the casinos in the State.

Though industry, especially the automobile industry, was hit hard by the down-turn in the economy, Michigan is still home to some of the largest and most successful companies in the country. The top ten in Michigan are:

<b>State Rank</b>	<b>Company</b>	<b>Fortune 500 rank</b>	<b>City</b>	<b>Revenues (\$ million)</b>
1	General Motors	5	Detroit	150,276
2	Ford Motor	9	Dearborn	136,264
3	Dow Chemical	47	Midland	59,985
4	Whirlpool	147	Benton Harbor	18,666
5	TRW Automotive Holdings	161	Livonia	16,244
6	Lear	189	Southfield	14,156
7	Ally Financial	201	Detroit	13,642
8	Kellogg	205	Battle Creek	13,198
9	Penske Automotive Group	222	Bloomfield Hills	11,869
10	DTE Energy	287	Detroit	8,897

These and other private corporations and businesses have resources that might be tapped to support public and employee impaired driving programs.

## Recommendations

- Establish a dedicated fund in the State to provide a consistent and stable funding stream for a statewide impaired driving program.
- Gain the support and participation of major employers and industry within the State for impaired driving efforts.
- Solicit gambling revenues for impaired driving activities.
- Develop and distribute a partnership directory of fund sources and organizations that identifies and tracks the sources and recipients of impaired driving resources.
- Increase utilization of the Secondary Road Patrol (SRP) and Traffic Accident Program funds for all traffic safety mobilizations.

## II. Prevention

*Prevention programs are most effective when they utilize evidence-based strategies, that is, they implement programs and activities that have been evaluated and found to be effective or are at least rooted in evidence-based principles. Effective prevention programs are based on the interaction between the elements of the public health model: 1) using strategies to develop resilient hosts, e.g., increase knowledge and awareness or altering social norms; 2) reducing exposure to the dangerous agent (alcohol), e.g., alcohol control policies and; 3) creating safe environments, e.g., reducing access to alcohol at times and places that result in impaired driving. Prevention programs should employ communication strategies that emphasize and support specific policies and program activities. Prevention programs include responsible alcohol service practices, transportation alternatives, and community-based programs carried out in schools, at work sites, in medical and health care facilities and by community coalitions. Programs should prevent underage drinking or drinking and driving for persons under 21 years of age, and should prevent over-service and impaired driving by persons 21 or older.*

*Prevention efforts should be directed toward populations at greatest risk. Programs and activities should be evidence-based, determined to be effective, and include a communication component.*

### A. Responsible Alcohol Service

#### *Advisory*

*States should promote policies and practices that prevent underage drinking and over-service by anyone.*

*States should:*

- *Adopt and enforce programs to prevent sales or service of alcoholic beverages to persons under the age of 21. Conduct compliance checks and “shoulder tap” activities and support the proper use of technology in alcohol retail establishments, particularly those catering to youth, to verify proper and recognize false identification.*

- *Adopt and enforce alcohol beverage control regulations to prevent over-service, service in high risk situations and service to high-risk populations. Prohibit service to visibly intoxicated patrons; restrict alcohol sales promotions, such as “happy hours”; limit hours of sale; establish conditions on the number, density, and locations of establishments to limit impaired driving, e.g., zoning restrictions; and require beer keg registration.*
- *Provide adequate resources including funds, staff, and training to enforce alcohol beverage control regulations. Coordinate with state, county, municipal and tribal law enforcement agencies to determine where impaired drivers had their last drink and use this information to monitor compliance with regulations.*
- *Promote responsible alcohol service programs, written policies, and training.*
- *Provide responsible alcohol service guidelines such as best practices tool kits to organizations that sponsor events at which alcohol is sold or provided.*
- *Encourage alcohol sales and service establishments to display educational information to discourage impaired driving and to actively promote designated driver and alternative transportation programs.*
- *Hold commercial establishments and social hosts responsible for damages caused by a patron or guest who was served alcohol when underage or visibly intoxicated.*

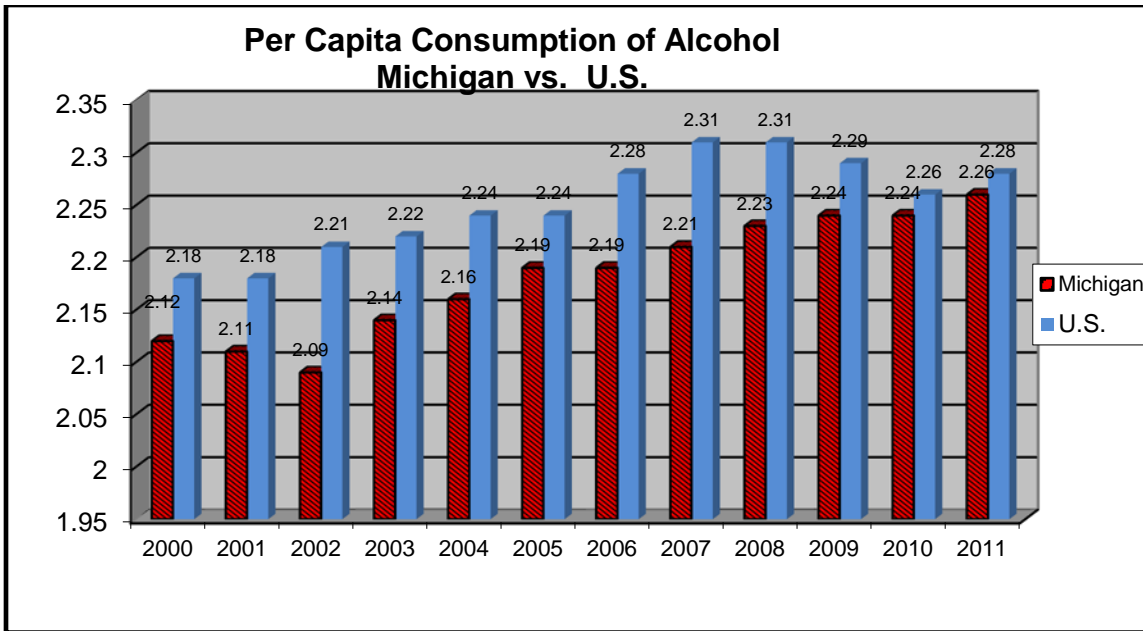
## Status

As Table 2-A-1 indicates, in 2011, the last year for which complete data were available, consumption of alcoholic beverages in Michigan equaled 2.26 gallons of ethanol per capita, approximately one percent lower than the national average of 2.28 gallons per capita. Figure 2-A-1 shows alcohol consumption in Michigan has been increasing somewhat faster than the national trend.

**Table 2-A-1**

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Michigan</b>	2.12	2.11	2.09	2.14	2.16	2.19	2.19	2.21	2.23	2.24	2.24	2.26
<b>U.S.</b>	2.18	2.18	2.21	2.22	2.24	2.24	2.28	2.31	2.31	2.29	2.26	2.28
<b>Diff</b>	-2.8%	-3.2%	-5.4%	-3.6%	-3.6%	-2.2%	-3.9%	-4.3%	-3.5%	-2.2%	-0.9%	-0.9%





The Bureau of Substance Abuse and Addiction Services, now called Office of Recovery Oriented Systems of Care (OROSC) received a three-year grant, for \$200,000 per year, starting November 1, 2010, for supporting a State Epidemiological Outcomes Workgroup (SEOW). The SEOW mission is to expand, enhance, and integrate the substance use disorder needs assessment, and develop the capacity to address mental, emotional, and behavioral conditions to support and improve upon the quality of life for the citizens of Michigan. The *Michigan Epidemiological Profile* (2011), prepared by SEOW, describes Michigan residents’ substance abuse consequences, consumption patterns, and intervening variables, as well as mental health well-being, and establishes a method for monitoring and improving outcomes. The Profile is organized by four different topic areas with twenty-two different indicators. The data reported in this document are based on numbers provided by state and federal sources. The profile provides the most current information, with trend data, if available.

Michigan Behavioral Risk Factor Survey (MIBRFS) regional and local health department estimates, released May 2011, indicate that in the 30 days prior to the survey among individuals 18 years of age and older 5.4 percent reported heavy drinking (>2 drinks/day for men and >1 drink /day for women) and 16.6 percent reported binge drinking (five or more drinks on one occasion).

<b>Michigan</b>	<b>N Sample Size</b>	<b>Percent</b>
Heavy Drinking	26,738	5.4%
Binge Drinking	26,992	16.6%
Drove a vehicle after drinking alcohol	14,906	2.7%

The Michigan Liquor Control Commission (MLCC) was created in 1933 following the repeal of Prohibition. The act creating MLCC empowered the Commission to control all alcoholic beverage traffic in this state. The Commission consists of five members appointed by the Governor. The mission of the MLCC is to make alcoholic beverages available for consumption while protecting the consumer and the general public through regulation of those involved in the sale and distribution of these alcohol beverage products.

MLCC Licensing Division reviews and processes all requests and reports pertaining to the issuance of retail, manufacturers' and wholesalers' licenses. Approximately 17,200 retail businesses, including bars, grocery stores, restaurants, hotels, convenience stores and pharmacies have one or more active license. The Division renews almost 27,000 retail licenses and issues about 6,200 Special (24-hour) Licenses annually. The Manufacturers and Wholesalers Section is responsible for the issuance of approximately 2,100 licenses and permits (manufacturers and other agents) and the approval of labeling and advertising by manufacturers and wholesalers.

MLCC Enforcement Division investigates applicants for new licenses and transfers of ownership or location of existing licenses, as well as investigating complaints against licensees. Additionally, this section inspects licensed establishments to ensure compliance with the Liquor Control Code and Commission rules. This section also advises and assists law enforcement agencies in liquor law enforcement at the local level and conducts training of law enforcement officers. Though MLCC and local law enforcement conduct controlled buys, they do not use shoulder-taps. There is no coordinated schedule for compliance checks; however, many operations are conducted in response to local coalitions or alcohol abuse/traffic safety groups.

Michigan is one of 18 "control" states, that is, the state is the sole source of distilled spirits at the wholesale level. Until 1997 distilled spirits were available only from state owned and operated stores. Since that time, while the state retains control of the wholesale level, private retail outlets may obtain licenses for sale of distilled spirits as well as for beer and wine.

On August 1, 2001, the MLCC implemented the mandatory server training requirement for licensees obtaining a new on-premises license or transferring more than 50 percent interest in an existing on-premises license. At a minimum, server-trained supervisory personnel must be employed during all hours alcoholic beverages are served as outlined in MCL 436.1501(1). There are also liability insurance discount incentives for server training.

The Michigan Licensed Beverage Association (MLBA) offers the Techniques of Alcohol Management (TAM) server training program. MLBA provides training to over 7,000 servers annually including managers, servers and winery tasting-room staff.

Each year, MLCC issues over 6,200 temporary licenses to festivals and organizations sponsoring special events. There is no requirement for server training for these licensees. Since many of these events employ volunteers and group members, there is significant potential for over-service and/or service to minors.

Michigan does not prohibit Happy Hours or other promotions. However, licensees may not give

away alcohol or sell alcohol below the wholesale price. There are also some restrictions on activities. For example, drinking games are prohibited.

Michigan prohibits “tied-houses”, that is, cross-promotions, cooperative advertising and other activities at a licensed establishment and provided by a specific manufacturer that could lead to undue influence of a manufacturer or wholesaler of specific brands of alcoholic beverages.

Michigan has limited Dram Shop statutes. The Michigan Liquor Control Code of 1998 (Dram Shop act), MCL 436.1801(3)–(11), permits certain persons to bring a cause of action against the retail licensee that unlawfully served alcoholic beverages to an intoxicated person or a minor, resulting in injury, death, or property damage. To recover under the Dram Shop act, a plaintiff must show that injury or death was caused by a retail licensee’s unlawful selling, giving, or furnishing of alcohol to a visibly intoxicated person or a minor. Visible intoxication is defined as intoxication “apparent to an ordinary observer.” Furnishing intoxicants to a minor (a person younger than age 21) is per se unlawful (MCL 4360.1701) and visible intoxication need not be shown.

The act provides no remedy for the intoxicated person who suffers injury himself or herself, or his or her family members, or anyone who contributed to the intoxication. Only innocent third parties may recover damages. The allegedly intoxicated person or minor must be named and retained as a defendant in any action under the Dram Shop act. Comparative negligence principles apply to a Dram Shop action, and the retail establishment has all factual and legal defenses that the allegedly impaired person may raise in defense of the action.

Social host liability is the liability for unlawful provision of alcoholic beverages by a person or an entity other than a retail licensee. In Michigan there is no criminal social host liability for providing alcohol to an adult. However, civil actions may result. Social host does apply to providing alcohol to a minor. Elements of these social host liability claims are (1) the defendant knowingly furnished alcohol to a person younger than age 21 and (2) the minor’s consumption of the alcohol caused injury or death. An injured third person or the minor may recover damages though comparative negligence principles apply.

There is no mandate for obtaining local feedback or input to the process of alcohol license approvals. Community groups or individuals can file complaints against establishments that violate liquor laws. Communities may also enact ordinances that restrict certain business practices including practices that create high-risk drinking situations.

To better ensure that minors at medical risk as a result of alcohol intoxication will receive prompt and appropriate medical attention, in 2012, Michigan adopted a medical amnesty law to remove perceived barriers to calling for or seeking help.

Michigan law continues to prohibit a minor from purchasing, consuming, or possessing, or attempting to purchase, consume, or possess, alcoholic liquor and from having any bodily alcohol content. However, the new law creates an exemption from prosecution for the following:

- A minor (under the age of 21) who, after consuming alcohol, voluntarily presented himself or herself to a health facility or agency for treatment or observation, including medical examination and treatment for any condition as a result of sexual assault (as defined in Michigan law).
- Any minor who accompanied another minor who, after consuming alcohol, voluntarily presented himself or herself to a health facility or agency for treatment or observation, including medical examination and treatment for any condition as a result of sexual assault (as defined in Michigan law).
- Any minor who initiated contact with law enforcement or emergency medical services personnel for the purpose of obtaining medical assistance in connection with a legitimate health care concern.

Price of alcohol has been shown to have a direct effect on consumption and alcohol-related health, criminal justice, and other societal costs. Alcohol excise taxes are a major component of price. As shown in Table 2-A-2, Michigan currently taxes wine and beer at rates substantially lower than the national average. As a control state, it is not possible to determine the exact distilled spirits tax but a standard formula can be used to estimate the equivalent tax. Based on this formula, Michigan taxes distilled spirits at a rate more than double the national average.<sup>2</sup>

**TABLE 2-A-2**

	<b>State Alcohol Taxes As of February 1, 2013</b>		
	<b>Spirits Tax (Per Gallon)<sup>1</sup></b>	<b>Wine Tax (Per Gallon)</b>	<b>Beer Tax (Per Gallon)</b>
<b>Michigan</b>	\$10.91	\$0.51	\$0.20
<b>U.S. Average</b>	\$4.26	\$0.83	\$0.26

Many states are considering per/drink tax/fees (e.g., dime-a-drink) to help reduce alcohol abuse and to provide increased revenues, some or all of which can be dedicated to prevention and treatment of alcohol-related problems including impaired driving. Unlike most tax increase proposals, increased alcohol tax is paid in proportion to the amount an individual drinks. This is related to the likelihood of that individual engaging in problem behaviors that result in societal cost. Non-drinkers would pay no new tax. The five percent of the population that drinks more than half of all the alcohol sold and are responsible for a disproportionate amount of societal cost would pay more.

Table 2-A-3 shows the results of analysis of the impact of adding ten cents to each

<sup>2</sup> In states like Michigan where state government controls distribution and price, the implied excise tax rate is calculated using methodology designed by the Distilled Spirits Council of the United States (DISCUS).

drink equivalent sold in one year in Michigan. Based on 2011 alcohol sales, over four billion drinks were sold in Michigan. Even allowing for some decrease in sales due to the increase in price, a 10 cent tax would generate over \$373 million in new revenues annually. The increased price and resulting decreased consumption would also result in a four percent drop in alcohol mortality.<sup>3</sup>

**Table 2-A-3  
Michigan Alcohol Tax - Estimate of Revenues From "Dime a Drink"**

	Rate/Gal (1,6)	Approximate Annual Tax Revenues FY 2011	Gals. Of Bev.	Number of Drinks (2)	New Revenues From Dime a Drink Tax	Increase Unit Costs After Markup (3)	Percent Increase in Price (4)	Decreased Demand Due to Elasticity (5)	Adjusted New Revenues
<b>Beer</b>	\$0.20	\$38,821,200	194,106,000	2,070,464,000	\$207,046,400	\$0.20	14.39%	6.62%	\$193,342,609
<b>Wine</b>	\$0.51	\$11,253,660	22,066,000	564,889,600	\$56,488,960	\$0.20	12.74%	8.79%	\$51,523,688
<b>Dis Sp</b>	\$10.00	\$166,250,000	16,625,000	1,418,666,667	\$141,866,667	\$0.20	11.98%	9.58%	\$128,274,651
<b>Total</b>	\$91.00	\$216,324,860	232,797,000	4,054,020,267	\$405,402,027				<b>\$373,140,949</b>

(1) Current rate

(2) Based on the following:

Beer @ 12 ozs./drink

Wine @ 5ozs./drink

Spirits @ 1.5 ozs./drink

(3) Markup = 100%

(4) Current Avg. Retail Price per Drink = Beer: \$1.39, Wine: \$1.57, Liquor: \$1.67 (Based on total on- & off-premise sales divided by total consumption per Adams Beverage Handbooks, 2008).

(5) Elasticity = Beer: -0.46, Wine: -0.69, Liquor: -0.80. Based on Wagenaar (2009).

(6) States where the state government controls sales of distilled spirits; the implied excise tax rate for distilled spirits is calculated using methodology designed by the Distilled Spirits Council of the United States (DISCUS).

<sup>3</sup> For details on the methodology for analysis of alcohol tax increases see *Estimated Effects of Dime-a-Drink Added to New York State's Alcohol Excise Tax*. Evalumetrics Research Report 2012-3-1. [www.evalumetrics.org](http://www.evalumetrics.org)

## Recommendations

- **Require responsible alcohol service training for servers at events for which temporary alcohol licenses are issued.**
- Expand Dram Shop legislation to include liability for injuries and/or damage incurred by the individuals who are over-served, that is, served alcohol when impaired.
- Enact criminal social host liability statutes to hold individuals liable for injuries and/or damage incurred by individuals who are over-served, that is, served alcohol when impaired.
- **Enact a \$.10 per drink equivalent tax on all alcoholic beverages and allocate resulting new revenues to treatment and prevention of alcohol-related problems including impaired driving.**

### B. Community-Based Programs

#### B.1. Schools

##### *Advisory*

*School-based prevention programs, beginning in elementary school and continuing through college and trade school, can play a critical role in preventing underage drinking and impaired driving. These programs should be developmentally appropriate, culturally relevant and coordinated with drug prevention and health promotion programs.*

*States should:*

- *Implement K-12 traffic safety education, with appropriate emphasis on underage drinking and impaired driving, as part of state learning standards and comprehensive health education programs;*
- *Promote alcohol-and drug-free events throughout the year, with particular emphasis on high-risk times, such as homecoming, spring break, prom and graduation;*
- *Establish and enforce clear student alcohol and substance use policies including procedures for intervention with students identified as using alcohol or other substances, sanctions for students using at school, and additional sanctions for alcohol and substance use by students involved in athletics and other extra-curricular activities;*
- *Provide training for alcohol and drug impaired driving, and Screening and Brief Intervention (SBI) to school personnel such as resource officers, health care providers, counselors, health educators and coaches to enable them to provide information to students about traffic safety and responsible decisions, and identify students who may have used alcohol or other drugs;*
- *Encourage colleges, universities and trade schools to establish and enforce policies to reduce alcohol, other drug, and traffic safety problems on campus, and to work with local*

*businesses and law enforcement agencies to reduce such problems in neighboring communities;*

- *Provide training for alcohol and drug impaired driving, and Screening and Brief Intervention (SBI), to college personnel such as student affairs, student housing, health care providers, counselors, health educators and coaches to enable them to provide information to students about traffic safety and responsible decisions, and identify students who may have used alcohol or other drugs; and*
- *Establish and support student organizations that promote traffic safety and responsible decisions; encourage statewide coordination among these groups.*

**Status**

As in most states, alcohol remains the drug of choice for Michigan youth. According to the 2011 Youth Risk Behavior Survey, more than one in five (21.9 percent) 9<sup>th</sup> grade students and nearly four in ten (39.6 percent) 12<sup>th</sup> grade students reported using alcohol at least once in the 30 days prior to the survey. Nearly one in four (24.0 percent) 12<sup>th</sup> graders reported drinking five or more drinks on at least one occasion in the past 30 days. Approximately one in five students of all ages reported riding with a driver who had been drinking and 4.9 percent of 11<sup>th</sup> graders and 5.7 percent of 12<sup>th</sup> graders reported driving after drinking. These rates are decreases from the previous surveys and continue a trend of decreased use and risk.

**Table II-B-1**

Michigan YRBS – 2011	Grade			
	9	10	11	12
% drank one or more times in past 30 days	21.9%	29.9%	31.0%	39.6%
% drank five or more drinks on at least one occasion in past 30 days	11.5%	17.8%	18.8%	24.0%
% used marijuana in past 30 days	12.2%	19.9%	21.1%	21.1%
% of students who during the past 30 days rode one or more times in a car or other vehicle driven by someone who had been drinking alcohol	20.7%	20.0%	22.9%	21.1%
% of students who during the past 30 days drove a car or other vehicle one or more times when they had been drinking alcohol	6.2%	3.8%	4.9%	5.7%

The State Epidemiological Outcomes Workgroup (SEOW) *Michigan Epidemiological Profile* March 2011 update provides analysis of societal costs associated with underage drinking in Michigan. Table II-B-2 indicates that underage drinking results in over \$2.1 billion in costs in one year. Youth traffic crashes alone result in over \$250 million in costs.

**Table II-B-2**

<b>Table II-B-2</b>	
<b>Cost of Underage Drinking by Problem, Michigan 2010</b>	
<b>Problem</b>	<b>Total Cost (In millions)</b>
Youth Violence	\$1,405.0
<b>Youth Traffic Crashes</b>	<b>\$251.1</b>
High-Risk Sex, Ages 14-20	\$122.3
Youth Property Crime	\$158.4
Youth Injury	\$53.9
Poisonings and Psychoses	\$19.5
Fetal Alcohol Syndrome among Mothers, Ages 15-20	\$34.2
Youth Alcohol Treatment	\$72.4
<b>Total</b>	<b>\$2,116.8</b>

In 1976, the Michigan Legislature adopted requirements for health and physical education in every school. Since 1984, the Michigan Model for Comprehensive School Health Education has been implemented in over 90 percent of Michigan’s public schools. The state recommends that each school district develop, adopt, and implement, to the extent that resources permit, a comprehensive plan for a Coordinated School Health Program. The Coordinated School Health Program model suggested by the Centers for Disease Control and Prevention (CDC) includes eight components: Health Education; Physical Education; Health Services; Family and Community Involvement; Counseling, Psychological, and Social Services; Nutrition Services; Healthy School Environment, and Health Promotion for Staff.

The sequence of the Alcohol, Tobacco, and Other Drug Prevention component of the Michigan Model for Health Curriculum includes several components addressing alcohol and safety. For example:

Grade 1

- How to safely use over-the-counter and prescription medicines
- Illicit drugs
- Trustworthy sources of information

Grade 2

- Staying away from nicotine and alcohol

Grade 3

- Medicines and poisons
- Alcohol and alcoholism
- Positive influences
- Refusal skills

Grade 4

- Reasons individuals choose to drink or not to drink
- Decisions about alcohol and other drug use impact family and friends
- Family and friends influence alcohol and other drug use decisions



- Influence of advertising
- Refusal skills

#### Grade 5

- Influence of family and peers on drug use
- Rules for safety around dangerous or unknown products
- Refusal skills
- Effects of alcohol, especially on driving a vehicle
- Impact of alcohol and tobacco use on friends and family
- Ways to avoid riding with a driver who has been drinking and what to do if it can't be avoided

#### Grade 6

- Possible reasons people use or don't use drugs
- Negative health effects of drug use
- Analysis of drug use data
- Persuasion skills for encouraging others to stay drug free
- Influence of family, society and peers on drug use
- Impact of drug use on goals
- Refusal skills
- Valid resources for drug problems
- Ways to avoid riding with a driver who has been drinking and what to do if it can't be avoided
- Benefits of remaining drug free and making a drug-free commitment

The Office of Recovery Oriented Systems of Care (OROSC) promotes the use of evidence-based prevention strategies throughout Michigan. Prevention organizations are provided the *Guidance Document: Selecting, Planning, and Implementing Evidence- Based Interventions for the Prevention of Substance Use Disorders* developed by the Evidence Based Workgroup to increase uniformity in the knowledge, understanding, and implementation of evidence-based substance abuse prevention programs, services, and activities in the state of Michigan. Over 98 percent of prevention programs in Michigan are considered evidence-based.

It was reported that many schools implement evidence-based strategies in addition to the Coordinated School Health initiatives and curricula. However, OROSC currently does not allow use of prevention funds for classroom-based programs.

Law enforcement participates in some school-based prevention programming though there is no comprehensive coordinated prevention effort provided by police officers.

There is no coordinated prevention effort for college campuses. Most major university campuses have policies related to student use of alcohol and other drugs. These policies are generally less restrictive than in many other states. Campuses are not "dry" though they do prohibit use by students younger than 21. The major universities allow tail-gating prior to sports events but these are limited in time and location and are supposed to exclude those under 21.

Most campuses provide voluntary access to prevention and intervention services such as:

- Alcohol e-CHECKUP TO GO (e-CHUG): Students can use this online, personalized, brief screening tool for alcohol.
- Collegiate Recovery Program: Students in recovery can find a supportive community where they can achieve academic success while enjoying a genuine college experience, free from alcohol and other drugs.
- Marijuana e-CHECKUP TO GO (e-TOKE): An online, personalized, brief assessment tool that lets you see how your marijuana use, family risk and campus norms affect your life and possibly your future.
- Workshops and Trainings on Alcohol and Other Drugs: How to request tailored workshops and participate in Sober Monitor Training Program, plus Introduction to Motivational Interviewing training.

### **Recommendations**

- Provide schools with current, Michigan-specific impaired driving information for inclusion in Coordinated School Health Programs.
- Provide support for school-based/evidence-based prevention programs.
- **Establish a consortium of college alcohol and substance abuse prevention programs.**

## B.2. Employers

### *Advisory*

*States should provide information and technical assistance to employers and encourage them to offer programs to reduce underage drinking and impaired driving by employees and their families. These programs can be provided through Employee Assistance Programs (EAP) or Drug Free Workplace programs. These programs should include:*

- *Model policies to address underage drinking, impaired driving and other traffic safety issues, including seat belt use and speeding;*
- *Employee awareness and education programs;*
- *Management training to recognize alcohol and drug use and abuse, and appropriate responses;*
- *Screening and Brief Intervention, assessment and treatment programs for employees identified with alcohol or substance use problems (These services can be provided by internal or outside sources such as through an EAP with participation required by company policy.);*
- *Underage drinking and impaired driving prevention strategies for young employees and programs that address use of prescription or over-the-counter drugs that cause impairment.*

## **Status**

There is currently no coordinated program to provide employer-based impaired driving prevention activities.

Many employers in Michigan utilize the services of Employee Assistance Programs (EAP) provided by a variety of private organizations. EAP services include information and professional face-to-face counseling to address alcohol and drug abuse, emotional problems, marriage and family issues, behavioral problems, stress, job related issues and anger management. By addressing alcohol and substance abuse, EAPs have an indirect effect on impaired driving. In addition, on-the-job driving incidents can serve as the event that leads to an intervention into alcohol or substance abuse.

## **Recommendations**

- Integrate impaired driving information into Employee Assistance and other programs.
- Provide impaired driving educational materials to employers for inclusion in company newsletters, posting in facilities and employee work areas, and for use in employee safety training.

### **B.3. Community Coalitions and Traffic Safety Programs**

#### ***Advisory***

*Community coalitions and traffic safety programs provide the opportunity to conduct prevention programs collaboratively with other interested parties at the local level. Coalitions should include representatives of: government; highway safety; enforcement; criminal justice; liquor law enforcement; public health; education; driver licensing and education; employers and unions; the military; medical, health care and treatment communities; multi-cultural, faith-based, advocacy and other community groups.*

*States should:*

- *Encourage communities to establish community coalitions or traffic safety programs, comprised of a wide variety of community members and leaders;*
- *Ensure that representatives of local traffic safety programs participate in existing alcohol, substance abuse, injury control and other related coalitions, (e.g., Drug Free Communities, SPF-SIG), to assure that impaired driving is a priority issue;*
- *Provide information and technical assistance to these groups, including data concerning the problem in the community and information identifying evidence-based underage drinking and impaired driving programs;*

- *Encourage these groups to provide support for local law enforcement and prevention efforts aimed at reducing underage drinking and impaired driving; and*
- *Encourage professionals, such as prosecutors, judges, nurses, doctors, emergency medical personnel, law enforcement officers and treatment professionals, to serve as community spokespeople to educate the public about the consequences of underage drinking and impaired driving.*

## **Status**

There are numerous alcohol and substance abuse coalitions in Michigan.

In 2004, Michigan received a Substance Abuse & Mental Health Services Administration (SAMHSA) five-year Strategic Prevention Framework-State Incentive Grant (SPF-SIG) of \$11.75M (\$2.3M annually) to build prevention capacity and infrastructure at state and community levels in order to prevent the onset and reduce the progression of substance abuse, including childhood and underage drinking. The project selected reduction of alcohol-related crashes as its primary target. The project expanded from being a grant award, limited to the prevention of alcohol-related traffic crash deaths and underage drinking, to a planning process that used multiple data to identify priority problems and other emerging substance abuse issues. Partnerships were developed at the state and local levels to decrease problems related to alcohol, tobacco and other drugs (ATODs) and improve social behaviors, education, employability, law enforcement, insurance costs, and family relationships.

The implementation of the Strategic Prevention Framework (SPF) model led to increased communication, collaboration and coordination between state and community stakeholders. As a result, several workgroups were formed, including a training cadre. These workgroups and the training cadre were effective in disseminating information through evidence-based and best practice interventions to reduce alcohol-related traffic crash deaths and underage drinking. For example, a coalition workgroup was formed to facilitate and build community mobilization efforts. The SPF model underscored the importance of using reliable data to determine the scope of problems, develop logic models or community grids to identify risks that increase the likelihood of substance use disorders, and implement strategies to reduce contributing and residual factors.

In addition to the capacity developed by the SPF-SIG project, there are over 20 community coalitions funded under the Drug Free Communities (DFC) Support Program from SAMHSA. The primary purpose of the DFC program is to strengthen collaboration among community entities and reduce substance use among youth. DFC grantees are required to work toward these two goals as the primary focus of their federally-funded effort. Grants awarded through the DFC program are intended to support established community-based coalitions capable of effecting community-level change. For the purposes of the DFC program, a coalition is defined as a community-based formal arrangement for cooperation and collaboration among groups or sectors of a community in which each group retains its identity, but all agree to work together toward a common goal of building a safe, healthy, and drug-free community. Coalitions receiving DFC funds are expected to work with leaders within their communities to

identify and address local youth substance use problems and create sustainable community-level change through environmental strategies.

The Michigan Substance Use Data Repository is designed to promote data-driven decision making for behavioral health (substance use and mental health) services planning and implementation. The site aims to provide useful data related to substance use, consequences of use, and the risk and protective factors that are associated with the behavioral health conditions. The Repository is currently under development and will include numerous indicators and consequences including rates and frequency maps for alcohol-related traffic crashes. The Repository should be a valuable resource for community coalitions and prevention organizations.

The Prevention Network is a valuable resource for community coalitions in Michigan. The mission of Prevention Network is to help Michigan communities prevent underage alcohol use, youthful tobacco use, and other substance abuse. Prevention Network is a statewide organization of volunteers and professionals that supports substance abuse prevention and related efforts in Michigan, provides services which build the capacity of diverse grassroots groups to carry out effective local solutions, and coordinates statewide awareness and advocacy initiatives.

The Network is administered by Prevention Network Inc., with funding provided through the Michigan Department of Community Health/Office of Recovery Oriented Systems of Care (OROSC), The Skillman Foundation and private contributions. Programs are operated by a small staff and the efforts of its board members, both volunteer and professional. Board members are community volunteers and persons working in systems, disciplines and organizations concerned with substance abuse prevention and related issues.

The Michigan Coalition to Reduce Underage Drinking (MCRUD) is a program of the Prevention Network. A statewide coalition was first called together in 1996 to discuss Michigan's interest in applying for a grant made available from the Robert Wood Johnson Foundation. This grant was for states which either were forming or had existing statewide coalitions working to address the issue of underage alcohol use. Although Michigan was not chosen as a state to receive funding from the Robert Wood Johnson Foundation, the members of the coalition who had participated in the application process continued to meet monthly to pursue the goals identified for the application. From the beginning, the coalition believed that more could be accomplished working together to address underage drinking in Michigan. As a group, the coalition worked to support local and regional activities and emphasized youth involvement.

When funding for the Coalition and its activities was secured from the Michigan State Police, Office of Highway Safety Planning and the Michigan Department of Community Health, Bureau of Substance Abuse Services (now OROSC) and Office of Drug Control Policy, MCRUD was established.

MCRUD has provided funding to twenty-three (23) local groups that have identified themselves as "Regional MCRUD Coalitions." In addition, over \$400,000 has been awarded

to local and regional groups in grants to fund local underage drinking prevention activities and initiatives. Prevention Network staff and MCRUD Steering Committee members have provided training and technical assistance to community groups throughout the state.

OROSC has provided training in Screening Brief Intervention and Referral to Treatment (SBIRT) to substance abuse prevention professionals and other professionals in disciplines that interact with impaired drivers and others with potential alcohol and substance abuse problems. SBIRT can be a valuable tool for identifying individuals in need of intervention as well for identifying needs for prevention in the community.

## **Recommendations**

- Coordinate highway safety plans with substance abuse prevention plans.
- Actively involve law enforcement and other representatives of the highway safety community in alcohol and substance abuse coalitions.

## **B.4. Transportation Alternatives**

### ***Advisory***

*Alternative transportation describes methods by which people can get to and from places where they drink without having to drive. Alternative transportation includes normal public transportation provided by subways, buses, taxis, and other means. Designated driver programs are one example of these alternatives.*

*States should:*

- *Actively promote the use of designated driver and safe ride programs, especially during high-risk times, such as holidays or special events;*
- *Encourage the formation of public and private partnerships to financially support these programs;*
- *Establish policies and procedures that ensure designated driver and alternative transportation programs do not enable over consumption by passengers or any consumption by drivers or anyone under 21 years old; and*
- *Evaluate alternative transportation programs to determine effectiveness.*

### **Status**

Michigan does not place an emphasis on designated driver or alternative transportation programs.

The rural nature of much of Michigan results in very limited access to public transportation. While some safe-ride programs have existed, there is no large scale

organized alternative transportation program operating at this time.

Alcohol industry organizations have provided print materials and disposable items such as coasters with designated driver messages.

Some colleges have safe ride or designated driver programs.

### **Recommendations**

- Ensure that all designated driver programs stress “no use” of alcohol messages for the designated driver.
- Ensure alternative transportation programs do not encourage or enable excessive drinking.
- Ensure that both designated driver and safe ride programs prohibit consumption of alcohol by underage individuals or unintentionally promote over-consumption.

### **III. Criminal Justice System**

*Each State should use the various components of its criminal justice system – laws, enforcement, prosecution, adjudication, criminal penalties, administrative sanctions, and communications, to achieve both specific and general deterrence.*

*Specific deterrence focuses on individual offenders and seeks to ensure that impaired drivers will be detected, arrested, prosecuted and subject to swift, sure and appropriate criminal penalties and administrative sanctions. Using these measures, the criminal justice system seeks to reduce recidivism. General deterrence seeks to increase the perception that impaired drivers will face severe and certain consequences, discouraging individuals from driving impaired.*

*A data-driven, evidence-based, integrated, multidisciplinary approach and close coordination among all components of the criminal justice system are needed to make the system work effectively. In addition, coordination is needed among law enforcement agencies, on the State, county, municipal and tribal levels to create and sustain both specific and general deterrence.*

#### **A. Laws Advisory**

*Each State should enact impaired driving laws that are sound, rigorous and easy to enforce and administer. The laws should clearly: define the offenses; contain provisions that facilitate effective enforcement; and establish effective consequences. Monitoring requirements should be established by law to assure compliance with sanctions by offenders and responsiveness of the judicial system. Noncompliant offenders should be adjudicated swiftly.*

*The offenses should include:*

- *Driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter), and treating both offenses with similar consequences;*
- *A Blood Alcohol Concentration (BAC) limit of 0.08, making it illegal per se to operate a vehicle at or above this level without having to prove impairment;*
- *Zero Tolerance for underage drivers, making it illegal per se for persons under age 21 to drive with any measurable amount of alcohol;*
- *High BAC (e.g., 0.15 or greater), with enhanced penalties above the standard impaired driving offense;*
- *Repeat offender, with increasing penalties for each subsequent offense;*
- *BAC test refusal, with administrative sanctions at least as strict as the state's highest BAC offense;*
- *Driving with a license suspended or revoked for impaired driving (DWS), vehicular homicide or causing personal injury while driving impaired as separate offenses, with additional penalties;*



- *Open container, which prohibits possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way; and*
- *Primary seat belt provisions that do not require that officers observe or cite a driver for a separate offense other than a seat belt violation.*

*Facilitate effective enforcement by enacting laws that:*

- *Authorize law enforcement to conduct sobriety checkpoints, in which vehicles are stopped on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs;*
- *Authorize law enforcement to use passive alcohol sensors to improve the detection of alcohol in drivers;*
- *Authorize law enforcement to obtain more than one chemical test from an operator suspected of impaired driving, including preliminary breath tests, evidentiary breath tests and screening and confirmatory tests for alcohol or other impairing drugs;*
- *Authorize law enforcement to collect blood sample by search warrant in any chemical test refusal situation, consistent with other provisions of criminal jurisprudence which allows body fluids to be collected as evidence of a crime; and*
- *Require mandatory BAC testing of drivers involved in fatal and serious injury producing crashes.*

*Effective criminal penalties and administrative sanctions should include:*

- *Administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test;*
- *Prompt and certain administrative license suspension of at least 90 days for first offenders determined by chemical test(s) to have a BAC at or above the State's per se level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock;*
- *Enhanced penalties for test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide or causing personal injury while driving impaired, including: longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and imprisonment;<sup>4</sup>*
- *Separate and distinct criminal penalties for alcohol- and drug-impaired driving to be applied individually or in combination to a single case;*

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<sup>4</sup> Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

- *Assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstention from use of alcohol and other drugs, and frequent monitoring.*

*Effective monitoring should include:*

- *supervision of out-of-state offenders;*
- *proven technology (e.g., ignition interlock device, electronic confinement and monitoring) and its capability to produce reports on compliance;*
- *impaired driver tracking systems; and*
- *periodic reports on offender compliance with administrative or judicially imposed sanctions;*
- *Driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs; and*
- *Statutory and rule support for DWI Courts as a sentencing alternative for persistent DWI offenders.*

## **Status**

In 2003, Michigan enacted amendments substantially amending its previous laws governing impaired and intoxicated driving. In 2013, Michigan enacted minor revisions to the existing laws leaving, substantially intact, the provisions of Michigan Statute (MI ST) Chapter 257.625. Presently, the offense of Operating While Intoxicated (OWI) is governed by MI ST 257.625 (1). The lesser offense of Operating While Visibly Impaired, (OWVI) is governed by MI ST 257.625(3). Michigan also prohibits the owner of a vehicle or a person in charge or in control of a vehicle from authorizing or knowingly permitting a vehicle to be operated by a person who is intoxicated or visibly impaired; see MI ST 257.625(2). In 2013 subsection .625 (1) was amended to prohibit operation of a vehicle while under the influence of any “other intoxicating substance” in addition to a “controlled substance” or “alcoholic liquor” or any combination of the three aforementioned.

As in 2003, the 2013 revision includes an unusual provision that raises the blood/breath/urine alcohol level definition of “intoxicated” from the present level of 00.08 to 0.10 in 2018.

Michigan also prohibits OWI and OWVI under the influence of intoxicating liquor, a controlled substance or intoxicating substance in the operation of a vessel (MI ST 324.80176) as well as OWI and OWVI in the operation of a snowmobile (MI ST 324.82127). Both statutes contain a per se provision prohibiting operation with an alcohol content of 0.10 grams in blood, breath, or urine. It is unusual to find a different per se level for vessels or snowmobiles as opposed to levels imposed on operators of other types of motor vehicles. In most states, if the per se level for motor vehicle operators is 00.08 grams, the same level would apply to snowmobiles, boats, and vessels.

MI ST 257.625(1)(c) also defines intoxication when a person has an alcohol content of 0.17 grams or more of blood, breath or urine. The 0.17 level of intoxication, however, does not carry an increased incarceration penalty. Many states provide for increased criminal penalties, in addition to increased license sanctions, if a defendant's blood alcohol content is 0.16 or higher. Many states also prohibit allowing a defendant to plead to an included offense or a lesser offense, such as reckless driving, where the blood alcohol level charged is 0.16 grams or higher. Previous efforts to enact "aggravated drunk driving" statutes incorporating enhanced penalties for elevated alcohol levels have been unsuccessful in Michigan.

A conviction of OWI with a 0.17 alcohol level does bring a license sanction requiring installation and use of an Ignition Interlock device as specified in MI ST 257.319. Michigan's Ignition Interlock (IID) law requires the Secretary of State (SOS) to order a person convicted of violating subsection .625(1)(c) not to operate a motor vehicle under a restricted license unless the vehicle is equipped with an ignition interlock device. Violation of the license restriction and IID use results in an additional period of license restriction with IID usage and further suspension. MI ST 257.625I further provides that a person tampering with, circumventing, or otherwise misusing the IID is guilty of a misdemeanor and can be punished as provided by law. If a law enforcement officer detains the operator of a motor vehicle for violating the IID state or a local ordinance and the operator is a person required to only operate a motor vehicle with an ignition interlock device properly installed, but no ignition interlock device is properly installed on the motor vehicle, the law enforcement officer shall impound the motor vehicle.

MI ST 257.625a(6)(a) provides that the amount of alcohol or the presence of a controlled substance or both in a driver's blood breath or urine at the time of chemical analysis testing is presumed to be the same as at the time the person operated the vehicle. This rebuttable presumption provision is helpful in removing the necessity of the prosecution having to relate the chemical analysis test result, obtained after arrest, back to the earlier time of driving.

Michigan's impaired and intoxicated driving laws are considered to be "per se" laws because they provide that a person is "intoxicated" under the statute (257.525(1)(b)) if he or she has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, breath or urine. Without evidence of at least this per se level of alcohol concentration, to establish an OWI, the defendant must be shown to be "...no longer be able to operate a vehicle in a normal manner." See Stecker, K *OWI Manual 2012*, Prosecuting Attorneys Association of Michigan. For the offense of OWVI, in the absence of the 0.08 level, the defendant's operation must be shown to be "... so weakened or reduced by the consumption of intoxicating liquor, a controlled substance, or a combination of the two, that defendant drove with less ability than would an ordinary, careful and prudent driver." See, *People v. Allen* 2010 WL 3564749, 2 (Mich. App.) (Mich. App. 2010).

MI ST 257.625(8) governs impaired and intoxicated driving under the influence of a controlled substance, or other intoxicating substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance. This offense is commonly referred to as "Operating with the Presence of Drugs" (OWPD). MI ST 257.625(8) is considered to be a "zero tolerance law" and it also qualifies as a "per se" law as subsection .625(8) prohibits operation if the

person has in his or her body “....any amount of a controlled substance....” listed in schedule 1 of the public health code. As the Court in *People v. Henderson* 2013 WL 951278, 2 (Mich. App.) (Mich. App., 2013) stated:

MCL 257.625(8) does not require intoxication, impairment, or knowledge that one might be intoxicated; it simply requires that the person have ‘any amount’ of a schedule 1 controlled substance in his or her body when operating a motor vehicle.

Michigan’s trial courts and prosecutors are faced with a confusing issue when attempting to adjudicate certain cases in which a defendant is charged with violation of MI ST 257.625 (8). Immunity from prosecution is provided under the Michigan Medical Marihuana<sup>5</sup> Act (MMMA) to a registered patient who drives with indications of marijuana in his or her system but is not otherwise under the influence of marijuana. This provision conflicts with the “zero tolerance” provision in subsection 257.625 (8) which prohibits operation if the person has in his or her body “....any amount of a controlled substance....” listed in schedule 1 of the public health code. When the MMMA conflicts with another statute, the MMMA provides that “[a]ll other acts and parts of acts inconsistent with [the MMMA] do not apply to the medical use of marihuana....” See MI ST 333.26427(b)(4).

Consequently, the Michigan Vehicle Code's zero-tolerance provision, MI ST 257.625(8), which is inconsistent with the MMMA, does not apply to the medical use of marijuana. See *People v. Koon* 494 Mich. 1, 7, 832 N.W.2d 724, 727 (Mich., 2013). The Court in *Koon* gratuitously pointed out that Michigan’s legislature could resolve this issue by adopting amendments to the MMMA to clarify the specific circumstances under which a registered patient is per se “under the influence” of marijuana. The Court suggested that the Legislature might consider adopting a “legal limit” to specify when a registered patient is no longer entitled to the MMMA's protection. Other states, including Colorado, Nevada, and Washington have adopted such limits in the form of limits quantified in nanograms. For example, Washington has set a legal limit for the blood concentration of tetrahydrocannabinol (THC) at 5ng/ml. See Wash. Rev. Code 46.61.502(1)(b).

Michigan’s under age “zero tolerance” law is found in MI ST 257.625C(6). It provides that a person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, “any bodily alcohol content” means alcohol content of 0.02 grams or more but less than 00.08 grams per 100 milliliters of blood/breath/urine. Alternatively, it also includes any presence of alcohol within a person's body from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony. Again, the 2013 act includes the unusual provision that changes the blood/breath/urine alcohol level definition from 00.08 to 0.10 in 2018.

Michigan’s “Minor in Possession” (MIP) law (MCL 4360.1703) became effective on April 12, 2004. It applies to persons under the age of 21 years with a number of exceptions. The law

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<sup>5</sup> In common usage “marijuana” is spelled with a “j”. When utilized in the Michigan Medical Marihuana Act and when the act is quoted in this document, it is spelled with an “h”.

describes possession as being “any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.” Possession is also defined as having a bodily alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood/breath/urine. Curiously, it provides as defense, in a criminal prosecution for a minor having any bodily alcohol content, if the minor consumed the alcoholic liquor in a venue or location where that consumption is legal. A court has the discretion to order diversion and substance abuse treatment for a first offense so that the offense does not result in a conviction. A second offense, after a successful diversion, would count as a first offense. Second and third convictions, carry possible jail sentences, fines, community service, substance abuse treatment, and suspension of driving privileges.

A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 257.625c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly. See *People v. McDonald*, 201 Mich. App. 270, 505 N.W.2d 903 (Mich. App., 1993).

Amendments to MI ST 257.625 governing enhancement of penalties for operating a motor vehicle while intoxicated (OWI) offenses, now permit inclusion of all prior OWI offenses in determining an offender's repeat offender status, irrespective of dates of such prior convictions. Previously the prior offenses more than 10 years prior, did not count toward repeat offender status. The new provisions do not violate ex post facto provisions of the Michigan or federal constitutions as applied to defendants with respect to whom statute of limitations applicable to their prior OWI offenses expired prior to effective date of the amendment. See *People v. Perkins* 280 Mich. App. 244, 760 N.W. 2d 669, 670) (Mich.App.2008)

Michigan law provides for administration of a preliminary breath test (PBT). Under MI ST 257.635a (2)(d) a person who refuses to submit to a preliminary chemical breath analysis, upon a lawful request by a peace officer, is responsible for a civil infraction. A commercial motor vehicle operator who refuses may be charged with a misdemeanor.

Under Michigan's Implied Consent law (257.625f), the penalties for refusal to submit to a chemical test following a lawful arrest are comprised of license sanctions. The license suspension for a first refusal offense is one year and for a second or subsequent refusal offense within seven years, the suspension is for two years. Penalties are more severe for commercial motor vehicle operators. Research by The National Highway Traffic Safety Administration (NHTSA) indicates that states that provide only administrative or court imposed license sanctions for implied consent law violations tend to have higher refusal rates than states that attach criminal penalties to such violations. Notwithstanding this research, Michigan's refusal rate is 11 percent, which is low in comparison to the refusal rates in the majority of other states. There is some evidence that a significant number of the implied consent hearings result in a finding in favor of the defendant because the State has failed to justify the imposition of a suspension period. This has been attributed to officers failing to attend the implied consent hearings. Authority has not been given for administrative hearing officers to subpoena officers who might otherwise fail to attend such hearings voluntarily.

MI ST 257.625b(5) provides that before imposing sentence for a misdemeanor OWI, OWVI, OWPD, or felony OWI, the court shall order the defendant to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence. If the person was convicted under subsection .625(1)(c) (a 00.17 offense) or has one or more prior convictions, the court shall order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence, including, but not limited to, an alcohol treatment program or a self-help program for a period of not less than one year. The treatment plan shall be devised from an assessment performed by an appropriately licensed alcohol assessor and approved by the court. The defendant is required to pay for the costs of the screening, assessment, and rehabilitative services. There is no provision requiring a defendant to successfully complete an ordered rehabilitative program before driving a vehicle with an ignition interlock device on a restricted license.

Michigan has also provided for vehicle forfeiture in OWI cases pursuant to MI ST 257.625n. In addition to any other penalty, the judgment of sentence may require one of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

- (1)(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.
- (b) Return of the vehicle to the lessor if the defendant leases the vehicle.
- (2) The vehicle may be seized under a seizure order issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.
- (3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

MI ST 257.624a contains Michigan's open container law. It applies to the operators and occupants in moving vehicles. It exempts transportation of open alcohol containers if placed in a trunk or in a locked glove box, or area not normally occupied by the operator or passenger. A violation constitutes a misdemeanor and, as part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment. A court is prohibited from accepting a guilty or nolo plea to this offense if the defendant is less than 21 years of age and was charged solely with operating a vehicle with "any bodily alcohol content."

The Michigan Constitution has historically treated searches and seizures for criminal investigatory purposes differently than those for regulatory or administrative purposes. See *Lansing Municipal Judge*, 327 Mich. at 427–429, 42 N.W.2d 120. Administrative or regulatory searches and seizures have traditionally been regarded as "reasonable" in a constitutional sense. However, seizures with the primary goal of enforcing the criminal law have generally required some level of suspicion, even if that level has fluctuated over the years. See *Sitz v. Department of State Police* 443 Mich. 744, 778, 506 N.W.2d 209, 224 (Mich.,1993) Based on this reasoning, the Michigan Supreme Court decided that stopping

vehicles at sobriety checkpoints, without some level of suspicion, violates the Michigan Constitution; and results from such checkpoints must be suppressed by the courts. The use of sobriety checkpoints has been widely demonstrated in other states to be a valuable tool in the interdiction of impaired drivers. Sobriety checkpoints could be employed if the Michigan Constitution were amended to recognize their reasonableness as has been done in the majority of other states.

## **Recommendations**

- Enact legislation amending MI ST 257.625(1)(c) to replace the existing definition level of intoxication of 0.17 so as to reduce said definition level to 0.16 grams or more of blood, breath or urine.
- Enact legislation amending MI ST 257.625(1)(c) to provide for increased criminal penalties, license sanctions, and mandatory probation supervision for persons convicted of operating while intoxicated with an alcohol content of 0.16 grams or more of blood, breath or urine.
- **Enact legislation requiring mandatory participation in a rehabilitation or treatment program in any case of Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating With the Presence of Drugs (OWPD) where a trial court level alcohol screening or assessment discloses that a defendant is dependent on controlled substances or alcohol, and require completion of such treatment as a condition of probation.**
- **Repeal the constitutional prohibition of sobriety checkpoints.**
- **Enact legislation setting a per se presumptive tetrahydrocannabinol (THC) level of 5 nanograms per milliliter of blood, to specify when a Michigan Medical Marihuana Act (MMMA) registered patient is intoxicated and no longer entitled to the MMMA's immunity and protection provisions when charged with Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating With the Presence of Drugs (OWPD).**
- Utilize legally and ethically permissible lobbying efforts to urge Michigan legislators to adopt a per se presumptive tetrahydrocannabinol (THC) level of 5 nanograms per milliliter of blood to establish when a Michigan Medical Marijuana Act (MMMA) registered patient is intoxicated in Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating With the Presence of Drugs (OWPD).
- Enact legislation amending MI ST 324.80176 and MI ST 324.82127 governing Operating While Intoxicated (OWI) or Operating While Visibly Impaired (OWVI), on a snowmobile or vessel to change the per se provision to 0.08 grams from the present level of 0.10 grams in blood, breath, or urine.

- Enact legislation or an appropriate administrative regulation providing discretionary authority for administrative hearing officers to subpoena law enforcement officers to compel officers' attendance at implied consent hearings.

## **B. Enforcement**

### *Advisory*

*States should conduct frequent, highly visible, well publicized and fully coordinated impaired driving (including zero tolerance) law enforcement efforts throughout the State, utilizing data to focus on locations where alcohol related fatalities most often occur. To maximize visibility, the State should conduct frequent sobriety checkpoints, periodic saturation patrols and sustained efforts throughout the year. Both periodic and sustained efforts should be supported by a combination of paid and earned media. To maximize resources, the State should coordinate highly visible, multi-jurisdictional efforts among State, county, municipal and tribal law enforcement agencies to include liquor control enforcement officers. To increase the probability of detection, arrest and prosecution, participating officers should receive training in the latest law enforcement techniques.*

*States should:*

- *Ensure that executive levels of law enforcement and State and local government make impaired driving enforcement a priority and provide adequate resources;*
- *Develop and implement a year round impaired driving law enforcement plan supported by a strategic communication plan which includes:*
  - *periods of heightened enforcement, e.g., three consecutive weekends over a period of 16 days, and frequent sustained coverage throughout the year; and*
  - *high levels of participation and coordination among State, liquor enforcement, county, municipal and tribal law enforcement agencies, such as through law enforcement task forces.*
- *Deploy enforcement resources based on problem identification, particularly at locations where alcohol-related fatal or other serious crashes most often occur;*
- *Conduct highly visible enforcement that maximizes contact between officers and drivers, including frequent, ongoing sobriety checkpoints and saturation patrols, and widely publicize these efforts - before, during and after they occur;*
- *Use technology (e.g., video equipment, portable evidentiary breath tests, passive alcohol sensors and mobile data terminals) to enhance law enforcement efforts;*
- *Require that law enforcement officers involved in traffic enforcement receive standardized state-of-the-art training in the latest law enforcement techniques such as Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement, (ARIDE) emerging technologies for the detection of alcohol and other drugs; selected officers should receive training in media relations and Drug Evaluation and Classification (DEC);*



- *Ensure that officers involved in traffic enforcement receive ongoing refresher training in SFST;*
- *Evaluate the effectiveness of advanced training in the identification and apprehension of drug impaired drivers;*
- *Provide training to enhance law enforcement officers understanding of ignition interlock devices;*
- *Expedite the arrest process, e.g., by reducing paperwork and processing time from the time of arrest to booking and/or release;*
- *Evaluate program effectiveness and efficiency through the use of both output and outcome based performance measures including:*
  - *the level of effort, e.g., number of participating agencies, checkpoints conducted, arrests made;*
  - *public awareness;*
  - *reported changes in behavior, e.g., reported number of drinking driving trips; and*
  - *consequences including alcohol-related fatalities, injuries and crashes.*
- *Use law enforcement professionals to serve as law enforcement liaisons within the State. Their activities would include:*
  - *Serving as a communication bridge between the highway safety office and law enforcement agencies;*
  - *Enhancing law enforcement agencies coordination in support of traffic safety activities;*
  - *Encouraging participation in high visibility enforcement of impaired driving, occupant protection and other traffic safety enforcement mobilizations; and*
  - *Improving collaboration with local chapters of police groups and associations that represent state, county, municipal, and tribal law enforcement.*

## **Status**

Michigan's Office of Highway Safety Planning (OHSP) promotes a comprehensive impaired driving strategy. The *State of Michigan: Strategic Highway Safety Plan - 2013 - 2016*<sup>6</sup> (SHSP) documents the goals and vision of the OHSP. Emphasis areas listed in the SHSP include high-risk behaviors, at-risk road users, engineering infrastructure and system administration. These broad categories support the goals for reducing traffic fatalities from 889 in 2011 to 750 in 2016 and reducing serious traffic injuries from 5,706 in 2011 to 4,800 in 2016.

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<sup>6</sup> State of Michigan: Strategic Highway Safety Plan - 2013 - 2016.

Law enforcement is clearly motivated and the message of making impaired driving enforcement is a priority. This communication ran throughout the ranks to include coordination with the OHSP. As a collective body, Michigan law enforcement experienced significant reductions in staffing since 2001. A reduction of 4,003 positions between 2001 to the most recent 2014 count required serious reconsiderations in police operations.

This emphasis on maximizing results despite dwindling resources reflects the 12.4 percent reduction of injury crashes and 18.0 percent reduction of fatal crashes between 2007 and 2011. Additionally, law enforcement officers made 37,182 alcohol- and drug-related driving arrests in 2012. There were 36,322 persons convicted of operating under the influence in that same year<sup>7</sup>. The 2012 Michigan Annual Drunk Driving Audit<sup>8</sup> memorializes these numbers along with a depth of statistical crash analysis.

OHSP offers a unique and effective practice for distributing grant-funding opportunities. OHSP analyzes suites of data to determine areas of need relative to high frequencies of alcohol related serious injury and fatal crashes. OHSP prepares the grant funding application template for jurisdictions that may potentially benefit from funding to support their impaired driving enforcement strategies. They currently fund nearly 150 police agencies in 26 counties to include a year round enforcement plan for special enforcement waves. These enforcement waves are supplemented with a strategic communications plan to include pre-enforcement advisements, and post-event results to include social norming messaging.

Although formalized impaired driving task forces are not utilized, law enforcement jurisdictions do cooperate with neighboring jurisdictions. OHSP uses a strategy of funding a primary agency and encourages that jurisdiction to coordinate with concurrent jurisdictions for overtime enforcement operations.

Law enforcement cooperates in varying degrees with the twelve recognized tribal law enforcement agencies. They also coordinate with Michigan's Liquor Control Commission, and receive training from the Michigan Licensed Beverage Association.

Law enforcement regularly uses crash data to determine locations for conducting high visibility enforcement (HVE) operations for the detection and apprehension of impaired drivers. OHSP hosts an effective web-based crash database available to law enforcement. This data supports law enforcement operations by providing crash locations based on statistical significance and allows the HVE to realize maximum effectiveness in combatting impaired driving.

The Judicial Data Warehouse serves as a repository for all related crash, arrest, and citation data. Currently, the siloes of data are not linked, and therefore limit a depth of comprehensive analysis. The Michigan Intelligence Operation's Center (MIOC) utilizes their staff of analysts

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<sup>7</sup> Michigan Office of Highway Safety and Planning, July 23, 2013: 2012 Drunk Driving Audit shows increase in impaired driving deaths, injuries. News Release

<sup>8</sup> 2012 Michigan Annual Drunk Driving Audit. Assembled and distributed by the Michigan Department of State Police Criminal Justice Information Center. July 01, 2013.

and data capabilities to provide support for law enforcement agencies' impaired driving operations with micro-time and place information.

OHSP also supports a website available for public consumption called Michigan Traffic Crash Facts<sup>9</sup> that provides depth of detail for historic crash information. The Michigan State Police<sup>10</sup> also provides aggregate crash data in summary reports.

Law enforcement focuses impaired driving strategies on driver contacts instead of the output of citations issued or arrests made. Exercising high levels of discretion resulted in the multiyear outcome of a downward trend in alcohol-related serious injury and fatal crashes. Michigan prohibits law enforcement from conducting sobriety checkpoints. This has not prevented officers from initiating innovative operations to include saturation patrols, strategic communications plans, social media campaigns, and partnerships with various agencies to deter, detect, and apprehend impaired drivers.

Law enforcement uses multiple technologies to combat impaired driving. Mobile Data Terminals (MDTs) are located in most law enforcement vehicles. These support software for completing crashes and impaired driving arrest reports. In 2013, 80 percent of law enforcement agencies (including some tribal agencies) submitted crash reports via on-line reporting. Currently, 96 percent of all traffic crashes are submitted online.

Additional technology used by law enforcement to combat impaired driving is the portable hand-held breath test instrument. These provide for presumptive positive results only and are not used for evidentiary purposes. Blood alcohol concentration (BAC) Datamaster, breath alcohol instruments are strategically positioned throughout the State. Officers trained in Standardized Field Sobriety Testing (SFST) may operate the device.

Other technology equipment tested and/or purchased by OHSP are the four Breath Alcohol Testing (BAT) mobiles. The BAT mobiles are seldom used by law enforcement because of the availability to the Datamaster instruments and a lack of staffing available to operate the vehicle. Law enforcement uses in-car video cameras to capture evidence to demonstrate driving and behavioral characteristics for establishing probable cause to affect an arrest. This evidence is also accepted in court.

Law enforcement officers participating in impaired driving enforcement operations are required to have received SFST training. OHSP works with the SFST Statewide Coordinator to verify that officers receiving grant funded overtime pay have received SFST training.

It is worth highlighting that in 2009 the State did not comply with the National Highway Traffic Safety Administration (NHTSA)/International Association of Chiefs of Police's (IACP) standard curriculum for SFST training. There was minimal training for Advanced Roadside

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<sup>9</sup> Michigan Traffic Crash Facts website: <http://www.michigantrafficcrashfacts.org/>

<sup>10</sup> Michigan State Police crash reports website: [http://www.michigan.gov/msp/0,1607,7-123-1645\\_3501\\_4626---,00.html](http://www.michigan.gov/msp/0,1607,7-123-1645_3501_4626---,00.html)

Impaired Driving Enforcement (ARIDE). Michigan was not a Drug Evaluation Classification (DEC) Program State.

In 2009, OHSP requested an assessment of their SFST Program<sup>11</sup>. The State's commitment led to significant changes and improved their ability to combat impaired driving. Currently, the Michigan Commission on Law Enforcement Standards (MCOLES) requires all officer cadets to receive SFST training during the basic law enforcement academy. The twenty-four hour block of instruction is now based on the NHTSA/IACP standard. Michigan has become a DEC Program State and progressively increased the cadre of certified ARIDE and DRE practitioners and instructors.

The emphasis on ARIDE and DRE training resulted in an increase of drugged driving arrests in addition to those drivers stopped for alcohol-impaired driving. The Michigan State Police Toxicology Lab works closely with law enforcement's DRE coordinator. This cooperation is vital to ensure that each DRE's field evaluations are accurate and verified through toxicology testing.

Law enforcement receives no standard training in the detection, inspection, or the reporting of violations related to ignition interlock devices. Drivers sanctioned with restricted license carry a green paper version to designate the limitations and requirement of a breath alcohol ignition interlock device (BAIID). Law enforcement has no mechanism for knowing which or how many vehicles the particular driver is responsible for installing a BAIID device. While the application of the BAIID is commonly used in cases of high BAC levels, repeat offenders, and sobriety court clients, the law enforcement community is limited as a resource for ensuring compliance.

Law enforcement uses online processes for completing crash and impaired driving offenses. This reduces human input errors and the time required to complete the forms. There were no concerns expressed about the time required to complete the impaired driving arrest through the booking process. There are agencies using an e-citation solution. Their increased efficiency allows officers to return to the road for impaired driving detection with minimal downtime for report processing.

Law enforcement expressed a level of dissatisfaction with having to attend administrative license hearings for drivers arrested for impaired driving. Officers estimated an attendance rate of 50 percent, and felt the process was used as an open discovery tactic for the defense. Without representation from the prosecutor's office, subpoenas to appear, or overtime compensation, officers regularly chose not to appear. The Traffic Safety Resource Prosecutor's office has provided training to law enforcement relative to their scope of testimony during these hearings.

The OHSP promotes a high level of accountability through efficient and effective impaired driving initiatives. One innovative approach is the process for selecting enforcement grantees/jurisdictions. The State replaced the automatic entitlement funding cycles with a model based

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<sup>11</sup> Assessment of Michigan's Standardized Field Sobriety Testing Program, August 25 - 25, 2009.

on crash data and available funding. Five-year assessments of traffic data provide OHSP with an evidenced-based process for awarding funds to jurisdiction with the highest potential for affecting traffic crashes.

Collaboration between OHSP and Western Michigan University (WMU) resulted in a statistical method for establishing, quantifying, and rating officer activity performance<sup>12</sup>. The "equivalent stops per total billed hours" performance metric provides an evaluation of agency operational efficiency to compare individual outputs with organizational goal and outcomes. This may have national application implications as a standard for determining the effectiveness of impaired driving countermeasures.

The OHSP advised there were no law enforcement liaisons (LELs). While there were designated LEL positions in the past, the position was discontinued. The OHSP utilizes three current civilian staff members who perform the default responsibilities of a sworn LEL. These employees have other full-time responsibilities, and lack the depth of experience with the law enforcement culture to communicate and promote relationships throughout the organizational ranks.

## **Recommendations**

- **Fund and staff Law Enforcement Liaison (LEL) positions within the Office of Highway Safety Planning.**
- Provide ignition interlock training to law enforcement.
- Require all law enforcement officers to attend Standardized Field Sobriety Testing (SFST) and Advanced Roadside Impaired Driving Enforcement (ARIDE) refresher training every two years.
- Link databases housed within the Judicial Data Warehouse to provide advanced analysis to all stakeholders in the criminal justice system.
- Expand the accessibility of the Michigan Intelligence Operation's Center (MIOC) to local law enforcement agencies to allow for micro-time/place analysis specific to impaired driving enforcement.
- **Enact provisions that provide for admission of an affidavit report, in lieu of in-person testimony by the arresting officer, to establish proof of the statutory requirements in administrative license suspension/revocation hearings.**

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<sup>12</sup> Development of Federally Funded Enforcement Performance Standards for Michigan, prepared by Western Michigan University, April 30, 2013

## C. Prosecution

### Advisory

*States should implement a comprehensive program to visibly, aggressively and effectively prosecute and publicize impaired driving-related efforts, including use of experienced prosecutors, to help coordinate and deliver training and technical assistance to those prosecutors handling impaired driving cases throughout the State. Effective prosecution can include participation in a DWI Court program.*

*Prosecutors who handle impaired driving cases often have little experience, are responsible for hundreds of cases at a time, and receive insufficient training.<sup>13</sup>*

*States should:*

- *Make impaired driving cases a high priority for prosecution and assign these cases to knowledgeable and experienced prosecutors;*
- *Encourage vigorous and consistent prosecution of impaired driving (including youthful offender) cases, particularly when they result in a fatality or injury, under both impaired driving and general criminal statutes;*
- *Provide sufficient resources to prosecute impaired driving cases and develop programs to retain qualified prosecutors;*
- *Employ experienced prosecutors, such as State Traffic Safety Resource Prosecutors, to help coordinate and deliver training and technical assistance to prosecutors handling impaired driving cases throughout the State;*
- *Ensure that prosecutors who handle impaired driving cases receive state-of-the-art training, such as in Standardized Field Sobriety Test (SFST), Drug Recognition Expert (DRE), and emerging technologies for the detection of alcohol and other drugs. Prosecutors should learn about sentencing strategies for offenders who abuse these substances and participate in multi-disciplinary training with law enforcement personnel;*
- *In drug-impaired driving cases, encourage close cooperation between prosecutors, state toxicologists and arresting law enforcement officers (including DRE). Their combined expertise is needed to successfully prosecute these cases;*
- *Establish and adhere to strict policies on plea negotiations and deferrals in impaired driving cases and require that plea negotiations to a lesser offense be made part of the record and count as a prior impaired driving offense; and*
- *Encourage prosecutors' participation in DWI Courts as a sentencing alternative for persistent DWI offenders.*

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<sup>13</sup> Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution." Ottawa, Traffic Injury Research Foundation, 2002.

## Status

The prosecution and conviction of impaired and intoxicated drivers is very successful in Michigan. Statistics for the year 2012 indicate conviction rates of 87 percent in Operating While Intoxicated (OWI) cases, 99.1 percent in Operating While Visibly Impaired (OWVI) cases, 90.6 percent in fatal crash cases, and 86.6 percent in injury crash cases. Such conviction rates are among the highest for any state and substantially exceed the average conviction rates for other states. Misdemeanor impaired and intoxicated driving cases are prosecuted in Michigan's district courts; all felony matters are prosecuted in the circuit courts.

There are a number of factors which may contribute to Michigan's high conviction rates, including statutorily required arraignments within 14 days after arrest or citation, pretrial conferences within 35 days of arrest or citation, and trial within 77 days of arrest. Adjournments are also statutorily limited in number and duration. Prosecution may also be expedited because there are no statutory provisions that prohibit prosecutors from allowing the acceptance of pleas to the lesser offense of OWVI rather than OWI in the cases of first-time offenders. This facilitates plea bargaining by defendants who seek to obtain the reduced penalties available by pleading to the offense of OWVI.

The prosecutions of first- and second-offense OMVI and OWI cases are undertaken by either prosecuting attorneys or city attorneys. Felony offenses are prosecuted exclusively by prosecuting attorneys. Prosecuting attorneys are elected; city attorneys are appointed through city government action.

Some city attorneys who are involved in the prosecution of alcohol-related offenses are part-time employees who additionally pursue the private practice of law. Their private legal practices may include representation of criminal defendants. Occasionally such representation may be undertaken in the same jurisdiction or nearby to the jurisdiction in which they also serve a prosecutorial function. This practice may project a conflict of interest as well as an appearance of impropriety although actual impropriety may not exist. Interaction with law enforcement witnesses as a prosecutor in one case and with the same witnesses as a defense attorney in other cases may present potential conflicts of interest.

Prosecutors with less experience than their more senior counterparts are typically assigned to the prosecution of traffic-related offenses including impaired and intoxicated driving. New prosecutors do receive a basic training course in the prosecution of such cases with follow-up training through seminars, newsletters, websites and video presentations that are provided through the Prosecuting Attorneys Coordinating Council. Although the opportunity for continuing education is bountiful and materials are of high quality, Michigan has no mandatory continuing legal education requirements for its prosecutors. Some states reward prosecutors who are assigned to prosecute OWI, OWVI, and Operating With Presence of Drugs (OWPD) cases by providing incentives to encourage them to continue in those assignments and to become highly proficient and skilled.

Implied consent hearings, in refusal cases, are conducted outside of the judicial system by administrative law hearing officers. Law enforcement officers are responsible for attending the

proceedings and presenting testimony to establish the grounds for suspension of a defendant's driving privileges. Evidence indicates that, in a number of implied consent hearings, the accused is permitted to retain his or her driving privileges because the arresting officer does not appear. There is evidence that prosecutors occasionally engage in trial court plea negotiations that contemplate that an arresting officer will not appear at an implied consent hearing where a defendant has refused to provide a blood, breath, or urine sample. Such negotiations result in the administrative suspension hearing being resolved in favor of the defendant thus yielding only the period of license suspension from the OWI or OWVI conviction. By encouraging the non-appearance of the arresting officer at an implied consent hearing, prosecutors can ensure an overall shorter term of license suspension and restriction than otherwise could have been imposed if the suspension had been sustained. Such plea negotiations violate the spirit of the implied consent law.

Implementation of prosecutor liaisons to assist and train officers in making effective presentations at implied consent hearings might facilitate more positive outcomes as would providing to hearing officers the ability to subpoena officers. Law enforcement officers would also appear to benefit by prosecutors and law enforcement superiors assisting in coordinating the acceptance of notices to appear for summoned officers and the convenient scheduling of their appearances at the implied consent hearings.

There is limited evidence that some prosecutors have permitted felony defendants to avoid felony penalties by pleading to second offense driving while intoxicated offenses. Such dispositions may be appropriate, but plea agreements of this nature should be the subject of inquiry by the presiding judge and the justification therefore should be spread upon the record.

Michigan has a successful Traffic Safety Resource Prosecutor (TSRP) Program. The Program has functioned to improve the ability of the state's prosecutors to effectively prosecute traffic safety violations, with particular focus on vehicular homicide, vehicle crashes involving personal injuries, OWI, OWVI, OWPD, and operating on a suspended or revoked license. The TSRP provides consistent, up to date reference materials to assist prosecutors in prosecuting traffic safety cases. The TSRP updates the OWI manual, and makes changes concurrent with legislative and case law changes. He also provides a quarterly newsletter, legal memoranda, and other reference materials to keep prosecutors current on the latest developments in traffic safety law. The TSRP works to improve the coordination of the prosecution of traffic safety cases among law enforcement, prosecutors, the Office of Highway Safety Planning (OHSP), the Secretary of State, the judiciary and other traffic safety organizations.

Michigan is a large state, both in population and geographic area. Other comparable states, Florida for example, have two TSRPs. The addition of a second TSRP in Michigan would better enable the accomplishment of TSRP responsibilities. It would also enable TSRPs to better educate, inform, and address OWI and OWVI issues with judges, law enforcement, and other criminal justice system stakeholders, in addition to prosecutors.

Michigan's prosecutors are faced with a difficult situation when attempting to adjudicate certain cases in which a defendant is charged with violation of MI ST 257.625(8). Immunity



from prosecution is provided under Michigan’s Medical Marihuana Act<sup>14</sup> (MMMA) to a registered patient who drives with indications of marijuana in his or her system but is not otherwise under the influence of marijuana. This provision conflicts with the “zero tolerance” provision in subsection 257.625(8) which prohibits operation if the person has in his or her body “...any amount of a controlled substance...” listed in schedule 1 of the public health code. When the MMMA conflicts with another statute, the MMMA provides that “[a]ll other acts and parts of acts inconsistent with [the MMMA] do not apply to the medical use of marihuana...” See MCL 333.26427(b)(4).

Consequently, the Michigan Vehicle Code's zero-tolerance provision, MCL 257.625(8), which is inconsistent with the MMMA, does not apply to the medical use of marijuana. See *People v. Koon* 494 Mich. 1, 7, 832 N.W.2d 724, 727 (Mich., 2013). The Court in *Koon* gratuitously pointed out that Michigan’s legislature could resolve this issue by adopting amendments to the MMMA to clarify the specific circumstances under which a registered patient is per se “under the influence” of marijuana. The Court suggested that the legislature might consider adopting a “legal limit” to specify when a registered patient is outside the MMMA’s protection. Other states, including Colorado, Nevada, and Washington have adopted such limits in the form of limits quantified in nanograms. For example, Washington has set a legal limit for the blood concentration of tetrahydrocannabinol (THC) at 5ng/ml. See Wash. Rev. Code 46.61.502(1)(b).

The Prosecuting Attorneys Association of Michigan has the ability to lobby the Michigan legislature to improve the adjudication and disposition of drug impaired motor vehicle offenses.

## Recommendations

- Counsel prosecutors as to the potential ethical impropriety of encouraging law enforcement officers to forego attendance at implied consent hearings in refusal cases.
- **Enact provisions that provide for admission of an affidavit report, in lieu of in-person testimony by the arresting officer, to establish proof of the statutory requirements in administrative license suspension/revocation hearings.**
- Utilize the lobbying prerogatives of the Prosecuting Attorneys Association of Michigan to urge Michigan legislators to enact a per se presumptive tetrahydrocannabinol (THC) level of 5 nanograms per milliliter of blood to be applied when a Michigan Medical Marihuana Act (MMMA) registered patient is charged with Operating While Intoxicated (OWI), Operating While Visibly Impaired (OWVI), or Operating with Presence of Drugs (OWPD).
- Employ a second Traffic Safety Resource Prosecutor (TSRP)

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<sup>14</sup> In common usage “marijuana” is spelled with a “j”. When utilized in the Michigan Medical Marihuana Act and when the act is quoted in this document, it is spelled with an “h”.

- Require by rule of court or statute that prosecutors announce in open court the reasons or justification for acceptance of any plea to a misdemeanor offense in a case wherein the defendant has been charged with a felony case of Operating While Intoxicated (OWI) or Operating with Presence of Drugs (OWPD).
- Discourage appointed city attorneys, who also serve as prosecutors in district court criminal matters, from engaging in the practice of criminal defense law in the same or nearby jurisdictions where they serve as prosecutors.

## **D. Adjudication**

### **Advisory**

*States should impose effective, appropriate and research-based sanctions, followed by close supervision, and the threat of harsher consequences for non-compliance when adjudicating cases. Specifically, DWI Courts should be used to reduce recidivism among repeat and high BAC offenders. DWI Courts involve all criminal justice stakeholders (prosecutors, defense attorneys, probation officers and judges) along with alcohol and drug treatment professionals and use a cooperative approach to systematically change participant behavior. Where offender supervision<sup>15</sup> is housed within the judicial branch, the guidelines of Section V(A)(1) should be utilized by the judiciary.*

*The effectiveness of enforcement and prosecution efforts is strengthened by knowledgeable, impartial and effective adjudication. Each State should provide the latest state-of-the-art education to judges, covering Standardized Field Sobriety Testing (SFST), Drug Recognition Expert (DRE), alternative sanctions and emerging technologies, such as ignition interlock devices (IID).*

*Each State should utilize DWI Courts to help improve case management and to provide access to specialized personnel, speeding up disposition and adjudication. DWI Courts also improve access to assessment, treatment, and sentence monitoring. Each State should provide adequate staffing and training for community supervision programs with the necessary resources, including technology, such as IID, to monitor and guide offender behavior.*

*States should:*

- *Involve the State's highest court in taking a leadership role and engaging judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges;*
- *Encourage consistency in the adjudication of impaired driving (including youthful offender) cases, and the imposition of effective and appropriate sanctions, particularly when impaired driving resulted in a fatality or injury;*
- *Provide sufficient resources to adjudicate impaired driving cases in a timely manner and effectively manage dockets brought before judges;*

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<sup>15</sup> Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002.

- *Ensure that judges who handle criminal or administrative impaired driving cases receive state-of-the-art education, such as in technical evidence presented in impaired driving cases, including SFST and DRE testimony, emerging technologies, such as IID, for the detection of alcohol and other drugs, and sentencing strategies for this class of offenders; and*
- *Use court strategies to reduce recidivism through effective sentencing and close monitoring, by either establishing DWI Courts, encouraging drug courts to hear impaired driving cases, or encouraging other courts to adopt DWI/Drug Court practice. These courts increase the use of drug or alcohol assessments, identify offenders with alcohol or drug use problems, apply effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs and closely monitor compliance, leading to a reduction in recidivism.<sup>16</sup>*
- *Eliminate ethical obstacles, such as ex parte or commitment communications, by adopting the current Model Code of Judicial Conduct so that judges can participate more freely in DWI Court administration;*
- *Provide adequate staffing and training for community supervision programs with the necessary resources, including technology such as IID and electronic confinement, to monitor and guide offender behavior and produce periodic reports on offender compliance; and*
- *Incorporate into judicial education and outreach administration the position of Judicial Outreach Liaison as a judicial educator and resource on highway traffic safety issues including impaired driving, and as an agent to create more DWI Courts.*

## **Status**

Michigan has three trial courts that are empowered, in appropriate cases, to exercise jurisdiction and adjudicate alcohol and/or drug-related motor vehicle offenses. These are the circuit, district, and probate courts.

### Circuit Court

The circuit court is the trial court with the broadest jurisdiction. In general, all felony Operating While Intoxicated (OWI) criminal cases, felony Operating While Visibly Impaired (OWVI) and felony Operating With the Presence of Drugs (OWPD) cases are in the exclusive jurisdiction of the circuit courts. In addition, the circuit court hears cases appealed from the other trial courts or from administrative agencies. Juvenile cases are within the jurisdiction of the circuit courts, although juvenile traffic cases, including OWI and OWVI, that are unconnected with a felony charge(s) are handled in the district courts. There are 57 circuit courts in Michigan. Circuit court judges are elected for six-year terms.

### District Court

The district court is often called the people's court. More people have contact with the district court than any other court. The district court handles most traffic violations, including OWI

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<sup>16</sup> Freeman-Wilson, Karen and Michael P. Wikosz, "Drug Court Publications Resource Guide Fourth Edition." Alexandria, VA: National Drug Court Institute, 2002.

and OWVI misdemeanor cases. District courts handle first- and second-offense impaired and intoxicated driving cases; they also provide jury trials in such cases which may result in appeals to the appellate divisions of the circuit courts. A few Michigan municipalities have chosen to retain a municipal court rather than create a district court. The municipal courts have limited powers and are located in Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Point Shores/Grosse Pointe Woods. Municipal courts do not hear OWI or OWVI cases. They do not hear alcohol-related driving offenses.

There are approximately 100 district courts in Michigan. District court judges are elected for six-year terms. The District courts are assisted by magistrates who can arraign, take pleas, and sentence in cases that carry a maximum sentence of 90 days in jail. Magistrates do not adjudicate drinking/drugged driver cases. They can issue arrest and search warrants and are often called upon to issue search warrants to permit the acquisition of blood samples from defendants who have refused to comply with Michigan's implied consent law.

### Probate Court

The probate court handles wills, administers estates and trusts, appoints guardians and conservators, and orders treatment for mentally ill and developmentally disabled persons. There are 78 probate courts in Michigan; probate judges are elected for six-year terms. Probate courts do not play a significant role in OWI or OWVI cases.

### DWI Sobriety Court

A sobriety court is technically not a specific type of court. It is a specialized court docket or court division designed to address the problem posed by repeat intoxicated or impaired drivers. It uses a separate case management system to monitor a category of defendants. The courts are based on an adult drug court model with the objective of reducing recidivistic impaired driving. These courts are characterized by the use of an expedited docket or fast tracking case processing system, with early identification of the offender and immediate placement in treatment. Sobriety courts utilize an advisory board to advise the court, offer feedback from a community perspective and provide a monitor for continuous improvement.

Not all judicial districts have sobriety courts, and not all district court sobriety courts operate the same. In most sobriety courts, selected defendants voluntarily enter the 72-week program. Because these individuals give up certain constitutional and privacy rights, the agreement to enter sobriety court is based upon a signed contract and a knowing waiver on the record. The sobriety court team reviews cases prior to going into court. The program is run on a point-based system that measures performance in seven categories. The offender is intensively monitored through weekly probation reporting and regular alcohol/drug testing. All defendants may also be required to attend a support group and a weekend treatment program. Sobriety court mandates twice weekly substance abuse counseling and the offender is further monitored through comprehensive treatment progress reports and direct contact with the probation officer and with the treatment provider. Not only is probation supervision intense, there is also judicial supervision of the offender at intervals of one to two times a month. The judicial review focuses on the progress of the defendant in treatment, the difficulties faced at home, at

work and in the community.

Upon successful completion of the first 36 weeks of sobriety, each defendant, in a formal ceremony, graduates to the less regimented form of supervision for an additional 36 weeks. They continue to report to probation, but do not see the judge. They also continue to attend a support group and see their alcohol/drug counselor. The ultimate goal of sobriety court is to end a defendant's recidivistic drunk driving by ending their dependence upon drugs and/or alcohol. To achieve that goal, all individuals within the program are held to a standard of absolute responsibility. As offenders progress in the program and as the judge responds to their behavior through a phased system of sanctions and rewards, the offenders become increasingly responsible for their own behavior. Recidivism rates, for those who successfully complete sobriety court, have proven to be less than six percent, as compared to more than 11 percent for a comparison group of those who did not complete a sobriety court. These results suggest that the specialized approach to high risk drunk drivers significantly reduces the danger that these individuals will continue to engage in this hazardous behavior.

Michigan's sobriety court statute, MI ST 257.304, incorporates an Ignition Interlock Device (IID) provision to facilitate relicensing. Sobriety courts are available to persons who have multiple OWI or OWVI convictions. The statute allows the Secretary of State (SOS) to issue a restricted license after 45 days, only after the sobriety court judge verifies to the SOS that the defendant is enrolled in sobriety court and that an interlock has been installed in the vehicle. However, the restricted license is only valid for the vehicle equipped with the interlock device.

Under MI ST 257.304, the restricted license shall be in effect until the SOS issues an unrestricted license. The restricted license permits vehicle operation to and from the following: the person's residence; the person's work location; alcohol, drug, or mental health education and treatment as ordered by the court; Alcoholics Anonymous or a similar support group, Narcotics Anonymous, or other court-ordered self-help programs; court hearings and probation appointments; court-ordered community service; an educational institution at which the person is enrolled as a student; a place of regularly occurring medical treatment for a serious condition or medical emergency for the person or a member of the person's household or immediate family; alcohol or drug testing as ordered by the court; ignition interlock service provider as required.

If the driver successfully completes drug court and the full period of suspension/revocation has elapsed, full driving privileges can be reinstated. If the driver violates drug court or the interlock period, the SOS shall suspend the restricted license and the driver will suffer the full length of the original suspension/revocation period. Other advantages of the program are that the Driver Responsibility Fee is held in abeyance and not due until the loss of or end of the restricted license period. Additionally, the vehicle is exempt from immobilization and forfeiture.

### Regional DWI Sobriety Court

Not all judicial districts have funding or personnel with which to implement and operate a sobriety court. For this reason, regional DWI Sobriety Courts have been established. At

present there are four such regional courts. They operate on the same principles as the individual district sobriety courts but serve broader geographic areas.

### Drug Treatment Court

MI ST 600.1060 provides for the operation of drug treatment courts, which are courts that provide supervised treatment programs for individuals who abuse or are dependent upon any controlled substance and alcohol. Generally, drug treatment courts do not accept defendants who have alcohol-related OWI offenses unless there was a controlled substance component involved in the underlying offense.

Drug treatment courts are required to comply with the 10 key components promulgated by the National Association of Drug Court Professionals. MI ST 600.1062 allows a circuit court in any judicial circuit or the district court in any judicial district to adopt or institute a drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. OWI offenses are not subject to discharge or dismissal.

### Sobriety and Drug Court Funding

There are currently 84 drug treatment courts in Michigan, consisting of 32 adult drug courts, 23 DWI courts, 15 juvenile drug courts, 11 family dependency courts, and three tribal healing-to-wellness courts. Michigan's drug treatment courts operate in 40 counties; however, the three tribal drug courts have special jurisdictions. At present the majority of the sobriety courts operate in the District Courts, whereas there are approximate total of 51 sobriety and/or drug treatment courts operating in the Circuit Courts. This places the State of Michigan in an enviable position in our Nation as many states have no functioning DUI/Sobriety or Drug courts in their lower jurisdiction courts. Sobriety and drug treatment courts initially receive substantial financial support from the Michigan Office of Highway Safety Planning. Further funding is essential to the continued operation and success of sobriety and drug treatment courts.

### Michigan Judicial Education

The Michigan Judicial Institute (MJI) is responsible for all initial judicial education as well as continuing judicial education and training. The MJI provides both pre-bench and continuing judicial education and training programs for the State's judiciary and judicial personnel. The MJI is highly regarded nationally having the reputation for providing its judges with training and educational resources of the highest caliber. Judges who handle traffic and alcohol-related cases are provided with bench books that are also contained on compact discs that provide ready access to substantive and procedural legal research and information. Michigan is somewhat unusual in that it does not require mandatory continuing judicial education, although

annual attendance at such programs is required and is reportedly very strong. Michigan does not regularly fund out of state travel for continuing judicial education. However, the OHSP considers the funding of such requests on a case-by-case basis. At least three alcohol-related offense judicial education courses are available through the National Judicial College. Prospective participants may apply for National Highway Traffic Safety Administration (NHTSA) sponsored scholarships to attend these courses.

### District Court Sentencing Options

While there are sentencing guidelines that govern the sentencing of felony offenders, no such guidelines govern the sentencing of misdemeanants. District court judges enjoy wide discretion and latitude in the penalties and conditions of probation which may be imposed in sentencing impaired and intoxicated drivers. There appears to be considerable divergence in the sentencing practices of district court judges. This is particularly true with respect to whether probation is utilized, and if utilized, the length and conditions of probation that are chosen to be imposed in alcohol-related driving cases. Critics of the use of diverse conditions of probation argue that judges appear to order various conditions without consideration as to whether their imposition will actually benefit a particular defendant in terms of discouraging recidivism or promoting rehabilitation. Critics suggest that judges should inform themselves as to whether certain conditions and sentencing practices actually provide a beneficial effect to the defendant and society.

District Court judges are not required to order impaired or intoxicated drivers to participate in rehabilitative treatment programs even if mandatory screening and assessment, required by statute, indicate that the defendant is dependent on alcohol or controlled substances. Failing to require treatment where a screening and assessment indicate the need for it appears to be a waste of the screening process. Screening is not required in the cases of minor in possession defendants or zero tolerance law defendants. It would appear to be sound judicial practice to order screenings for defendants charged with such offenses particularly if the defendants have prior histories of alcohol-related offenses.

Pursuant to MI ST 771.2(1) if a defendant is convicted for an offense that is not a felony, the probation period shall not exceed two years; if the defendant is convicted of a felony, the probation period shall not exceed five years. The provisions of MI ST 771.3 permit a court to prescribe conditions of probation that the probationer must complete, including but not limited to, the following: participate in mental health treatment; participate in mental health or substance abuse counseling; participate in a community corrections program; be under house arrest; be subject to electronic monitoring; participate in a residential probation program; satisfactorily complete a program of incarceration in a special alternative incarceration unit; be subject to conditions reasonably necessary for the protection of one or more named persons; reimburse the county for expenses incurred by the county in connection with the conviction for which probation was ordered; complete his or her high school education or obtain the equivalency of a high school education in the form of a general education development (GED)

certificate. Additionally the court may impose other lawful conditions of probation as the circumstances of the case require or warrant.

Not all courts impose probation in misdemeanor OWI and OWVI cases, particularly where a defendant is sentenced to a period of incarceration. When a defendant is not placed on probation, it greatly reduces the opportunity of the court to ensure that a defendant complies with conditions, such as obtaining substance abuse treatment and remaining abstinent.

## **Recommendations**

- Enact legislation or rules of court administration to require judges to order defendants, convicted Operating While Intoxicated (OWI) and Operating While Visibly Impaired (OWVI), to participate in rehabilitative treatment programs if mandatory screening and assessment indicate that the defendant is dependent on alcohol or controlled or intoxicating substances.
- Educate judges as to desirability and effectiveness of using standard and discretionary conditions of probation, including requiring abstinence, sobriety monitoring, curfews, limitations of driving, and participation in or completion of treatment or rehabilitation programs.
- Educate judges as to the effectiveness of sobriety and drug treatment courts and how such courts can be implemented in their jurisdictions.
- **Continue funding for the implementation, utilization, and support of sobriety and drug treatment courts.**
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### **E. Administrative Sanctions and Driver Licensing Programs**

#### ***Advisory***

*States should use administrative sanctions, including the suspension or revocation of an offender's driver's license; the impoundment, immobilization or forfeiture of a vehicle; the impoundment of a license plate or suspension of a vehicle registration; or the use of ignition interlock devices. These measures are among the most effective actions that can be taken to prevent repeat impaired driving offenses.<sup>17</sup>*

*In addition, other driver licensing activities can prove effective in preventing, deterring and monitoring impaired driving, particularly among novice drivers.*

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<sup>17</sup> Robertson, Robyn D. and Herb M. Simpson " DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002



## E-1. Administrative License Revocation and Vehicle Sanctions:

### **Advisory**

*Each state's Motor Vehicle Code should authorize the imposition of administrative penalties by the driver licensing agency upon arrest for violation of the state's impaired driving laws. Administrative sanctions allow the licensing agency to maintain its authority to determine the safety and competence of the driver to whom it has issued a license, and to determine whether, at any time, continued provision of driving privileges is warranted. Administrative sanctions provide for consistency and uniformity of both sanction and treatment of offenders, apart from the political or social viewpoints of the various judicial jurisdictions within a state.*

*The code should provide for:*

- *Administrative suspension of the driver's license for alcohol and/or drug test failure or refusal;*
- *The period of suspension for a test refusal should be longer than for a test failure;*
- *Prompt suspension of the driver's license within 30 days of arrest, which should not be delayed, except when necessary, upon request of the State;*
- *Vehicle sanctions, including suspension of the vehicle registration, or impoundment, immobilization or forfeiture of the vehicle(s), of repeat offenders and individuals who have driven with a license suspended or revoked for impaired driving; and*
- *Installation of ignition interlock device(s) on the offender's vehicle(s) until a qualified professional has determined that the licensee's alcohol and/or drug use problem will not interfere with their safe operation of a motor vehicle. Specific agencies within a State should be given responsibility and authority for oversight of the interlock program, including vendor selection, certification, and monitoring; review of data downloaded from the individual devices; and responsibility for administrative rules that guide sanctions for circumvention or other non-compliance with ignition interlock licensure. Licenses for drivers required to have ignition interlock devices installed on vehicles that they operate should be easily identifiable by law enforcement officers, either by virtue of a different colored background on the license or large print indicating that an ignition interlock device is required.*

### **Status**

#### Driver License Suspension in Michigan

If the Michigan Secretary of State (SOS) suspends a driver's license, suspension requirements must be met before a license can be reinstated.

A Michigan driver's license may be suspended, restricted, or revoked for reasons including:

- Operating while intoxicated (OWI) with drugs or alcohol/DWI/DUI.
- Refusing to submit to a blood alcohol concentration (BAC) test.
- Accumulating too many driver record points.

- Violating insurance laws.
- Using your vehicle to commit a felony.

The duration of suspension/revocation varies depending on the offense. A Michigan driver's license will be suspended:

- Indefinitely for offenses such as:
  - Insurance law violations.
  - Failing to appear in court/failing to comply with a court judgment.
- For one year, for OWI offenses with a BAC of 0.17 percent or more.
- For one year, for refusing to submit to a BAC test when arrested on suspicion of an OWI.
- For two years for refusing a BAC test a second time within seven years.

### Ignition Interlock

Michigan law requires repeat alcohol-related driving offenders to install an ignition interlock device in their vehicle. The repeat offender laws are designed to get tough with drivers who repeatedly drive drunk or drive while on a suspended or revoked license. Repeat offenders are identified as having:

- Two or more alcohol-related convictions within seven years.
- Three or more alcohol-related convictions within 10 years.
- Three or more convictions for driving while license is suspended or revoked in seven years, if those convictions resulted in mandatory additional suspensions or revocations.

The Secretary of State is required to revoke the driver license of a habitual offender and deny his or her application for another license. After the minimum period of revocation/denial, a habitual offender may be eligible for a driver license appeal hearing. If a restricted license is ordered, the hearing officer must require that the habitual offender install a Breath Alcohol Ignition Interlock Device (BAIID) on any vehicle he or she owns or intends to operate. The person cannot drive until the BAIID is properly installed and proof of installation is presented to a local Secretary of State (SOS) branch office. Beginning October 31, 2010, anyone with a restricted license that requires a BAIID must continue to drive with the device until the Secretary of State authorizes him or her to remove it.

The BAIID is a breath alcohol analyzer, with computer logic and an internal memory. It connects with a motor vehicle's ignition and other control systems. The BAIID measures the driver's blood alcohol content (BAC), and keeps the vehicle from starting if the BAC is .025 or higher. The device will also ask for random retests while the person is driving (rolling retests).

If the BAIID records three start-up test failures in a monitoring period, or one rolling retest failure, or if it detects tampering, the vehicle must be taken to a service center immediately. If that service is not done, the BAIID will go into a "lock-out" mode, and the vehicle cannot be operated.

Test failures, tampering, or other BAIID-related violations will result in an extension of the time before the driver can ask for another driver license appeal hearing, or may require that the original license revocation/denial be reinstated.

### Administration of BAIID

Michigan does not regulate the cost of BAIIDs. However, the law does limit the amount that can be charged to low income persons to a maximum of \$2.00 per day. To qualify for this reduced fee, the gross income for the previous tax year must be less than 150% of the current poverty guidelines of the United States Secretary of Health and Human Services. Defendants are required to produce a copy of the Michigan state income tax form for the previous year to verify gross income. Defendants must contact a BAIID vendor for more details to determine qualifications for the reduced fee.

### Location of Service Centers

BAIID manufacturers who want to install devices in Michigan must have a statewide network of service locations. There must be a service center within 50 miles (one way) of any location in the state. If a driver lives more than 50 miles from a service center, the BAIID company may use a mobile unit to travel to a location within 50 miles of the driver.

### Getting A BAIID Installed

Violators must use a vendor and device that have been approved by the State. The driver license appeal order/authorization for restrictions will include the most current list of approved vendors.

### BAIID Reports and Removal Authorization

If a hearing officer orders a restricted license with a BAIID requirement, the driver must drive under the restrictions, with a properly installed BAIID, for at least one full year.

If there are alcohol readings or other BAIID violations after the device is installed, the vendor will report them to the Secretary of State Office. As indicated before, the possible consequences of those reports may include an extension of the time before requesting another license appeal hearing, or the reinstatement of the original license revocation/denial.

When eligible, the driver may request a license appeal hearing to ask that the restrictions be removed from their license. At that hearing, the violator must present the report(s) from the BAIID provider(s) to prove that the device was installed for at least the minimum required length of time, and to establish whether there were any alcohol readings or other BAIID violations.

If a hearing was held, or a restricted license that requires a BAIID, was issued on or after October 31, 2010, you must keep the device on your vehicle until the Secretary of State authorizes you to remove it.

## BAIID Violations

Violations of the BAIID program for habitual offenders are divided into "minor" and "major" categories.

### Minor Violations:

- A driver has two months after the BAIID is installed to become familiar with the device, and to learn that certain substances, such as mouth wash, may cause the device to record a test failure. After the first two months, it is a minor violation if the BAIID records three start-up test failures within a monitoring period. A start-up test failure means the BAIID has prevented the vehicle from starting. A monitoring period is the full length of time the BAIID is required to be properly installed.
- If the driver fails to report the BAIID installer for servicing within seven days after his or her scheduled monitoring date, it is a minor violation.

### Major Violations:

- Rolling retest violation:
  - Failing to take the rolling retest when prompted by the BAIID; or
  - The random retest detects a BAC of .025 or higher, and there is no subsequent sample with a BAC of less than .025 within five minutes.
- An arrest or conviction for drunk and/or drugged driving.
- Tampering with the BAIID.
- Circumventing the BAIID.
- Three minor violations within a monitoring period.
- Removing the BAIID without having another device installed within seven days, unless the Secretary of State has authorized the removal.
- Operating a vehicle without a properly installed BAIID.

Minor violations will result in a three-month extension of the time before requesting another license appeal hearing.

Major violations will result in the immediate reinstatement of the original driver license revocation/denial. An appeal may be submitted to the Driver Appeals and Assessment Division (DAAD). The appeal must be in writing, and must be submitted within 14 days after the effective date of the reinstatement.

## BAIID Required For an Offender With a High BAC (00.17)

If a violator decides they want the restricted license, they will have two months after the BAIID is installed to become familiar with the device, and to learn that certain substances, such as mouth wash, may cause the device to record a start-up test failure. After the first two months, any instance of a .025 or higher BAC reading will result in another one-year suspension. Also, any rolling retest failure will result in an additional one-year suspension of

their driver license. Violators may be eligible for another restricted license after serving 45 days of suspension if a BAIID is properly installed on every vehicle they operate.

### BAIID Removal and Reports

High BAC offenders are eligible to ask for permission to remove the BAIID one-year after the beginning of the original license suspension if they have not violated the terms of the driver license restrictions. Violators must include a report(s) from their BAIID vendor(s) to the Administrative Hearings Section with the request for authorization to remove the BAIID.

The request may be approved if there are none of the following:

- Instances of BAIID test samples with a BAC of .025 or higher.
- Convictions for operating a vehicle without a properly installed BAIID.
- Evidence of tampering with, or circumventing, the BAIID.

If the request is approved, violators must take the Order Authorizing BAIID Removal to their provider before the device can be removed.

If no other license sanctions are in effect, violators may take the Order Authorizing BAIID Removal to a Secretary of State Branch Office, pay the reinstatement fee, and return to full driving.

If violators have a provider remove the BAIID without Secretary of State authorization, the provider is required to report the removal to the Secretary of State. This may be treated as an unauthorized removal, and may result in additional driver license sanctions.

### Registration Denial

If a person is arrested as an OWI repeat offender, the law-enforcement officer will destroy the metal license plate of the vehicle being driven, even if it does not belong to the driver. A temporary paper license plate will be issued, which will allow the vehicle to be driven legally. A new metal license plate cannot be issued until the case is resolved in court.

Registration denial includes all vehicles that are owned, co-owned, leased, or co-leased by the repeat offender. During the period of registration denial it is a crime for the repeat offender to purchase, lease, or obtain a vehicle, or to attempt to do those things. Unless the repeat offender gets a court order, he or she may not transfer the vehicle's registration to any family member if that vehicle is immobilized, forfeited, or subject to registration denial, or a temporary registration plate has been issued for the vehicle. Registration denial continues until the repeat offender is eligible for another driver license.

The Repeat Offender laws include other penalties, in addition to metal plate confiscation and registration denial. There may be driver license suspensions or revocations, the ignition interlock device may be required, and there may be mandatory substance abuse treatment. There may also be vehicle immobilization or forfeiture.

## Vehicle Forfeiture

If a person commits multiple substance abuse-related offenses they may be subject to vehicle forfeiture. The Court could order that the vehicle be sold. If the vehicle is leased, it could be returned to the leasing company. If there are any proceeds from the sale of the vehicle, they will be disbursed to any lien holder first with additional monies given to interested parties including any co-owner or victim of an offense.

## Vehicle Immobilization

If a person has no prior OWI convictions on their driving record, their vehicle can be immobilized for up to 180 days. If they have one prior conviction within a seven year period, their vehicle could be immobilized anywhere from 90 to 180 days. With two prior convictions over any period of time, the vehicle can be immobilized for a period of one to three years.

Repeat Offenders who cause an accident that result in long-term injury or death may be charged with a felony.

Michigan law and administrative actions are so effective that the State has only an 11% test refusal rate.

## **Recommendations**

Increase immobilization period for second Operating While Intoxicated (OWI) conviction within a seven year period to a period greater than the 180 days. The penalty will then be equal to or greater than the first offense.

### **E-2. Driver License Programs**

#### ***Advisory***

*Each state's driver licensing agency should conduct programs that reinforce and complement the state's overall program to deter and prevent impaired driving, including:*

- (1) Graduated Driver Licensing (GDL) for novice drivers. GDL programs have been widely evaluated and all studies, although results vary significantly, have shown a reduction in crash and fatality rates.*

*States' GDL program should involve a three-stage licensing system for beginning drivers (stage 1 = learner's permit; stage 2 = provisional license; and stage 3 = full license) that slowly introduces the young, novice driver to the driving task by controlling exposure to high risk driving situations (e.g., nighttime driving, driving with passengers, and driving after drinking any amount of alcohol). The three stages of the GDL system include specific components and restrictions to introduce driving privileges gradually to beginning drivers. Novice drivers are required to demonstrate responsible driving behavior during each stage of licensing before advancing to the next level.*

*Each stage includes recommended components and restrictions for States to consider when implementing a GDL system.*

*Stage 1: Learner's Permit*

- *State sets minimum age for a learner's permit at no younger than 16 years of age;*
- *Pass vision and knowledge tests, including rules of the road, signs, and signals;*
- *Completion of basic driver training;*
- *Licensed adult (who is at least 21 years old) required in the vehicle at all times;*
- *All occupants must wear seat belts;*
- *Zero alcohol while driving;*
- *Learners permit is visually distinctive from other driver licenses;*
- *Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level;*
- *Parental certification of 30 to 50 practice hours; and*
- *No use of portable electronic communication and entertainment devices while driving.*

*Stage 2: Intermediate (Provisional) License*

- *Completion of Stage 1;*
- *State sets minimum age of 16.5 years of age;*
- *Completion of intermediate driver education training (e.g., safe driving decision-making, risk education);*
- *All occupants must wear seat belts;*
- *Licensed adult required in the vehicle from 10 p.m. until 5 a.m. (e.g., nighttime driving restriction) with limited exceptions (i.e., religious, school, medical, or employment related driving);*
- *Zero alcohol while driving;*
- *Driver improvement actions are initiated at lower point level than for regular drivers;*
- *Provisional license is visually distinctive from a regular license;*
- *Teenage passenger restrictions – not more than 1 teenage passenger for the first 12 months of Intermediate License. Afterward, limit the number of teenage passengers to 2 until age 18;*
- *Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level; and*
- *No use of portable electronic communication and entertainment devices while driving.*

*Stage 3: Full Licensure*

- *Completion of Stage 2;*
- *State sets minimum age of 18 for lifting of passenger and nighttime restrictions;*
- *Zero alcohol while driving; and*
- *Visually distinctive license for drivers under the age of 21.*

(2) *A program to prevent individuals from obtaining and using a fraudulently obtained, counterfeit, or altered driver's license including:*

- *Training for alcoholic beverage sellers to recognize fraudulent or altered licenses and IDs and what to do with these documents and the individuals attempting to use them;*

- *Training for license examiners to recognize fraudulent documents and individuals seeking to apply for them; and*
- *A means by which to ensure that individuals cannot obtain driver licenses using multiple identities.*

## **Status**

Michigan Graduated Driver Licensing (GDL) is a driver licensing system designed to teach teens to drive by gradually increasing their driving privileges as they advance through the system. GDL consists of two segments of driver education instruction and three licensing levels.

The three licensing levels in GDL are: a supervised learner's license (Level 1 License), an intermediate license that limits passengers and unsupervised nighttime driving (Level 2 License), and a full-privilege driver's license (Level 3 License) issued after a teen driver has successfully completed all previous instruction and driving requirements.

GDL License Levels 1 and 2 have certain restrictions to limit teens' driving exposure to high-risk situations and help protect them while they are learning to drive.

The Graduated Driver Licensing Eligibility Requirements Are:

### Level 1 Learner's License

To be eligible for a Level 1 Learner's License, applicants must:

- Meet minimum visual standards to drive.
- Meet the Department of State Physical and Mental Standards for Drivers
- Successfully complete Segment 1 of an approved driver education program and present a Segment 1 Certificate of Completion. Out-of-state driver education certificates require an applicant to take the 40-question Michigan Original Operator License Test.
- Be at least 14 years 9 months old.
- Have a parent, legal guardian or responsible adult sign the Level 1 application
- Present identification documents.

### Level 2 Intermediate License

To be eligible to apply for a Level 2 Intermediate License, applicants must:

- Have a Level 1 Learner's License for at least six months
- Present a Level 1 Learner's License
- Be at least 16 years old
- Meet minimum visual standards to drive.
- Meet the Department of State Physical and Mental Standards for Drivers
- Must have successfully completed Segment 2 of an approved driver education program and present a Segment 2 Certificate of Completion
- Must present State accepted proof of legal presence.



- Pass a Driving Skills Test and present a Driving Skills Test Certificate
- Have no convictions or civil infractions, license suspensions, or at-fault crashes for the 90-day period immediately prior to applying for a Level 2 Intermediate License
- Have a parent, legal guardian, or responsible adult sign the application to certify the 50 hours behind-the-wheel driving experience including a minimum of 10 nighttime hours

### Level 3 Full License

To be eligible for a Level 3 Full License, applicants must:

- 17 years old
- Have Level 2 License for at least six months
- Complete 12 consecutive months without a moving violation, an accident in which a moving violation resulted, an accident, a license suspension, or a violation of the graduated license restrictions (may be six months at Level 1 and six months at Level 2, if consecutive)

A new Level 3 license is created and mailed from Lansing using the electronic image on file (obtained at Level 2). This license is issued at no fee to the applicant. A teen will automatically advance to a Level 3 License provided he or she is age 17, has met all driving requirements and has parental authorization. This authorization is granted when the parent or legal guardian signs for the teen's Level 2 License. GDL ends for all teens when they turn age 18.

As of July 1, 2003, Michigan began issuing a vertical driver license (or state identification card) to young people under the age of 21. The distinctive shape of the new vertical driver license instantly alerts retailers, restaurants and bars that the cardholder is not of legal age to purchase alcohol or tobacco.

The Michigan Liquor Control Commission (MLCC) was created upon the repeal of Prohibition by the legislature acting in special session in December of 1933. The act creating it empowered the Commission to control all alcoholic beverage traffic within this state. The Commission consists of five members appointed by the Governor. The mission of the Michigan Liquor Control Commission is to make alcoholic beverages available for consumption while protecting the consumer and the general public through regulation of those involved in the sale and distribution of these alcohol beverage products.

On August 1, 2001, the MLCC implemented the mandatory server training requirement for licensees obtaining a new on premises license or transferring more than 50 percent interest in an existing on premises license. At a minimum, server trained supervisory personnel must be employed during all hours alcoholic beverages are served as outlined in MCL 436.1501(1). Currently, the following server training programs are approved by the MLCC:

- TAM®: Techniques of Alcohol Management
- TIPS®: Training for Intervention Procedures
- C.A.R.E.® - Controlling Alcohol Risks Effectively
- ServSafe Alcohol™ Responsible Alcohol Service

- AIM - Alcohol Intervention Management

Many of these programs are provided through on-site training and include training for alcoholic beverage sellers to recognize fraudulent, counterfeit or altered licenses and IDs and what to do with these documents and the individuals attempting to use them.

The Michigan Licensed Beverage Association is responsible for server training in the State. Techniques of Alcohol Management (TAM)<sup>®</sup> (one of the approved and very active vendors) provides risk management tools that should be used by all licensees to control the day-to-day operations of their business. TAM<sup>®</sup> training covers a variety of information including:

- False Identification
- Laws, Rules, and Regulations
- Clinical Effects of Alcohol
- Customer Disturbances
- Alcohol Management

TAM<sup>®</sup> seminars are available statewide for MLBA members. The online version of TAM<sup>®</sup> is currently not accepted by the Michigan Liquor Control Commission. Currently, on-site TAM training classes are scheduled in Michigan through June, 2014.

All server training providers must follow State training objectives. At a minimum, server trained supervisory personnel must be employed during all hours alcoholic beverages are served.

### **Recommendations**

- Train driver license examiners to recognize fraudulent documents and individuals seeking to apply for them and a means by which to ensure that individuals cannot obtain driver licenses using multiple identities.
- **Amend the Graduated Driver Licensing law to require all vehicle occupants to wear seatbelts.**

#### **IV. Communication Program**

*States should develop and implement a comprehensive communication program that supports priority policies and program efforts, including high visibility enforcement (HVE). Communication strategies should specifically support efforts to increase the public perception of the risks of detection, arrest, prosecution and sentencing for impaired driving. Additional communication strategies should address underage drinking, impaired driving, and reducing the risk of injury, death and the resulting medical, legal, social and other costs if there are specific programs underway in the community. Communications should highlight and support specific program activities underway in the community and be culturally relevant and appropriate to the audience.*

##### **Advisory**

*States should:*

- *Focus their publicity efforts on creating a perception of risk of detection, arrest, prosecution and punishment for impaired driving;*
- *Use clear, concise enforcement messages to increase public awareness of enforcement activities and criminal justice messages that focus on penalties and direct costs to offenders such as loss of license, towing, fines, court costs, lawyer fees, and insurance;*
- *Employ a communications strategy that principally focuses on increasing knowledge and awareness, changing attitudes and influencing and sustaining appropriate behavior;*
- *Develop a year-round, data-driven, strategic and tactical communication plan that supports the state's priority policies and programs such as alcohol's effects on driving and consequences of being caught driving impaired or above the state's zero tolerance limit;*
- *Implement a communication program that:*
  - *Uses messages that are coordinated with National campaigns and messages that are culturally relevant and linguistically appropriate;*
  - *Considers special emphasis during holiday periods and other high risk times throughout the year, such as New Year's, 4th of July, Labor Day, Halloween, prom season and graduation;*
  - *Uses paid, earned and donated media coordinated with advertising, public affairs, news, and advocacy; and*
  - *Encourages communities, businesses and others to financially support and participate in communication efforts.*
- *Direct communication efforts at populations and geographic areas at highest risk or with emerging problems such as youth, young adults, repeat and high BAC offenders and drivers who use prescription or over-the-counter drugs that cause impairment;*
- *Use creativity to encourage earned media coverage, use of a variety of messages or "hooks" such as inviting reporters to "ride-along" with law enforcement officers, conducting "happy hour" checkpoints or observing under-cover liquor law enforcement operations, and use of social media;*

- *Monitor and evaluate the media efforts to measure public awareness and changes in attitudes and behavior; and*
- *Ensure that personnel who are responsible for communications management and media liaison are adequately trained in communication techniques that support impaired driving activities.*

## **Status**

### Research

A telephone survey of 600 drivers was conducted by Glengariff Group, Inc., in January 2014. In the area of impaired driving, the *Driver Attitude and Beliefs Omnibus Survey* found that:

- One third of the respondents believed that it would take three or more drinks in a two hour period before it would be unsafe for them to drive.
- While 43 percent of respondents correctly identified 0.08 as the presumed illegal BAC, almost one third of respondents were undecided/didn't know/refused the question.
- Eighty five percent of respondents indicated that they agree or strongly agree that drunk driving laws should be enforced more strictly.
- Almost all respondents (96.5 percent) understood that an adult could be liable for providing alcohol to someone under the age of 21.

Pre and post telephone surveys are conducted for each of three mobilizations, one for Drive Sober or Get Pulled Over, to measure awareness of enforcement and supportive communications. The surveys include a 400-person sample of Michigan drivers and a 150-person "oversample" of drivers under age 30. These surveys pose questions as to whether the respondent has noticed any special enforcement efforts.

Within the 400-person survey, little pre-post mobilization changes in perception of enforcement were found. However, there were major shifts found in the most recent survey of drivers under age 30 (September 2013), including:

- An increase from 25.3 percent to 42.7 percent in indication that the respondent has seen or heard of a special effort by the police to arrest drunk drivers,
- An increase from 16.7 percent to 24.7 percent in those who strongly agree that police are arresting more people for drunk driving, and
- An increase in perception of likelihood of arrest for drunk driving, from 16 percent believing they were "almost certain to be stopped" to 21.3 percent after the mobilization.

The majority of the respondent drivers under age 30 saw the enforcement effort on television (59.4 percent), primarily as a public service announcement (85.7 percent). Messages encouraging people not to drink and drive were noted by 88.7 percent, primarily on television. These messages were identified as public service announcements by 95.7 percent.

Focus groups have been conducted of young males who have admitted to drinking and driving. This research found that these drivers tend to be overconfident about their ability to drink and drive; they use several excuses to give themselves permission to drink and drive, including their own ability to avoid police. The results of the focus groups have been factored directly into media messages.

### Target Audience

Based on crash analyses, the designated target audience for impaired driving messaging is males between the ages of 21 and 34. According to the 2010 U.S. Census, there are 843,796 male Michiganders in this age group.

### Planning and Implementation

The Michigan Office of Highway Safety Planning (OHSP) communications program is operated by the Communications Section. The Section is composed of a chief, graphic designer, and three communications representatives. This Section plans and implements the communications program. Section staff members serve as the media contacts for the OHSP.

OHSP has developed an FY 2014 media calendar which is posted on the website. FY 2014 media communication projects support paid media in conjunction with three enforcement mobilizations in March, July, and August. The primary target area for the March and July campaigns is the Detroit metro area while the August mobilization focuses on Detroit, Grand Rapids, Flint/Saginaw and other counties implementing increased enforcement. The media plan includes earned and paid media and considers gross rating points (GRPs), a measure of audience exposure, to help determine media mix and media buys.

An estimated \$2.0 million has been planned for paid advertising on television, cable, radio, and the internet. Auxiliary material consists of billboards and internet banners. Campaigns also include earned media comprised of kick-off news events and releases.

The OHSP website includes an “Information Center.” From the online Center, one can easily access free traffic safety materials including brochures, flyers, posters and other items; archived Michigan State Police press releases; the current traffic safety newsletter, “SAFETY Network”; traffic crash data; traffic safety FAQs; and traffic safety research.

OHSP also plans a small amount of funding to help publicize new legislation that might be passed.

OHSP works with the Public Affairs Section in the Michigan State Police (MSP). As an Office within MSP, OHSP operates largely independently of the MSP and can implement the communication program without further review. Press releases, however, must be reviewed and approved by the Public Affairs Director. Items that may raise any concern are coordinated with Public Affairs and, if need be, the Governor's Office.

The Governor has not been a visible leader for highway safety, nor has a specific request to do so been extended to the Governor's Office. The "face" for the traffic safety program may be the OHSP Director, communications representatives, or law enforcement.

By working with the Michigan Department of Transportation, traffic safety messages are posted on highway overhead message signs using state slogans, especially during established mobilization periods.

Sober driving has also been promoted at racing and sports events during which attendees can pledge to designate a driver and tape their own public service announcement. *Fans Don't Let Fans Drive Drunk* is the slogan used for these events.

#### Law Enforcement and Communications

Law enforcement regularly receives media releases and public service announcement packets from OHSP. Law enforcement coordinates with OHSP to increase deterrence and enforcement messaging during High Visibility Enforcement (HVE) periods. Time frames and messaging are consistent with national campaigns. Law enforcement agencies report results of the HVE waves back to OHSP for additional deterrence messaging. In addition to the national campaigns, OHSP provides regional event messaging during festivals or events, such as during "March Madness" or "The Final Four" NCAA basketball tournament.

Law enforcement uses clear, direct messages supplied by OHSP that highlight societal costs associated with impaired driving. These messages are distributed by the individual law enforcement agencies through press releases and social media outlets such as websites, Facebook and Twitter. Law enforcement personnel figure prominently in media. Digitally wrapped patrol cars specific to local agencies, half patrol and half taxi, are featured on mobile billboards with the message, *Been Drinking? Choose your ride*. These are driven throughout communities participating in mobilizations. OHSP also supports all law enforcement agencies, those with and without grants, with templates, information, PSA scripts, or other communication assets such as a logo.

For underage drinking prevention, OHSP provides training entitled "How to use social media as an investigative tool." The training teaches law enforcement to use social media to investigate the drinking activities of minors and to identify licensed and unlicensed venues serving alcohol to underage individuals. Using social media allows law enforcement to locate and subsequently disperse underage parties. In addition to law enforcement, sobriety court probation officers attend this training as well.

OHSP works with law enforcement to develop specific material for their own use, such as information cards. The Highway Safety Plan has a project called Strategic Counsel which provides a small budget to address these kinds of immediate communication needs.

Communications staff with OHSP provides public information workshops during the Annual Traffic Safety Summit and for local traffic safety committees. More formal public information training in traffic safety has not been conducted in years. There is also no informal network with local law enforcement to support communications.

### Coordinating Task Force

The Governor's Traffic Safety Advisory Committee has an informal communications working group. For campaigns, OHSP pulls together a group specifically to discuss plans and messages for that campaign. For an impaired driving project, OHSP will take the lead, especially regarding a change in the law. The purpose of these groups is to review possible messages, reach group consensus, and garner buy-in. Composition of the groups will depend on the project; membership will generally involve Mothers Against Drunk Driving (MADD), the Licensed Beverage Association, community health, prosecuting attorneys, law enforcement, insurance, and associations (Chiefs and Sheriffs). There is a monthly meeting within MSP to coordinate agency communications. It is believed that everyone knows each other well enough to provide "heads up" and share information as needed.

### Internet and Social Media

OHSP webpage, "Impaired Driving in Michigan," provides basic information with crash facts, highlights, and links to several other resources. MSP provides the Facebook presence for the traffic safety program. OHSP could have its own Facebook page and Twitter account if approved by MSP and if additional staffing were available.

### Diversity

The State population is primarily white (80.1 percent), with 14.3 percent Black or African-American alone, and 4.6 percent as Hispanic or Latino, close to U.S. population proportions (2012 U.S. Census Bureau estimate). Between 2000 and 2010, 15 states including Michigan saw their non-Hispanic white populations decline. Michigan has the largest Arabic population outside the Middle East, but this is a small community relative to the rest of the population.

Trends in immigration and birth rates indicate that soon there will be no majority racial or ethnic group in the United States. The population is growing older and more diverse. Non-Hispanic whites are the oldest; Hispanics are the youngest. The youngest populations are the most diverse; 47 percent of children younger than five belong to a racial or ethnic minority group. (The Center for Public Education, National School Boards Association 2012).

Media materials have been produced for the Arab and Hispanic populations, but few resources have been expended on minority communications. The Indian population in Michigan is very small, and there is no specific communications outreach to the tribes. No minority group has as yet become large enough or sufficiently identified with impaired driving to warrant additional effort. However, race/ethnicity is not recorded on the crash report and so minority populations would not be adequately represented in reviewing crash data.

### Other Campaigns

OHSP has not done much with other communication approaches, such as social norming, because of the emphasis on and resources expended for enforcement crack-downs.

### Partner Participation

OHSP works with a variety of groups and companies, although more so with the occupant protection and teen programs than with the impaired driving program. A partnership exists with General Motors (GM) but not with the other members of the auto industry in Michigan.

The Licensed Beverage Association has worked with traffic safety partners to place campaign materials in bars and restaurants. These have included “talking” urinal cakes and coasters with a Quick Response (QR) code with information on how to access a safe ride. For a \$10,000 investment in urinal cakes, traffic safety received an estimated value of one million dollars in media coverage.

Public transportation has also partnered on campaigns with transit cards on buses to encourage people to “catch a sober ride” during the March/St. Patrick’s Day mobilization. The slogan for this time period is “A DUI Costs You a Lot of Green.”

### **Recommendations**

- Provide the materials and training to law enforcement that allow for consistent anti-impaired driving communications year-round, in addition to the mobilization periods.
- Establish a communications network (such as a listserv) of public information officers for traffic safety partners, including law enforcement, to quickly distribute messages and materials.
- Analyze population trends and crash-involvement of minority populations in Michigan to plan appropriately for future traffic safety programs.
- Review *Closing the Circle: A Multicultural Primer for State Highway Safety Offices* (GHSA 2009) and implement those guidelines and tactics, as appropriate, for select minority populations.
- Expand the presence of highway safety through social media with a Facebook page, Twitter account, and/or other outlets such as Pandora and Tumblr.



- Provide periodic communications training in traffic safety for all partners, including law enforcement public information officers.
- Engage the Governor and/or other state leaders in high-profile activities and leadership events in support of the impaired driving program.
- Consider using target rating points (TRPs) as well as gross rating points (GRPs) in determining and evaluating communication efforts.
- Develop a single-source Michigan impaired driving website that provides easy access to data, laws, programs, information, and campaign material.
- Implement general, non-mobilization impaired driving prevention communications for use throughout the year with messages that address topics other than law-enforcement, such as risk of hurting others and social-norming.

## **V. Alcohol and Other Drug Misuse: Screening, Assessment, Treatment and Rehabilitation**

*Impaired driving frequently is a symptom of the larger problem of alcohol or other drug misuse. Many first-time impaired driving offenders and most repeat offenders have alcohol or other drug abuse or dependency problems. Without appropriate assessment and treatment, these offenders are more likely to repeat their crime. One-third of impaired driving arrests each year involve repeat offenders.<sup>18</sup> Moreover, on average, individuals with alcohol or other drug abuse problems, drive several hundred times within two hours of drinking before they are arrested for driving while impaired.<sup>19</sup>*

*States should have a system for identifying, referring and monitoring convicted impaired drivers who are high risk for recidivism for impaired driving.*

*Nationally, the number and diversity of problem solving courts has grown dramatically. One such problem solving model is the DWI Court. These courts provide a dedicated docket, screening, referral and treatment and intensive monitoring of impaired driving offenders. States and localities that implement DWI Courts should ensure that they are established and operated consistent with the Guiding Principles recommended by the National Center for DWI Courts.*  
[www.dwicourts.org/sites/default/files/ncdc/Guiding\\_Principles\\_of\\_DWI\\_Court\\_0.pdf](http://www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf)

*In addition, alcohol use leads to other injuries and health care problems. Almost one in six vehicular crash victims treated in emergency departments are alcohol positive, and one third or more of crash victims admitted to trauma centers—those with the most serious injuries - test positive for alcohol. In*

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<sup>18</sup> Repeat DWI Offenders in the United States. “Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

<sup>19</sup> On average, 772 such episodes, according to Zador, Paul, Sheila Krawchuck, and Brent Moore, “Drinking and Driving Trips, Stops by Police, and Arrests: Analyses of the 1995 National Survey of Drinking and Driving Attitudes and Behavior.” Washington, DC: U.S. Department of Transportation, NHTSA Technical Report No. DOT HS 809 184, December 2000.

*addition, studies report that 24-31 percent of all emergency department patients screen positive for alcohol use problems. Frequent visits to emergency departments present an opportunity for intervention, which might prevent these individuals from being arrested or involved in a motor vehicle crash, and result in decreased alcohol consumption and improved health.*

*Each State should encourage its employers, educators, and health care professionals to implement a system to identify, intervene, and refer individuals for appropriate substance abuse treatment.*

## **A. Screening and Assessment**

*Each State should ensure that all convicted impaired drivers are screened for alcohol or other substance abuse and dependency. The most immediate screening should take place in the criminal justice system. However, states should also encourage its health care professionals, employers and educators to have a systematic program to screen and/or assess drivers to determine whether they have an alcohol or drug abuse problem and, as appropriate, briefly intervene or refer them for appropriate treatment. Many individuals who are drivers and who have alcohol or other drug abuse problems present themselves in a variety of settings, e.g. emergency departments, in which Screening and Brief Intervention (SBI) and referral are appropriate and serve to prevent the individual from being involved in a future impaired driving crash or arrest.*

### **A-1. Criminal Justice System**

#### **Advisory**

*Within the criminal justice system, people who have been convicted of an impaired driving offense should be assessed to determine whether they have an alcohol or drug abuse problem and to determine their need for treatment. The assessment should be required by law and completed prior to sentencing or reaching a plea agreement.*

*The assessment should be:*

- Conducted by a licensed counselor or other alcohol or other drug treatment professional or by a probation officer who has completed training in risk assessment and referral procedures;*
- Used to decide whether a treatment and rehabilitation program should be part of the sanctions imposed and what type of treatment would be most appropriate;*
- Based on standardized assessment criteria, including validated psychometric instruments, historical information, e.g., prior alcohol or drug-related arrests or convictions, and structured clinical interviews; and*
- Appropriate for the offender's age and culture using specialized assessment instruments tailored to and validated for youth or multi-cultural groups.*

#### **Status**

**In Michigan, all drivers convicted of an impaired driving charge, e.g. Operating While Intoxicated (OWI) are required to complete an assessment for alcohol or other substance**

abuse. Assessments are conducted by providers licensed by the Licensing and Regulatory Agency (LARA). While several screening instruments are recommended, there is no mandated assessment protocol. Assessment results are completed and provided to the court pre-sentence for consideration in requiring treatment and supervision.

It is not clear if the current assessment process provides adequate information for matching offenders' treatment needs to the most appropriate treatment modality. Based on assessment results, offenders determined to be in need of treatment may be sentenced to complete treatment either under probation supervision or through participation in a sobriety court (DWI court)<sup>20</sup> or a drug court depending on local availability.

Michigan currently has over 100 problem solving courts including sobriety courts. The State Court Administrative Office has developed regional sobriety courts to serve small and/or rural communities that do not have enough eligible offenders to sustain their own court. As a result, most offenders have access to a sobriety court or to a drug court that accepts OWI offenders (hybrid court).

Until recently, substance abuse professionals and organizations that provided assessment and treatment services were licensed and regulated by the Office of Recovery Oriented Systems of Care (OROSC). Currently, all professional licensing, including for substance abuse providers, is under the purview of the Licensing and Regulatory Agency (LARA). This represents a change from an agency (OROSC) whose mission is to, "Promote wellness, strengthen communities, and facilitate recovery" to an agency (LARA) with a mission that "supports business growth and job creation while safeguarding Michigan's citizens through a simple, fair, efficient and transparent regulatory structure." It is unclear what effect this change will have on maintenance of a system of qualified assessment and treatment providers to accommodate impaired driver offenders' requirements.

## **Recommendations**

- Establish assessment protocols that include standard criteria and screening instruments that allow recommendations for appropriate treatment modalities.
- Monitor and evaluate the efficacy of the revised process for licensing assessment and treatment providers.

### A-2. Medical and Other Settings

#### *Advisory*

*Within medical or health care settings, any adults or adolescents seen by health care professionals should be screened to determine whether they have an alcohol or drug abuse*

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<sup>20</sup> "Sobriety courts" and "DWI courts" are used interchangeably to designate a court that provides monitoring and treatment of OWI offenders.

*problem. The American College of Surgeons mandates that all Level I trauma centers, and recommends that all Level II trauma centers, have the capacity to use Screening and Brief Intervention (SBI). SBI is based on the public health model which recognizes a continuum of alcohol use from low risk, to high risk to addiction. Research from the Centers for Disease Control and Prevention indicates that an estimated 25 percent of drinkers are at risk for some harm from alcohol including impaired driving crashes. These individuals' drinking can be significantly influenced by a brief intervention. An estimated four percent of the population has a serious problem with alcohol abuse or dependence. A brief intervention should be conducted and, if appropriate, the person should be referred for assessment and further treatment.*

*SBI can also be implemented in other settings including: Employee Assistance Programs (EAP), schools, correctional facilities, at underage drinking party dispersals and any setting in which at-risk drinkers are likely to make contact with SBI providers.*

*Screening and brief intervention should be:*

- *Conducted by trained professionals in hospitals, emergency departments, ambulatory care facilities, physicians' offices, health clinics, employee assistance programs and other settings;*
- *Used to decide whether an assessment and further treatment is warranted;*
- *Based on standardized screening tools (e.g., CAGE, AUDIT or the AUDIT-C) and brief intervention strategies;<sup>21</sup> and*
- *Designed to result in referral to assessment and treatment when warranted.*

## **Status**

Screening Brief Intervention and Referral to Treatment (SBIRT) has been implemented in many healthcare settings in Michigan.

The Office of Recovery Oriented Systems of Care (OROSC) has provided SBIRT training to substance abuse prevention professionals and other professionals in disciplines that interact with impaired drivers and others with potential alcohol and substance abuse problems. There has also been training for medical residents in several hospitals.

## **Recommendations**

- Continue to provide training for health care professionals in Screening Brief Intervention and Referral to Treatment.

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<sup>21</sup> For a discussion of assessment instruments, see: Allen, John and M. Columbus (Eds.), NIAAA Handbook on Assessment Instruments for Alcohol Researchers (2nd edition). Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 2003. For an overview of alcohol screening, see: "Screening for Alcohol Problems – An Update," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 56, April 2002. For a primer on helping patients with alcohol problems, see: "Helping Patients with Alcohol Problems: A Health Practitioner's Guide," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, NIH Publication No. 04-3769, Revised February 2004.

- **Implement Screening Brief Intervention and Referral to Treatment in health care facilities throughout Michigan.**
- Continue to provide Screening Brief Intervention and Referral to Treatment training to substance abuse prevention professionals and other professionals in disciplines that interact with impaired drivers and others with potential alcohol and substance abuse problems.

## **B. Treatment and Rehabilitation**

### *Advisory*

*Each State should work with health care professionals, public health departments, and third party payers, to establish and maintain programs for persons referred through the criminal justice system, medical or health care professionals, and other sources. This will help ensure that offenders with alcohol or other drug dependencies begin appropriate treatment and complete recommended treatment before their licenses are reinstated.*

*These programs should:*

- *Match treatment and rehabilitation to the diagnosis for each person based on a standardized assessment tool, such as the American Society on Addiction Medicine (ASAM) patient placement criteria;*
- *Provide assessment, treatment and rehabilitation services designed specifically for youth;*
- *Provide culturally appropriate treatment and rehabilitation services;*
- *Ensure that offenders that have been determined to have an alcohol or other drug dependence or abuse problem begin appropriate treatment immediately after conviction, based on an assessment. Educational programs alone are inadequate and ineffective for these offenders;*
- *Provide treatment and rehabilitation services in addition to, and not as a substitute for, license restrictions and other sanctions; and*
- *Require that offenders, who either refused or failed a BAC test, and/or whose driver's license was revoked or suspended, complete recommended treatment, and that a qualified professional has determined the offender has met treatment goals before license reinstatement.*

### **Status**

MCL 600.1060(c) defines drug treatment courts as ". . . a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol." These courts are specially designed to reduce recidivism and substance abuse among nonviolent substance-

abusing offenders and to increase the offenders' likelihood of successful rehabilitation through early, continuous, and intense judicially-supervised treatment, mandatory periodic drug testing, and use of appropriate sanctions.

Drug treatment courts evolved to address the revolving-door cycle in which drug and alcohol offenders moved in and out of the justice system. Drug treatment courts treat addiction as a complex disease and provide a comprehensive, sustained continuum of therapeutic interventions, treatment, and other services to increase a participant's periods of abstinence and reduce the rate of relapse, re-arrest, and incarceration.

Michigan has been a pioneer in the drug treatment court movement. There are currently 84 drug treatment courts in Michigan, consisting of 32 adult drug courts, 23 Sobriety/DWI courts, 15 juvenile drug courts, 11 family dependency courts, and three tribal healing-to-wellness courts. Michigan's drug treatment courts operate in 40 counties; however, the three tribal drug courts have special jurisdictions.

Sobriety court<sup>22</sup> has a post-conviction court docket dedicated to changing the behavior of the alcohol- or drug-dependent repeat offender or high-BAC offender arrested for impaired driving charges, e.g. OWI. The goal of the Sobriety court is to protect public safety while addressing the root causes of impaired driving. Sobriety court utilizes a team of criminal justice professionals including prosecutors, defense attorneys, probation officers, and law enforcement, along with substance abuse treatment professionals to systematically change participant behavior. Like drug courts, Sobriety courts involve extensive interaction between the judge and the offenders to hold the offenders accountable for their compliance with court, supervision, and treatment conditions.

Offenders participating in Sobriety court are monitored in cooperation with probation. The court receives feedback from treatment providers on compliance with and progress through treatment.

Offenders assessed as needing treatment but who do not participate in a Sobriety/DWI court, are monitored by probation. However, it was reported that many probation officers have large caseloads, often with more than 200 clients, and thus this monitoring is not intensive. Treatment providers will inform the court, through probation, when a client completes treatment but often there is no active reporting of non-compliance.

In addition, offenders in Sobriety courts are required to have ignition interlock devices installed in their vehicles. Computerized records of compliance with the interlock device use add another component to monitoring.

Treatment for alcohol and substance abuse is generally available in most parts of Michigan. However, much of Michigan is rural and not all communities have access to all treatment modalities. In many cases, it is necessary for offenders to travel significant distances to attend treatment. The use of an interlock device and the corresponding conditional license facilitates

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<sup>22</sup> "Sobriety courts" and "DWI Courts" are used interchangeably to designate a court that provides monitoring and treatment of OWI offenders.

participation in treatment.

Michigan currently has over 100 problem solving courts including Sobriety courts. The State Court Administrative Office has developed regional Sobriety courts to serve small and/or rural communities that do not have enough eligible offenders to sustain their own court. As a result, most offenders have access to a Sobriety court or to a Drug court that accepts OWI offenders (hybrid court).

## **Recommendations**

- **Sustain Sobriety/DWI courts by supplementing offender fees and charges with dedicated funds.**
- Continue to develop regional Sobriety courts.

## **VI. Program Evaluation and Data**

### **A. Evaluation**

#### *Advisory*

*Each State should have access to and analyze reliable data sources for problem identification and program planning as well as to routinely evaluate impaired driving programs and activities in order to determine effectiveness. Development of a Strategic Highway Safety Plan and a Highway Safety Plan, are starting points for problem identification and evaluation efforts.*

*Problem identification requires quantifying the problem, determining the causes, and identifying available solutions. Strategies should be evaluated for their cost effectiveness and potential for reducing crash risk. Evaluations should include measurement of activities and outputs (process evaluation) as well as the impact of these activities (outcome evaluation). Evaluations are central to the State's traffic safety endeavors and provide a guide to future projects and evaluations.*

*Evaluations should:*

- *Be planned before programs are initiated to ensure that appropriate data are available and adequate resources are allocated to the programs;*
- *Identify the appropriate indicators to answer the question: What is to be accomplished by this project or program?*
- *Be used to determine whether goals and objectives have been met and to guide future programs and activities;*
- *Be organized and completed at the State and local level; and*
- *Be reported regularly to project and program managers and policy makers.*

*The process for identifying problems to be addressed should be carefully outlined. A means for determining program/project priority should be agreed upon, and a list of proven methodologies and*

*countermeasures should be compiled. Careful analysis of baseline data is necessary, and should include historical information from the crash system. Other data that are useful for evaluation include data from other records systems as well as primary data sources such as surveys. Record systems data include state and driver demographics, driver histories, vehicle miles traveled, urban versus rural settings, weather, and seatbelt use. Survey data can include attitudes knowledge and exposure to risk factors.*

*The Traffic Records Coordinating Committee can serve as a valuable resource to evaluators by providing information about and access to data that are available from various sources.*

## **Status**

The Michigan Highway Safety Plan (MHSP) fulfilled the NHTSA reporting requirement by completion of the *2013 Annual Evaluation Report (AER)*. The AER provides an administration evaluation of the federally-funded traffic safety program. The AER provides a detailed review of the FY 2013 program. The Report provides program highlights, vehicle crash statistics, project descriptions and outcomes by Program Area, a description of administrative issues, discussion of focus items for FY 2014, and a status report overview and listing of all projects with planned budgets and expenditures. Impaired driving-related activities mentioned as “highlights” in the *Report* include Standardized Field Sobriety Test training, Drug Recognition Expert School, implementation of the judicial outreach liaison program, production and distribution of a DVD for teens on distracted driving and underage drinking, implementation of Data Driven Approaches to Crime and Traffic Safety (DDACTS), and overtime drunk driving enforcement.

Michigan currently maintains a traffic records system that is among the best in the country. This excellence is best demonstrated by winning awards from The Association of Traffic Safety Information Professionals (ATSIP) in 2010 and 2012. This traffic record system allows for timely feedback as to how various traffic safety trends are changing over time. These trends are continually monitored, with the Strategic Highway Safety Plan (SHSP) being updated on a periodic basis.

Given the duration of the SHSP update cycle, action teams are tasked with providing more immediate updates based upon shorter-term changes in traffic crashes, injuries, and fatalities. This is done through annual updates to the action plans, which capture changes in key performance measures, in addition to documenting those policies and programs that have been implemented. In addition to allowing for adaptive responses, these annual updates also provide useful information to the safety stakeholders in Michigan, as well as other states.

Michigan conducted a detailed analysis of crash data from 2007 to 2011 as a part of the SHSP 2013-2016 update. This data-driven approach allowed for an examination of recent trends, the identification of emerging safety issues, and evaluation points for the plan. The results of this analysis were supplemented by a statewide survey of traffic safety stakeholders, which was conducted in conjunction with the 2012 Michigan Traffic Safety Summit. This survey obtained preliminary feedback as to prospective goals, emphasis areas, and implementation strategies for the revised SHSP. Approximately 200 survey responses were received from a diverse cross-section of safety professionals throughout Michigan. The results of the crash



data analysis and stakeholder surveys were utilized to develop and implement five regional focus groups held in Dearborn, Gaylord, Grand Rapids, Lansing, and Marquette in the spring of 2012. These focus groups allowed for the consideration of unique regional perspectives and illustrated differences in the degree to which various safety concerns affected these regions. Ultimately, consensus-building exercises conducted as a part of these meetings facilitated the development of revised goals and emphasis areas for the 2013-2016 SHSP. The current plan will be updated in 2016 by the Governors Traffic Safety Advisory Commission (GTSAC).

GTSAC identified Traffic Records and Information Systems as of paramount importance to safety-conscious planning efforts and developed the following or similar strategies to improve this system.

- Improve timeliness and accuracy of data collection, analysis processes, accessibility, distribution and systems
- Convene a multi-disciplinary team to review every element on the Michigan Traffic Crash Report Form (UD-10) and make recommendations for changes
- Develop a road map to provide the State with a technical plan to link various traffic records databases
- Upgrade the Traffic Crash Reporting System to include driver and vehicle records
- Continue to provide highway safety training, technical assistance, funding, and other resources to state and local agencies
- Increase coordination, effective communication, and cooperation among various public and private organizations
- Ensure that all stakeholders work together when developing traffic record components such as a citation tracking system.

## **Recommendations**

- **Implement the Governors Traffic Safety Advisory Commission Traffic Record Improvement strategies outlined in the text above.**

## **B. Data and Records**

### *Advisory*

*The impaired driving program should be supported by the State's traffic records system and use data from other sources, such as the U.S. Census, the Fatality Analysis Reporting System (FARS) and the Crash Outcome Data Evaluation System (CODES). The traffic records system should be guided by a statewide traffic records coordinating committee that represents the interests of all public and private sector stakeholders.*

*The state traffic records system should:*

- *Permit the State to quantify:*
  - *the extent of the problem, e.g., alcohol-related crashes and fatalities;*

- *the impact on various populations;*
- *the level of effort dedicated to address the problem, e.g., level of enforcement activities, training, paid and earned media; and*
- *the impact of the effort, e.g., crash reduction, public attitudes, awareness and behavior change.*
- *Contain electronic records of crashes, arrests, dispositions, driver licensing actions and other sanctions of DWI offenders;*
- *Permit offenders to be tracked from arrest through disposition and compliance with sanctions; and*
- *Be accurate, timely, linked and readily accessible to persons authorized to receive the information, such as law enforcement, courts, licensing officials and treatment providers.*

## **Status**

### Traffic Records Coordinating Committee (TRCC)

Prior to 1994 coordination of components of the traffic record system took place through an interagency work group that met every other month. Over time this has developed into a true two-tiered TRCC.

Within the TRCC is an Executive Committee that provides leadership to the larger, full TRCC. The Chair of the TRCC is also a member of the Executive Committee and is rotated among the Executive Committee membership on an annual basis. The TRCC Chair keeps the Governors Traffic Safety Advisory Commission (GTSAC) apprised of TRCC activity, projects and/or accomplishments through reports at the bi-monthly GTSAC meetings. The Executive Committee is comprised of a representative from the Michigan Department of State Police, Michigan Department of State, Michigan Department of Transportation, Michigan Department of Community Health, Michigan State Courts Administration Office and the Michigan Office of Highway Safety Planning. The TRCC Executive Committee currently meets on a quarterly schedule and as needed.

This strong committee is one reason the State has such a robust traffic record system. Some elements of an ideal system are missing or incomplete but the State should be commended for the evolution of its system.

### Alcohol Involvement & BAC Data

The State as reported in the *2012 Michigan Traffic Crash Facts* had 273,891 reported crashes, of which 15,093 were classified as “Had Been Drinking” (i.e., involved alcohol). There were 1,143 fatal crashes in 2012, of which 34.4 percent involved alcohol or other drugs. Alcohol-involved crashes are determined by a “Yes” entry in the “Alcohol” block on the UD-10 crash form. All data fields on the UD-10 crash form are available for query.

Reporting of alcohol involvement in fatal crashes is questionable. The Fatality Analysis and

Reporting System (FARS) analyst obtains reports on all fatal crashes. It was reported that the FARS analyst does not always get timely notification and in the past had to get Blood Alcohol Content (BAC) data from the medical examiner for entry into the FARS database. There is no legislation requiring BAC testing of surviving drivers in fatal crashes. It was reported that law enforcement is trained to request voluntary BAC testing of the nonfatal drivers.

BAC data for non-fatal crashes has also been incomplete at times. Much of missing BAC data could be the result of staffing issues at the Forensic Science Division, Michigan State Police (MSP). The UD-10 crash report has a data field for entry of BAC results to be recorded for impaired driving arrests. However, only if the test is done and results are timely is it likely for the BAC to be available in the crash file. There is another means to calculate the BAC levels in crashes where a citation is issued. To do this the Michigan State Police (MSP) collects BAC results for every drunk driving arrest via the required submission of data on the *Law Enforcement Information Network (LEIN) F Breath Screen* that is entered into a database at the MSP. This database contains indication of whether the arrest was in connection with a crash including the Complaint Number, which is also in the crash records system. Matching the Complaint Number on those BAC records with the Complaint Number in the crash records system produce a data source of alcohol-involved crashes and their associated BAC levels, e.g., statistics on the average BAC of drivers involved in crashes, with breakdowns by age, sex, type of vehicle, pedestrians, etc. These data are valuable but cumbersome to secure.

Overall the State is able to identify the extent of the problem, e.g., alcohol-related crashes and fatalities; the impact on various populations; the level of effort dedicated to address the problem, e.g., level of enforcement activities, training, paid and earned media; and the impact of the effort, e.g., crash reduction, public attitudes, awareness, and behavior change.

#### Citation Data

The Michigan Supreme Court, State Court Administrative Office (SCAO), and its Judicial Information Systems (JIS) division continue to implement technological renovations to Michigan courts that are expected to produce long-term dividends for the judiciary. One project was completed in 2009 that helped the courts collect justice information system data. Unfortunately, there is no evidence that other stakeholders were involved in the development of this system. Their involvement could have enhanced data sharing and electronic submission of data to law enforcement, emergency medical services and Department of Motor Vehicles. Also, other stakeholders in the State are not familiar with the capabilities or data availability of the Justice Information System (JIS). Without considering other stakeholders needs and readily sharing data resources the State could have missed opportunities to improve other systems in the State at no or little cost.

#### Other Data

Ninety-six percent of all crashes reported in the State are reported electronically.

The Michigan Law Enforcement Information Network (LEIN) is a statewide computerized information system, which was established July 1, 1967, as a service to Michigan's criminal justice agencies. The goal of LEIN is to assist the criminal justice community in the performance of its duties by providing and maintaining a computerized filing system of accurate and timely documented criminal justice information readily available to all criminal justice agencies.

Access to LEIN is restricted to criminal justice agencies or those agencies statutorily granted authorization.

## **Recommendations**

- **Enact legislation requiring Blood Alcohol Content (BAC) data to be collected and reported on all operators involved in fatal crashes.**
- Include all stakeholders in development of components of the State's traffic record system.

## **C. Driver Records Systems**

### *Advisory*

*Each State's driver licensing agency should maintain a system of records that enables the State to: (1) identify impaired drivers; (2) maintain a complete driving history of impaired drivers; (3) receive timely and accurate arrest and conviction data from law enforcement agencies and the courts, including data on operators as prescribed by the commercial driver licensing (CDL) regulations; and (4) provide timely and accurate driver history records to law enforcement and the courts.*

*The driver license system should:*

- *Include communication protocols that permit real-time linkage and exchange of data between law enforcement, the courts, the State driver licensing and vehicle registration authorities, liquor law enforcement and other parties with a need for this information;*
- *Provide enforcement officers with immediate on-the-road access to an individual's licensing status and driving record;*
- *Provide immediate and up-to-date driving records for use by the courts when adjudicating and sentencing drivers convicted of impaired driving;*
- *Provide for the timely entry of any administrative or judicially imposed license action and the electronic retrieval of conviction records from the courts; and*
- *Provide for the effective exchange of data with State, local, tribal and military agencies, and with other governmental or sovereign entities.*

## Status

The Michigan Department of State (DOS) maintains over seven million driver license records of which over 300,000 are commercial driver licenses (CDLs). These records are stored on the legacy data system. The CDLs are maintained in the same database. A new platform, Business Application Modernization (BAM), was planned for implementation beginning in June 2010. The purpose of the BAM project was to modernize and improve DOS business processes and replace the legacy information systems that support DOS business operations, including driver licensing, identification card issuance, vehicle titling, vehicle registration, and voter registration. In October 2011, the Secretary of State announced the release of the Web portion of BAM called Express SOS.

Unfortunately, the BAM project was not completed. An audit by the Michigan Office of the Auditor General reported in July, 2012 that the DOS and Department of Technology, Management and Budget (DTMB) had not monitored the BAM project effectively. At this time the BAM project has been significantly slowed. Even with these problems the State's traffic records community has continued to improve their data and its availability and the data was reported for the most part to be complete, accurate, and meeting all user needs.

The State has communication protocols that permit linkage and exchange of data by traffic system users with a need for this information including providing enforcement officers with immediate on-the-road access to an individual's licensing status and driving record.

The DOS has the administrative authority over driver licensing and vehicle registration. It provides immediate and up-to-date driving records for use by the courts when adjudicating and sentencing drivers convicted of impaired driving. Convictions from all levels of courts are entered into the driver history, 99 percent of those sent are now submitted electronically to DOS. There are edits checks for all conviction records that must be met. Conviction records that do not meet the edits are returned to the courts. The adjudicated case record includes the original offense for which the citation was issued. There is no way to verify that all convictions are sent because the DOS has no authority over these adjudicating agencies. Courts have authority to suppress sanctions for a first Minor in Possession offense while the conditions of probation are satisfied. These cases are monitored by the DOS to assure that a repeat offense is not treated as a first offense. Courts obtain driver histories electronically and these serve as certified records. Only conviction data is forwarded to the DOS.

The DOS has the authority to suspend licenses based on a DWI arrest independent of the judicial processing of those cases.

All crash involvements are posted regardless of whether a citation was issued. If a Blood Alcohol Content (BAC) is taken, it is recorded in the driver file but not linked with the crash citation, and citations issued in connection with a crash are not connected. Driver histories from previous states of licensure are included in the driver file.

Michigan's *2012 Annual Evaluation Report* indicates that there is no means to link the different components of the traffic records system. The State has made great strides in creating a variety of traffic records databases and systems to enhance overall traffic safety. Improvements have been made in the crash, citation, Emergency Medical Services (EMS), roadway, driver, and vehicle records. It appears that the State's files are linkable. A link is nothing more than a way of matching two or more file names to the same set of file data. However, there is conflicting opinions on whether the files are integrated. Data integration combines multiple sources and types of data to create a broader array of information to be analyzed for better safety decisions. Data integration as applied to crash data means the data elements in the crash database are linked with data elements in other safety databases through the use of common data elements or "linking variables" to create a database that is a combination of all the data elements in two (or more) databases. Without this ability the State cannot look at all alcohol related crashes in relation to driver or judicial history. If this linkage is available, the information gained will help the State in its understanding of Operating While Intoxicated (OWI) offenders. This understanding would help the State develop more effective programs to address OWI issues.

The State Court Administrative Office (SCAO) is the administrative agency of the Michigan Supreme Court. Article VI, Section 3 of the Michigan Constitution states that the Michigan Supreme Court "shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state." The Supreme Court has administrative oversight of Michigan's courts and exercises that oversight through the SCAO.

The Michigan Supreme Court, the State Court Administrative Office (SCAO), and its Judicial Information Systems division (JIS) continue to implement technological renovations to Michigan courts that are expected to produce long-term dividends for the judiciary.

The primary functions of JIS are to:

- develop, implement, and maintain automated information systems and office automation support systems internally for all Supreme Court agencies
- maintain the telecommunication network for state judicial agencies
- provide automated reporting services for courts using JIS software and other systems software for delivery of case disposition information to the Secretary of State and Michigan State Police
- continue to develop systems to expand automated reporting to all courts and to additional state agencies
- maintain the caseload reporting system for automated collection and dissemination of caseload information
- provide technical assistance to all trial courts regarding the application of technology for judicial operations and provide direct software and hardware support to over 200 trial court locations around the state
- serve on committees and workgroups designed to develop and implement statewide court information systems

Unfortunately, there is no mention in these functions that addresses assisting other agencies in the development of their systems.

Currently, the SCAO is developing a new State case management system. This system is being built with very little input from other stakeholders. The system is being tested but it will take seven to eight years to have statewide implementation.

There is no statewide citation tracking system. DOS maintains the driving record. The Judicial Data Warehouse (JDW) is maintained within the SCAO. The SCAO only forwards convictions to the DOS.

The interlock section within the DOS receives 22,000 interlock installation orders a year. There have been no increased DOS resources to facilitate the ordered interlock installations.

### **Recommendations**

- Share file linkage capability with all traffic records system users.
- Ensure that Blood Alcohol Content data are recorded in the driver file and are linked to the citation.
- Rejuvenate and fund the update of the Department of State legacy system.
- Streamline the ignition interlock data process to eliminate the current twenty two steps required of the Department of State Ignition Interlock staff.

**Michigan Impaired Driving Assessment  
Ramada Lansing Hotel & Conference Center  
Lansing, Michigan**

**AGENDA**

**Monday, April 7, 2014**

<b>8:00 a.m. – 9:30 a.m.</b>	<b>Leadership Panel/Program Management &amp; Planning</b>
Mike Prince Jason Hamblen Dianne Perukel	Director, Office of Highway Safety Planning (OHSP) Program Management Section Chief, OHSP Alcohol Program Coordinator, OHSP
<b>9:30 a.m. – 9:45 a.m.</b>	<b>BREAK</b>
<b>9:45 a.m. – 10:45 a.m.</b>	<b>Criminal Justice System /Michigan Laws</b>
Ken Stecker	Traffic Safety Resource Prosecutor
<b>10:45 a.m. -11:00 a.m. BREAK</b>	
<b>11:00 p.m. – Noon</b>	<b>Criminal Justice System/Legislation</b>
KC Steckelberg Sgt. Dwayne Gill	Director of Public Affairs, Prosecuting Attorneys Association of Michigan Legislative Liaison, Michigan State Police
<b>Noon – 1:00 p.m.</b>	<b>LUNCH</b>
<b>1:00 p.m. – 2:00 p.m.</b>	<b>Enforcement</b>
Pat Eliason Jamie Dolan	Police Traffic Services, Specialist, OHSP Northern Michigan Traffic Safety Specialist, OHSP
<b>2:00 p.m. – 2:15 p.m.</b>	<b>BREAK</b>
<b>2:15 p.m. – 3:15 p.m.</b>	<b>Enforcement</b>
Det. Ken Pelland Chief David Stamm Lt. Shane Brown F/Lt. Joe Thomas	Grosse Ile Police Dept. Grand Blanc Twp. Police Dept. Muskegon County Sheriff's Office MSP Michigan State Police
<b>3:15 p.m. – 3:30 p.m. BREAK</b>	
<b>3:30 p.m. – 5:00 p.m.</b>	<b>Law Enforcement Training/SFST/ARIDE/DRE</b>
Sgt. Kelly Goynes Mike Harris	SFST & ARIDE Coordinator, MI State Police DRE Coordinator, OHSP



**Tuesday, April 8, 2014**

**8:00 a.m. – 9:30 a.m.**

**Adjudication**

Ken Stecker  
James Pahl

Traffic Safety Resource Prosecutor  
Court Administrator (recently retired Magistrate)

**9:30 a.m. – 9:45 a.m.**

**BREAK**

**9:45 a.m. – 10:45 a.m.**

**Liquor Control/Industry**

Barb Subastian  
Scott Ellis

Assistant Director, Enforcement Division, MI Liquor  
Control Commission  
Executive Director, MI Licensed Beverage Association  
(Former OHSP Law Enforcement Liaison)

**10:45 a.m. – 11:00 a.m.**

**BREAK**

**11:00 a.m. – Noon**

**Data/DDACTS**

Alicia Sledge

Traffic Records Program Coordinator, OHSP

**Noon - 1:00 p.m.**

**LUNCH**

**1:00 p.m. – 2:00 p.m.**

**DUI Courts/Judicial Outreach Liaison (JOL)**

Dr. Jessica Parks  
Marie Pappas  
Judge Patrick Bowler  
Starr Wieber  
Brenda Dooley

Specialty Court Program Manager, State Court  
Administrative Office  
Specialty Court Program Coordinator, State Court  
Administrative Office  
(Retired) MI's Judicial Outreach Liaison, also NCDC  
training staff  
Technical Services Manager, Judicial Information Systems  
State Court Administrative Office  
Technical Services Manager, Judicial Information Systems  
State Court Administrative Office

**2:00 p.m. – 2:15 p.m.**

**BREAK**

**2:15 p.m. – 3:15 p.m.**

**Toxicology**

D/F/Lt Gary S. Daniels  
Jennifer Wilson

Laboratory Director, Forensic Science Division, MI State  
Police  
Toxicology Lab Supervisor, Michigan State Police

**3:15 p.m. - 3:30 p.m.**

**BREAK**

**3:30 p.m. – 5:00 p.m.**

**Treatment & Underage Drinking**

Brenda Stoneburner

Ken Dail  
Mike Tobias

Substance Abuse Treatment & Prevention Specialist, MI  
of Community Health  
Executive Director, Prevention Network  
Coordinator, Michigan Coalition to Reduce Underage  
Drinking (MCRUD)

**Wednesday, April 9, 2014**

**8:00 a.m. – 9:30 a.m.**

**Driver Licensing/Ignition Interlocks**

Colleen Tulloch-Brown

Administrative Law Manager, MI Department o  
State

Mary Rademacher

Ignition Interlock Coordinator, MI Department of  
State

**9:30 a.m. – 9:45 a.m.**

**BREAK**

**9:45 a.m. – 10:45 a.m.**

**Communications**

Anne Readett  
Lynn Sutfin

Communications Section Chief, OHSP  
Communications Coordinator, OHSP

**10:45 a.m. – 11:00 a.m.**

**BREAK**

**11:00 – Noon**

**Leadership Panel**

Mike Prince  
Jason Hamblen  
Dianne Perukel

Director, Office of Highway Safety Planning (OHSP)  
Program Management Section Chief, OHSP  
Alcohol Program Coordinator, OHSP

**Thursday, April 10, 2014**

Assessment Team Report Development

**Friday, April 11, 2014**

**9:00 – 10:30**

**Report Out**

## ASSESSMENT TEAM CREDENTIALS

**SUSAN N. BRYANT, M.A., M.B.A.**

[leaderservices@yahoo.com](mailto:leaderservices@yahoo.com)

Susan (Sue) Bryant is currently a consultant for a firm based in Iowa where she recently returned after almost thirty years of employment with the state of Texas. She retired as the director of the public transportation division of the Texas Department of Transportation (TxDOT). The public transportation division had 180 employees and an approximately \$150 million budget of federal and state grant programs for rural and small urban transportation systems, the state's medical transportation program, and public transportation planning. Prior to becoming division director, she served for over ten years as the director of the Texas traffic safety program.

During her career with TxDOT, she also held the positions of assistant to the deputy director for field operations, and highway safety planner and traffic safety program manager. She served as secretary and member of the board of the National Association of Governors' Highway Safety Representatives (now Governors Highway Safety Association) and member of the law enforcement committee for the Transportation Research Board.

She facilitated the strategic planning process for the Governors Highway Safety Association (GHSA) and completed a "How to Manual" for occupant protection for children for GHSA. Most recently, she headed a project in Texas to conduct community assessments and develop local strategic plans for underage drinking prevention. In addition, she served as community liaison for the Travis County Alliance for a Safe Community, an underage drinking prevention coalition based in Austin. She has served on highway safety program assessment teams for Alaska (2), California, Colorado (2), Florida (2), Georgia, Idaho, Illinois, Kansas, Kentucky, Maine (2), Maryland, Massachusetts, Montana (3), Missouri (2), North Carolina, North Dakota (2), Oklahoma, South Carolina, South Dakota, Vermont (2), and Wyoming. She served on the team to update the impaired driving assessment tool and on the team to develop assessment team training.

She has taught high school and adults, consulted for the media in major television markets, and also teaches management to state and local officials. She has been named to "Who's Who of American Women," has received the national Award for Public Service from the U.S. Department of Transportation, and is a two-time recipient of the American Association of State Highway and Transportation Officials (AASHTO) President's Modal Award for highway safety.

A Phi Beta Kappa graduate with Highest Honors in English from the University of Iowa, she holds a master's degree in communications from the University of Iowa and a master's degree in business administration from the University of Texas at Austin.

## **SENIOR JUDGE KARL B. GRUBE**

Judge Grube served as a County Court Judge in St. Petersburg, Florida, since his election to that office in 1976. In 2006 he took senior status after 30 years of service. He received his Bachelor of Science degree in Business Administration from Elmhurst College, in Illinois, his Juris Doctor degree from Stetson University in Florida and 1992 was awarded a Master's Degree in Judicial Studies from the University of Nevada.

Prior to assuming the bench, he served as an assistant public defender followed by private practice, which included being city attorney for Redington Beach, Florida. Judge Grube was elected president of the Florida Conference of County Court Judges and he has served as assistant Dean of the Florida New Judges College. In 1991 he was elected Chairperson of the American Bar Association's National Conference of Specialized Court Judges (NCSCJ). He currently serves as an NCSCJ District Representative. He is licensed to practice law in the States of Colorado and Florida.

He has chaired or served on State Alcohol/Impaired Driving Assessment Teams for NHTSA in Alabama, California, Delaware, Illinois, Oregon, Michigan, Massachusetts, Montana, Indiana, and North Carolina. He is a regular presenter and moderator at Lifesavers Conferences. He is a member of the Florida DHSMV DUI Programs Review Board and in that capacity has led many site review teams to ensure compliance with Florida's administrative rules and regulations. In his capacity as a judicial educator, he has presented education programs for judges, prosecutors and defense counsel on topics including Judicial Ethics, Criminal Law, Evidence, and Jury selection and Impaired Driving Trial issues. In 2012 and 2013, he served as the Associate Dean of the Florida College of Advanced Judicial Studies. He has served as education committee Chair of for the Florida Conference of County Court Judges and as a member of the Supreme Court's Florida Court Education Council. He has chaired the National Judicial College's Faculty Council and in 2014 he will celebrate 30 years as a member of the faculty of the National Judicial College.

Judge Grube served as the Regional Judicial Outreach Liaison for NHTSA (Region 4) for four years and most recently as the Florida Judicial Outreach Liaison from 2010 through 2013. He is a member of the Florida Impaired Driving Coalition; the Florida Motorcycle Safety Coalition; and the Florida Pedestrian and Bicycle Safety Coalition. He is a member of the Florida Suncoast Safe Kids Pedestrian and Bicycle Safety Committee. He presently serves on the Institute for Police Technology and Management (IPTM) Technical Advisory Committee.

Judge Grube resides in Treasure Island Florida and, as a senior judge; he serves, on assignment in both the criminal and civil divisions of Florida's County and Circuit Courts.

## LARRY HOLESTINE

[holstein@aol.com](mailto:holstein@aol.com)

### Experience

- Consultant – Transportation Safety and Criminal Justice – 2009-Present
- Data Nexus Inc., Director of Public Safety Services 2003 – November 2009
- National Highway Traffic Safety Administration Region VIII, Law Enforcement Liaison 2002 -2003
- Colorado State Patrol Major 1990 – June 2002
- Colorado State Patrol Lieutenant and Captain 1984 – 1990
- Colorado State Patrol Sergeant 1981- 1984
- Instructor Coordinator, Colorado Law Enforcement Training Academy 1979-1981
- Colorado State Patrol Trooper 1973-1979

### Education and Credentials

- Bachelor of Science – Adult Technical Education specializing in Criminal Justice – Colorado State University 1990
- Certificate - School of Police Staff and Command - Northwestern University 1985
- Certificate - Management in State Government - State of Colorado 1987
- Coordinator/Instructor for the Colorado Law Enforcement Training Academy and Colorado State Patrol Academy
- Instructor, Colorado Institute of Law Enforcement Training at Colorado State University
- Colorado Police Officer Standards and Training (POST), Certified Trainer
- Technical Crash Investigation – Northwestern University 1979

### Professional Activities

- Executive Board, Association of Transportation Safety Information Professionals, National Safety Council, 1987- 2003
  - 2001 Program Chair, 2002 1st Vice Chair, 2003 Chair
- Member, ANSI D-16 Committee on Motor Vehicle Accident Classification
- Chair, Steering Committee, Law Enforcement Section, Colorado Safety Management System

- Co-Chair and Member, Colorado State Traffic Records Advisory Committee
- Member, National Agenda for Traffic Records Committee, National Safety Council
- Representative for National Highway Transportation Safety Administration (NHTSA) and the National Safety Council (NSC) to promote the Association of Transportation Safety Information Professionals (ATSIP)
- Member, Intelligent Transportation Systems, Archived Data User Program Committee, Federal Highway Administration
- Co-Chair, Highway Safety Program Advisory for Traffic Records Panel, Data Nexus, Inc. for National Safety Council
- Member Project Panel/Advisory Group, Project #NCHRP 17-12 (Improved Safety Information to Support Highway Design) Northwestern University Traffic Institute
- Member, Project Panel/Advisory Group, National Center for Highway Research Projects
  - Reducing Crashes in Construction Zones
  - Developing Basic Training for Transportation Safety Information Users
  - Data needs for Transportation Information Professionals
- Member, Colorado Department of Transportation RFP Review committee for Intelligent Transportation Systems
- Member, NHTSA Traffic Records Assessment Team (Number Denotes Number of Assessments for the State); Kansas(4), South Carolina(2), Nebraska, Louisiana(3), Arizona(2), Iowa(2), New Mexico(2), Wisconsin(3), North Dakota(2), South Dakota(3), Connecticut, Idaho (2), Oregon(3), Tennessee(3), Delaware(2), Kentucky, Mississippi(3), Missouri(3), New Jersey (2), Montana, Nevada, Ohio(2), Illinois, Massachusetts(2), Maine, Wyoming(3), Virginia, Vermont, Maryland, San Carlos Reservation, White River Reservation, Menominee Reservation
- Co-Chair, National Safety Council, Association of Highway Safety Information Professionals, Marketing and Honest Broker Committee
- Member, Transportation Research Board – Law Enforcement Committee and Traffic Record Committee
- Member, Colorado State Patrol Diversity Committee
- Member of NHTSA Impaired Driving Assessment team: Vermont, Nevada, Massachusetts, California, Indiana, Oregon, Tennessee, Delaware, Louisiana, Alaska, Florida, Maine, Missouri

- President and Member, Northern Colorado Peace Officers Association
- Member, Committee on Guidelines for Transportation Safety Information Management Systems and files, National Safety Council and National Highway Traffic Safety Administration
- Member National Academy of the Sciences (NAS), National Center for Highway Research Projects (NCHRP) Committee:
  - Project 17-40 Model Curriculum for Highway Safety Core Competencies
  - Project 03-80 Traffic Enforcement Strategies for Work Zones
  - Project 17-69 Development of Strategic Plan for Transforming Traffic Safety Culture
- Member of NHTSA Occupant Protection Assessment Team: South Dakota, Ohio, Utah, Idaho, North Carolina, Vermont

## **ROBERT P. LILLIS**

[rlillis@rochester.rr.com](mailto:rlillis@rochester.rr.com)

[www.evalumetrics.org](http://www.evalumetrics.org)

Rob Lillis is President of Evalumetrics Research and has been providing planning, research and evaluation services to youth development, traffic safety, substance abuse, criminal justice, education, health and mental health programs at the state and local level for over 35 years. He provides evaluation services for school districts for a variety of special programs including 21st Century Learning Center programs, after-school mentoring programs, and environmental education programs. He also provides planning, research, and evaluation services for Drug Free Community Grant programs and serves as evaluation consultant to the Allegany Council on Alcoholism and Substance Abuse (ACASA) and numerous other local substance abuse prevention and youth development programs. Mr. Lillis has served as the evaluator for the Ontario County Juvenile Drug Treatment Court, the Finger Lakes Drug Court, Ontario County Youth Court, the Finger Lakes Child Abuse Response Team-Child Advocacy Center and the Ontario County Family Support Center. He also has conducted outcome studies for the Yes Pa Foundation, character education program.

Mr. Lillis was the primary source of research support to the governor and Legislature during the debate on the 21 year old minimum drinking age law in New York. He also served on the consultant panel for the U.S. General Accounting Office Special review of Minimum Drinking Age Laws.

Since 1991 Mr. Lillis has served as a member of the Impaired Driver Assessment Consultant Team for the National Highway Traffic Safety Administration (NHTSA) and has conducted over 50 assessments of prevention and treatment programs in 35 states, Puerto Rico and for the Indian Nations. He was the recipient of the 2011 NHTSA Public Service Award.



**CHIEF SCOTT SILVERII, PH.D.**

[scottsilverii@gmail.com](mailto:scottsilverii@gmail.com)

Chief Scott Silverii was appointed the Chief of Police of the Thibodaux Police Department, Louisiana in January 2011, after serving 21 years for the nationally accredited Lafourche Parish Sheriff's Office.

Chief Silverii began his law enforcement career in 1990 where he served in a variety of investigative and supervisory assignments to include twelve years undercover and sixteen years in SWAT. Silverii was promoted to the Commander's position for the Sheriff's Office, and eventually supervised every criminal division within the agency to include Investigations, Support Services and Patrol Divisions.

The National Highway Traffic Safety Administration awarded him its Public Safety Service Award, and recognizes Chief Silverii as a subject matter expert in data-driven approaches to crime and traffic safety. He was also appointed to the IACP's prestigious Research Advisory Committee and the NIJ's Crime Indicators Working Group for improving the UCR data collection process.

Committed to education, Chief Silverii has completed over 2,500 hours of advanced professional continuing education courses. He holds a Bachelor's Degree from Nicholls State University in Louisiana, a Master of Public Administration and a Ph.D. from the University of New Orleans, Louisiana.

Chief Silverii is an avid road cyclist, and counts the 3 day, 300 mile Police Unity Tour bike ride into the National Law Enforcement Officers Memorial's Police Week as a career highlight.